



RHODE ISLAND EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES

Notice of Public Hearing and Public Review of Rules

The Secretary of the Executive Office of Health & Human Services (EOHHS) has under consideration a series of proposed new sections (as well as amendments to existing sections) of the Medicaid Code of Administrative Rules (MCAR) (“Regulations”) related to the expansion of the Medicaid Program under the provisions of health care reform statutes. (A summary of the rule changes appears below).

Under the authority granted in the federal Patient Protection and Affordable Care Act of 2010 (ACA) and applicable State law, including Executive Order 11-09, Rhode Island created its own health insurance marketplace and on-line eligibility system, previously referred to as a “health benefit exchange”, and elected to expand Medicaid eligibility to the new ACA coverage group of adults, without dependent children, who have income up to 133% of the Federal Poverty Level (FPL). On October 1, 2013 Rhode Islanders interested in obtaining health coverage under this new expansion group began applying through the health insurance marketplace (HealthSourceRI), the Department of Human Services (DHS) field offices or website, and/or the Executive Office of Health and Human Services website (EOHHS). Applicants deemed to be eligible began enrolling in one of two Medicaid health plans during the period from October 1, 2013 to December 31, 2013. Actual coverage begins on January 1, 2014.

There will be no changes in Medicaid coverage until January 1, 2014. The proposed rules seek to accomplish the following:

01. To describe the new income standard that will be used to determine access to coverage for the ACA expansion group beginning on January 1, 2014;
02. To amend existing Medicaid rules to provide for persons participating in Medicaid prior to January 1, 2014;
03. To identify the principal roles and responsibilities of the Medicaid agency and the State with respect to persons seeking eligibility for the new ACA expansion coverage group; and
04. To inform Rhode Islanders of their rights and responsibilities when seeking Medicaid eligibility as a member of the new ACA or existing coverage groups during this same period.

These regulations are being promulgated pursuant to the authority contained in Rhode Island General Laws Chapter 40-8 (Medical Assistance) as amended, including Public Law 13-144; Title XIX of the Social Security Act; Patient Protection and Affordable Care Act (ACA) of 2010 (U.S. Public Law 111-148); Health Care and Education Reconciliation Act of 2010 (U.S. Public Law 111-15); Rhode Island Executive Order 11-09; Code of Federal Regulations 42 CFR Parts 431, 435, 436 *et. seq.*; Chapter 42-35 of the Rhode Island General Laws, as amended; and Chapter 42-7.2 of the Rhode Island General Laws, as amended.

In the development of these proposed Regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small businesses in Rhode Island. No alternative approach, duplication or overlap, or impact upon small businesses were identified based upon available information.

Notice is hereby given in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended, that the Secretary will hold two Public Hearings on the above mentioned matter on **TUESDAY, 3 DECEMBER 2013** at which time and place all persons interested therein will be heard.

Hearings will be convened as follows:

Tuesday, December 3, 2013 2:00 p.m.	Tuesday, December 3, 2013 6:00 p.m.
Arnold Conference Center 111 Howard Avenue Regan Building Pastore Complex Cranston RI 02920	DaVinci Center 470 Charles Street Providence, RI 02904

For the sake of accuracy, it is requested that statements to be made relative to any aspect of the Regulations, including alternative approaches or overlap, be submitted in writing at the time of the hearing or mailed prior to the hearing date to: Steven M. Costantino, Secretary, Rhode Island Executive Office of Health & Human Services, Louis Pasteur Building, 57 Howard Avenue, Cranston, Rhode Island, 02920 or via email to the attention of: eshelov@ohhs.ri.gov.

Interested persons may inspect said Regulations and other related materials on the Rhode Island Secretary of State's website: www.sec.state.ri.us/rules, on the Executive Office of Health & Human Services' website: www.eohhs.ri.gov or at the Executive Office of Health & Human Services, 57 Howard Avenue, Cranston, Rhode Island, 02920 between the hours of 9:00 a.m. and 3:00 p.m., Monday through Friday; by calling (401) 462-1575 {via RI Relay 711} or by emailing [Eshelov@ohhs.ri.gov](mailto:eshelov@ohhs.ri.gov).

