

**Subpart K. BLIND PERSONS**

<b>Chap.</b>	<b>Sec.</b>
<b>451.</b>	<b>451.1</b>
STATE BLIND PENSION .....	

**CHAPTER 451. STATE BLIND PENSION**

**GENERAL PROVISIONS**

- Sec. 451.1. Policy.
- 451.2. Definitions.
- 451.3. Requirements.
- 451.4. Procedures.
- 451.5. Adjustments for fiscal year ending before January 1981.

**Authority**

The provisions of this Chapter 451 issued under section 504(1) of the Public Welfare Code (62 P. S. § 504(1)), unless otherwise noted.

**Source**

The provisions of this Chapter 451 adopted May 5, 1978, effective May 6, 1978, 8 Pa.B. 1278, unless otherwise noted.

**Cross References**

This chapter cited in 55 Pa. Code § 141.1 (relating to policy); 55 Pa. Code § 225.24 (relating to procedures); and 55 Pa. Code § 255.1 (relating to restitution and disqualification policy).

**GENERAL PROVISIONS**

**§ 451.1. Policy.**

Article V of the Public Welfare Code (62 P. S. §§ 501—515), provides a pension to blind residents of this Commonwealth. It defines a blind person in terms of his age, his vision, the maximum resources he may have and the maximum payment he may receive.

(1) *Safeguarding information.* The regulations of the Department as set forth in Chapter 105 (relating to safeguarding information) will apply to SBP.

(2) *Appeal and fair hearing.* The regulations of the Department as set forth in Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) will apply to SBP.

**Source**

The provisions of this § 451.1 adopted May 5, 1978, effective May 6, 1978, 8 Pa.B. 1278.

**§ 451.2. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Applicant*—An adult who indicates to the county office that he wants to receive SBP; the guardian of the blind person; a relative, or an official of the institution in which the blind person is receiving medical care if the blind person is unable to apply for himself because of illness or infirmity.

*SBP*—A blind pension payment entirely from State funds.

**Source**

The provisions of this § 451.2 adopted May 5, 1978, effective May 6, 1978, 8 Pa.B. 1278.

**§ 451.3. Requirements.**

(a) *General.* A person may receive SBP category symbol “B” if he:

(1) Meets the conditions of eligibility in subsections (c)—(i).

(2) Agrees to an exploration and evaluation of his resources as described in subsection (i).

(3) Fulfills the responsibility for reporting changes in his circumstances; this includes reporting improvement in vision that may affect eligibility.

(b) *Other benefits.* A blind person eligible for SBP will receive a SBP unless he prefers to receive one of the categories of assistance provided in the Public Welfare Code (62 P. S. §§ 101—1411) and for which he is also eligible. No person may receive SBP concurrently with AFDC, GA or SSI. He may, however, receive MA benefits if he meets the eligibility conditions.

(c) *Vision.* Vision requirements are as follows:

(1) A person is blind if his visual acuity with best correcting lens is 3/60 or 10/200 or poorer in the better eye. A person shall undergo an examination for visual acuity as required by the Department. A person has the choice of examination by a physician skilled in the diseases of the eye, or by an optometrist.

(2) The procedures for determining visual acuity are listed in Appendix A.

(3) If the CAO has reason to believe that the client’s vision has improved because of the factual evidence such as driving an automobile or other activities which normally require a greater amount of vision than the eligibility standard as set forth in this subsection, the CAO shall initiate a reexamination as provided in Appendix A, Item I, B, b. If the county medical consultant certifies ineligibility, the CAO shall discontinue SBP.

(d) *Age.* Age requirements are as follows:

(1) The person shall be at least 21 years of age. A person meets the age requirement on the first day of the month in which he has his 21st birthday.

(2) There shall be proof of the year of birth. Proof consists of the statement of the applicant supported by written evidence. Examples of written evidence are:

- (i) A record of birth or baptism.
- (ii) A school, hospital or physician record.
- (iii) An enrollment record of voting districts.
- (iv) Records of civil or military service.
- (v) A marriage certificate.
- (vi) An insurance policy.

(3) If the month and day of birth are not shown, the birth date of the person for PA records is July 1. If the month is known but the day is not, the first of the month is the birthdate of the person for PA records.

(e) *Residence.* Reference shall be made to Chapter 147 (relating to residence) for residence requirements for SBP.

(f) *Institutionalization.* A blind person who is an inmate of a penal institution or hospital for mental disease is not eligible for SBP. For SBP, an institution for only the mentally retarded is not a hospital for mental disease.

(g) *Payment name.* The payment name is the name of the blind person, his guardian or trustee. For appointment of trustee, see Chapter 163 (relating to guardians and trustees).

(h) *Resources.* A blind person is not eligible for SBP if he has more than \$7,500 in real and personal property values combined, or \$4,260 or more annual net income. See § 451.5(a) (relating to adjustments for fiscal year ending before July 1981).

(1) *Real property.* Real property requirements for SBP are as follows:

(i) Real property is resident or nonresident real estate. It includes houses on leased land, mineral or subsurface rights and life interests.

(ii) The value of real property, exclusive of life interests, is its county assessed valuation less the recorded encumbrances against it. The assessed value may not be more than 30% of the official market value.

(iii) The value of real property may not be increased solely by reason of reassessment. If the real property has been enlarged or improved resulting in an increased assessment, a recomputation of the value of the property is made using the formula set forth in subparagraph (vi).

(iv) The value of a life interest in property will be determined by the Claim Settlement Area Office in accordance with the Department of Revenue's mortality tables. The CAO shall send to the Area Office, together with the document or excerpts from the document describing the life interest, information on the age of the owner of the life interest, the county assessed value of the property and the amount of the recorded encumbrances against the property.

(v) When the blind person owns real property jointly with one or more persons, each person is considered to own an equal share unless the document of ownership specifies otherwise.

(vi) If the county percentage rate of assessment is more than 30%, the following formula is used to determine the value of real property in determining eligibility:

(A) Divide the county assessed value by the county percentage rate of assessment.

(B) Multiply the figure arrived in clause (A) by 30%.

(C) Deduct the recorded encumbrances.

