



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.

Draft Rule: For Public Comment

State of Rhode Island and Providence Plantations
Executive Office of Health & Human Services



Section 1373:
The Sherlock Plan
Medicaid for Working People
with Disabilities Program

October 2013 (Proposed)

Rhode Island Executive Office of Health and Human Services

Rules and Regulations Section 1373:

The Sherlock Plan – Medicaid for Working People with Disabilities Program

TABLE OF CONTENTS

<i>Section Number</i>	<i>Section Name</i>	<i>Page Number</i>
	1373: The Sherlock Plan – Medicaid for Working People with Disabilities Program	
1373.01	Overview	1
1373.02	Program Eligibility	1
1373.03	Income Limits	1
1373.04	Resources Limits	2
1373.05	Retroactive Coverage	2
1373.06	Access to Employer-Based Health Insurance	2
1373.07	Premium Rate Setting	3
1373.08	Premium Collection Methods	3
1373.09	Non-Payment of Premiums	3
1373.10	Loss of Employment or Eligibility	4
1373.11	Available Services	4
1373.12	Severability	4

Introduction

These rules, **Section 1373 of the Medicaid Code of Administrative Rules entitled, “The Sherlock Plan – Medicaid for Working People with Disabilities Program”** 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.

Rhode Island Executive Office of Health and Human Services

1373. The Sherlock Plan – Medicaid for Working People with Disabilities Program

~~Section One~~ 1373.01 Overview

~~I.~~ Program Description

The Sherlock Plan – Medicaid for Working People with Disabilities Program is an SSI-related categorical eligibility group comprised of working adults with disabilities pursuant to the Balanced Budget Act of 1997 (42 USC section 1396a(a)(10)(ii)(XIII)). Those eligible under this category will be entitled to the full scope of Categorical Medical Assistance benefits, Home and Community Based services, and services needed to facilitate and/or maintain employment, but ~~will~~ may be required to pay a premium in order to remain active on the program.

~~II.~~ 1373.02 Program Eligibility

To be found eligible within the program of Working People with Disabilities, a person must:

- Be at least eighteen (18) years of age; and
- Currently meet the Medical Assistance requirement for disability. Those individuals meeting the disability requirement are not required to meet the provision that a person be unable to engage in substantial, gainful employment; and
- Have proof of active, paid employment such as a pay stub or current quarterly IRS tax statement (for those who are self-employed).
- Have countable earned net income no greater than 250% FPL. Countable income is defined as the total earned income remaining after all SSI-related disregards are applied; and
- Have countable assets no greater than \$10,000 (individual) or \$20,000 (couple). Medical savings accounts or retirement accounts are not counted as a resource; approved items that are necessary for an individual to remain employed are not counted as a resource (i.e. wheelchair accessible van).

~~III.~~ 1373.03 Income Limits

Financial eligibility is defined as countable net income equal to or less than two hundred fifty percent (250%) of the Federal Poverty Level (FPL). Countable income for purposes of establishing program eligibility excludes any unearned income and is defined as the total earned income remaining after all SSI-related disregards are applied.

The SSI-related disregards listed in ~~DHS-EOHHS Code of~~ Code of Administrative Rules, Section 0364 are applied, ~~including \$20 per month General Income Exclusion;~~ and including \$20 per month

Draft Rule: Proposed for Comment

General Income Exclusion; and including impairment related work expenses as defined in the Code of Federal Regulations, 20 CFR, Section 416.976.

Participants in this program will be defined as a family size of one (1) for financial eligibility purposes.

Only the individual's income will be reviewed and counted in income calculations.

~~IV.~~ 1373.04 Resources Limits

The following resource limits apply to applicants and recipients of the Working People with Disabilities Program:

<i>Resource Limits</i>	
Individual	\$10,000
Couple	\$20,000

When calculating available resource amounts for a married couple, the resources of both the individual accepted into the program and their spouse must be determined available as a resource and applied to the resource limit of \$20,000.

The following resources are not countable for this program:

1. IRS recognized medical savings accounts or retirement accounts.
2. Items necessary for an individual to remain employed and/or independent (such as a specially adapted vehicle).

