



## 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 <b>2:00 p.m.</b>	Tuesday, December 3, 2013 <b>6:00 p.m.</b>
<b>Arnold Conference Center</b> 111 Howard Avenue Regan Building Pastore Complex Cranston RI 02920	<b>DaVinci Center</b> 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](mailto: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](http://www.sec.state.ri.us/rules), on the Executive Office of Health & Human Services' website: [www.eohhs.ri.gov](http://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.*




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Steven M. Costantino, Secretary  
Signed this 25<sup>th</sup> 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.

## **0349 RIte Share Premium Assistance Program**

### **Repealed October 2013**

#### **~~0349.05 Program Overview~~**

~~REV:01/2006~~

~~Under the terms of Section 1906 of Title XIX of the U.S. Social Security Act, states are permitted to pay an eligible individual's share of the costs for enrolling in employer sponsored health insurance coverage if it is cost effective to do so. R.I.G.L. 40-8.4-12 authorized the Department of Human Services to establish the RIte Share Premium Assistance Program to subsidize the costs of enrolling Medical Assistance eligible individuals and families in employer sponsored health insurance (ESI) plans that have been approved as meeting certain cost and coverage requirements. The Department uses cost effective criteria to determine whether ESI plans meet these requirements. Only employer sponsored health insurance plans that the Department determines meet the cost effective criteria in Section 0349.20 and the terms for employer participation in Section 0349.30 shall be approved for the RIte Share premium assistance program.~~

#### **~~0349.05.05 Definitions~~**

~~REV:10/2011~~

~~For the purposes of this section, the following definitions apply:~~

~~Cost effective means that the portion of the ESI that the State would subsidize, as well as wrap-around costs, would, on average, cost less to the state than enrolling that same individual/family in RIte Care.~~

~~Cost sharing means any co-payments, deductibles or co-insurance that members with ESI are typically required to pay for~~

~~Enrollment cost means the monthly premium share an individual or family is required to pay to the employer to obtain and maintain ESI coverage.~~

~~Employer Sponsored Insurance, or ESI, means health insurance or a group health plan offered to employees by an employer.~~

~~Group health plan means an employee welfare benefits plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974 as qualified in R.I.G.L. 27-50-3(T)(1) and 27-18.6-2(15).~~

~~Health insurance coverage, or health benefit plan, means a policy, contract, certificate or agreement offered by a health insurance carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services as defined and qualified in R.I.G.L. 27-18.5-2(7), 27-18.6-2(14) and 27-50-3(U)(1).~~

~~Policy holder means the employee eligible to enroll in ESI.~~

~~RIte Share approved employer sponsored insurance (ESI) means an employer sponsored health insurance plan that meets the coverage and cost effectiveness criteria for RIte Share.~~

## Draft Rule: For Public Comment

~~RItE Share Premium Assistance Program means a Medicaid Premium Assistance Program in which the State pays the MA eligible's share of the cost of enrolling in a RItE Share approved ESI plan. This allows the State to share the cost of the health insurance coverage with the employer as opposed to enrolling the eligible member(s) in RItE Care.~~

~~RItE Share Unit is the unit responsible for assessing the cost effectiveness of ESI, contacting employers regarding their ESI, when appropriate, initiating the RItE Share enrollment and disenrollment process, member communications, and overall operations of the RItE Share program.~~

~~Third Party Liability (TPL) means other health insurance. This insurance is in addition to Medical Assistance and is usually provided through an employer. Since Medical Assistance is always payer of last resort, the TPL is always the primary coverage.~~

~~Wrap-around services or coverage means any health care services not included in the ESI that would have been covered had the member been on RItE Care, as well as coverage of deductibles and co-insurance. Effective October 1, 2011, co-payments to providers are not covered but RItE Share enrollees are not required to pay co-payments to MA-enrolled providers. MA-enrolled providers are prohibited from requesting payment from or billing RItE Share enrollees for co-payments. Wrap-around services/coverage ensures that RItE Share enrollees receive health coverage comparable in scope, amount and duration to individuals/families enrolled in RItE Care. Medical Assistance will cover these services for RItE Share enrollees assuming they use network providers.~~

### **0349.05.10 Scope of RItE Share**

REV:10/2008

~~The RItE Share Premium Assistance Program applies to individuals and families eligible for Medical Assistance with incomes up to two hundred fifty percent (250%) of the federal poverty level.~~

~~The Department reserves the discretion to, at a later date, broaden the scope of RItE Share to allow MA eligible individuals with disabilities, who meet the criteria established under the Ticket to Work Incentive Act of 1999, to enroll in and receive premium assistance for health coverage provided by a RItE Share approved ESI plan.~~

### **0349.05.10.05 RItE Share Enrollment as a Condition of Eligibility**

REV:10/2011

~~Enrollment in RItE Share is a condition of eligibility for individuals eligible for Medical Assistance age nineteen (19) years and older. This requirement also applies to those individuals who had previously or have the option to waive their ESI so as to receive financial compensation, including but not limited to, an increase in hourly wage, an increase in weekly salary and/or a lump sum payment. (Wage increases for waiving coverage is also known as "pay in lieu of benefits.")~~