(2) *Personal property.* Personal property requirements for SBP are as follows:

(i) The value of personal property is its market value minus encumbrances on it, such as minus those specific obligations secured by the property. For example, stocks or bonds pledged as collateral for a loan are valued at the selling price less the unpaid balance of the loan; goods being purchased on an installment plan are valued at market price less the remaining payments owed.

(ii) If the blind person owns personal property jointly with one or more persons, a person is considered to own an equal share unless the document of ownership specifies otherwise.

(iii) The value of the personal property as equipment and stock, other than securities, necessary to obtain income and household furnishings and personal effects, are not included in determining the value of the personal property the blind person has.

(iv) Personal property is a resource other than real property or income. Examples of personal property are as follows:

(A) Money: cash on hand, in a bank account or safe deposit box, in postal savings, on deposit with a building and loan association or otherwise held where it is payable on demand.

(B) Securities: market value of stocks, bonds, mortgages or notes.

(C) Cash value of life insurance.

(D) Value of burial reserve.

(E) Trust Funds: if the trustee has the right to use the principal for the benefit of the blind person.

(F) Death Benefits: inheritances, lump sum death benefits, such as OASDI or Railroad Retirement, or, insurance payment received because of the death of another person.

(G) Proceeds from the sale or conversion of property, including compensation for the loss or destruction of property.

(3) *Income considered in determining eligibility for SBP.* Income considered in determining eligibility for SBP shall be as follows:

(i) Income may be actual or potential. Actual income is that which is available to the blind person to meet his current living requirements. Actual income is on hand, ready for use when it is needed.

(ii) Potential income is that which represents a possible future source for support for the blind person, and the eligibility of a blind person who has a claim or legal right to any benefit, award or pension, will be dependent on his agreement to take steps to make the resource currently available for his use. The blind person's decision as to the way the resource is to be developed and used will be accepted if the plan appears to be reasonable and sound.

(iii) The actual income the blind person receives is used in determining eligibility. Money expended for the benefit of the blind person by friends, relatives or others, but which is not received directly by the blind person himself, will not be considered as his income. Thus, payments made on behalf of a blind person to meet living expenses, including payments to meet all or part of the charge for nursing home care, will not be considered income. The payments have no effect on eligibility for SBP unless the blind person is requesting an SBP nursing home care payment of more than \$100 monthly; in which case the payments affect the need amount for nursing home care.

(iv) Income is considered as described in § 451.4(a) (relating to procedures).

(v) Income is money the blind person himself receives regularly, irregularly or as a one-time payment. Examples of income are as follows:

(A) Wages, commissions and bonuses.

(B) Gross receipts from a business, farm profession, renting rooms or providing meals.

(C) Dividends from stocks; interest on bank deposits, bonds, mortgages, notes; periodic payments from trust funds; rental; royalties; and similar payments received because of the ownership of real and personal property.

(D) Veteran's benefits, UMWA benefits, pensions, OASDI, Railroad Retirement and Unemployment benefits.

(E) Disability and annuity payments, or damages for personal injuries.

(F) Contributions or gifts; except insignificant amounts that are not likely to recur.

(i) *Disposition of property.* Requirements for disposition of property are as follows:

(1) Disposition of property may be accomplished by an exchange of title, or by diminishing the value of an interest through the placing of an encumbrance such as a mortgage or judgment, as well as by sale or gift.

(2) Since the ownership of real and personal property with a combined value of \$7,500 or less does not affect eligibility, subparagraph (3) will apply only to that portion of a blind person's property that is in excess of \$7,500.

(3) For the methods of determining "value," refer to § 177.24 (relating to determining value of resources).

(i) *Before application.* If, within the 2-year period before his application, a blind person disposed of real or personal property, or both, and this reduced the value of property he owns to \$7,500 or less, he is not eligible for SBP unless it is established that he received fair consideration in return for the property in excess of \$7,500.

(ii) *While an SBP recipient.* If an SBP recipient disposes of real or personal property, or both, and this reduces the value of property he owns to \$7,500 or less, he will be ineligible for SBP for 2 years thereafter, unless it is established that he received fair consideration in return for the property in excess of \$7,500.

(j) *Eligibility requirements for nursing home care.* The eligibility requirements for nursing home care shall be as follows:

(1) Nursing home care is available to persons eligible for SBP. The payment for nursing home care under this program is a postpayment, and is made to the eligible individual, not to the nursing home. For SBP recipients, this program applies to public as well as private nursing homes, except that an SBP recipient in a public nursing home may elect to receive the care under the MA program.

(2) A person who meets the conditions of eligibility for SBP is eligible to receive an allowance for nursing home care under the conditions in subparagraphs (i), (ii) and (iii).

(i) *Determination of need for nursing home care.*

(A) A person is considered to be in need of nursing home care if he is physically or mentally ill and undergoing planned, continuing medical treatment or palliative measures for the illness, which include as an essential component the type of medical care provided by qualified nurses, registered or practical.

(B) The need for residential or custodial care, or for supervision in taking routine medications or in the activities of daily living will not in themselves constitute a need for nursing home care. These services can be provided by other than medical personnel in other than nursing homes or other medical facilities. A need for nursing home care is distinguished from need from other types of care by the medical nature of the skill required to provide the care.

(C) Medical findings, and other information on physical condition will be required for a decision. Need for nursing care and procedures shall be supported by medical findings, and the frequency and regularity with which these services are needed shall have a sound and reasonable basis.

(D) The responsibility for determining the need for nursing home care and whether the blind person is eligible for the care rests with the CAO review team composed of the county medical consultant and a designated

member of the social service staff. In CAOs without a medical consultant, the State Office Medical Review Team, Office of Medical Programs makes the decision.

(ii) *Eligibility conditions relating to the patient.* The patient's physical condition shall be such that he requires nursing care as described in subparagraph (i).

(iii) *Eligibility conditions relating to the nursing home.* Eligibility conditions relating to the nursing home are as follows:

(A) The nursing home shall be a medical institution as certified by the Office of Medical Programs. Refer to guidelines in § 161.22 (relating to definitions).

(B) The nursing home shall give the CAO a signed statement describing the financial arrangement the patient has with the nursing home. The statement shall include: the name of the patient; the actual charge for the patient's care; the monthly amount the patient is to pay out of his own resources; the monthly amount of additional payment that is to be paid by the source other than the patient and the name of the source. When there is a change in the financial arrangements, the nursing home gives the CAO a signed statement describing the new arrangements.

