



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:

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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.

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- 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.

# **State of Rhode Island and Providence Plantations**

## **Executive Office of Health & Human Services**



**Access to Medicaid Coverage Under the Affordable Care Act:**

### **Section 1303:**

**Application Process for Medicaid Affordable Coverage**

**October 2013 (Proposed)**

**Rhode Island Executive Office of Health and Human Services  
Access to Medicaid Coverage Under the Affordable Care Act:**

**Rules and Regulations Section 1303:**

**Application Process for Medicaid Affordable Coverage**

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*Introduction*

These rules related to **Access to Medicaid Coverage Under the Affordable Care Act, Section 1303 of the Medicaid Code of Administrative Rules entitled, “Application Process for Medicaid Affordable Coverage”** are promulgated pursuant to the authority set forth in Rhode Island General Laws Chapter 40-8 (Medical Assistance), 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; and the Code of Federal Regulations 42 CFR Parts 431, 435, 436 *et. seq.*

Pursuant to the provisions of §42-35-3(a)(3) and §42-35.1-4 of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified and these regulations are promulgated in the best interest of the health, safety, and welfare of the public.

**1303.**

**Application Process for Medicaid Affordable Coverage: No Wrong Door**

**1303.01 Scope and Purpose**

One of the central goals of the federal Affordable Coverage Act of 2010 was to improve access to and the availability of affordable health coverage. Toward this end, the State of Rhode Island is committed to making the process of applying for affordable health coverage easy to navigate and understand. In keeping with this commitment, the State established a new on-line system for determining eligibility for affordable coverage that enables consumers to apply on-line, or in-person, by telephone or through the mail from a variety of settings.

On January 1, 2014, the Executive Office of Health and Human Services (EOHHS), the Medicaid Single State Agency (hereinafter the Medicaid agency), will accept applications through the State's new on-line eligibility system for all consumers in the following Medicaid coverage groups:

- Families and Parents/Caretakers with income up to 133% of the Federal Poverty Level (FPL) – Includes families and parents/caretakers who live with and are responsible for dependent children under the age of 18 or 19 if enrolled in school full-time to age 19.
- Pregnant Women with income up to 253% of the FPL – Includes women during pregnancy and the sixty (60) day postpartum period beginning on the date the pregnancy ends.
- Children and Young Adults with income up to 261% of the FPL – Includes children and young adults up to the age of 19.
- Adults 19-64 without children with income up to 133% of the FPL – Includes adults without dependent children who are not: pregnant, entitled to received Medicare Part A or B, or otherwise eligible for or enrolled in a Medicaid State Plan mandatory coverage group.

The purpose of this rule is to describe the application process for members of these coverage groups and to set forth the respective roles and responsibilities of the Medicaid agency and applicants. Applicants using the new eligibility system will be evaluated for affordable coverage paid for in whole or in part by Medicaid, tax credits, and other forms of subsidies. The process of determining eligibility through the system is fully automated and, as such, provides applicants with greater access to coverage irrespective of the application starting point.

On and after January 1, 2014, the provisions set forth in this rule governing the application process shall take precedence over those established in section 0342 for any NEW APPLICANTS in the Medicaid coverage groups identified herein as subject to section 1301. Members of these coverage groups who are already enrolled in Medicaid on January 1, 2014, will not be subject to the provisions of this rule until their eligibility is determined in 2015 unless their coverage is discontinued for any reason and they seek to reapply.

### 1303.02 Definitions

“**Application Access Points**” means the various contact points where consumers or their representatives can access the application process either directly through the eligibility system’s web portal (on-line) or with the assistance of EOHHS, DHS, or Contact Center representatives or an application entity (in-person, by telephone or a mail-in application).

“**Application Entity**” means an organization or firm acting on a State agency’s behalf that provides applicants for affordable coverage with an application access point including the EOHHS, the Department of Human Services (DHS), the HealthSourceRI (HSRI) benefits exchange, the Contact Center and any organizations designated for such purposes.

“**Attestation**” means a person authenticates by signature that a statement or document is genuine and true.

### 1303.03 Application Access Points

Both the State’s “No Wrong Door Policy” and the federal law stipulate that the Medicaid agency must provide consumers with a choice of application access points. New applicants for affordable coverage may access the eligibility system and complete the application process through application entities that have been designated for this purpose and on their own or with assistance, if necessary, through any of the following access points:

01. **On-line Self-Service Portal** -- Applicants have the option of accessing the eligibility system and applying on-line using a self-service portal through links on the EOHHS (eohhs.ri.gov) and DHS (dhs.ri.gov) websites or directly through HSRI (HealthSourceRI.com). There are also kiosks located in DHS field offices that provide direct access to the on-line self-service portal. The information applicants provide on-line is entered directly into the eligibility system and is processed electronically in real-time. For these reasons, the Medicaid agency encourages all new applicants to select the on-line option and complete and submit the application electronically whenever feasible.
02. **In-person or by Telephone** – Applicants may apply in-person at DHS field offices with the assistance of an agency representative or on their own using kiosks established for this purpose. The Contact Center also provides access to walk-in applicants and consumers who make contact by telephone. If an applicant is unwilling or unable to apply on-line, an agency or Contact Center representative must enter the information into the eligibility system portal on the applicant’s behalf.
03. **On-paper** – Applicants may submit paper applications in-person or by U.S. mail, e-mail transmissions, and facsimile transmissions to the address specified on the application. Paper applications are available on-line, through the U.S. Mail upon written request or telephone request (855-447-7747 or 1-888-657-3173 (TTY), or in-person at any DHS field office or the

Contact Center. Upon receipt, an agency or Contact Center representative must enter the information provided on the paper application directly into the eligibility system portal and submit the application for a determination on the applicant's behalf.

04. **Application Entities** – Applicants may access the eligibility system with the assistance of application entities that provide navigators or other in-person assisters (IPAs). Members of these entities assist applicants in completing paper applications or applying through the on-line portal. A list of these application entities is available from the Contact Center or on-line by visiting the EOHHS website ([www.eohhs.ri.gov](http://www.eohhs.ri.gov)).

#### **1303.04 Completing and Submitting the Application**

In general, the process of completing and submitting an application proceeds in accordance with the following:

01. **Account Creation** -- To initiate the application process, the applicant, agency or Contact Center representative, or application entity assisting the applicant must create a login and establish an account in the eligibility system.
- (01) The applicant must provide personally identifiable information as a form of identify proof during this process. Verification of this information is automated. Documentation proving identity may be required via various forms of identity proof (driver's license, school registration, voter registration card, etc.). If the automated process is unsuccessful, the information must be provided by the applicant upon request (via mail, fax, on-line upload or the application is terminated. (See the Medicaid Code of Administrative Rules section 1308 for additional information).
- (02) Once identity is verified, the Medicaid agency must conduct account matches in accordance with section 1308 of the Medicaid Code of Administrative Rules to determine whether the applicant or members of the applicant's household have other accounts or are currently receiving benefits. It is the Medicaid agency's responsibility to resolve account matching issues and notify the applicant of any necessary actions.
02. **Account Duration** – An application account is open for a period of ninety (90) days. Applicants must restart the process if they have not completed and submitted an application within that period.
- (01) Applications may be started at any time. Once started, progress can be saved at any point and the application returned to at a later time. Incomplete applications not submitted within ninety (90) days are automatically deleted in the eligibility system.
- (02) Eligibility determinations for Medicaid. Determinations must be made in no more than thirty (30) days from the date the completed application is received. The application remains open after that period if the Medicaid agency or its eligibility designee (DHS) or agents (application entities) are responsible for delays in the determination.

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(03) Temporary eligibility period. If there are discrepancies between an applicant's attestations and electronic data matches on immigration or citizenship eligibility factors, eligibility may be granted for a period of no more than ninety (90) days. The application remains open during this period to allow the applicant sufficient time to obtain necessary documentation. (See Medicaid Code of Administrative Rules sections 1308.09 and 1308.10).

03. **Application Materials** – Applicants must answer all the required questions for each member of their household. Application questions focus on the need for all types of affordable coverage and specific Medicaid eligibility criteria related to the applicable MACC group. In general, applicants will be able to provide answers to the application questions with information used when filing federal tax forms and/or documents commonly used for identification and income verification purposes. Materials that may be of assistance whether applying on-line, in-person, or when submitting a paper application by any means include, but are not limited to:

- RI Address
- Federal tax filing status
- Household/family size
- Social Security Numbers
- Birth Dates
- Passport or other immigration numbers
- Federal tax returns
- Information about any health coverage available to you or your family, including any information you have about the health insurance your current employer offers even if you are not covered by your employer's insurance plan
- W-2 forms with salary and wage information if you work for an employer
- 1099 forms, if you are self-employed

04. **Application Completeness** – Before a determination of eligibility is made, all questions on the application must be completed. Applicants must be informed and offered the opportunity to provide any additional documentation or explanations necessary to proceed to the determination of eligibility. Such information will be provided to applicants immediately through a notification from the eligibility system when using the self-service portal. The agency or Contact Center, or application entity entering the information into the eligibility system on the applicant's behalf, must provide this information as soon as feasible. Applicants must be informed that they have the option to submit any additional documentation or materials that may be required to complete the determination of eligibility through an on-line upload, by email, U.S. mail, fax, telephone or in-person.