~~Section Two~~ 1373.05 Retroactive Coverage

As an SSI-related coverage group, participants in the Working People with Disabilities Program are eligible for retroactive coverage. Eligibility for retroactive coverage will be determined in accordance with the rules established in DHS Code of Rules Section 0310 with the following exception particular to this coverage group:

- Premiums must be paid in full before retroactive eligibility can be instituted.

Individuals may deduct premium amounts from the total amount of any unpaid medical bills in the retroactive eligibility period.

~~Section Three~~ 1373.06 Access to Employer-Based Health Insurance

Individuals with disabilities who have access to employer-based health insurance are required to enroll in the plan as a condition of participation in the Medicaid buy-in program, provided that enrollment in the employer-based health insurance plan is cost-effective and its benefits are comparable to the benefits provided by the Medicaid program. If coverage meets Medicaid requirements, Medicaid will pay the employee's share of the monthly premium. Enrollment of the

individual in the employer-based health insurance plan is without regard to any enrollment season restrictions.

Section Four 1373.07 Premium Rate Setting

I. Premium Calculation

01. Once a person has been found eligible as a working person with a disability, a premium will be calculated using the ~~methodology~~ methodologies in EOHHS Medicaid Rules, Section 0348 and also through the Rite Share Premium Assistance Program in section 1312. For the purposes of premium calculation the individual's and spouse's earned income will be counted. The total earned income will be income remaining after all SSI-related disregards are applied:

~~Countable earned income will be assigned premiums in amounts specified in EOHHS Medicaid Rules, Section 0348.~~

02. Countable earned income will be assigned premiums in amounts specified in EOHHS Medicaid Rules, Section 0348The balance of the countable earned income, together with any unearned income will be assigned premiums in amounts specified in EOHHS Medicaid Rules, Section 0348.

H. 1373.08 Premium Collection Methods

A. 01. Electronic Funds Transfer (EFT)

The eligible individual requests that their bank allow the state to withdraw the monthly premium directly from the family's savings or checking account by an electronic transfer to Medicaid. The person is given an EFT form to fill out. The funds will be withdrawn by the state on the third (3rd) day of the month prior to the month of coverage. The person will be notified by letter if the EFT premium payment was not successful.

B. 02. Wage withholding

The recipient may request that their employer withhold the monthly premium. The employer will then pay the monthly premium to Medicaid through an EFT. The employed person is given a special form requesting wage withholding and deposit or transfer to take to his or her employer to be completed and mailed.

C. 03. Direct Pay

The individual pays the premium to Medicaid by check or money order every month. A premium payment coupon and pre-addressed envelope will be provided to the family before the premium is due. The check or money order and the premium payment coupon are mailed or delivered to the Medicaid fiscal agent.

III. 1373.09 Non-Payment of Premiums

Non-payment of premiums is treated in the same manner as for Rite Care and Rite Share participants as detailed in the DHS Code of Rules, Section 0349.10.20.15.05.

~~Section Five~~ 1373.10 Loss of Employment or Eligibility

A person who loses employment may retain eligibility, under this group, for up to four (4) months by paying their previously determined required premium. ~~a premium~~. If the person is still unemployed at the end of the four (4) month period, he/she will no longer qualify as a working adult with a disability.

A person no longer eligible as a working adult with a disability may retain approved medical savings accounts and retirement account assets in the amount held on the last full day of eligibility as a working adult with a disability. These medical savings account and/or retirement account assets will be considered non-countable assets for purposes of Medicaid eligibility under any other coverage group. The individual is responsible for providing verification of these account balances as of the last date of eligibility as a working adult with a disability if it is to be disregarded for future Medicaid eligibility.

~~Section Six~~ 1373.11 Available Services

Services include the full scope of Categorical Medical Assistance benefits, Home and Community Based services, including personal care services provided through an agency or through a self-directed program, and services needed to facilitate and/or maintain employment. The applicant/beneficiaries services are coordinated through the Medicaid Office and the Office of Rehabilitation Services (ORS). Long-term care services and supports are listed in DHS Code of Rules, Section 0399.

Services to maintain and support employment shall be determined and approved through an assessment of need utilizing a state approved assessment instrument. Authorized personal care services may be provided in the home, workplace or other necessary setting (i.e. physician office).

1373.12 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.