~~RItE Share enrollment is not required if the MA application form indicates that the employed parent or caretaker relative in the household is a non-citizen ineligible for MA due to immigration status.~~

~~Once it has been determined that the ESI offered by a particular employer is RItE Share approved, DHS will require all MA recipients with access to that employer's plan to participate in RItE Share.~~

## Draft Rule: For Public Comment

~~If the policy holder (i.e., employee) in the applicant household is a parent or caretaker relative age nineteen (19) or older, the policy holder is responsible for enrolling any MA eligible family members (i.e., spouse, caretaker relative, if eligible, and children) in the ESI. Failure to meet this requirement shall result in the following:~~

- ~~• Termination of the MA eligibility of the policy holder, parent(s) or caretaker relative in the applicant household until the individual demonstrates compliance with enrollment procedures established by the DHS.~~

~~However, this period of MA ineligibility may be shortened and MA eligibility established if such individual becomes exempt from RItE Share enrollment or no longer has access to ESI for reasons such as a change in employment (see Sections 0349.10.05.25 and 0349.10.05.30).~~

~~The enrollment of any MA eligible children in a RItE Care plan. Termination of eligibility for failure to enroll in a RItE Share plan as required shall not preclude an individual or family from reapplying for Medical Assistance. Decisions about whether a MA eligible individual or family will qualify and be required to enroll in a RItE Share approved plan may be made in conjunction with:~~

- ~~• Initial determinations (new applicants) of MA eligibility;~~
- ~~• Annual redeterminations (current recipients) of MA eligibility;~~
- ~~• Eligibility redeterminations resulting from changes in~~
- ~~• Access to ESI, work status, residency, income, household composition, etc.;~~
- ~~• Participation of an individual's employer in RItE Share; and~~
- ~~• Determination of cost effectiveness of an ESI plan.~~

### ~~0349.05.10.10 Rhode Island Works Cash Recipients~~

~~REV:04/2001~~

~~The central goal of the Rhode Island Works Program (RIW) is to assist families in making the transition to employment and full financial independence. One of the major concerns of families going to work and discontinuing cash assistance is that they will lose access to the quality health coverage provided through RItE Care. In keeping with the Department's longstanding commitment to facilitate the transition to work and financial independence, RIW participants shall be eligible for RItE Share after being employed for six (6) months or more. This six month exemption also applies to families losing eligibility for RIW due to employment. Specifically, to be subject to enrollment in a RItE Share approved ESI plan, the RIW participant shall be:~~

- ~~• Age nineteen (19) or older; and~~
- ~~• Employed for a period of six (6) consecutive months or more by the same employer.~~

~~RIW cash recipients who do not meet these criteria at the time eligibility is redetermined are exempt from participating in RItE Share and are continued in their RItE Care plan. The RItE Share exemption shall not be granted without verification of employment by department field representatives.~~

### ~~0349.05.10.15 Medical Assistance Ineligible Family Members~~

## Draft Rule: For Public Comment

REV:04/2001

~~Under no circumstances shall the Department provide subsidies to cover cost sharing or wrap-around services for MA ineligible family members enrolled in ESI.~~

~~Premium assistance for MA ineligible parent or caretaker relative policy holders in the assistance household is provided only in cases when the Department determines:~~

- ~~• Enrollment of the MA eligible family members in the approved ESI is contingent upon enrollment of the ineligible policy holder; and~~
- ~~• It is cost effective to provide a subsidy to family coverage compared to the cost of enrolling MA eligible family members in a RItE Care Health Plan, using methodology described in Section 0349.20.05.~~

~~For ineligible family members in the assistance household other than the policy holder, enrollment in RItE Share premium assistance is available when:~~

- ~~• The ESI provides family/dependent coverage; and~~
- ~~• Enrollment of the MA ineligible family members is cost effective as determined by the Department and described in Section 0349.20.05.~~

~~As is the case with an ineligible policy holder, the Department shall make no cost sharing payment for or provide wrap-around services to any MA ineligible family member enrolled in a RItE Share approved ESI plan.~~

### **0349.10 Enrollment Process**

REV:01/2006

~~MA eligible individuals are required to participate in RItE Share by enrolling in ESI if that ESI has been determined to be RItE Share approved. . Individuals without access to a RItE Share approved ESI plan are enrolled in a RItE Care health plan of their choice (if the plan is accepting new members), or if no preference is expressed, randomly assigned to a RItE Care Health Plan by the Department, in accordance with Departmental procedures set forth in Section 0348.75.~~

~~Enrollment into RItE Share may occur upon initial determination, redetermination or at the Department's discretion. Notice that participation in RItE Share is a condition of retaining MA eligibility shall be sent to the MA recipient at least thirty (30) days prior to the date that enrollment in the ESI plan is required.~~

### **0349.10.05 Role of DHS Field Representatives**

REV:01/2006

~~Departmental field representatives are responsible for making all initial determinations and redeterminations of eligibility for Medical Assistance in accordance with the technical, characteristic, financial and cooperation requirements specified for the applicable coverage group. Upon determining that an applicant/recipient meets the MA requirements, the individual or family is eligible for Medical Assistance. Cases in which there is a question of RItE Share enrollment should be referred to the RItE Share Unit in accordance with Departmental procedures.~~

