



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.

0326 Overview of MA Medicaid
Repealed October 2013

~~0326.05 MANUAL ORGANIZATION~~
~~REV:01/2002~~

~~Sections 0326 through 0348 of this manual set forth the policies and procedures which govern Medical Assistance eligibility for families with dependent children, poverty level children, pregnant women and children in foster care:~~

- ~~o The remainder of this section, OVERVIEW OF MA, briefly summarizes eligibility requirements and lists coverage groups applicable to family cases;~~
- ~~o Section 0328, CHARACTERISTIC REQUIREMENTS, describes the characteristic requirements for family cases and the process of verification;~~
- ~~o Section 0330, INCOME GENERALLY, contains general provisions which apply to the consideration of an applicant's income, (e.g., income limits, definitions, what income is counted);~~
- ~~o Section 0332, BUDGET PERIODS, defines a budget period and describes the budget periods for Categorically Needy, Medically Needy and Flex Test cases;~~
- ~~o Section 0334, DETERMINING INCOME ELIGIBILITY, sets out the provisions governing whose income is counted for determining income eligibility;~~
- ~~o Section 0336, FLEXIBLE TEST OF INCOME, contains the policies governing the spend down of excess income to achieve Medically Needy eligibility;~~
- ~~o Section 0338, RESOURCES GENERALLY, contains general provisions which apply to the evaluation of an applicant/recipient's income resource limits, definitions, excluded resources and provisions governing the reduction of excess resources;~~
- ~~o Section 0340, EVALUATION OF RESOURCES, contains the policies for evaluating specific types of resources;~~
- ~~o Section 0342, CATEGORICALLY NEEDED COVERAGE GROUPS, describes the eligibility requirements and other specific provisions of family categorically needy coverage groups, including Section 1931 families and Extended Benefits;~~
- ~~o Section 0344, POVERTY LEVEL COVERAGE GROUPS, describes the coverage provisions for pregnant women and children born after September 30, 1983 with income within a certain percentage of the Federal Poverty Level;~~
- ~~o Section 0346, MEDICALLY NEEDED COVERAGE GROUPS, describes the eligibility requirements and other specific provisions of family Medically Needy coverage groups;~~

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~~o Section 0348, THE RITE CARE PROGRAM, describes the statewide managed care demonstration project to provide medical, dental and mental health services to certain categories of under insured pregnant women and children who meet the program's eligibility requirements;~~

~~o Section 0349, THE RITE SHARE PROGRAM, describes the requirements for enrolling MA eligible individuals and families in DHS approved employer sponsored health insurance plans.~~

0326.10 Eligibility Requirements For Families

REV:04/2010

~~To be eligible for Medical Assistance (MA), a family must meet the program's technical, characteristic, financial and cooperation requirements.~~

~~A. SECTION 1931 ELIGIBILITY— There are two distinct groups of families eligible for MA under Section 1931 (refer to Section 0342.05 RIWORKS PROGRAM FAMILIES AND SECTION 1931 FAMILIES):~~

~~1. Rhode Island Works (RIW) cash assistance families (CATEGORICALLY NEEDY ELIGIBLE)~~

~~a. The eligibility profile of families who qualify for cash assistance through the Rhode Island Works Program (RIW) falls within the parameters of Section 1931 eligibility. Consequently, all RIW eligible families are eligible for coverage under Section 1931 irrespective of whether they receive cash assistance.~~

~~b. Families who receive RIW cash assistance are categorically eligible for MA. The family's eligibility for MA is concurrent with receipt of their cash assistance.~~

~~i. Countable family income is calculated using RIW income disregards~~

~~ii. Countable resources are determined using RIW resource rules.~~

~~iii. Families who apply for RIW and the concurrent MA benefits complete the DHS 1 and DHS 2 when filing an application.~~

~~e. RIW eligible families who are not receiving cash assistance are Section 1931 eligible. This includes families participating in the Job Development Incentive Program (WSUP), as well as those who decline cash assistance for any reason and at any point during their period of eligibility. However, all Section 1931 families are NOT eligible for RIW.~~

~~2. MA only families with income at or below one hundred ten percent (110%) of the federal poverty level income guidelines (FPL) a. Section 1931 MA only families are those who:~~

~~i. meet the characteristics of age and relationship (a child living with at least one parent or caretaker relative)~~

~~ii. when using the MA income methodology, e.g., the \$90 earned income disregard, have countable family income not exceeding one hundred ten percent (110%) of poverty.~~

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There are no resource tests for any members of Section 1931 families.

