



## RHODE ISLAND EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES

### *Notice of Public Review of Rules*

The Secretary of the Executive Office of Health & Human Services (EOHHS) has under consideration three (3) selected sections of the Medicaid Code of Administrative Rules ("MCAR") **to be repealed** as follows:

MCAR #	TITLE OF REGULATION TO BE REPEALED	LAST AMENDED
0310	Retroactive Coverage	July 21, 2014
0318	Medicaid Redetermination	December 11, 2013
N/A	Program of All-Inclusive Care for the Elderly (PACE) State Plan Amendment	March 19, 2006

The EOHHS plans to repeal the three (3) documents in the second column (noted above) in their entirety. All of these regulations are promulgated pursuant to the authority contained in Rhode Island General Laws Chapters 40-8 (Medical Assistance); 42-7.2 (Executive Office of Health & Human Services) and 40-6 (Public Assistance Act); Title XIX of the Social Security Act; and the Medicaid Section 1115 Demonstration Waiver.

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 was identified based upon available information.

In accordance with RIGL §42-35-2.3, an oral hearing will be granted if requested by twenty-five (25) persons or by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty days of this notice. Interested persons should submit data, views, or written comments **by Monday, November 28, 2016** to: Elizabeth Shelov, Office of Policy and Innovation, Rhode Island Executive Office of Health & Human Services, Hazard Building, 74 West Road, Cranston, RI 02920 or [Elizabeth.Shelov@ohhs.ri.gov](mailto:Elizabeth.Shelov@ohhs.ri.gov).

These proposed documents to be repealed are accessible on the Rhode Island Secretary of State's website: <http://www.sos.ri.gov/ProposedRules/> or are available in hard copy upon request (401-462-1575 or RI Relay, dial 711).

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*Original signed by:*

Elizabeth H. Roberts, Secretary

Signed this 31<sup>st</sup> day of October 2016

**THE FOLLOWING RULE WILL BE REPEALED IN ITS ENTIRETY**  
**November 2016**

**~~0310—Retroactive Coverage~~**

**~~0310.01—Applicability~~**

~~REV: June 2014~~

~~The provisions in this section do not apply to the individuals and families in the Medicaid Affordable Care Coverage (MACC) Groups identified in MCAR section 1301 that take effect on January 1, 2014. The rule governing the application process for the Medicaid Affordable Coverage Groups included in section 1301 is located in MCAR section 1303.~~

**~~0310.05—Retroactive Coverage Defined~~**

~~REV: October 2013~~

~~Medicaid beneficiaries who meet the SSI-related eligibility criteria may request retroactive eligibility for UP TO THREE (3) MONTHS PRIOR TO THE MONTH OF APPLICATION. To obtain retroactive coverage, applicants must meet all eligibility criteria during the retroactive period.~~

~~Retroactive coverage is also available to IV-E and non IV-E foster children and adoption subsidy family-related coverage groups.~~

~~The following chart details the family related coverage groups who are eligible/ineligible for retroactive services:~~

<i>Coverage Group</i>	<i>Eligible For Retro</i>
<del>IV-E and non IV-E Foster Children</del>	<del>Y</del>
<del>Adoption Subsidy Children Coverage Groups</del>	<del>Y</del>
<del>SSI related coverage groups categorically or medically needy</del>	<del>Y</del>
<del>Non-citizens who are ineligible for ongoing Medicaid due to immigration status—All coverage groups</del>	<del>Y</del>

~~At the time of application for Medicaid, if the applicant indicates that an unpaid medical bill was incurred in the three-month period preceding the application, eligibility for retroactive coverage must be determined.~~

~~Current eligibility for SSI, RI WORKS, or Medicaid does NOT affect retroactive eligibility. Individuals who are denied SSI, RI WORKS, or Medicaid in the month of application may be eligible for retroactive coverage.~~

~~An applicant need not be alive when an application for retroactive coverage is filed.~~

~~Retroactive eligibility is not available to persons who were not residents of Rhode Island in the retroactive period and at the time the service was provided.~~

**~~0310.10—Eligibility Requirements~~**

REV: October 2013

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~~Retroactive coverage applies only to unpaid medical bills for services provided within the scope of the Medicaid Program. The medical bills must have been incurred during the three month retroactive period. The applicant must meet Medicaid eligibility requirements for each month in which an unpaid medical bill was incurred. Thus, retroactive eligibility may be determined for one, two, or three months of the retroactive period.~~

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~~ONLY THE INCOME AND RESOURCES AVAILABLE TO THE APPLICANT IN THE RETROACTIVE PERIOD ARE USED TO DETERMINE ELIGIBILITY.~~

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~~All services are subject to the same Title XIX utilization review standards as all other medical services of the Medicaid Program.~~

### ~~0310.15 Procedures for Determining Retroactive Eligibility~~

REV: October 2013

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~~In determining retroactive eligibility, the applicant's net income (after allowable deductions and disregards) and resources are compared to Medically Needy limits UNLESS the unpaid medical bill is for Categorically Needy service only. In this case, eligibility must be based on the applicable Categorically Needy limits.~~

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~~To determine retroactive eligibility, complete the following:~~

- ~~• Verify that the bill is unpaid and is for a covered service provided within the three (3) months prior to the first of the month of application for SSI, RI WORKS, or Medicaid.~~
- ~~• Establish eligibility based on:
  - ~~— Residence~~
  - ~~— Characteristic (if required)~~
  - ~~— Relationship (if required)~~
  - ~~— Citizenship or alienage; and at the time of application, the applicant must fulfill cooperation and enumeration requirements.~~~~
- ~~• Compare the resources and net income (after allowable deductions and disregards) to the appropriate income limit for the month(s) in which there is a verified, unpaid bill(s) (income limits refer to Categorically Needy income limits, Medically Needy income limits and Low Income Aged and Disabled income limits). Resources must be within the applicable resource limit as of the first day of each month for which eligibility is being determined.~~
- ~~• Determine whether retroactive coverage is available to individual's coverage group.~~
- ~~• If eligible, certify the case for the month or months of eligibility. Retroactive eligibility is for one (1), two (2), or all of the three (3) months immediately preceding the month of application.~~

- ~~• If the income exceeds the Medically Needy Income Limits apply the Flexible Test of Income. If the Flexible Test of Income results in achieving Medicaid retroactive eligibility, only those bills not applied to excess income are authorized for retroactive coverage.~~

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If the bill is for a service not provided under the Medically Needy scope of services, the application must be determined for eligibility as Categorically Needy.~~

- ~~• If an unpaid bill is for a Categorically Needy service and the applicant's income exceeds the Categorically Needy Income Limits, the application for retroactive eligibility is denied. There is no Flexible Test of Income for income in excess of the Categorically Needy Income Limits.~~
- ~~• If unpaid bills for both Medically Needy and Categorically Needy services are submitted, the applicant must be found eligible as Categorically Needy or the bill(s) for the Categorically Needy service(s) must be denied. If the individual is eligible as Medically Needy, only the bill(s) for Medically Needy services can be authorized for retroactive coverage.~~

#### **~~0310.20 Authorization of Retroactive Eligibility~~**

~~REV: October 2013~~

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Retroactive eligibility is determined on a month by month basis.~~

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No bill can be paid unless it is submitted by the provider and received by the Medicaid agency WITHIN TWELVE (12) MONTHS OF THE DATE THE SERVICE AS PROVIDED.~~

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A copy of each medical bill or other verification that a medical expense exists during the retroactive period must be included in the case record to support the decision on the application.~~

#### **~~0310.21 Severability~~**

~~October 2013~~

~~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.~~