(k) *Eligibility for medical or other health care.* An SBP recipient will be eligible for all MA services except inpatient hospital care, physician's services in the hospital, hospital home care, 3 pints of whole blood, laboratory and X-ray services in independent facilities, intermediate care or public nursing home care. To be eligible for these services, an SBP recipient shall also meet the eligibility requirements for the medically needy.

(l) *Eligibility for SBP.* Eligibility for SBP is determined as follows:

(1) A redetermination of eligibility that comprehends the factors of eligibility is made as often as is appropriate to the individual case but at least once a year.

(2) A Form PA 743-R shall be completed at each redetermination interview and the client's signature obtained. The client's signature shall also be secured on the Form PA 743-S, Rights and Responsibilities Supplement, at redetermination interviews.

(3) If the redetermination indicates the possibility that the blind person may be eligible for SSI, the advantages of receiving SSI, such as increased monthly cash benefits, full MA coverage and the like will be discussed with the client. If the blind person is interested in transferring to SSI, after discussion of the benefits to be derived as an SSI beneficiary, the person will be referred to the Social Security Administration. As part of the referral process, the worker will assist the person in filing an application by making available to the Social Security Administration information from the case records that would be helpful in establishing the blind person's eligibility.

(4) The case record will show that a complete redetermination has been made.

#### Authority

The provisions of this § 451.3 amended under section 403(b) of the Public Welfare Code (62 P. S. § 403(b)).

#### Source

The provisions of this § 451.3 adopted May 5, 1978, effective May 6, 1978, 8 Pa.B. 1278; amended November 10, 1978, effective May 6, 1978, 8 Pa.B. 3090; amended January 19, 1979, effective December 4, 1978, 9 Pa.B. 251; amended February 9, 1979, effective March 12, 1979, 9 Pa.B. 505; amended July 25, 1980, effective July 1, 1980, 10 Pa.B. 3102; amended August 26, 1988, effective November 1, 1988, 18 Pa.B. 3893. Immediately preceding text appears at serial pages (109320) to (109327).

#### Notes of Decisions

##### *Vision*

Even though an applicant has central vision which is better than 3/60 or 10/200, her severe "tunnel vision" makes her eligible for benefits. *Fields v. Department of Public Welfare*, 407 A.2d 155, 157 (1979).

#### Cross References

This section cited in 55 Pa. Code § 451.4 (relating to procedures).

### § 451.4. Procedures.

(a) *Computing income.* Computation of income will be made in accordance with the following procedures:

(1) *Earned income.* Earned income will be computed as follows:

(i) Income which a blind person receives from operating a business or farm, or practicing a profession, or as an employe will be designated earned income. The amount of earned income available to the blind person will be determined by deducting expenses necessary to obtain the income. Personal expenses such as income taxes, social security taxes, occupational taxes will not be deducted. Allowable expenses from the different types of earned income are as follows:

(A) From gross wages, commissions and bonuses the following shall be deducted:

(I) Employment expenses necessary to the type of job, and not paid by the employer, for example, the cost of tools, materials, special uniforms or telephone.

(II) Actual cost of transportation to and from employment.

(III) Actual cost of guide service or maintenance of a dog guide necessary to the employment.



(B) From gross income from operating a business or farm, or practicing a profession, the actual expenses necessary to produce, protect and continue the income shall be deducted.

(C) From gross income received from renting rooms or apartments or furnishing meals, where the blind person is responsible for providing service in addition to the use of space and equipment, the following shall be deducted: \$10 per month for a tenant or tenant group; \$20 per month for a boarder; \$30 per month for a separate tenant-boarder, persons not included above; \$30 per month for the first person and \$20 per month for an additional person in a tenant-boarder group, persons not included above; and 50% of the remainder.

(ii) As used in this subsection, the terms tenant and tenant-boarder mean a lone person whose rent or rent and board arrangements with the client are independent of other persons; the terms tenant group and tenant-boarder group mean a group of two or more persons who are living together as a family normally would and who have a joint rent, or rent and board, arrangement with the client. A husband and wife, or parents and their children, are always included in a tenant group or tenant-boarder group; other persons whose plan is to rent living accommodations as a group rather than as individuals also are considered to be a tenant group or tenant-boarder group.

(iii) If income is derived from renting space or equipment only, the income will not be considered to be earned income and the deductions in paragraph (2) will apply.

(2) *Other income.* From other income, the expenses necessary to get or to assure the continued receipt of the income shall be deducted.

(i) The amount of monthly OASDI for purposes of SBP eligibility will be determined as follows:

(A) Determine the monthly amount of OASDI as the monthly benefit received on 1/1/71 or the monthly benefit awarded after 1/1/71, then

(B) Disregard the first \$4 from the monthly benefit.

(C) Disregard future increases.

(ii) The amount of monthly railroad retirement and veterans' benefits for purposes of SBP will be determined as follows:

(A) Determine the monthly amount of railroad retirement and veterans' benefits as the monthly benefit received on January 1, 1976 or the monthly benefit awarded after January 1, 1976, then

(B) Disregard any future increases.

(b) *Amount of monthly SBP payment—exclusive of NHC payment.* Procedures for determination of monthly SBP payment are as follows:

(1) A blind person's income and total SBP payments may not exceed \$4,260 during a 12-month period; therefore, the amount of the monthly payment is based on annual net income. Reference should be made to § 451.5(a) (relating to adjustments for fiscal year ending before July 1981). The 12-month

period is termed fiscal year and consists of 12-consecutive monthly payment periods. A monthly payment period will be the fiscal month for persons receiving regular SBP payment. An SBP recipient's fiscal year will begin on the first day of the first full monthly payment period and ends on the day before the thirteenth monthly payment period begins. The beginning and ending dates of a fiscal year will not change if SBP is discontinued and resumed during one fiscal year, except that if SBP is discontinued because of the authorization of nursing home care payment, the date SBP is again authorized will start a new fiscal year.

(2) The monthly SBP payment will be \$100 if the blind person's annual net income is expected to be \$3,060 or less.