The Rhode Island Executive Office of Health & Human Services in the Louis Pasteur Building is accessible to persons with disabilities. If communication assistance (readers /interpreters /captioners) is needed, or any other accommodation to ensure equal participation, please notify the Executive Office at (401) 462-6266 (hearing/speech impaired, dial 711) at least three (3) business days prior to the Public Hearing so arrangements can be made to provide such assistance at no cost to the person requesting.

Steven M. Costantino, Secretary
Signed this 25th day of October 2013

Significant ACA-Related Changes in the Medicaid Program

The following provides a summary of the major changes in the Medicaid program authorized or mandated by the ACA and the applicable rules in this chapter:

- Consolidation and simplification of Medicaid coverage groups subject to MAGI-based eligibility determinations – MCAR section 1301.
- Elimination of Medicaid eligibility for parents/caretakers with income from 133% to 175% of the FPL – MCAR 1301.
- Expansion of Medicaid eligibility to adults, ages 19 to 64, without dependent children and establishment of a new Medicaid affordable care coverage group – MCAR section 1301.
- Streamlined application process through the automated affordable care eligibility system – MCAR 1303.
- Standardization of Medicaid eligibility requirements for MACC coverage groups – MCAR Section 1305.

- Establishment of passive renewal process for making determinations of continuing eligibility – MCAR section 1306.
- Implementation of the MAGI-based income standard – MCAR section 1307.
- Automated verification of eligibility requirements through federal and State data sources – MCAR section 1308.
- Elimination of premiums in the RItE Care managed care delivery system and redefinition of RItE Care coverage groups – MCAR section 1309.
- Enrollment of the MACC coverage group for adults without dependent children in a Rhody Health Partners managed care plans with a modified benefit package – MCAR section 1310.
- Modifications of the managed care enrollment system to complement changes in the application and eligibility determination processes – MCAR section 1311.
- Changes in the RItE Share premium assistance program to complement ACA initiatives, remove premiums, and add a buy-in requirement – MCAR section 1312.
- Extension of the Communities of Care requirement to MACC expansion group – MCAR section 1314.
- Implementation of a limited subsidy program for parents/caretakers with income from 133% to 175% of the FPL who are no longer eligible for Medicaid affordable care coverage – MCAR section 1315.

0306 Characteristic Requirements

0306.05 Characteristic Reqs Requirements for ~~Inds~~ Individuals & Couples

REV:01/2002 October 2013

Characteristic requirements are ~~either SSI-related, or AFDC (prior to 5/97) related.~~ The term "SSI-related" refers to the methodology to be used for evaluating the individual's or the couple's income and resources, and the standards to be met for ~~MA Medicaid~~ Medicaid eligibility. Thus, an individual or couple who applies for ~~MA Medicaid~~ Medicaid may be eligible for one of the SSI-related coverage groups if s/he possesses a SSI-related characteristic and has limits and resources within the limits required for ~~MA Medicaid~~ Medicaid eligibility.

The SSI-related characteristics are:

- Age (65 years old and older);
- Blindness; or
- Disability.

0306.05.05 SSI-Related Age Requirement

REV:06/1994 October 2013

An individual applying for ~~MA Medicaid~~ Medicaid on the basis of the SSI-related characteristic of age must be 65 years of age or older. The age as stated on the application must be verified. Appropriate sources of verification are:

- Birth certificate;
- Birth record of a child over 50 as evidence that the parent is over 65;
- Birth record of child where age of parent is recorded;
- Marriage certificate; or
- Other documents such as insurance policies, passport or naturalization papers, employment, school, military or alien registration records.

0306.05.10 Eligibility Based on Blindness

REV:06/1994

To be eligible on the basis of blindness, the individual's (adult or child) vision must meet the policy definition: in terms of ophthalmic measurement, central vision acuity of 20/200 or less in the better eye with corrective lenses, or a field defect in which the peripheral field is contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees.

0306.05.15 Eligibility Based on Disability

REV:06/1994 October 2013

To be eligible for ~~Medical Assistance~~ Medicaid because of permanent or total disability, a person (adult or child) must have a permanent physical or mental impairment, disease or loss, other than blindness, that substantially precludes engagement in useful occupations within his/her competence.

A physical or mental impairment is an impairment which results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable, clinical and laboratory diagnostic techniques.

For purposes of eligibility, an individual is disabled if s/he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted, or can be expected to last for a continuous period of not less than twelve (12) months or, in the case of a child, if s/he suffers from any medically determinable physical or mental impairment of comparable severity.

