Handout #3
Draft Rules Medicaid Buy-In Program

Draft Rules

Medicaid Buy-In Program for Working Adults with Disabilities

8.100 MEDICAL ASSISTANCE ELIGIBILITY

8.100.1 Definitions

Employed means that an individual has earned income and is working part time, full time or is self-employed, and has proof of employment. Volunteer or in-kind work is not considered employment.

Limited Disability for the Medicaid Buy-In Program for Working Adults with Disabilities means that an individual has a disability that would meet the definition of disability under SSA without regard to Substantial Gainful Activity (SGA).

Premium means the monthly amount an individual pays to participate in the Medicaid Buy-In Program for Working Adults with Disabilities and is based on an individual's income.

SGA – Substantial Gainful Activity is defined by the Social Security Administration. SGA is the term used to describe a level of work activity and earnings. Work is "substantial" if it involves performance of significant physical or mental activities or a combination of both, which are productive in nature. For work activity to be substantial, it does not need to be performed on a full-time basis. Work activity performed on a part-time basis may also be substantial gainful activity. "Gainful" work activity is work performed for pay or profit; or work of a nature generally performed for pay or profit; or work intended for profit, whether or not a profit is realized.

8.100.3 Medical Assistance General Eligibility Requirements

8.100.3.F. Groups Assisted Under the Program

1. The Medical Assistance Program provides benefits to the following persons who meet the federal definition of categorically needy at the time they apply for benefits:

   a. Families and children as defined under the Family and Children's Medical Assistance section 8.100.4.

   b. Persons who meet legal immigrant requirements as outlined in this volume, who were or would have been eligible for SSI but for their alien status, if such persons meet the resource, income and disability requirements for SSI eligibility.

   c. Persons who are receiving financial assistance; and who are eligible for a SISC Code of A or B. See section 8.100.3.N for more information on SISC Codes.

   d. Persons who are eligible for financial assistance under Old Age Pension (OAP) and SSI, but are not receiving the money payment.

   e. Persons who would be eligible for financial assistance from OAP or SSI, except for the receipt of Social Security Cost of Living Adjustment (COLA) increases, or other retirement, survivors, or disability benefit increases to their own or a spouse's income. This group also includes persons who lost OAP or SSI due to the receipt of Social Security Benefits and who would still be eligible for the Medical Assistance Program except for the cost of living adjustments (COLA's) received. These populations are referenced as Pickle and Disabled Widow(er)s.

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f. Persons who are blind, disabled, or aged individuals residing in the medical institution or Long Term Care Institution whose income does not exceed 300% of SSI.

g. Persons who are blind, disabled or aged receiving HCBS whose income does not exceed 300% of the SSI benefit level and who, except for the level of their income, would be eligible for an SSI payment.

h. A disabled adult child who is at least 18 years of age and who was receiving SSI as a disabled child prior to the age of 22, and for whom SSI was discontinued on or after May 1, 1987, due to having received of OASDI drawn from a parent(s) Social Security Number, and who would continue to be eligible for SSI if the above OASDI and all subsequent cost of living adjustments were disregarded. This population is referenced as Disabled Adult Child (DAC).

i. Children age 18 and under who would otherwise require institutionalization in an Long Term Care Institution, Nursing Facility (NF), or a hospital but for which it is appropriate to provide care outside of an institution as described in 1902(e)(3) of the Act Public Law No. 97-248 (Section 134).

j. Persons receiving OAP-A, OAP-B, and OAP Refugees who do not meet SSI eligibility criteria but do meet the state eligibility criteria for the OAP State Only Medical Assistance Program. These persons qualify for a SISC Code C.

k. Persons who apply for and meet the criteria for one of the categorical Medical Assistance programs, but do not meet the criteria of citizenship shall receive Medical Assistance benefits for emergencies only.

l. Persons with a disability or limited disability who are at least 16 but less than 65 years of age regardless of income or resources and who are employed.

8.100.3.H. Citizenship and Identity Documentation Requirements

9. Reasonable Opportunity Period

a. If a Medical Assistance applicant or recipient does not have the required documentation, he or she must be given a reasonable opportunity period to provide the required documentation. If the applicant or recipient does not provide the required documentation within the reasonable opportunity period, then:

i) the applicant's Medical Assistance application shall be denied, or

ii) the recipient's Medical Assistance benefits shall be terminated.

b. The reasonable opportunity period for Family Programs covered under 8.100.3.H is 14 calendar days. For the purpose of this section, Family Programs are defined as the following:

Commonly Used Program Name Rule Citation

1931 Medical Assistance 8.100.4.G.2

Transitional Medical Assistance 8.100.4.I.1-7

Four Month Extended Medical Assistance 8.100.4.I.8

Institutionalized under age 21 8.100.4.H.1.a

Parents Plus Program 8.100.4.G.8

Qualified Child 8.100.4.G.6

Expanded Child 8.100.4.G.6

Ribicoff Child 8.100.4.G.7

Qualified Pregnant 8.100.4.G.9

Expanded Pregnant 8.100.4.G.9

c. The reasonable opportunity period for Adult Programs covered under 8.100.3.H.3.f. is 70 calendar days. For the purpose of this rule, Adult Programs are defined as the following:

Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
Breast and Cervical Cancer Program (BCCP)	8.715
Medicaid Buy-In Program for Working Adults with Disabilities	8.100.6.O

8.100.3.M. Consideration of Resources

1. Resources are counted in determining eligibility for the Aged, Blind and Disabled, and Long Term Care institutionalized and Home and Community Based Services categories of Medical Assistance. Resources are not counted in determining eligibility for the Family and Children's Medical Assistance programs or the Medicaid Buy-In Program for Working

Adults with Disabilities. See section 8.100.5 for rules regarding consideration of resources.

