

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 181]

MA Income Retroactive Eligibility

The Department of Public Welfare (Department), under the authority in section 403(b) of the Public Welfare Code (62 P. S. § 403(b)), intends to amend §§ 181.1, 181.12 and 181.14 (relating to general policy on MA income common to all categories of MA; retroactive eligibility; and eligibility under MNO-MA spenddown) as set forth in Annex A.

Purpose

The purpose of these proposed amendments is to amend the methodology used in determining retroactive eligibility for Medically Needy Only (MNO) Medical Assistance (MA). The current methodology contains an identified disparity in determining eligibility under MNO spenddown which provides an advantage to certain persons based on their application dates. The disparity is created when persons with similar income and circumstances have different application dates. The application date determines the methodology used to determine retroactive eligibility. When eligibility is determined, there may be a disparity in the spenddown amount. The spenddown amount is that part of the provider's bill for which the client is responsible. The proposed amendments attempt to remove this disparity and are an option available to the Department under governing Federal regulations. For determining income eligibility for retroactive eligibility coverage for MNO-MA, the total amount of income available in the combined retroactive and prospective period, a consecutive 6-calendar months, will be used. The methodology for the nonmoney payment MA will remain unchanged.

Background

The amendments conform with a final rule published by the Health Care Financing Administration (HCFA) at 59 FR 1659 (January 12, 1994) amending 42 CFR 435.831. This final rulemaking provides several options for simplifying the administration/methodology in determining retroactive eligibility for MNO-MA. The Commonwealth has chosen to implement Provision B, which allows the combination of the retroactive and prospective budget periods into a single consecutive 6-calendar month period.

Need for Amendments

An applicant for MA may be eligible for MA to cover the costs of medical expenses which were incurred prior to the date of application. The period prior to the date of application is known as the retroactive period and may begin as early as the first day of the third calendar month prior to the month of application. For example, for an applicant applying for MA on June 15, the earliest retroactive period date is March 1.

Current methodology requires that a month-by-month calculation be made for each month during the retroactive period for which payment for a service is being requested. For example, an applicant of June 15 has a hospital bill for the month of May and a doctor bill for the month of March with no medical service received in April. Separate

eligibility calculations would be made for the months of March and May based upon available income and resources for those months.

The month-to-month concept used in determining eligibility under MNO spenddown has created a disparity between those individuals who apply and sign the application at the time MA services are received and those individuals who apply and sign the application at a later date. The result of the month-to-month concept used in determining eligibility under MNO spenddown is that the amount of income to be paid towards MA services by individuals with similar income and circumstances varies greatly depending on the date of the individual's signature on the application form. For example, Mr. Jones is admitted to the hospital on April 1 and signs an application on April 1. Under the current regulations, the income for 6 months of April through September is used to determine eligibility for the month of April. Mr. Smith is admitted to the hospital on April 1, but does not sign an application until June 1. The income for only the month of April is used to determine eligibility for the month of April. The spenddown amount for which Mr. Jones is responsible will be much greater than that for Mr. Smith. This is because the spenddown amount is determined by an applicant's income. The eligibility determination for Mr. Jones uses 6 months of income. The eligibility determination for Mr. Smith uses only 1 month of income. That 1 month of income includes the period for Mr. Smith's hospitalization. As Mr. Smith is hospitalized, his income for that month is probably very low. Therefore, Mr. Smith's spenddown amount would be very low based on his 1 month of low income and high medical expenses.

The Department proposes to lessen the disparity by requiring that for retroactive MNO coverage, the income received during the entire retroactive period (up to 3 months) is combined with the income of the entire first prospective budget period. This combined period must always equal a consecutive 6-calendar month period, unless the applicant/recipient is deceased, resulting in a period that is less than 6 months. This period would be used to determine eligibility. For instance, in the preceding example, Mr. Jones would continue to have 6 months of income used to determine eligibility. However, Mr. Smith would have 2 months of retroactive income (April, May), combined with 4 months of prospective income (June, July, August, September), for a total consecutive 6-calendar month period to determine eligibility, versus only 1 month of income as the current regulations permit. The new methodology will eliminate the previous disparity and treat both applicants equally. In addition, the new methodology eliminates the advantages to the applicant of reapplying in order to achieve eligibility or a lower spenddown amount.

Summary

1. Section 181.1(b) is amended to state that in determining income eligibility for retroactive coverage for MNO-MA, the total amount of income available to the applicants/recipients in the combined retroactive and prospective period, a consecutive 6-calendar months, is used. The combined period can be less than 6 months only if the applicant/recipient is deceased.

2. Section 181.12(a) is amended to state that the period of eligibility for retroactive MA benefits differs between NMP and MNO. Currently both determine eligibility for retroactive MA benefits by using the methodology of

month-by-month computations. The section is amended to change the MNO methodology to combine both the retrospective and prospective months to create a consecutive 6-calendar month period to determine eligibility. The NMP methodology of month-by-month computation remains unchanged.

3. Section 181.12(c) is amended to state that income eligibility for retroactive MNO benefits is determined by using the combined retroactive and prospective period, a consecutive 6-calendar month period.

4. Section 181.14(d)(1)(v) is amended to specify that unpaid medical expenses must be incurred during the retroactive period to be deductible.

5. Section 181.14(e)(4) and (5) is amended to specify that unpaid medical expenses incurred before the retroactive period are not deductible from income in the combined retroactive/prospective period.