**0349.10.05.05 Access to ESI**

REV:10/2011

For the purposes of RItE Share, access to ESI is defined as:

- ~~A Medical Assistance eligible individual, age nineteen (19) or older, who is, or has the option to be, enrolled in an employer sponsored health insurance or group health benefit plan;~~
- ~~A Medical Assistance eligible individual who is, or has the option to be, enrolled in an employer sponsored health insurance or group health benefit plan as the spouse, dependent or family member of a Medical Assistance ineligible policy holder.~~

~~All applicants and recipients are required to provide information regarding access to ESI for family members requesting Medical Assistance.~~

~~Exemptions from providing the required information regarding access to ESI for family members may be granted under the good cause provision as defined in DHS Policy Section 0349.10.053.30.~~

~~Third Party Liability (TPL) Coverage Identified~~

~~Any time a RItE Care member is identified as having other health insurance in addition to their RItE Care, the Department has the right to transition the member from RItE Care to RItE Share if the other health insurance meets the cost and coverage effectiveness criteria for RItE Share. Member is given appropriate notice prior to this action (see Notice of Eligibility and Enrollment Referral below).~~

**0349.10.05.05.05 Third Party Liability (TPL) Coverage Through the Non-Custodial Parent**

REV:10/2011

~~Children who are enrolled in both RItE Care and ESI through a non-custodial parent (NCP), will be transitioned into RItE Share unless the custodial parent shows good cause not to transition. These children will retain their Fee-For-Service Medical Assistance coverage the entire time that they are in RItE Share. Should the NCP lose their ESI, the RItE Share Unit should be notified and the children will be transitioned back into RItE Care.~~

~~If the custodial parent refuses to allow this child to be enrolled in RItE Share, unless good cause for this refusal is granted, the custodial parent will lose eligibility for medical assistance coverage (RItE Care) until they comply and allow that child to be enrolled in RItE Share. Families who are potential candidates for RItE Share will receive a letter explaining their rights and responsibilities, including the fact that enrollment in RItE Share is a condition of the Medical Assistance eligibility of the adults in the household. Families will be given a fourteen (14) day grace period to report any changes in the NCP's coverage and/or report any difficulties with using the NCP's coverage. If a family does not respond, the recipients who are covered under the NCP's policy will be transitioned from RItE Care to RItE Share, and sent appropriate documentation. Those who are not covered under the NCP's coverage (e.g., custodial mom, children not related to the NCP) will remain on RItE Care.~~

~~Notification shall clearly indicate and state that no payment shall be made for coinsurance, cost sharing obligations, or wrap-around coverage to or for the NCP policy holder or any other Medical Assistance ineligible family member/dependent enrolled in the approved ESI plan.~~

**0349.10.05.10 Notice of Eligibility and Enrollment Referral**

REV:01/2006

## Draft Rule: For Public Comment

~~When the Department determines that an individual or family is eligible for Medical Assistance (MA), a notice is sent to the applicant/recipient.~~

~~At the time the notice is sent, a file of potential RItE Share eligibles is transmitted to the RItE Share Unit. The referral for enrollment is based on information: 1) provided by the applicant or recipient in conjunction with an application or redetermination of MA; and 2) documented in the RItE Share database as to whether an employer offers RItE Share approved coverage.~~

~~The InRhodes generated notice of eligibility contains relevant information on the scope of eligibility and states that coverage is provided to MA eligible individuals on a fee for service basis until enrollment in either RItE Share or RItE Care is completed.~~

~~In instances in which a parent or caretaker relative is employed, the MA notice states that the Department will determine whether enrollment in the ESI is required for continued eligibility. The content of the notice and the nature of the enrollment referral may vary depending on whether the individual(s) determined eligible is:~~

- ~~• Requesting MA as a new applicant or continuation of MA as a recipient; or~~
- ~~• Covered by or has access to a RItE Share approved ESI plan.~~

~~Referrals for enrollment are made in conjunction with: 1) initial determinations of MA eligibility; 2) redeterminations of MA eligibility; 3) participation of an individual's employer in RItE Share; and 4) information acquired by DHS indicating that the individual's employer offers a RItE Share approved plan;~~

### ***0349.10.05.15 Initial Determination of Eligibility***

REV:01/2006

~~Department field staff are responsible for determining initial eligibility for MA in accordance with procedures in Section 0348.15.10.~~

~~A file of potential RItE Share eligibles is transmitted to the RItE Share Unit. The RItE Share Unit researches the case further to determine whether enrollment in RItE Share is appropriate and cost effective.~~

### ***0349.10.05.20 Continuing Eligibility – Redeterminations***

REV:10/2008

~~For recipients applying for continuing eligibility, Department representatives are required to assess as part of the redetermination process whether the individual/family is a RItE Care or RItE Share recipient and if there has been any change in access to ESI.~~

~~Individuals/families determined eligible are sent a notice of redetermination, specifying the terms for continuing eligibility. The terms for continuing coverage vary as follows:~~

- ~~• RItE Care recipients without access to ESI continue enrollment in the RItE Care plan that provided coverage in the previous period of eligibility in accordance with section 0348.~~