8.100.3.N. Federal Financial Participation (FFP)

1. The state is entitled to claim federal financial participation (FFP) for benefits paid on behalf of groups covered under the Colorado Medical Assistance Program and also for the Medicare supplementary medical insurance benefits (SMIB) premium payments made on behalf of certain groups of categorically needy persons.

2. The SISC codes are as follows:

   a. Code A - for institutionalized persons whose income is under 300% of the SSI benefit level and who, except for the level of their income, would be eligible for an SSI payment; and non-institutionalized persons receiving Home and Community Based Services, whose income does not exceed 300% of the SSI benefit level and who, except for the level of their income, would be eligible for an SSI payment; code A signifies that FFP is available in expenditures for medical care and services which are benefits of the Medical Assistance program but not for SMIB premium payments;

   b. Code B - for persons eligible to receive financial assistance under SSI; persons eligible to receive financial assistance under OAP "A" who, except for the level of their income, would be eligible for an SSI payment; persons who are receiving mandatory State supplementary payments; and persons who continue to be eligible for Medical Assistance after disregarding certain Social Security increases; code B signifies that FFP is available in expenditures for medical care and services which are benefits of the Medical Assistance program and also for SMIB premium payments;

   c. Code C - for persons eligible to receive assistance under OAP "A", OAP "B", or OAP Refugee Assistance for financial assistance only; who do not receive SSI payment and do not otherwise qualify under SISC code B as described in item B. above; code C signifies that no FFP is available in Medical Assistance program expenditures.

   d. Code E1 - for persons eligible to receive the Medicaid Buy-In Program for Working Adults with Disabilities whose annual adjusted gross income, as defined under IRS statute, is less than or equal to 450% of FPL – after SSI earned income deductions; code E1 signifies that FFP is available in expenditures for medical care and services which are benefits of the Medical Assistance program.

   e. Code E2- for persons eligible to receive Medicaid Buy-In for Working Adults with Disabilities whose annual adjusted gross income, as defined under IRS statute, is greater than 450% of FPL – after SSI earned income deductions; code E2 signifies that no FFP is available in Medical Assistance program expenditures.

3. Recipients of financial assistance under State AND, State AB, or OAP "C" are not eligible for Medical Assistance and the SISC code which shall be entered on the eligibility reporting form is C.

8.100.5 Aged, Blind, and Disabled Medical Assistance General Eligibility

8.100.5.A. Application Requirements

1. When an individual applies for Medical Assistance on the basis of disability or blindness, the eligibility sites shall take the application and determine whether the individual is eligible for Long Term Care or any of the categories of assistance described in section 8.100.6 under Qualified Disabled and Working Individuals. If the applicant does not qualify for Medical Assistance on one of those bases, he/she shall be referred to the local Social Security office to apply for SSI.

2. a. Applicants who apply for Long Term Care Medical Assistance on the basis of disability or blindness, or who apply for the Medicaid Buy-In Program for Working Adults with Disabilities without a current disability determination, shall complete a Medical Assistance disability determination application in addition to the required Medical Assistance application. The disability determination application is not required for individuals that have already been determined disabled by the Social Security Administration.

   b. The Medical Assistance disability determination application shall be collected by a designated eligibility site representative and shall be forwarded to the state disability determination contractor upon completion. The state disability determination contractor shall conduct a client disability determination and shall forward the determination to the designated eligibility site representative.

   c. For the Medicaid Buy-In Program for Working Adults with Disabilities, if an individual does not meet the Social Security Administration definition of disability, the state disability determination contractor can review the individual's circumstances to determine if the individual meets limited disability.

3. Persons requesting Aged, Blind, and Disabled Medical Assistance need only to complete the Colorado Medical Assistance application.

8.100.5.C. Effective Date Of Eligibility

1. Medical Assistance shall be approved effective as of the date of application for Medical Assistance, or as of the date the person becomes eligible for Medical Assistance, whichever is later. Individuals held in correctional facilities or who are held in community corrections programs that are determined eligible for Medical Assistance shall be approved effective as of the individual's date of release.

2. To be eligible for retroactive Medical Assistance, the categorically needy disabled or blind person shall either:

   a. have received SSI money payment or Social Security disability insurance (DIB) for that month, or

   b. be determined to have met the SSI definition of disability or blindness at that month through the procedure for processing applicant/client determinations as described in the chapter on AID TO NEEDY DISABLED OR BLIND PERSONS in

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the Colorado Department of Human Services Income Maintenance Staff Manual (9 CCR 2503-1), or

c. be determined to have met the SSA medical listing for disability or limited disability for that month for the Medicaid Buy-In Program for Working Adults with Disabilities.