~~iii. Families who apply for MA Only under Section 1931 may use the MARC-1 (mail in application) when requesting benefits.~~

~~B. Both RIW families and Section 1931 MA only families must enroll in either RItE Care managed care (Section 0348) or in RItE Share employer based group health insurance (Section 0349), as determined by the Department.~~

~~C. To illustrate the major similarities and differences:~~

RIW FAMILY	SECTION 1931 FAMILY
Must meet age and relationship requirements	Must meet age and relationship requirements
RIW Earned Income Disregard (\$170 plus one half of balance)	MA Earned Income Disregard (\$90)
RIW Income Standard	110% FPL Income Standard
Must meet RIW resource limits	No resource test (parents or children)
Must file DHS-1 and DHS-2	May file DHS 1&2 or MARC-1 (mail in application with relaxed verification rules)
Must enroll in RItE Care or RItE Share	Must enroll in RItE Care or RItE Share
Twelve month recertification	Twelve month recertification

~~D. MA FAMILY WAIVER ELIGIBILITY (refer to Section 0328.20.15, Section 1931 and MA Waiver Families)~~

~~1. Families with income greater than one hundred ten percent (110%) of the federal poverty level income guidelines (FPL), but less than or equal to one hundred seventy five percent (175%) of FPL, may qualify for MA under the MA Family Waiver~~

~~2. The family must meet all other eligibility criteria for Section 1931~~

~~E. MEDICALLY NEEDED ELIGIBILITY (refer to Section 0346, MEDICALLY NEEDED AFDC RELATED COVERAGE GROUP and Section 0346.05 FAMILIES WITH AFDC CHARACTERISTICS)~~

~~1. Families ineligible for MA under Section 1931 or the MA Family Waiver may attain Medically Needed eligibility status if the Family has:~~

- ~~a. an AFDC characteristic;~~
- ~~b. countable resources within the Medically Needed resource limit; and~~
- ~~c. either countable income within the Medically Needed Income limit or spent down excess income on allowable medical expenses to within the Medically Needed Income Limit.~~

~~2. Medically Needed families, with the exception of those qualified through the spend down excess income, must enroll in RItE Care managed care or RItE Share employer based group health insurance.~~

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~~3. Families who spend down excess income receive the Medically Needy scope of services through fee-for-services providers.~~

~~E. POVERTY LEVEL PREGNANT WOMEN AND CHILDREN (refer to Section 0344.05 PREGNANT WOMEN – POVERTY LEVEL)~~

~~1. Pregnant women and children may be eligible under special Title XIX and Rite Care waiver poverty level coverage groups.~~

~~2. Poverty level coverage groups require the applicant to have income within a certain percentage of the Federal Poverty Level and meet the eligibility requirements of the particular coverage group.~~

~~3. There are no resource tests for poverty level coverage groups.~~

~~After enrollment, pregnant women and children receive their medical care either through Rite Care or Rite Share.~~

0326.10.05 Family Categories – Eligibility Tests
REV:01/2009

Some eligibility tests (e.g., citizenship/alienage, cooperation, residency) are applied to all categories of MA, whereas others are applied only to certain coverage groups. The chart below identifies the income, resource, relationship and deprivation tests applicable to each of the family categories.

