

REGULATORY REVIEW CHECKLIST

To accompany Regulatory Review Package

Agency Department of Medical Assistance Services

Regulation title Eligibility Conditions & Requirements: Eligibility under §1931 of the Act.

Purpose of the regulation To incorporate HCFA preprinted pages in the State Plan to demonstrate coverage of this mandatory group.

Summary of items attached:

- Item 1:** A copy of the proposed new regulation or revision to existing regulation.
- Item 2:** A copy of the proposed regulation submission package required by the Virginia Administrative Process Act (Virginia Code Section 9-6.14:7. I.H). These requirements are:
 - (i) the basis of the regulation, defined as the statutory authority for promulgating the regulations, including the identification of the section number and a brief statement relating the content of the statutory authority to the specific regulation proposed.
 - (ii) the purpose of the regulation, defined as the rationale or justification for the new provisions of the regulation, from the standpoint of the public's health, safety and welfare.
 - (iii) the substance of the regulation, defined as the identification and explanation of the key provisions of the regulation that make changes to the current status of the law.
 - (iv) the issues of the regulation, defined as the primary advantages and disadvantages for the public, and as applicable for the agency or the state, of implementing the new regulatory provisions.
 - (v) the estimated impact, defined as the projected number of persons affected, the projected costs, expressed as a dollar figure or range, for the implementation and compliance thereof, and the identity of any localities particularly affected by that regulation.
- Item 3:** A statement from the Attorney General that the agency possesses, and has not exceeded, its statutory authority to promulgate the proposed regulation.

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- Item 4:** A statement disclosing whether the contemplated regulation is mandated by state law or federal law or regulation, and, if mandated in whole or in part, a succinct statement of the source (including legal citation) and scope of the mandate, together **with an attached copy of all cited legal provisions.**
- Item 5:** For any proposed regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate, a specific rather than conclusory statement setting forth the reasoning by which the agency has concluded that the proposed regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function.
- Item 6:** For any proposed regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate, a specific rather than conclusory statement describing the process by which the agency has considered less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered, and the reasoning by which the agency has rejected such alternatives.
- Item 7:** A schedule setting forth when, no later than three (3) years after the proposed regulation is effective, the agency will initiate a review and reevaluation of the regulation to determine if it should be continued, amended, or terminated. Include a description of the specific and measurable goals the proposed regulation is intended to achieve, if practical.
- Item 8:** A detailed fiscal impact analysis prepared in coordination with DPB that includes: (a) the projected cost to the state to implement and enforce the proposed regulation and (b) the source of funds to meet this projected cost.

/s/ Dennis G. Smith
Signature of Agency head

March 13, 2000
Date

VPS 3/17/00
Date forwarded to
DPB & Secretary

REGULATORY REVIEW SUMMARY

Amendment to the Plan for Medical Assistance

I. IDENTIFICATION INFORMATION

Title of Final Regulation: Medicaid Eligibility under Section 1931 of the *Social Security Act*

Director's Adoption: March 13, 2000

Effective Date: May 10, 2000

Agency Contact: Patricia Sykes, Analyst
Division of Policy and Research
Dept. of Medical Assistance Services
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Richmond, Virginia 23219
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II. SYNOPSIS

Basis and Authority: The Code of Virginia (1950) as amended, §32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, §32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements. Section 9-6.14:4.1(C)(4)(c) contains agency exemptions from the public notice and comment requirements of Article 2 of the APA due to conformance to federal mandates.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) replaced AFDC with a new state run Temporary Assistance for Needy Families (TANF) program and ended the automatic link between eligibility for cash assistance and eligibility for Medicaid. In order to preserve Medicaid coverage for low-income families with children, PRWORA section 114 created a new Medicaid eligibility category known as Section 1931, entitled Eligibility under Section 1931 of the *Social Security Act* (the Act) (42 USC § 1396u-i). The Health Care Financing Administration distributed preprinted Plan pages to all state Medicaid programs for filing in their state plans for medical assistance.

Purpose: The purpose of this action is to amend the Plan for Medical Assistance concerning the incorporation of these HCFA preprinted pages. These pages provide for the inclusion of Section 1931 eligibles as a covered Medicaid group. By filing this Plan amendment for the Section 1931 eligibility category, Virginia will be ensuring the welfare of families who would have qualified for Medicaid under the state's previous Aid to Families with Dependent Children (AFDC) program. These families will continue to be eligible for Medicaid regardless of whether they receive TANF assistance.

Substance and Analysis: The section of the State Plan affected by this action is Eligibility Conditions and Requirements, Eligibility under Section 1931 of the Act (Attachment 2.6-A, Supplement 14) (12VAC 30-40-345).

This plan amendment is technical in nature because the program change set out in this new Supplement 14 was actually effected by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) § 114. DMAS does not anticipate any changes in Medicaid eligibility requirements as a result of this amendment. DMAS is required by the Health Care Financing Administration (HCFA) to file this amendment covering the new Section 1931 eligibility group as a replacement for the former AFDC recipient eligibility group. Because Medicaid eligibility is no longer tied to or based on the AFDC program, the Medicaid State Plan must be amended to add the new Section 1931 eligibility group for low-income families to replace the former AFDC recipient eligibility group in order to claim federal financial participation.

Medicaid eligibility is no longer tied to or based on eligibility for welfare. Section 1931 of the *Social Security Act* establishes rules for Medicaid eligibility for low-income families based on the income and resources of the family. Under § 1931, the state is mandated to provide Medicaid coverage to families who meet the eligibility requirements that were in the state's AFDC plan as of July 16, 1996. This amendment merely reflects those same individuals and policies as were contained in the July 16, 1996 AFDC plan. DMAS is not making any policy changes.

Issues: The agency projects no negative issues involved in implementing this regulatory change.

Impact: In fiscal year 1999, 54,332 individuals derived their Medicaid eligibility from this program group. DMAS does not anticipate any fiscal impact related to this amendment. Adoption of the Section 1931 eligibility group permits continued coverage of a group who was previously eligible for Medicaid but whose link to the program was abolished when the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 was enacted. There are no localities which are uniquely affected by this regulation, as they apply statewide.

Family Impact: Virginia families with children that were Medicaid eligible under the old Aid to Families with Dependent Children program continue to be eligible, now that TANF has superseded AFDC, under this 1931 group.

Forms: No forms will be required for implementation of this regulation.

Evaluation: The Department of Medical Assistance Services and the Department of Social Services regularly conduct quality control reviews to evaluate the accuracy of local agency actions, to identify errors, and to recommend corrective action. This regulation will be evaluated through that quality control mechanism.

III. STATEMENT OF AGENCY FINAL ACTION

I hereby approve the foregoing Regulatory Review Summary and take the adoption action stated therein. Because this final regulation is exempt from the public notice and comment requirements of the Administrative Process Act (§ 9-6.14:4.1 C), the Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

3/13/2000
Date

/s/ Dennis G. Smith
Dennis G. Smith, Director
Dept. of Medical Assistance Services