8.100.5.F. Income Requirements

1. This section reviews how income is looked at for the ABD Medical Programs and determining premiums for the Medicaid Buy-In Program for Working Adults with Disabilities. For more general income information and income types refer to the General Medical Assistance General Eligibility Requirements section 8.100.3.

8.100.5.H Income Disregards

1. The following income disregards are only applicable to SSI related, OAP, Medicare Savings Programs (MSP), and the Medicaid Buy-In Program for Working Adults with Disabilities. These disregards are not applicable to the HCBS waivers or the LTC programs.

2. The gross amount of earned and unearned income is countable toward eligibility with the following exclusions:

   a. the first $20 of total available unearned income (except for SSI income) must be disregarded;

   b. an additional $65 plus 1/2 of the remainder of earned income must be disregarded;

   c. income of spouses living together is considered mutually available and must be compared to the current SSI benefit level for a couple; net income of a non recipient spouse must be reduced by an amount up to one half the individual SSI benefit level for unmet needs of each non recipient child in the family. This does not apply to the Medicaid Buy-In Program for Working Adults with Disabilities.

   d. income of single persons must be compared to the current SSI benefit level for an individual (a one third reduction applies to a person living in the household of another);

   e. unemancipated children are not subject to a one-third reduction, an amount of parental income equal to the individual or couple SSI benefit level must be allowed for the needs of the parent or parents, up to one half the individual SSI benefit level must be allowed for the unmet needs of each non recipient child in the family, and the remainder must be considered as income available to the applicant or recipient child. For the purposes of this rule, "unemancipated child" means (1) a child under age 18 who is living in the same household with a parent or spouse of a parent, or (2) a child under age 21 who is living in the same household with a parent or spouse of a parent, if the child is regularly attending a

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school, college, or university, or is receiving technical training designed to prepare the child for gainful employment;

f. one third of child support for the applicant/recipient child from an absent parent must be disregarded;

g. the first $400 of gross monthly earnings, not to exceed $1620 in a calendar year, shall be exempt from consideration as earned income of a disabled or blind child who is a student regularly attending school.

h. any other applicable exemptions in 20 CFR 416.1112. 20 CFR 416.1112 is incorporated herein by reference. No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library.

8.100.5.M. Resource Requirements

1. Consideration of resources: Resources are defined as cash or other assets or any real or personal property that an individual or spouse owns. The resource limit for an individual is $2000. For a married couple, the resource limit is $3000. The resource limits for the QMB, SLMB, and QI programs are $8,100 for a single individual and $12,910 for a married individual living with a spouse and no other dependents. If one spouse is institutionalized, refer to Spousal Protection-Treatment of Income and Resources for Institutionalized Spouses. Resources are not counted for the Medicaid Buy-In Program for Working Adults with Disabilities.

8.100.6.O. Medicaid Buy-In Program for Working Adults with Disabilities

1. To be eligible for the Medicaid Buy-In Program for Working Adults with Disabilities:

a. Applicants must be at least age 16 but less than 65 years of age.

b. Income is not counted in determining eligibility.

c. Resources are not counted in determining eligibility.

d. Individuals must have a disability as defined by Social Security Administration medical listing or a limited disability.

e. Individuals must be employed. Please see Verification Requirements at 8.100.5.B.1.c.

f. Individuals will be required to pay monthly premiums on a sliding scale based on income.

1. Only the applicant's income will be considered in the premium calculation. See 8.100.5.F for Income Requirements and 8.100.5.H for Income Disregards.

2. For individuals with net annual income under 450% of FPL for a family of one, the amount of premiums cannot exceed 7.5% of the individual's income. Individuals whose annual adjusted gross income exceeds 450% of FPL must pay 100% of the determined premium based on projected cost.

3. Premiums for the population at or below 450% of FPL are waived due to hardship for the first month of eligibility and any retroactive period.

4. Premium amounts are as follows:

a. A monthly premium of $25 is applied to individuals with income which is at or below 133% of FPL.

b. A monthly premium of $100 is applied to individuals with income above 133% of FPL but at or below 200% of FPL.

c. A monthly premium of $225 is applied to individuals with income above 200% of FPL but at or below 300% of FPL.

d. A monthly premium of $400 is applied to individuals with income above 300% of FPL but at or below 450% of FPL.

e. A monthly premium of $XXX is applied to individuals with income above 450% of FPL. (To be determined)

5. The premium amounts will be updated at the beginning of each State fiscal year based on the annually revised FPL if the revised FPL would cause the premium amount (based on percentage of income) to increase by $10 or more.

6. A change in client net income may impact the monthly premium amount due. Failure to pay premium payments in full within 60 days from the premium due date will result in client's assistance being denied or terminated. The effective date of the denial or termination will be the last day of the month following the 60 days from the date on which the premium became past due.

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