

## Medicaid Eligibility

Effective date: 4/24/13

Pursuant to the authority vested in the Commissioner of Health by sections 201 and 206 of the Public Health Law and section 363-a of the Social Services Law, subdivision (a) of section 360-2.4 of Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective upon publication of a Notice of Adoption in the New York State Register to read as follows:

(a) Time frames.

(1) Except as provided in paragraphs (2) [,] and (3) [and (4)] of this subdivision, the social services district must determine an applicant's eligibility for MA within 45 days of the date of the MA application.

(2) If an applicant's MA eligibility is dependent on disability status, the social services district will determine MA eligibility within 90 days of application. If a decision is not reached within 90 days, the applicant must be sent a statement explaining why.

(3) [If an applicant for ADC or HR is determined ineligible for such benefits, the social services district will make a separate determination of MA eligibility within 30 days of the date the application for ADC or HR was denied. If timely action was not taken on the ADC or HR application, the district will determine eligibility within 30 days of the date when action should have been taken.

(4)] The district will determine eligibility within 30 days of the date of the MA application if an applicant is:

(i) a pregnant woman or an infant younger than one year of age whose household income does not exceed [185] 200 percent of the applicable Federal poverty level; or

(ii) a child at least one year of age but younger than [six] nineteen years of age whose household income does not exceed 133 percent of the applicable Federal poverty level [; or

(iii) a child born after September 30, 1983 who is at least six years of age but younger than 19 years of age whose income does not exceed 100 percent of the applicable Federal poverty level].

## NOTICE OF CONSENSUS RULEMAKING

### **Statutory Authority:**

The authority to promulgate this regulation can be found in sections 201 and 206 of the Public Health Law (PHL) and section 363-a of the Social Services Law (SSL).

Section 201 of the PHL grants the department the authority to adopt regulations as may be necessary to implement the State Plan for Medical Assistance as required by Title X of the federal Social Security act.

Section 206 of the PHL grants the commissioner the power enforce the provisions of the medical assistance program, or its successor, pursuant to titles eleven-A and eleven-B of the SSL.

Section 363-a of the SSL requires the department to promulgate such regulations as may be necessary to implement title eleven of the SSL.

### **Basis:**

The proposed regulation would remove the language in subdivision (a) of section 360-2.4 providing for an additional 30 days to issue a Medicaid decision after an applicant, who applied for cash public assistance and Medicaid at the same time, is determined ineligible for public assistance. The current regulation is worded to conform to the terms of a 1981 litigation settlement that is no longer relevant because of the subsequent delinking of Medicaid from the cash public assistance programs by the Welfare Reform Act of 1997. Therefore, these regulatory provisions are no longer applicable to any person applying for Medicaid.

The proposed regulation would also update references to Federal poverty level percentages in section 360-2.4(a), relating to the requirement to determine Medicaid

eligibility within 30 days of application for pregnant women and children under age 19 whose eligibility is determined by comparing household income to specified poverty level percentages. Due to subsequent statutory enactments, the applicable Federal poverty level percentages have changed, and there are no longer different percentages for children under the age of 6 and those who are age 6 through 18. The proposed regulation would conform the Federal poverty level percentages referenced in section 360-2.4(a) to the nondiscretionary provisions of these subsequent statutory changes.

## **JOB IMPACT STATEMENT**

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have a substantial adverse impact on jobs and employment opportunities. The proposed amendment updates outdated regulations.