## Draft Rule: For Public Comment

- ~~RItE Care recipients who have gained access to a RItE Share approved ESI plan continue to be enrolled in the RItE Care plan that provided coverage in the previous period of eligibility pending review by the RItE Share Unit for possible enrollment in the ESI plan through RItE Share. In such cases, the Department sends a notice stating that eligibility is continued and that coverage in a RItE Care plan continues pending action on the ESI plan by the RItE Share Unit. A referral to the RItE Share Unit is made accordingly.~~
- ~~RItE Share recipients who retain access to the approved ESI plan that provided coverage during the previous period of eligibility, continue to be enrolled in RItE Share pending review by the RItE Share Unit of any changes that might result in withdrawal of approval of the ESI plan, disenrollment, and subsequent enrollment in a RItE Care plan.~~
- ~~RItE Share recipients who involuntarily lose access to an ESI plan that provided coverage during the previous period of eligibility for any of the reasons stated in section 0349.10.20.10 receive coverage as follows:~~
  1. ~~If the ESI plan for which the RItE Share recipient lost access is a RItE Care Health Plan, and the involuntary disenrollment occurred in the ninety (90) day period prior to and inclusive of the re-determination date, the MA eligible family members shall be enrolled in a RItE Care Health Plan according to the enrollment procedures set forth in Section 0348; or~~
  2. ~~If the ESI plan for which the RItE Share recipients lost access is not a RItE Care plan, any MA eligible individuals in the family receive coverage through fee-for-service pending either enrollment in a RItE Care plan, or if the recipients gained access to another ESI plan, approval of that plan by the RItE Share Unit.~~

~~In all such cases, the notice of continuing eligibility sent by the Department to the recipient(s) shall include a statement of the applicable terms for continuing eligibility, the reason(s) for establishing the terms, and the right to appeal and request a hearing with regard to either, as well as all other information required in this section. The enrollment referral transmitted to the RItE Share Unit shall also indicate which terms apply and shall be sent at the time the redetermination is made.~~

~~Enrollment in a RItE Share approved ESI plan is a condition of eligibility for Medical Assistance for individuals age nineteen (19) years and older. This requirement also applies to those individuals who had previously or have the option to waive their ESI so as to receive financial compensation, including but not limited to, an increase in hourly wage, an increase in weekly salary and/or a lump sum payment. (Payment for waiving coverage is also known as "pay in lieu of benefits.")~~

### **0349.10.05.25 Rhode Island Works Cash Recipients**

REV:04/2001

~~At the time eligibility redeterminations are completed, Department representatives are responsible for assessing whether Rhode Island Works (RIW) cash recipients are subject to participation in RItE Share as a condition of MA eligibility. Only those RIW cash recipients, age nineteen (19) and over, who have access to ESI and have been steadily employed for a period of six (6) consecutive months~~

## Draft Rule: For Public Comment

~~or more, shall be subject to enrollment in RIte Share. All other RIW cash recipients continue enrollment in the RIte Care plan which provided coverage until the next scheduled redetermination of eligibility.~~

~~If the RIW participant has been employed for over six (6) months, the InRhodes generated notice of redetermination sent to RIW cash recipients shall state that enrollment in the RIte Care plan that provided coverage during the previous period of eligibility is continued, pending review of the ESI plan by the RIte Share Unit. The recipients shall receive notice from the RIte Share Unit at least fourteen (14) days prior to enrollment in an ESI plan if enrollment in an approved ESI plan is a condition of retaining continuing eligibility. RIW cash recipients without access to ESI or who have not been employed during the six (6) months prior to redetermination, shall be notified by the Department that coverage continues via RIte Care until the next scheduled redetermination.~~

### ***0349.10.05.30 Good Cause***

REV:10/2008

~~Department field representatives are responsible for determining whether good cause exists for an exception to the non-financial cooperation requirements for MA eligibility contained in Section 0308 and, more specifically, for participation in RIte Share, except as noted below. Determinations of good cause for MA eligibility shall be made in accordance with the procedures specified for the applicable coverage group. The procedures for failing to cooperate with RIte Share specific requirements are specified below in Section 0349.10.20 and 0349.10.20.05.~~

~~The Center for Child and Family Health (CCFH) is responsible for determining good cause exemptions due to extraordinary circumstances.~~

~~To do so, an individual must submit an exemption request to CCFH in writing.~~

~~CCFH shall exempt a recipient from RIte Share enrollment only when there are extraordinary circumstances which preclude the individual from receiving medically necessary care through RIte Share. For purposes of this exemption, "extraordinary circumstances" may include:~~

- ~~• The existence of an unusual and life-threatening medical condition which requires medical treatment that cannot be provided or arranged by the RIte Share plan whether it is provided through the custodial or non-custodial parent; or~~
- ~~• The existence of a chronic, severe medical condition for which the recipient has a long standing treatment relationship for that condition with a provider who does not participate in the RIte Share plan; or~~
- ~~• Enrollment in the health plan of the non-custodial parent could result in reasonably anticipated physical and/or emotional harm to the child(ren), custodial parent, or other relative with whom the child is living.~~