### **1303.05 Attestation of Application Information**

All questions on the application must be answered in a truthful and accurate manner. Every applicant must attest to the truthfulness and accuracy by providing an electronic signature under penalty of perjury. The Medicaid agency must verify information electronically to the fullest extent feasible and must verify applicant attestations in accordance with the procedures set forth in the Medicaid Code of Administrative Rules section 1308.

01. **Electronic Matches** – Federal and State Data Sources: The eligibility system verifies attestations through electronic data matches with external sources such as the U.S. Social Security Administration and Internal Revenue Service and RI agencies such as the Division of Motor Vehicles, the Office of Vital Statistics and the Department of Labor. The eligibility factors subject to verification are specified in the Medicaid Code of Administrative Rules section 1305; the verification process is located in section 1308 of the Medicaid Code of Administrative Rules.

**Attestation** -- Before an application can be submitted, the applicant, or the person/entity acting on the applicant's behalf, must provide the necessary attestations. An agency or Contact Center representative or an authorized application entity must verify that the application was signed (e.g., mail application), a voice signature was obtained (telephone application), or that the applicant signed a declaration in-person. The signature provided by the applicant in these instances is an attestation to both the applicant's identity and the truthfulness and accuracy of the information on the application. After a complete application with a declaration has been submitted, the applicant will receive an eligibility determination for each household member seeking coverage. There are circumstances when an applicant's attestations and verification data matches show discrepancies. (See section 1308 of the Medicaid Code of Administrative Rules for the provisions governing reconciliation of such differences).

### **1303.06 Privacy of Application Information**

Application information must only be used to determine eligibility and what types of coverage a person is qualified to receive. Accordingly, the Medicaid agency, Contact Center, or application entity must maintain the privacy and confidentiality of all application information and in the manner required by applicable federal and state laws and regulations.

### **1303.07 Notice of Determination of Eligibility**

Once an application is complete, the necessary verifications are performed, and a determination of eligibility is performed. An applicant is informed at this point which household members seeking coverage are eligible for Medicaid or some other form of affordable coverage. A notice is generated forty-eight (48) hours after the determination informing the applicant of the outcome and advising the applicant of the right to appeal and request a hearing on the Medicaid agency's decision. These appeal rights are specified in MCAR section 0100.

- (01) If determined eligible, the applicant may proceed directly to enrollment. Depending on when enrollment is completed – at the time eligibility was determined or later – the notice will include both the eligibility determination and enrollment information. The provisions on Medicaid enrollment are set forth in the Medicaid Code of Administrative Rules section 1311.
- (02) If determined ineligible, the notice sent to the applicant must include the legal basis for the decision. The eligibility system will automatically determine what, if any, other types of affordable coverage the applicant is qualified to receive.

### **1303.08 Agency and Applicant Role and Responsibilities**

The Medicaid agency and applicants have shared and distinct responsibilities in the application process.

01. **Medicaid agency** -- Under current state and federal laws, the Medicaid State Agency is required to:

- (01) Assist applicants in completing all necessary forms.
- (02) Provide applicants with an interpreter or translator services upon request.
- (03) Assure all information applicants provide is kept confidential unless otherwise authorized to share with other state and federal agencies for the purposes of verification and enrollment.
- (04) Make timely determinations of eligibility in accordance with applicable laws and regulations.
- (05) Accept appeals and hold hearings on agency actions related to eligibility decisions in accordance with MCAR Section 0110 and the Department of Human Services' rule #0110. (Note: the health insurance marketplace is referred to as the "RI Health Benefits Exchange" in Section 0110 of the Medicaid Code of Administrative Rules).

02. **Applicant Rights and Responsibilities** -- All applicants have the following:

- (01) **Applicant Rights** --The right to obtain help in completing forms; to an interpreter or translator, upon request; to be treated free from discrimination on the basis of race, color, national origin, sex, age or disability; to have personal information remain confidential; and to file an appeal and request a hearing on eligibility actions.
- (02) **Applicant Responsibilities** -- The responsibility to:
- (03) Disclose certain information including social security numbers and proof necessary to determine eligibility;
- (04) Report changes in income, family size and other application information as soon as possible; and

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- (05) Sign the application and thereby agree to comply with any applicable laws related to the type of eligibility requested and the coverage received.

**1303.09. For Further Information or to Obtain Assistance**

01. Applications for affordable coverage are available online on the following websites:

- [www.eohhs.ri.gov](http://www.eohhs.ri.gov)
- [www.dhs.ri.gov](http://www.dhs.ri.gov)
- [www.HealthSourceRI.com](http://www.HealthSourceRI.com)

02. Applicants may also apply in-person at one of the Department of Human Services offices or by U.S. mail. Request an application by calling 1-855-447-7747.

03. For assistance finding a place to apply or for assistance completing the application, please call: 1-855-609-3304 or 1- 855-840-HSRI (4774).

**1303. 10. 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.