(3) If the annual net income is expected to be more than \$3,060, the monthly SBP payment will be figured this way: subtract the annual net income from \$4,260, divide the remainder by 12. The result is the monthly payment, unless it is less than 95¢, in which case no SBP payment is made. Reference should be made to § 451.5(a).

(4) If, during the fiscal year, the amount of income changes from what had been expected, or the SBP payment is discontinued and resumed in the same fiscal year, the monthly SBP payment for the rest of the fiscal year will be figured as follows: add the net income already received during the fiscal year to the amount of net income that will probably be received during the rest of the fiscal year. If the total is not more than \$3,060, the monthly SBP payment will be \$100. If the total is more than \$3,060, the monthly payment will be figured this way: add the total annual net income and the SBP payments already made in the fiscal year, but do not include any NHC payments; subtract this total from \$4,260, divide the remainder by the number of months remaining in the fiscal year. The result is the monthly payment, unless it is less than 95¢, in which case no SBP payment is made. Reference should be made to § 451.5(a).

(c) *Amount of SBP monthly NHC payment.* The amount of SBP monthly NHC payment will be determined as follows:

(1) The monthly payment when the blind person is in a nursing home will be the excess of the maximum amount paid for nursing home care for recipients of assistance under the Public Welfare Code in like circumstances; over the amount of the blind person's actual income, but shall in no case be less than the amount determined in accordance with subsection (b).

(2) In determining the amount of the monthly NHC payment for a blind person requesting SBP-NHC of more than \$100 monthly, the actual income will also include payments made on behalf of a blind person to meet any or all of the cost of the nursing home care the blind person is receiving. NHC payment will not be made for care covered under Medicare. However, payments made under Medicare will not be considered as income in determining the SBP monthly payment of \$100.

(d) *Use of the Form PA 21-BI, computation sheet.* Form PA 21-BI will be used as follows:

(1) The Form PA 21-BI will be used to determine whether or not the total income and pension of an SBP recipient in a given fiscal year are within the legal limits of \$4,260 yearly set by law. Reference should be made to § 451.5.

(2) The form will be prepared for all SBP recipients who have income, except for those receiving SBP nursing home care, BN. The \$4,260 limit on annual income and pension will not apply to BN recipients and a fiscal year computation of income and BN payments, therefore, will have no significance. Reference should be made to § 451.5. Overpayments and underpayments for BN recipients will be determined on a monthly basis.

(3) Form PA 21-BI Part I will be used to record the following for each payment in the fiscal year:

(i) The anticipated amount of monthly income used to determine the SBP payment.

(ii) The actual monthly income subsequently found to be available for the same payment period.

(4) Column 1—*Payment Date*—The beginning date for the first monthly payment period in the fiscal year will be entered on the first line. The dates subsequent payment periods begin will be entered on the following lines. If SBP is discontinued during the fiscal year, the effective date of the discontinuance and “Disc” will be entered.

(5) Column 2—*Source*—The source of the income used to determine the amount of the SBP payment will be entered. A separate line will be used for a source.

(6) Column 3—*Anticipated Income*—Should not be completed if determination of payment was made solely on actual income.

(i) *Block A. Gross Amount Expected*—The amount expected to be received from a source during the payment period, will be entered including any FSBP payment received.

(ii) *Block B. Deductions, Kind, Amount*—The kinds of expenses necessary to secure the income and the amount will be entered.

(iii) *Block C. Net Income Detail*—The anticipated net income from a source will be entered. If there is only one source, this space should be left blank.

(iv) *Block D. Net Income Total*—The anticipated total net income from sources will be entered.

(7) Column 4—*SBP Payment*—Opposite the entry described in paragraph (6)(iv) the amount of an SBP payment or the payment which would be made if an overpayment were not being satisfied will be entered. “O” will be entered for each payment period an SBP payment was not made for reasons other than satisfying an overpayment.

(8) Column 5 will be completed as follows:

- (i) *Block A. Gross Amount Actual*—The actual gross income received will be entered.
  - (ii) *Block B. Deductions, Kind, Amount*—The kinds of expenses necessary to secure the income, and the amount will be entered.
  - (iii) *Block C. Net Income Detail*—The actual net income from each source will be entered. If there is only one source, this space should be left blank.
  - (iv) *Block D. Net Income Total*—The actual total net income from all sources will be entered.
- (9) Form PA 21-BI, Part B is used to compute for each fiscal year the total income and SBP received in a fiscal year to determine whether or not the SBP recipient was overpaid or underpaid during the year. Part B is completed:
- (i) At the end of the recipient's fiscal year.
  - (ii) When SBP payments are discontinued during the fiscal year.
  - (iii) When an SBP nursing home care payment is authorized for a person who has been receiving SBP.
- (e) *Use of the Form PA 21-B, authorization sheet.* Form PA 21-B will be used as follows:
- (1) Form PA 21-B (Authorization Sheet), will be used to authorize payment.
  - (2) A separate Form PA 21-B will be prepared in ink or indelible pencil for each person eligible for SBP.
  - (3) Form PA 21-B will be completed as follows:
    - (i) *Record No.—Name*—Enter the record number and name of the blind person.
    - (ii) *Date*—Enter the date of authorization.
    - (iii) *Category Symbol*—Enter “B”.
    - (iv) *BP Payment*—Enter the amount of the SBP payment.
    - (v) *Amount Withheld*—Enter the monthly amount to be withheld because of an overpayment for the previous fiscal year.
    - (vi) *Cash Grant*—Enter the difference between the SBP payment and the amount withheld. Adjust the figure to the nearest 10 cents. That is, amounts ending in .01 to .04 are adjusted downward; in .05 to .09, upward.
    - (vii) *Effective Date*—Enter the date as defined in § 225.22 (relating to definitions).
    - (viii) *Statistical Code*—Enter the appropriate Statistical Code.
    - (ix) *Financial Code*—This item was deleted on the 9/56 revision of the form. On all prior revisions, make no entries in this space. Reference should be made to “Financial” as set forth in subparagraph (xiv).
    - (x) *Ref. No. PA 21*—Enter the same column code numbers that are used on the Form PA 21 to indicate a change in information.
    - (xi) *Authorized By*—The person authorizing the payment enters his initials.