Statements of the applicant, including the individual's own description of the impairment (symptoms) are, alone, insufficient to establish the presence of a physical or mental impairment.

0306.10 Charact Reqs for Families (~~AFDC-Related~~) See Section 1301

REV:01/2002 Repealed October 2013

~~The characteristic requirements for families (AFDC prior to 5/97-related) who are applying for Medical Assistance are age, relationship (a child living with at least one parent or caretaker relative) and deprivation of parental support.~~

~~0306.10.05 Age Requirement~~

REV:07/1999

~~To be eligible for MA, a parent (or other caretaker relative) must maintain a home for a needy child under the age of eighteen (18) without regard to whether the child is attending school or making passing grades, or for an eighteen year old child qualifying for an "in school extension."~~

~~In-school Extension: If the child is eighteen (18), s/he must be a full time student in secondary school, or in the equivalent level of technical or vocational training. The student must reasonably be expected to complete the program before reaching age nineteen (19).~~

~~Children who are under the age of nineteen (19) may be eligible under the provisions of section 0348, but their eligibility does not extend to a parent or caretaker relative.~~

~~Medical Assistance coverage is also available to certain groups of children up to age 21. These groups are:~~

- ~~• Children receiving foster care services, whether through DCYF or private, non-profit agencies;~~
- ~~• Children for whom there is a State adoption subsidy agreement (hard to place children with special needs who are not eligible under the criteria of the IV-E program);~~

- ~~• Children in Nursing Facilities and ICFs/MR.~~

0306.10.10 Relationship Requirement

REV:06/1994 Repealed October 2013

~~To satisfy the MA requirement of relationship, a child meeting the age requirement must be living with a relative in a home maintained by such relative. When the relative is not the natural or adoptive parent of a child, the term loco parentis ("in place of the parent") is used. A child meets this eligibility factor if his/her home is with any of the following relatives:~~

- ~~• father, adoptive father, mother or adoptive mother;~~
- ~~• stepfather or stepmother (but not the parent of either);~~
- ~~• grandfather, great grandfather, great-great grandfather, great-great-great grandfather;~~
- ~~• grandmother, great grandmother, great-great grandmother, great-great-great grandmother;~~
- ~~• adoptive grandparent, if the grandchild is the natural child of a parent who was adoptive, or if the grandchild is the adopted child of a parent who was the natural child of the grandparent;~~
- ~~• brother, half brother, adoptive brother, stepbrother, sister, half sister, adoptive sister, stepsister;~~
- ~~• uncle, great uncle, great-great uncle, aunt, great aunt, great-great aunt (including uncle or aunt of whole or half blood);~~
- ~~• Nephew, great nephew, great-great nephew, niece, great niece, great-great niece (including nephew or niece of whole or half blood).~~
- ~~• First cousin (including first cousin of whole or half blood), first cousin once removed.~~

~~Spouses of any of the persons in the above groups meet the relationship requirement and continue to meet it even after the marriage is terminated by death or divorce.~~

0306.10.15 Deprivation of Parental Support

REV:06/1994 Repealed October 2013

~~To satisfy the eligibility factor of deprivation, a child must be deprived of support or care by the natural or adoptive parents due to:~~

- ~~o The continued absence of parent from the home; or~~
- ~~o The death of a parent; or~~
- ~~o The physical or mental incapacity of one natural (or adoptive) parent; or~~
- ~~o The unemployment of the natural (or adoptive) father or mother.~~

Draft Rule: For Public Comment

~~In situations where a parent(s) is separated from the child because a parent has placed him/her with a relative (or agreed to placement with a relative), it is necessary to determine that the child and the child's primary family is eligible based on one of the deprivation factors.~~

~~Also, when a child is living with both his/her natural or adoptive parents, whether or not they are married to each other, the child is not eligible, except if one of the parents meets the definition of incapacity or unemployment.~~

0306.10.20 Exceptions to the Req of an AFDC Charact

~~REV:06/1994 Repealed October 2013~~

~~Legislative mandate has created several MA coverage groups whose eligibility is based on rules which depart from the requirement of an AFDC characteristic. These coverage groups include children and pregnant women.~~

0306.11 Severability

If any provisions of these regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect, and to this end the provisions of these regulations are declared to be severable.