~~Claims of physical and/or emotional harm must be determined to be of a genuine and serious nature. The emotional harm to the custodial parent or other relative with whom the child(ren) lives must be of such a serious nature that the capacity to care for the child(ren) adequately would be reduced. Corroborative evidence upon which a determination of good cause is to be based must be supplied.~~

## Draft Rule: For Public Comment

~~Corroborative evidence may include: court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the non-custodial parent might inflict physical and or emotional harm on the child(ren), custodial parent, or other relative with whom the child(ren) lives.~~

~~If good cause has been granted by DHS for any other benefit program administered by DHS, the good-cause exemption will be honored by the RItE Share Program.~~

~~Enrollment exemptions requested due to extraordinary circumstances must be in writing, with appropriate documentation (letter from physician, medical records, restraining orders, or others as indicated), and signed by the recipient or caretaker relative.~~

~~Exemption requests are routed to CCFH.~~

~~CCFH makes enrollment exemption determinations on a case by case basis after considering all required documentation and any other relevant information pertaining to the individual's request. An exemption may be granted for any length of time during the period in which the extraordinary circumstances exist. When an exemption is granted by CCFH, all MA eligible family members are enrolled in a RItE Care Health Plan in accordance with policy set forth in Section 0348.~~

~~An individual's preference to continue a treatment relationship with a doctor or other health care provider who does not participate in the RItE Share plan does not in and of itself constitute an "extraordinary circumstance."~~

### **0349.10.10 Role of RItE Share Unit**

REV:01/2006

The Department's RItE Share Unit is responsible for:

- ~~• eliciting information from RI employers about the health plans they offer to workers on an ongoing basis~~
- ~~• evaluating health plans for RItE Share approval; and~~
- ~~• maintaining a database of RItE Share approved ESI plans; and~~
- ~~• contacting employers to make RItE Share enrollment decisions.~~

~~Upon receipt of member referral information, the RItE Share Unit verifies employment and access to a RItE Share approved ESI plan. Based on this review, the RItE Share Unit determines:~~

- ~~• Whether the recipient is approved for RItE Share; and~~
- ~~• The date that individual or family must enroll in the~~

~~ESI in order to maintain MA eligibility.~~

~~The specific procedures for making such determinations vary depending on the enrollment status of the recipient(s) and the employer's customary enrollment process.~~

### **0349.10.10.05 Initial Enrollment in a RItE Share Plan**

REV:10/2011

## Draft Rule: For Public Comment

~~The RIte Share Unit renders enrollment decisions for all recipients subject to RIte Share participation for the first time in accordance with the procedures established in this section.~~

~~If the Department determines that the recipients do not have access to a RIte Share approved plan, enrollment in a RIte Care plan is made in accordance with the procedures specified in Section 0348.75. Upon determining that an individual/family is qualified for coverage through RIte Share, the Department provides a written Notification of Eligibility for Enrollment stating the employee must select a RIte Share approved ESI plan through their employer's personnel or human resources office within fourteen (14) calendar days. Written notice will be sent to the MA recipient approximately thirty (30) days prior to the date that enrollment in RIte Share is required, but only in instances when: 1) approval of the ESI plan is the impetus for the requirement to enroll rather than a determination or redetermination of MA eligibility; and 2) the employer is not participating in RIte Share.~~

~~Employers participating in RIte Share shall also be notified of enrollment decisions, in a manner deemed appropriate by the Department.~~

~~The terms for initial enrollment in RIte Share are as follows:~~

- ~~• A MA eligible policy holder nineteen (19) years of age or older in the assistance household with access to a RIte Share approved plan is required, as a condition of retaining MA eligibility, to complete an enrollment process within fourteen (14) calendar days of receipt of the notification of eligibility to enroll in ESI. If the policy holder is a parent or caretaker relative, all MA eligible children in the family must also be enrolled in the ESI. MA ineligible individuals in the family may also be enrolled in the ESI if there is no additional cost to the Department. However, the notification shall indicate that wrap-around coverage will not be paid for or provided to the MA ineligible family members. The notification shall indicate that failure to complete an enrollment form and/or voluntarily disenrollment from the ESI is grounds for ineligibility for any MA eligible individuals age nineteen (19) or older that would be covered under the ESI.~~
- ~~• If the policy holder age nineteen (19) or older in the assistance household with access to the RIte Share approved ESI is MA ineligible, the notification shall clearly indicate that no payment shall be made for coinsurance, cost sharing obligations, or wrap-around coverage to or for the policy holder or other MA ineligible family members enrolled in the ESI.~~

### **0349.10.10.10 Enrollment Verification/Failure to Enroll**

REV:01/2006

~~For individuals working for a RIte Share “participating” employer, the employer is required to submit verification to the RIte Share Unit that initial enrollment in the ESI has been made in the manner prescribed by the Department.~~

~~For individuals working for a RIte Share approved employer, the individual must provide verification of enrollment by completing the appropriate DHS form, which requires the signature of a representative of the employer or submitting a copy of the official ESI enrollment receipt.~~

~~Once this verification has been received, DHS will initiate premium payment.~~

## Draft Rule: For Public Comment

~~Failure to enroll in the ESI plan is grounds for termination of MA eligibility for the parent(s) or caretaker relative over the age of nineteen (19) in the household.~~

