Presumptive Eligibility for Family Planning Benefit Program

Effective date: 4/23/14

Pursuant to the authority vested in the Commissioner of Health by section 363-a of the Social Services Law, section 360-3.7 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 add a new subdivision (e), to read as follows:

Section 360-3.7 is amended to add a new subdivision (e) to read as follows:

(e) Presumptive eligibility for coverage of family planning benefit program (FPBP) services.

(1) An individual will be presumed eligible to receive the MA care, services and supplies listed in paragraph (8) of this subdivision when a qualified provider determines, on the basis of preliminary information, that the individual's family income does not exceed 200 percent of the Federal poverty line applicable to a family of the same size.

(2) For purposes of this subdivision, the individual's family income will be determined according to section 360-4.6 of this Part relating to financial eligibility for MA. The resources of the individual's family will not be considered in determining the individual's presumptive eligibility for coverage of FPBP services.

(3) For purposes of this subdivision, an individual's family includes the individual, any legally responsible relatives and any legally dependent relatives with whom he or she resides. In determining eligibility for children under 21, parental income is disregarded when the child requests confidentiality, has good cause not to provide or is otherwise unable to obtain parental income information.

(4) As used in this subdivision, the term qualified provider means a provider who:

(i) is eligible to receive payment under the MA program;

(ii) provides family planning services, treatment and supplies; and

(iii) has been found by the department to be capable of making presumptive eligibility determinations based on family income.

(5) An individual who has been determined presumptively eligible for coverage of FPBP services must submit a FPBP application to the social services district in which he or she resides, or to the department or its agent, by the last day of the month following the month in which a qualified provider determined him or her to be presumptively eligible.

(6) A qualified provider that has determined an individual to be presumptively eligible for coverage of FPBP services must:

(i) on the day the qualified provider determines the individual to be presumptively eligible, inform the individual that a FPBP application must be submitted to the social services district in which he or she resides, or to the department or its agent, by the last day of the following month in order to continue presumptive eligibility until the day his or her FPBP eligibility is determined;

(ii) assist the individual to complete the FPBP application and submit the application on his or her behalf; and

(iii) within five business days after the day the qualified provider determines the individual to be presumptively eligible, notify the social services district in which the individual resides, or the department or its agent, of its presumptive eligibility determination on forms the department develops or approves.

(7) The period of presumptive eligibility for coverage of FPBP services begins on the day a qualified provider determines the individual to be presumptively eligible. If the individual submits a FPBP application to the social services district in which he or she resides, or to the department or its agent, by the last day of the following month, the period of presumptive eligibility continues through the day the individual's eligibility for FPBP is determined; if the individual fails to submit such an application, the period of presumptive eligibility continues through the last day of the following month.

(8) An individual found presumptively eligible pursuant to this subdivision is eligible for coverage of the following medically necessary FPBP services and appropriate transportation to obtain such services:

(i) hospital based and free standing clinics;

(ii) county health department clinics;

(iii) federally qualified health centers or rural health centers;

(iv) obstetricians and gynecologists;

(v) family practice physicians,

(vi) licensed midwives, nurse practitioners; and

(vii) family planning related services from pharmacies and laboratories.

(9) If a presumptively eligible individual is subsequently determined to be ineligible for FPBP, he or she may request a fair hearing pursuant to Part 358 of this Title to dispute the denial of FPBP, but the presumptive eligibility period will not be extended by such request.

REGULATORY IMPACT STATEMENT

Statutory Authority:

Social Services Law (SSL) section 363-a and Public Health Law section 201(1)(v) provide that the Department is the single state agency responsible for supervising the administration of the State's medical assistance ("Medicaid") program and for adopting such regulations, not inconsistent with law, as may be necessary to implement the State's Medicaid program.

Legislative Objectives:

Chapter 59 of the Laws of 2011 amended the Social Services Law to authorize the Commissioner of Health to establish criteria for presumptive eligibility for the Family Planning Benefit Program. The legislative objective is to expand access to family planning services by easing the application process.

Needs and Benefits:

New York included in Chapter 59 of the Laws of 2011, the option afforded by the federal Medicaid statute, of providing individuals with a period of presumptive eligibility for family planning-only services. This regulation will provide the necessary criteria to implement presumptive eligibility for the Family Planning Benefit Program.

COSTS:

Costs for the Implementation of, and Continuing Compliance with the Regulation to the Regulated Entity:

This amendment will not increase costs to the regulated parties.

Costs to State and Local Government:

This amendment will not increase costs to the State or local governments.

Costs to the Department of Health:

Any costs associated with this amendment will be offset by administrative savings.

Local Government Mandates:

This amendment will not impose any program, service, duty, additional cost, or responsibility on any county, city, town, village, school district, fire district, or other special district.

Paperwork:

Any provider choosing to act as a "qualified provider" will be required to notify the local social services district when a presumptive eligibility determination has been made.

Duplication:

There are no duplicative or conflicting rules identified.

Alternatives:

Establishing criteria for presumptive eligibility for the Family Planning Benefit Program was expressly authorized by Chapter 59 of the Laws of 2011. Processing through a statewide vendor was chosen over processing through local districts to centralize administration of eligibility determinations.

Federal Standards:

Section 1920C of the Social Security Act gives States that adopt the new family planning group the option of also providing a period of presumptive eligibility based on preliminary information that an individual meets the applicable eligibility.

Compliance Schedule:

Social services districts should be able to comply with the proposed regulations when they become effective.

Contact Person:

Katherine E. Ceroalo
New York State Department of Health
Bureau of House Counsel, Regulatory Affairs Unit
Corning Tower Building, Rm. 2438
Empire State Plaza
Albany, New York 12237
(518) 473-7488
(518) 473-2019 (FAX)
REGSQNA@health.state.ny.us

STATEMENT IN LIEU OF REGULATORY FLEXIBILITY ANALYSIS

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

Cure Period:

Chapter 524 of the Laws of 2011 requires agencies to include a "cure period" or other opportunity for ameliorative action to prevent the imposition of penalties on the party or parties subject to enforcement when developing a regulation or explain in the Regulatory Flexibility Analysis why one was not included. This regulation creates no new penalty or sanction. Hence, a cure period is not necessary.

STATEMENT IN LIEU OF
RURAL AREA FLEXIBILITY ANALYSIS

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse impact on facilities in rural areas, and it does not impose reporting, record keeping or other compliance requirements on facilities in rural areas.

STATEMENT IN LIEU OF
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 an adverse impact on jobs and employment opportunities.