- (xii) *Checked By Date*—The person who checks the authorization enters his initials and the date the authorization is checked.
- (xiii) *122 Typed By Date*—Authorization typist enters his initials and date the Form PA 122 is typed.
- (xiv) *Financial*—Enter the column number of the authorization and the Financial Code and the explanation.
- (f) *Nursing home care eligibility procedures.* Procedures for determination of nursing home care eligibility are as follows:
- (1) *Date eligibility begins.* Eligibility for nursing home care will begin either the date that forms are completed and the person is found eligible for nursing home care or the date the person enters the nursing home, whichever is later. No payment may be authorized earlier than the following appropriate date:
- (i) Two calendar months before the date of certification of the first Form PA 122-N authorizing nursing home care payments, if the patient was receiving SBP at the time of certification, but no earlier than the date the SBP grant was authorized.
- (ii) The first day of the month on which the first Form PA 122-N authorizing nursing home care is certified if the nursing home care payment is an initial grant.
- (2) *Forms used to determine medical eligibility for nursing home care.* The following forms will be used to determine medical eligibility for nursing home care:
- (i) For First 60 Days of Nursing Home Care, Medical Assistance Physician's Prescription, Form PA 4-M.
- (A) Medical eligibility for up to 60 days of nursing home care may be established by means of a Physician's Prescription, Form PA 4-M.
- (B) If a longer period of care is required, medical eligibility for continued nursing home care is determined in accordance with subparagraphs (ii) and (iii).
- (ii) For Continued Nursing Home Care, Request for Nursing Home Care Payment, Form PA 258-N.
- (A) The physician uses Request for Nursing Home Care Payment, Form PA 258-N, to provide the medical information needed by the Company Assistance Office to determine eligibility. The form shall be signed by the patient's physician. No payment will be made to the patient's physician for completing the form. The physician shall send the signed form to the County Assistance Office, which stamps the date of receipt on the first page.
- (B) The contents of the Form PA 258-N will not be revealed to anyone without the consent of the patient and the attending physician, except in the administration of public assistance.

(iii) Supplement-Request for Nursing Home Care Payment, Form PA 258-NS. A Supplement-Request for Nursing Home Care Payment Form PA 258-NS, will be used to record the pertinent social factors as they relate to the patient's need for nursing home care.

(3) *Redetermination of need for care in the nursing home.* Redetermination of need for care in the nursing home will be made as follows:

(i) Whenever there is reason to believe that the patient may no longer require nursing home care, a redetermination of eligibility for nursing home care will be initiated.

(ii) A new Form PA 258-N must be completed and signed by the patient's physician; the patient is not required to sign. A new Form PA 258-NS must also be completed for each redetermination. The responsibility of the County Assistance Office Review Team will be the same as for an initial determination.

(iii) If assistance to a patient found eligible for nursing home care was discontinued, or if payment to a patient found eligible for nursing home care was not authorized, and a patient reapplies for nursing home care before 1 year has elapsed from the date of eligibility entered on the last Form PA 258-NS, no new determination will be made then of eligibility for nursing home care, unless there is reason to believe that the patient's condition may have changed.

(iv) If, after the review of the patient's medical needs, the Medical Consultant decides that the patient no longer needs nursing home care, the CAO will send the patient notification on the Form PA 162-A.

(4) *Office of Medical Programs.* The Office of Medical Programs makes selective reviews of determinations of the need for nursing home care, and provides consultation to County Assistance Offices on request.

(5) *Annual medical examination.* Every patient in a nursing home is required to have an annual medical examination.

(i) The Department will pay for the annual medical examination for SBP recipients on request to the County Assistance Office. The request will include the name of the physician or clinic who is to make the examination.

(ii) On receipt of the request, the County Assistance Office will determine whether at least one year has elapsed since the last annual medical examination. If the request is approved by the County Assistance Office, it sends the physician or clinic the following:

(A) Two Form PA 258-N's, Request for Nursing Home Care Payment. The patient does not have to sign the Form PA 258-N.

(B) Two Form PA 48's, Authorization for Service and Supplies.

(C) One envelope addressed to the County Board of Assistance to be used by the physician or clinic to return the forms.

(iii) Fees for general medical examination are as follows:

Physician's Office or Nursing Home	\$10
Clinic (including blood serology and urinalysis specific gravity, sugar, albumin)	\$ 5

(iv) The County Assistance Office will always retain the original of the Form PA 258-N and send the nursing home a copy.

(v) The County Assistance Office reviews the Form PA 258-N, which contains the report of the annual medical examination, to determine whether there has been any significant change in the patient's condition. The County Assistance Office takes whatever action is appropriate.

(g) *Nursing home care services and allowances.* Allowances for nursing home care services are as follows:

(1) *Nursing home care and allowances.* Nursing home care shall be at the direction of a physician and indicates the following services and care:

- (i) Room and board.
- (ii) Bed and bath linens.
- (iii) Laundry of patient's personal clothing.
- (iv) Therapeutic diets.
- (v) Any of the nursing care and procedures which determine the need for nursing home care.

(vi) Any or all of the following medications:

- (A) Alcohol.
- (B) Antacids.
- (C) Antiseptics.
- (D) Aspirin, APC, and similar analgesic compounds.
- (E) Cold medications.
- (F) (Over-the-Counter) cough medicines.
- (G) (Over-the-Counter) creams.
- (H) Emollients.
- (I) Laxatives.
- (J) Liniments.
- (K) Mouth Washes.
- (L) (Over-the-Counter) ointments.
- (M) Simple eye preparations.
- (N) Talcs.
- (O) Vitamins (alone or in combination).

(vii) Medical supplies such as the following:

- (A) Bandages.
- (B) Catheters (except Foley Catheters).
- (C) Cellu-cotton and other types of pads.
- (D) Hot water bags.
- (E) Ice bags.
- (F) Plasters.

- (G) Rubber gloves.
- (H) Compresses.
- (I) Cotton.
- (J) Dressing.
- (K) Gauzes.
- (L) Sponges.
- (M) Syringes.
- (N) Tapes.
- (O) Thermometers.

(viii) No pharmacist or vendor will be paid for any of the medications or supplies listed in this paragraph. A pharmacist will be paid for other drugs in accordance with Part III (relating to medical assistance). The pharmacy of a hospital that operates a nursing home, a long term facility, will be paid for drugs not listed above for a patient in the nursing home in accordance with Part III.