~~If a MA eligible policy holder does not enroll as required, a referral is then made by the RItE Share Unit to the field indicating that the MA eligible policy holder and any other MA eligible individuals over age nineteen (19) refused to enroll in the ESI as required. The Department enrolls any MA eligible children in a RItE Care plan.~~

~~Department field representatives send a Notice of Discontinuation, stating that the MA eligibility has been terminated for adults in the household. The ineligible individual may reapply (for inactive cases) or request reinstatement (for active MA cases) if they chose to comply with RItE Share, if an exemption from enrollment is granted or if the individual no longer has access to the ESI.~~

~~Procedures for handling cases in which an MA ineligible policy holder fails to enroll are the same as for an eligible policy holder, with one exception, the Department sends a Notice of Disqualification to the policy holder indicating that the enrollment costs in ESI shall not be paid by the Department.~~

~~Both the Notice of Discontinuation and the Notice of Disqualification shall include a statement indicating that any MA eligible individuals in the family affected by the determination have the right to appeal and to request a hearing to contest the change in eligibility and the enrollment decision.~~

~~In certain circumstances, the Department may have a prior agreement with the employer which permits the RItE Share Unit to enroll the eligible individual/family in the ESI plan upon receipt of an acknowledgment or written consent from the policy holder. The notification of enrollment sent from the RItE Share Unit to the MA ineligible policy holder as well as to any MA recipients in such cases shall explain any such prior arrangements and any additional appeal and hearing rights that follow there from.~~

### ***0349.10.10.15 Continuing Enrollment in RItE Share***

REV:01/2006

~~Department field staff are responsible for determining initial and continuing eligibility for MA in accordance with procedures in Section 0348.15.10. The InRhodes generated Notice of Approval contains relevant information on the scope of eligibility and states that coverage is provided to MA eligible individuals through RItE Care or RItE Share.~~

~~When the MA eligible individual/family has access to a RItE Share approved ESI plan, a statement is added to the Notice of Approval indicating that the RItE Share Unit will determine whether initial or continued enrollment in the ESI through RItE Share is required. A file of potential RItE Share eligible families is transmitted to the RItE Share Unit. The RItE Share Unit researches the case further to determine whether enrollment in RItE Share is appropriate and cost effective.~~

### **0349.10.20 Recipient Responsibilities**

REV:04/2001

~~All individuals and families applying for Medical Assistance must meet the cooperation requirements established in sections 0308 and 0348.20. In addition, Medical Assistance recipients are required to meet the RItE Share specific cooperation requirements established in this section to maintain~~

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~~coverage once both the initial determination of MA eligibility and the decision on RItE Share enrollment have been rendered by the Department.~~

### **0349.10.20.05 Cooperation Requirements**

~~REV:01/2006~~

~~All MA applicants/recipients are required to provide information regarding other health coverage and/or access to ESI when applying for initial or continuing eligibility. The required information relating specifically to access to ESI which must be provided includes:~~

- ~~• The names of any family members in the household currently covered by or with access to ESI;~~
- ~~• The name of the policy holder and the employer offering the ESI; and~~
- ~~• Verification of monthly enrollment costs via a paycheck stub if the policy holder is currently enrolled or, if available, enrollment information provided by the employer indicating the policy holder's monthly premium for the appropriate family composition.~~

~~In addition, MA recipients required to enroll in the ESI shall cooperate as follows:~~

- ~~1. Enroll in the ESI in the manner, and within the time lines, established by the Department. Failure to do so will result in the termination of Medical Assistance for any MA eligible parents/caretaker relatives age nineteen (19) and older in the family. The eligibility of any other MA recipient members in a family shall not be terminated as the result of the refusal of an otherwise ineligible policy holder to enroll in the ESI.~~
- ~~2. Submit verification of enrollment in accordance with Section 0349.10.10.10 when the employer does not participate in RItE Share.~~
- ~~3. Submit reports to Department field representatives indicating any changes in enrollment status of MA eligible family members, enrollment costs, household composition, employment, income, residence, and access to ESI within ten (10) days from the date the change occurs.~~
- ~~4. Individuals and families subject to cost sharing requirements must cooperate in making required premium payments in order to remain eligible for Medical Assistance. Failure to make a required premium payment, without good cause, will result in disenrollment from the Rite Share Premium Assistance Program and loss of MA eligibility as provided in Section 0349.10.20.15.05.~~

### **0349.10.20.10 Disenrollment**

~~REV:01/2006~~

~~Voluntary disenrollment by MA eligible RItE Share participants from a RItE Share approved ESI plan results in the termination of MA based on the failure to meet the non-financial cooperation requirements set forth in this section.~~

~~For the purposes of RItE Share, voluntary disenrollment includes, but is not limited to, instances in which a RItE Share participant:~~

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- ~~Requests that the employer drop coverage or cease enrollment for the entire family or an MA eligible individual in the family;~~
- ~~Fails to meet the requirements established by the employer to maintain enrollment in the approved plan—e.g., submit required documentation or forms, etc.~~
- ~~Engages in unlawful or fraudulent acts, such as submitting false claims, that violate the terms for continuing enrollment in the ESI plan.~~