Affected Persons and Organizations

These proposed amendments will affect all applicants/recipients whose eligibility for retroactive MA is determined under MNO-MA.

Benefits

Implementation of these amendments ensures equal treatment of all applicants/recipients, regardless of the application date, in computing eligibility for MNO-MA benefits.

Fiscal Impact

Commonwealth

Assuming an implementation date of June 1, 1996, savings are estimated in the amount of \$3.451 million (\$1.627 million in State funds) for Fiscal Year 1996-1997.

Public Sector

These proposed amendments have no fiscal impact on county or local government.

Private Sector

These proposed amendments have no fiscal impact on the private sector.

Paperwork Requirements

These proposed amendments require no additional forms or reports.

Effective Date

These proposed amendments are effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

Sunset Date

No sunset date is applicable. The Department continuously reviews the MA Program and regulations through the Federally-monitored quality control process. The HCFA staff conducts audits periodically on specific aspects of the MA Program.

Public Comment Period

Interested persons are invited to submit written comments, suggestions or objections regarding these proposed amendments to the Department of Public Welfare, Patricia H. O'Neal, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081, within 30 calendar days of the date of publication of this notice in the *Pennsylvania Bulletin*. Comments received within 30-calendar days will be reviewed and considered in the preparation of the final regulations.

Comments received after the 30-day comment period will be considered for subsequent revisions of these regulations.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (Voice users), or may use a Department's TDD by calling (717) 787-3616. Persons who require another alternative, should contact India Wood at (717) 783-2212.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of these proposed amendments on April 1, 1996, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department by June 12, 1996. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to the final publication of the amendments, by the agency, the General Assembly and the Governor of objections raised.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-434. No fiscal impact; (8) recommends adoption. Amending the methodology used to determine retroactive eligibility for MNO-MA would result in a savings to the MA—Inpatient appropriation of \$1.627 million for Fiscal Year 1996-97 and a savings of \$1.775 million annually thereafter.

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE

CHAPTER 181. INCOME PROVISIONS FOR CATEGORICALLY NEEDY NMP-MA AND MNO-MA

Subchapter A. GENERAL PROVISIONS FOR MA INCOME COMMON TO ALL CATEGORIES OF MA

GENERAL PROVISIONS FOR MA INCOME

§ 181.1. General policy on MA income common to all categories of MA.

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(b) In determining income eligibility for MNO-MA, the total amount of income available to the applicants/recipients in a consecutive 6-calendar month period is used. In determining income eligibility for retroactive eligibility coverage for MNO-MA, the total amount of income available to the applicants/recipients in [each calendar month] the combined retroactive and prospective period, a consecutive 6-calendar month period, is used. The combined period can be less than 6 months only if the applicant/recipient is deceased.

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CONTINUING AND RETROACTIVE ELIGIBILITY PROVISIONS FOR ALL CATEGORIES OF MA

§ 181.12. Retroactive eligibility.

(a) The earliest possible date for retroactive MA benefits to begin is the first day of the third month preceding the month of application.

(1) The period of eligibility for retroactive MA benefits under NMP-MA begins with the first day of the month in the retroactive period in which the first medical service was incurred, if the applicant was otherwise eligible during that month.

(2) The period of eligibility for retroactive MA benefits under MNO-MA begins with the first day of the month in the retroactive period in which the first medical service was incurred, if the applicant was otherwise eligible during that month.

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(c) For MNO-MA categories, income eligibility for retroactive MA benefits exists if one of the following applies:

(1) The applicant's/recipient's countable [monthly] net income in the combined retroactive/prospective period is equal to, or less than, the appropriate MNO-MA [monthly] 6-month period income limits in Appendix [G] F.

(2) The applicant's/recipient's countable [monthly] net income in the combined retroactive/prospective period, less medical expenses is equal to, or less than, the appropriate MNO-MA [monthly] 6-month period income limits in Appendix [G] F. Unpaid medical expenses incurred no earlier than the beginning of the retroactive period that are not subject to payment by a third-party, which remain the legal obligation of the applicant/recipient, and are not to be paid for under the MA Program once MA is authorized, and paid medical expenses, are deducted from the countable [monthly] net income in the combined retroactive/prospective

period as provided under § 181.14(e)(1)—(5) (relating to eligibility under MNO-MA spenddown). [This includes] Unpaid medical expenses incurred before the retroactive period are not deductible from income in the combined retroactive/prospective period.

§ 181.14. Eligibility under MNO-MA spenddown.

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(d) Deductible medical expenses include:

(1) Unpaid medical expenses, including those reasonably expected to be incurred, which meet the requirements in this paragraph. The unpaid medical expenses:

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(v) Shall be incurred no earlier than the beginning of the retroactive period.

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(e) Medical expenses meeting the requirements in subsection (d) are deducted from the countable net income in the following order:

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(4) Paid and unpaid expenses incurred by the applicant/recipient for necessary medical and remedial services recognized under State statutes or regulations but not included in the MNO-MA Program. Unpaid medical expenses incurred before the retroactive period are not deductible from income in the combined retroactive/prospective period.

(5) Paid and unpaid expenses incurred by the applicant/recipient for necessary medical and remedial services that are included in the MNO-MA Program. Unpaid medical expenses incurred before the retroactive period are not deductible from income in the combined retroactive/prospective period.

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