(ix) The allowance for public and private skilled nursing home care will be the Department's established rate, plus \$5 per month for personal items.

(2) *Physical therapy.* Physical therapy allowances will conform with the following:

(i) This includes diathermy, massage, hydrotherapy, electrotherapy and the like, given by a licensed physical therapist with the objective of helping the patient to meet one or more of the normal demands of everyday life without continuous help from others; or to attain the ability to be partially or wholly self-supporting.

(ii) A request for authorization of physical therapy shall be made in writing by the attending physician. Space is provided on the Form PA 258-N for a request if it is made at the time of the request for nursing home care payment. A request for physical therapy made thereafter, or if a Form PA 4-M is used, shall be made in writing by the attending physician and may be in narrative style; the request shall include diagnosis, specific procedures recommended, duration of therapy and approximate degree of improvement anticipated.

(iii) A request for continuance by physical therapy shall be made in like fashion and must include, in addition, a brief report of the patient's progress to date.

(iv) Payment is authorized for not more than a three month period and is reauthorized only if there is adequate evidence of improvement. The County Assistance Office notifies the nursing home of each authorization for physical therapy.

(v) There will be a maximum monthly allowance of \$15 in addition to the allowances for nursing home care.

(h) *Nursing home care authorization sheet, Form PA 21-N.* The NHC Authorization Sheet, Form PA 21-N, will be used to compute the amount of the nursing



home care payment and to authorize the payment. The Form PA 21-N will be prepared in ink or indelible pencil for each patient. A separate column will be used for each month in which there is a change in the allowance or income. The instructions for completion of the Form PA 21-N are as follows:

- (1) *Record number*—Enter the number of the SBP record.
- (2) *Date*—Enter the date of authorization.
- (3) *Category*—Enter “BN”. This indicates that the person is eligible for SBP and there is need for nursing home care.
- (4) *Physical therapy*—Enter \$15 if physical therapy has been approved.
- (5) *Nursing home care*—Enter the actual cost as appropriate.
- (6) *Special items*—Make no entries in this section.
- (7) *Total allowance*—Enter the sum of paragraphs (4), (5) and \$5.
- (8) *Total income*—Enter the total monthly income as defined in § 451.3(h)(3) (relating to requirements), including the amount paid on behalf of the blind person. A one-time grant to compensate for a fiscal year underpayment is income. In computing the initial nursing home care payment, also include as income (1) money available to meet the cost of nursing home care from an SBP check received after the effective date of the initial grant because of a delay in payment due to suspension, or change of address; and (2) any advance payment to the nursing home for the period covered by the initial nursing home care payment.
- (9) *Need-amount*—Enter the amount by which “Total Allowance” exceeds “Total Income”. If the amount is less than the amount determined as provided in subsection (e), the person is not eligible for nursing home care payments. If the person has been receiving SBP, no change is necessary; otherwise, use Form PA 21-B for the authorization. Reference shall be made to subsection (e) for instructions for completion of the Form PA 21-B.
- (10) *Effective date*—Enter the date.
  - (i) For initial payments, see subsection (f)(1).
  - (ii) For a patient who moves from one type of nursing home to another, and for whom the allowance is to change, the old allowance is payable up to and including the day before the patient enters the new home; the new allowance is payable thereafter.
  - (iii) A change in the allowance resulting from change in classification of a home a patient is in is effective the first full calendar month whose deadline can be met. This applies also when a nursing home is reclassified to a boarding home.
  - (iv) For a discontinuance, the effective date is the date following the last day the client was eligible for a nursing home care allowance or received nursing home care.
  - (v) For a change in income, payment name or address, the effective date is the first day in the calendar month in which the change occurs.

- (11) *Statistical code*—Enter the appropriate statistical code. Action Code Letter “A” with the appropriate reason code is used when authorizing the initial nursing home care payment. Action Code Letter “C” with the appropriate reason code is used when authorizing discontinuance. In addition, enter PT, if an allowance for physical therapy is made. Use a single statistical code for all computations made at one time even though different amounts are used for two or more months; select the most appropriate code for the total authorization.
- (12) *Ref. No. PA 21*—Enter the same column code numbers that are used in the Form PA 21 to indicate a change in information.
- (13) *Authorized by*—The person authorizing the payment enters his initials.
- (14) *Checked by date*—The person who checks the authorization enters his initials and the date the authorization is checked.
- (15) *122-N Typed by date*—Authorization typist enters his initials and the date the Form PA 122-N is typed.
- (16) *Financial*—Enter the column number of the authorization and the financial code and the explanation.
- (i) *Miscellaneous authorization and disbursement instructions for NHC*. Miscellaneous authorization and disbursement instructions for NHC shall conform with the following:
- (1) *Payment schedule*. Regular payments are made each month for services for the previous calendar month and are mailed on 1 day each month.
  - (2) *Discontinuance*. The Form PA 122-N for a discontinuance should be submitted as soon as possible if regular SBP is being authorized for the patient. The Form PA 122-N for discontinuance of the nursing home care payments and the Form PA 122 authorizing the initial regular SBP payment will be sent grouped together to the central disbursing office. Prorated payments are issued by the central disbursing office for the regular SBP payment, whenever necessary to avoid a break in assistance, except that no prorated grant is issued for less than \$1.00.
  - (3) *Direct payment to nursing home*. When a patient dies or leaves a nursing home, the amount of the nursing home care for which a nursing home care payment has not yet been received by the patient is paid directly to the nursing home.
    - (i) *SBP is discontinued*. If the payment for nursing home care is discontinued and no assistance is being authorized for any part of the remainder of the month, authorize the change of payment name and the discontinuance on the same Form PA 122-N. Use Financial Code 175, also 106 if applicable. In computing the amount of the payment, the central disbursing office will automatically exclude the allowance for personal items of \$5 per month.
    - (ii) *SBP is continued*. If the person continues to receive SBP, the payment is made directly to the nursing home only if the person requests the County Assistance Office, orally or in writing, to do so. The County Assistance Office arranges to hold the regular payment that would have been paid

to the person and authorizes one-time grants for the final payment to the nursing home and the initial payment to the client. In computing the amount of the payment to the nursing home, the County Assistance Office excludes the allowance for personal items of \$5.00 per month.