~~Voluntary disenrollment does not include the loss of access to ESI as a result of change in employment, termination of coverage by the employer for an entire class of workers, death, separation, divorce, or disability of the policy holder, or any other factors that could be reasonably construed as involuntary disenrollment as defined in this section.~~

~~Upon receiving a report from the employer, the ESI plan insurance provider, or recipient indicating that disenrollment has occurred, the RItE Share Unit verifies the accuracy of the report and assesses whether it is voluntary or involuntary in nature and forwards the information to the Department field representative.~~

~~Once the report has been verified and it is determined to be voluntary disenrollment, the Department sends a Notice of Discontinuance stating that:~~

~~Termination of the MA eligibility of the policy holder, parent(s) or caretaker relative in the applicant household until the individual demonstrates compliance with enrollment procedures established by the DHS. However, this period of MA ineligibility may be shortened and MA eligibility established if such individual becomes exempt from RItE Share enrollment or no longer has access to ESI for reasons such as a change in employment. (See Sections 0349.10.05.25 and 0349.10.05.30).~~

- ~~Any MA ineligible individuals are disqualified for RItE Share; and~~
- ~~All MA eligible pregnant women and children shall be automatically enrolled in a RItE Care plan.~~

~~The Notice of Discontinuance shall also include any remedies for shortening the period of ineligibility as well as the right to request a hearing and appeal the decision.~~

~~Involuntary disenrollment from RItE Share shall not adversely affect MA eligibility. For the purposes of RItE Share, involuntary disenrollment is defined as the termination of ESI resulting from any of the following:~~

- ~~a) change in the employment status of the policy holder (e.g., from full time to part-time);~~
- ~~b) cancellation of the ESI plan by the employer;~~
- ~~c) death, divorce, separation or disability of the policy holder; or~~
- ~~d) withdrawal by the employer as a participant in RItE Share.~~

### ***0349.10.20.15 Premium Share Requirements***

REV:10/2008

See section 0348.40

### **0349.20 Approval of Cost Effective ESI Plans**

REV:04/2001

~~Only ESI or group health plans that the Department determines meet the cost effectiveness and benefits criteria specified in this section shall be approved for the RItE Share premium assistance program.~~

~~Sources of Information for Determining Cost Effectiveness The RItE Share Unit shall base determinations of ESI cost effectiveness on information gathered from the following sources:~~

- ~~• DHS-1, DHS-2, and MARC-1 Application Forms require applicants to indicate: current health insurance coverage status; relationship to policy holder; plan name; policy number; eligibility for and type of coverage (e.g., individual, family, individual and single dependent); employee costs for coverage (e.g., employee's share for individual v. family/dependent coverage); and individuals covered by plan.~~
- ~~• The RItE Share Unit collects data about ESI plans of the employers of Medical Assistance beneficiaries. Information from employers includes data necessary to determine whether the employer's ESI offerings meet the Department's cost effectiveness and benefits criteria.~~

~~The Department reserves the right to request additional information about the ESI plan from the MA recipient, the policy holder, even if not an eligible MA recipient, and, where appropriate and necessary, the employer or insurance carrier.~~

### **0349.20.05 Methodology for Determining Cost Effective**

REV:10/2011

~~The RItE Share Unit uses the information about the ESI plan to compare the enrollment cost (i.e., payment of the employee's share) for the MA eligible individuals in the family, and any ineligible policy holder, in RItE Care versus RItE Share. An ESI plan is determined to be cost effective when on the aggregate, the total cost of covering Medical Assistance eligible individuals through RItE Share is less than the average cost to cover them through RItE Care. RItE Share enrollees receive coverage comparable in scope, amount and duration to coverage provided in a RItE Care plan.~~

~~To be cost effective, the employee's monthly ESI premium share, deductibles, co-insurance plus any Medical Assistance covered services not covered by the ESI plan (e.g., services covered under the RItE Care Health Plan contract but not under the ESI plan) must be less than the average capitation payment for an average RItE Care family.~~

~~These average costs shall be actuarially determined at such intervals as deemed appropriate by the Department. There are three cost effectiveness determinations for each employer plan:~~

- ~~1. Family coverage where all family members are MA eligible with income less than or equal to one hundred seventy five percent (175%) of federal poverty level income guidelines (FPL);~~

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- ~~2. Family coverage where only children and pregnant women in the family are MA eligible with income greater than one hundred seventy five percent (175%) and less than or equal to two hundred fifty percent (250%) of the FPL; and~~
- ~~3. Individual coverage where only the employee is Medicaid eligible (pregnant women).~~

~~The figures used as the basis for assessing cost effectiveness shall be made available, upon request, by the Department.~~

### **0349.20.10 Process for Approving ESI Plans**

~~REV:01/2006~~

~~Once an ESI plan offered by an employer has been deemed to be Rite Share, the Rite Share Unit identifies the employer in the InRhodes JINC database.~~

~~Approved ESI plans are reevaluated on annual basis to ensure that all MA eligible enrollees receive coverage comparable in scope, amount and duration to coverage provided in a Rite Care plan. From the date an ESI plan is approved until the date it is reevaluated, any MA eligible individual (not undocumented) working for that employer and their MA eligible dependents are considered Rite Share eligible.~~