**FAMILY MA COVERAGE GROUPS
ELIGIBILITY TESTS**

	INCOME TEST	RESOURCE TEST	RELATIONSHIP TEST	DEPRIVATION TEST
SECTION 1931	Y	N	Y	N
CAT NEEDY	Y	Y	Y	Y
MED NEEDY	Y	Y	Y	Y
PREGNANT WOMAN	Y	N	N	N
POVERTY LEVEL/ CHILD	Y	N	N	N-RITE CARE
FAMILY WAIVER	Y	N	Y	N

0326.15 COVERAGE GROUPS
REV:04/2010

A. The following is a summary listing of the Medical Assistance coverage

1. Categorically Needy Coverage Groups are:

a. RIW Recipients and Section 1931 Families (0342.05)

b. Deemed RIW Recipients, Less than \$10 in Monthly Benefits (0342.10)

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- ~~e. Deemed RIW Recipients, Zero Benefits Due to Work Support Program (0342.10)~~
- ~~d. Deemed RIW Recipients, Zero Benefits Due to Recoupment (0342.10)~~
- ~~e. RIW Closures Due To Increased Child Support (0342.15)~~
- ~~f. Persons Who Would be Eligible for AFDC Except for RSDI Benefit Increase (0342.20)~~
- ~~g. Qualified Pregnant Women—No Deprivation Factor (0342.25)~~
- ~~h. Qualified Pregnant Women (0342.30)~~
- ~~i. Qualified Post Partum Women (0342.35)~~
- ~~j. Post Partum Women—Family Planning Services (0342.35.05)~~
- ~~k. Newborn Children of MA Eligible Mother (0342.40)~~
- ~~o. Ribicoff Child (0342.45)~~
- ~~l. Extended Benefits—RIW Closure Due to Employment (0342.50)~~
- ~~m. Individuals Receiving DHS Day Care Subsidy (0342.55)~~
- ~~n. RIW Eligible Institutionalized Individual (0342.65)~~
- ~~o. Adoption Subsidy or IV-E Foster Child (0342.70)~~
- ~~p. Non IV-E Foster Child Under Age 18 (0342.75)~~
- ~~q. Non IV-E Foster Child Older Than Age 18, But Not Yet 21 (0342.80)~~
- ~~r. Non IV-E Foster Child With State Subsidized Adoption Assistance (0342.85)~~
- ~~s. Refugee Medical Assistance (0342.90)~~
- ~~t. Closed RIW Case—HMO Enrollee (0342.95)~~

~~2. Poverty Level Family Coverage Groups are:~~

- ~~a. Pregnant Women—Poverty Level (0344.05)~~
- ~~b. Child Younger than Six (6) Years of Age—Poverty Level (0344.10)~~
- ~~c. Children Who Have Attained Age Six (6) But not Age Nineteen (19)—Poverty Level (0344.15)~~
- ~~d. Title XIX Waiver Group for Families, Pregnant Women, Extended Family Planning and Children under Nineteen (19)—(0348.10.05)~~
- ~~e. State Funded Pregnant Women (0348.10.10)~~
- ~~f. State Funded Extended Family Planning (0348.10.10.10)~~
- ~~g. Qualified alien children under the age of nineteen (19) who are lawfully residing in the United States are not subject to the five (5) year bar (0304.05.15)~~
- ~~h. Other Non Title XIX Rite Care Groups (0348.10.15)~~

~~3. Medically Needy Family Coverage Groups are:~~

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- ~~a. Families With AFDC Characteristics (0346.05)~~
- ~~b. Qualified Pregnant Women—No Deprivation Factor (0346.10)~~
- ~~e. Qualified Pregnant Women (0346.15)~~
- ~~d. Qualified Post Partum Women (0346.20)~~
- ~~e. Newborn Children of MA Eligible Mother (0346.25)~~
- ~~f. Ribicoff Child (0346.30)~~
- ~~g. Non IV-E Foster Child Under Age 18 (0346.35)~~
- ~~h. Non IV-E Foster Child Age 18 But Not Yet 21 (0346.40)~~
- ~~i. Non IV-E Child With State Subsidized Adoption Agreement (0346.45)~~
- ~~j. Refugee Medical Assistance (0346.50)~~