(4) *Change in regular SBP payment because nursing home care payment starts or stops.* When it is necessary to discontinue, change or start a regular SBP payment because the nursing home care payment starts or stops, Form PA 21-B is used for authorizing such action. The appropriate Statistical Code is used for the action authorized. For example, Action Code Letter "C" is used to discontinue regular SBP payment. The Form PA 122 and 122-N prepared in the usual manner are used for authorizing the necessary action.

(5) *Move from one Commonwealth county to another.* A County Assistance Office authorizes nursing home care payments for eligible patients in nursing homes located in its county. When a patient living in one county enters or plans to enter a nursing home located in a different county, the two County Assistance Offices plan together to authorize the payment for which the person is eligible.

(j) *Overpayment and underpayment.* Procedures for overpayment and underpayment are as follows:

(1) An SBP recipient is overpaid if he was not eligible for some part or all of his SBP payments.

(2) The blind person is not considered to have been overpaid because of visual acuity unless the County Assistance Office decides on the basis of evidence it considers valid that the person knew he was visually ineligible and failed to report as promptly as possible; or the County Assistance Office does not suspend and discontinue SBP in accordance with § 451.3(b), because of administrative delay.

(3) An SBP recipient is underpaid if he was eligible for more than his SBP payments.

(4) The primary period of time involved in deciding the amount of SBP payments an SBP recipient was eligible for, in relation to income eligibility conditions, is his fiscal year; in relation to any other eligibility condition, the period is the fiscal month.

(5) If an overpayment or underpayment is less than \$1.00, disregard it. Otherwise, for an overpayment, restitution as shown in subparagraph (ii) is required; for an underpayment, a one-time grant is authorized, shown in subparagraph (iii).

(i) *Determining amount of overpayment.* If the computation on the Form PA 21-BI, Part B, subsection (d) of this section, indicates the SBP recipient received a combination of SBP payments and income in excess of \$4,260, the amount in excess of \$4,260 is the amount of the overpayment. Reference should be made to § 451.5.

(ii) *Restitution.* Restitution is waived if the overpayment is due solely to administrative error.

(A) The overpayment is due to administrative error only if all of the following conditions exist:

(I) The County Assistance Office failed to obtain, interpret or appropriately apply the facts about the client's situation.

(II) The client fulfilled his obligation for reporting to the best of his ability.

(III) The client could not have been expected to know that his grant was more than he was eligible to receive. If overpayment is not waived due to administrative error, and the person continues to be eligible for SBP, restitution is made by either of the following methods:

(IV) The SBP recipient repays the entire amount in one payment. If he chooses this method, the County Assistance Office submits a Form PA 189, Referral for Restitution or Prosecution, Chapter 255, and SBP continues. If he fails to repay, the County Assistance Office, on notice from the area office, suspends or reduces the payment as described below, and notifies the area office of this action.

(V) The SBP recipient repays by having the SBP payment suspended or reduced for a period. This period may not go beyond the end of the fiscal year immediately following the one in which the overpayment took place. If the full amount of the overpayment has been repaid at the end of this period, or if SBP is discontinued before the end of this period, the County Assistance Office submits a Form PA 189 for that part of the overpayment that has not been repaid.

(B) If the blind person received SBP when he was ineligible for reasons other than income, restitution of the amount of SBP he received during the period of ineligibility is made by any one of the methods described above that is appropriate. If one of the circumstances below exists, the procedures of Chapter 255 (relating to restitution) apply:

(I) The SBP recipient was overpaid at the time of discontinuance.

(II) The recipient received NHC payments for which he was not eligible.

(III) The overpayment is discovered later than 1 fiscal year after the overpayment took place.

(IV) More than one fiscal year has elapsed since the end of the fiscal year in which the overpayment took place, and SBP is resumed.

(V) Full restitution has not been made by suspending or reducing the SBP payment.

(iii) *Underpayment.* An SBP recipient is underpaid if his SBP payments for his fiscal year were less than the maximum amount he is entitled to and his net income plus SBP payments totaled less than \$4,260 for his fiscal year. Reference should be made to § 451.5 If the computation made at the end of

the fiscal year shows that the SBP recipient has been underpaid, a one-time grant is authorized for the amount shown in Item 6, Form PA 21-BI, Part B, except in circumstances that follow. If the recipient was ineligible for SBP during any month in the fiscal year for reasons other than income, or if he received an NHC payment during the month, total \$100 for each such month, and subtract the sum from the amount in Item 6; the difference is the amount of the one-time grant that is authorized.

**Source**

The provisions of this § 451.4 adopted May 5, 1978, effective May 6, 1978, 8 Pa.B. 1278; amended January 19, 1979, effective December 4, 1978, 9 Pa.B. 251; amended July 25, 1980, effective July 1, 1980, 10 Pa.B. 3102. Immediately preceding text appears at serial pages (39216) to (39218) and (39227).

**Cross References**

This section cited in 55 Pa. Code § 451.3 (relating to requirements).

**§ 451.5. Adjustments for fiscal year ending before July 1981.**

(a) For individuals whose fiscal year will end prior to July 1981, substitute the number (X) arrived at through the following computation for \$4,260 wherever that amount appears in this chapter: X is the sum of the number of months prior to July 1980 which are in the individual's fiscal year divided by 12, multiplied by \$4,200, plus the number of months after and including July 1980 which are in the individual's fiscal year divided by 12, multiplied by \$4,260.

$$\begin{array}{r}
 \frac{(\# \text{ of months prior to July 1980})}{12} \times 4,200 \\
 + \\
 \frac{(\# \text{ of months after and including July 1980})}{12} \times 4,260 = X
 \end{array}$$

(b) [Reserved].

**Source**

The provisions of this § 451.5 adopted January 19, 1979, effective December 4, 1978, 9 Pa.B. 251; amended July 25, 1980, effective July 1, 1980, 10 Pa.B. 3102. Immediately preceding text appears at serial page (39229).

**Cross References**

This section cited in 55 Pa. Code § 451.3 (relating to requirements); and 55 Pa. Code § 451.4 (relating to procedures).