### **0349.30 Rite Share Premium Assistance Payment**

~~REV: 10/2011~~

~~The Rite Share Premium Assistance Program provides subsidies for premium share enrollment costs and any required wrap-around services, including certain cost sharing obligations.~~

~~Payments are made in a prospective manner.~~

~~Rite Share premium assistance payments are used to cover the following enrollment costs:~~

- ~~• MA eligible's share of the premium for enrolling in ESI for individual coverage (e.g., pregnant women)~~
- ~~• MA eligible's share of the premium for enrolling in ESI for family/dependent coverage;~~
- ~~• MA ineligible policy holder's share of the premium for enrolling the policy holder and any MA eligible family members in ESI plan that provides family/dependent coverage.~~

~~It is the responsibility of the Department to establish the appropriate mechanism for transferring payment for enrollment costs when determining whether the employer offering the plan is qualified to participate in Rite Share as indicated in section 0349.20.~~

~~The payment options include:~~

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- ~~• Enrollment costs are paid directly by the employer without any wage withholding from the policy holder. The RItE Share Unit or its agent either mails a check or electronically transfers payment to the employer's bank or account, on a monthly basis, to cover the enrollment costs for any individuals/families on the ESI as a result of RItE Share enrollment. These are called "participating" employers~~
  - ~~• Enrollment costs are paid by the employer after wage withholding from the policy holder. The RItE Share Unit or its agent mails a check or electronically transfers payment to the policy holder, on a monthly basis, to cover the enrollment costs for any individuals/families on ESI as a result of RItE Share enrollment.~~
  - ~~• Enrollment costs (both the employer's premium share and the employee's premium share or employee's premium share only) are paid directly to the insurance carrier on a monthly basis by the RItE Share Unit or its agent. (If both the employer and employee enrollment costs are paid, the Department then bills the employer for the employee's enrollment costs).~~
- ~~The notification of enrollment sent to the recipient(s) shall clearly specify the method for paying enrollment costs.~~

### ~~Wrap-around Coverage~~

~~MA payment shall be made to cover the costs for any wrap-around coverage that a MA eligible individual/family enrolled in ESI is eligible to receive. Wrap-around coverage includes any MA covered health care services not included in the ESI. This also includes cost sharing a MA eligible RItE Share enrollee is required to pay to a MA participating provider within the ESI network that exceeds the levels established in section 0348 for individuals/families enrolled in a RItE Care plan. Any cost sharing, including co-payments, deductibles or co-insurance, charged for services utilized by the MA ineligible policy holder enrolled in an approved ESI plan are not eligible for RItE Share payment.~~

~~MA eligible individuals/families enrolled in an approved ESI plan are sent a Medical Assistance ID card. This card together with the individual's ESI card are presented to health care providers at the point of service to signify that Department should be billed for any MA covered health care services not covered by the ESI plan, as well as deductibles or co-insurance. The health care provider may not bill the RItE Share member for any cost sharing required by the ESI, including co-payments. Payment to providers for wrap-around coverage shall be made in a timely manner via a method deemed appropriate by the Department.~~

~~MA eligible individuals/families enrolled in a RItE Share shall not make out-of-pocket payments for any cost sharing not applicable to MA recipients or for any MA health care services not covered by the approved ESI plan.~~

~~DHS has the authority to recover Medical Assistance benefit overpayment claims and cost share arrearages through offset of the individual state income tax refund in accordance with Section 44-30.1 1, 44 30.1 3, 44 30.1 4 and 44 30.1 8 of the Rhode Island General Laws in Chapter 44 30.1 entitled 'Setoff of Refund of Personal Income Tax.' An example of a benefit overpayment is payment made to a beneficiary for employer sponsored health insurance that was not active during the month(s) for which the payment was made.~~

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~~See DHS policy Section 0313 COLLECTION OF OVERPAYMENTS VIA STATE TAX REFUND OFFSET.~~

**~~0349.40 Notice and Appeal Rights~~**

~~REV:04/2001~~

~~Medical Assistance applicants and recipients shall receive timely notification of Department eligibility and enrollment determinations and the right to appeal. The Department shall also provide timely notification, including appeal rights, of any adverse decisions that reduce or terminate benefits.~~

~~InRhodes generated notices of MA eligibility or ineligibility are issued by DHS field staff. DHS RItE Share Unit sends notifications of enrollment and disenrollment in RItE Share.~~

**~~0349.50 Disenrollment from ESI/RItE Share~~**

~~REV:01/2006~~

~~An individual shall be disenrolled from RItE Share when: a) the individual no longer has access to the RItE Share approved ESI plan; b) all MA eligible members covered under the ESI plan lose MA eligibility; c) a determination is made by the RItE Share Unit that continued enrollment in RItE Share is not cost effective; or d) for individuals subject to cost sharing, a required premium payment is not received within the specified time frame. Any family members disenrolled from RItE Share who continue to be eligible for MA shall be enrolled in a RItE Care Health Plan in accordance with provisions in Section 0348.~~

~~The Center for Child and Family Health shall exempt a recipient from RItE Share enrollment only when extraordinary circumstances as listed in DHS Policy Section 0349.10.05.30 preclude the individual from participating in RItE Share.~~