



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.

0334 Determining Income Eligibility

Repealed October 2013

~~0334.05 Introduction~~

~~REV:01/2002~~

~~Families applying for Medical Assistance are treated as financial units. Treating a family as a financial unit recognizes the reality that families do indeed function as a single economic unit. While not required to apply, an individual family member MUST be included when determining Medical Assistance eligibility for other family members if the individual has financial responsibility for another Medical Assistance applicant.~~

~~Certain types of income are excluded, i.e., not considered, under the rules of the Medical Assistance Program. For a list of the types of income excluded from Medical Assistance financial determinations, see Section 0330.20 of the Rhode Island Department of Human Services Manual.~~

~~In addition to excludable income, a portion of an individual's income may be disregarded (deducted). The Medical Assistance Program recognizes the \$90 work expense disregard, the dependent care disregard, and the \$50 child support disregard. The dependent care disregard (DHS Day Care Subsidy plus the individual's copayment) allows a disregard not to exceed \$175 per month per child, age two years and older or an incapacitated adult. For a child under the age of two years, this disregard may not exceed \$200 per month. Payments actually made for dependent care must be verified. Consideration of the dependent care expense is only given when the care is provided by a person not living in the child's or incapacitated adult's household.~~

~~When determining countable income, first eliminate excludable income. Next apply the \$90 work expense disregard to the earned income of each employed individual. If applicable, next apply the dependent care disregard to the family's income and finally, apply the \$50.00 child support disregard to the family's income.~~

~~The balance of the earned income together with any unearned income is the countable income.~~

~~In Medical Assistance family related income eligibility determinations, the amount of countable income must first be determined and then compared to the appropriate income standard.~~

~~If countable income is equal to or less than the standard, eligibility exists. Eligibility for Medical Assistance cannot be established if the countable income is greater than the standard.~~

~~0334.10 DEFINITIONS~~

~~REV:07/1994~~

~~To make a Medical Assistance financial determination, the following three components must be identified:~~

- ~~● Household unit;~~
- ~~● Applicant unit;~~

- ~~Financial unit.~~

0334.10.05 ~~Household Unit~~

REV:01/2002

~~The Household Unit is comprised of ALL individuals listed on the MARC-1 Application or DHS-2 Statement of Need as living in the household. The Household Unit is used to:~~

- ~~Identify Medical Assistance applicants;~~
- ~~Evaluate members according to the FIP rules of relationship;~~
- ~~Assess financial responsibility; and~~
- ~~When necessary, establish the characteristics of absence, unemployment, death and incapacity.~~

~~Each individual must be evaluated to determine if the individual:~~

- ~~Is a Medical Assistance applicant;~~
- ~~Is a relative of acceptable degree under the FIP rules of relationship;~~
- ~~Is financially responsible for another individual in the Household Unit who is a Medical Assistance applicant;~~
- ~~Requires a characteristic of program eligibility.~~

0334.10.10 ~~MA Applicant Unit~~

REV:07/1994

~~The Applicant Unit is used to identify those members of the Household Unit who are applying for Medical Assistance. The members of the Applicant Unit will form the foundation on which the third component, the Financial Unit, will be constructed.~~

0334.10.15 ~~Financial Unit~~

REV:01/2002

~~The Financial Unit has two elements; the TOTAL NUMBER OF INDIVIDUALS in the financial unit and the TOTAL AMOUNT OF COUNTABLE INCOME those individuals bring to the financial unit.~~

~~The Financial Unit is used to determine the amount of the family's countable income and the size of the Medical Assistance standard against which that income will be tested.~~

Draft Rule: For Public Comment

~~The Financial Unit draws its members only from the Household Unit. No consideration is given for support for individuals who do not live in the applicant household. A referral to Child Support Enforcement(CSE) initiates the process of obtaining support from absent members.~~

~~When constructing the Financial Unit, include the following household members and their countable income.~~

~~FIRST include:~~

- ~~• All Medical Assistance applicants; and~~
- ~~• All household members for whom an applicant has financial responsibility.~~

~~NEXT include:~~

- ~~• All household members who have financial responsibility for an applicant;~~
- ~~• Any other household member for whom such individual has financial responsibility.~~

~~FINALLY, include, if not already included:~~

- ~~• The step parent of an applicant minor child; and,~~
- ~~• Any other household members for whom such individual has financial responsibility.~~

~~Therefore, when determining the Financial Unit, INCLUDE THE FOLLOWING INDIVIDUALS AND THEIR COUNTABLE INCOME:~~

- ~~• IF THE APPLICANT IS A CHILD, include the applicant child. Also include the child's natural or adoptive parent(s) and minor siblings, and the child's step parent and minor step-siblings (if any), if living in the household and whether or not they are applying.~~
- ~~• IF THE APPLICANT IS A PARENT, include the applicant parent. Also include the parent's minor natural or adoptive children, the parent's spouse, and the parent's minor step-child(ren) (if any), if living in the household and whether or not they are applying.~~
- ~~• IF THE APPLICANT IS A STEP PARENT, include the applicant step parent. Also include the step parent's minor natural or adoptive children, the step parent's spouse, and the step parent's minor step child(ren) (if any), if living in the household and whether or not they are applying.~~

~~0334.15 GROUP SIZE AND COUNTABLE INCOME~~

~~REV:07/1994~~

~~Once the financial unit has been constructed, determine:~~

- ~~o The total number of individuals in the financial unit; and~~

Draft Rule: For Public Comment

~~o The total amount of countable income in the financial unit.~~

~~0334.20 STANDARD OF ELIGIBILITY~~

~~REV:07/1994~~

~~When the total number of individuals and the total amount of countable income of the Financial Unit has been determined, establish eligibility for each applicant as follows:~~

~~For EACH applicant:~~

- ~~• Determine the individual's APPROPRIATE Medical Assistance income standard, e.g., one of the federal poverty level standards if the applicant is a poverty level pregnant woman or a poverty level child, or the categorically needy standard, or the medically needy standard;~~
- ~~• Determine the amount of the standard to be tested based on a group size comparable to the TOTAL number of individuals in the Financial Unit;~~
- ~~• Compare the TOTAL amount of countable income of the Financial Unit to the MA standard for the group size comparable to the total number of individuals in the Financial Unit.~~
- ~~• Certify each ELIGIBLE APPLICANT for the correct scope of Medical Assistance benefits.~~