**APPENDIX A**  
**PROCEDURE FOR DETERMINING VISUAL ACUITY**

The County Medical Consultant reviews the reports of all eye examinations and certifies finally to the degree of vision. The County Assistance Office sends to the County Medical Consultant all copies of the Form PA 40's of prior examination and other available pertinent information.

A County Assistance Office without a Medical Consultant contacts its Regional Office which will arrange for another County Medical Consultant to review reports of eye examinations and certify finally to the degree of vision.

**I. Authorizing examinations.**

*A. Initial examination.*

If an applicant for SBP appears to meet all other eligibility requirements, the County Office authorizes an ophthalmologic examination for determining his degree of vision except in the following circumstances: both eyes are missing (the caseworker records his observation of this condition in the case record); or the Office for the Visually Handicapped has referred the person to the County Assistance Office and has submitted an OB 401 (see II).

The applicant has a choice of examiner who is either a physician skilled in the diseases of the eye or by an optometrist.

If for any reason it is not possible to arrange for an examination, the County Office contacts the County Medical Consultant for advice. The County Office gives the name of the applicant's physician and any available medical data regarding the applicant's physical or mental condition.

*Use of forms.*

The County Assistance Office gives the applicant the following forms in an envelope addressed to the examiner:

- a. Three copies of Form PA 40, Ophthalmologic Report. The examiner keeps one copy and returns two copies to the County Assistance Office.
- b. One copy of Form PA 48, Authorization for Services and Supplies.
- c. One envelope addressed to the County Board of Assistance to be used by the examiner for the return of the forms.

When the forms are returned to the County Assistance Office, the Form PA 40 is checked for completeness and conclusiveness, that the examiner has signed at least one copy and that his statement of visual acuity appears to agree with the recorded visual acuity. If the Form PA 40 is incomplete, inconsistent, or otherwise unsatisfactory, the form is returned to the examiner for amplification or clarification.

If the County Assistance Office is satisfied the Form PA 40 is completed properly, the Form PA 259 is checked to see that the charges are in accordance with the fee authorized by the Form PA 48. A notation "report received" is then written in the upper right hand corner of the Form PA 48. The completed Form PA 48, Form PA 259, and Form PA 259-S are sent to the Office of the Comp-

troller, Harrisburg. Both copies of the Form PA 40 together with copies of any prior ophthalmological reports and other information in the case record related to visual eligibility are forwarded to the County Medical Consultant for review and certification. If a trustee is being requested for the same client, the Form PA 50 is forwarded to the Office of Medical Programs, Bureau of Medical Assistance.

When the information is returned from the County Medical Consultant, the County Office forwards the second copy of the Form PA 40 to the Bureau for the Visually Handicapped District Office.

If the examiner has recommended treatment or surgery and the client is not receiving treatment, the County Assistance Office makes known to him the available resources for treatment.

B. *Reexamination.*

The County Assistance Office authorizes a reexamination under the following conditions:

a. *Applicant or recipient.*

Whenever the County Medical Consultant requests a reexamination.

b. *Recipient.*

If the County Office believes that his vision may be better than at the time of his last examination.

However, the County Assistance Office does not authorize an immediate reexamination if the recipient has had treatment or surgery that may be the cause of improved vision, or has had a recent refraction. In such case, the County Assistance Office requests a written report from the Office for the Visually Handicapped District Office, if appropriate, or from the recipient's ophthalmologist or clinic. If the County Assistance Office receives the report within one month from the date of request, it sends the report to the County Medical Consultant for review; this information without another examination may be adequate for a determination of visual eligibility. If the County Office learns that the report will not be forthcoming, or if the County Office has not received the report within one month, the County Office authorizes a reexamination by another examiner. When sending the Form PA 40 to the County Medical Consultant, the County Assistance Office informs the County Medical Consultant of its inability to get the report without examination.

When there is a sound basis for considering that the recipient's vision has improved to the point of visual ineligibility, the County Assistance Office not only takes appropriate action as stated above, but also suspends State Blind Pension until it receives final certification of the degree of vision from the County Medical Consultant.

c. *Reapplicant.*

1. Former applicant or recipient who was found ineligible because of visual acuity, if he reapplies six months or more after the examination that was the basis of the decision of ineligibility. If less than six months have

elapsed, the County Assistance Office may not authorize a reexamination without prior approval of the County Medical Consultant. To request approval, the County Assistance Office sends to the County Medical Consultant for review, any information indicating that the client's vision may be different from that shown on the last report.

2. Former recipient ineligible for reasons other than visual acuity if: (a) five or more years have elapsed since last examination; or (b) he has had eye treatment or surgery since his last examination; or (c) there is some indication that his vision may be better than his last examination.

Copies of all prior Form PA 40's and OB 401's or their equivalent, in the case record are always submitted with a report of current examination, with a request for authorization of a reexamination, or with an inquiry as to the need for reexamination.

The Form PA 40's and the Form PA 48 are processed as described in "A" above.

## **II. Ophthalmological reports from the Office for the Visually Handicapped.**

### *State Blind Pension applicant.*

If the Office for the Visually Handicapped District Office finds that a person to whom it is giving vocational rehabilitative service appears to be visually eligible for State Blind Pension, it will refer the person to the County Assistance Office for information on the State Blind Pension Program. The Office for the Visually Handicapped District Office will send the County Assistance Office an original, or a certified true copy, of the OB 401. A covering memorandum will state that the person has been referred because "his visual acuity with best correction is 3/60 or 10/200 or less." If the person applies for SBP and the County Assistance Office finds him eligible in all other respects, and the OB 401 is current, the County Medical Consultant may use this report as the basis for determining visual eligibility.

### **Notes of Decisions**

#### *Forms*

Although the applicant is normally responsible for obtaining medical verification required for SBP benefit eligibility, it is improper to withhold benefits because of a delay caused when a case worker sends the verification forms to the applicant's doctor and in so doing causes the applicant to rely on the case worker for advisement as to return of the forms and the information contained therein. *Groller v. Department of Public Welfare*, 422 A.2d 1212 (Pa. Cmwlth. 1980).

### **Cross References**

This appendix is cited in 55 Pa. Code § 451.3 (relating to requirements).

[Next page is 501-1.]

451-24