HUMAN SERVICES
DEPARTMENT

Susana Martinez, Governor
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INTRADEPARTMENTAL MEMORANDUM
MAD-GI: 14-01
DATE: January 7, 2014

TO: ISD AND MAD STAFF

FROM: JULIE B. WEINBERG, DIRECTOR, MEDICAL ASSISTANCE DIVISON

THROUGH: ROY BURT, BUREAU CHIEF, ELIGIBILITY SERVICES BUREAU

BY: SAMUEL PEINADO, ELIGIBILITY SERVICES BUREAU

SUBJECT: Affordable Care Act (ACA) Frequently Asked Question (FAQ's)

GENERAL INFORMATION

Attached please find FAQ's regarding eligibility for the ACA Medicaid categories.

Please address questions concerning this material to Samuel Peinado at samuel.peinado@state.nm.us or (505) 476-6818.

Attachment: ACA Eligibility Questions

ACA Eligibility Questions

Q1: Can an adult individual (mother & father) be eligible for Parent Caretaker Medicaid if the pregnancy is in the third trimester if no other children in the household?

A1: No, the mother should be evaluated for Full Pregnancy Medicaid and the father for Other Adult Group. Once the child is born both parents may be evaluated for Parent caretaker Medicaid and child for newborn Medicaid.

Q2: Like AFDC, is only one specified relative eligible for Medicaid?

A2: No, individuals as defined by the 5th degree of relationship may be eligible for evaluation for Parent Caretaker Medicaid if the Parent/Step-Parent in not in the household.

Q3: Is custody a factor of eligibility and inclusion in a budget group?

A3: Yes, for purposes of making this determination, a court order or binding separation, divorce, or custody agreement establishing custody control will be utilized, and if there is no such order or agreement or in the event of a shared custody agreement, the custodial parent, is the parent with the higher adjusted gross income.

Q4: For Parent Caretaker Medicaid, what does it mean when all children listed on an application must be evaluated for eligibility for a medicaid program per 8.292.400.9.F NMAC; if not already eligible or have full current health insurance coverage?

A4: If the parent or other caretaker relative is also applying for Medicaid, the child must be evaluated for Medicaid or must already have private health insurance that fully covers them (dental or vision only is not considered full coverage). Note: This should not delay the eligibility determination for the parent caretaker.

Q5: If the child has full health insurance coverage other than Medicaid, do we accept self-attestation as proof?

A5: Under ACA, we will accept self-attestation as proof, unless questionable.

Q6: Continuous eligibility: Does changes in household composition qualify as an income change?

A6: Continuous eligibility found at 8.291.400.11 NMAC has been amended to clarify when continuous eligibility is not applicable and reads as follows:

CONTINUOUS ELIGIBILITY FOR CHILDREN:

A. Recipients under 19 years of age will remain eligible for the 12 month certification period. The 12 months of continuous medicaid starts with the month of approval or re-determination and is separate from any months of presumptive or retroactive eligibility. This provision applies even if it is reported that income exceeds the applicable federal income poverty guidelines or there is a change in household composition. This provision does not apply when any of the following circumstances occur:

1. death of the eligible household member;
2. the eligible recipient or the family moves out of state;
3. the child turns 19 years of age;
4. failure to respond to an HSD request for information;
5. the individual or the individual's representative requests a voluntary termination of eligibility;
6. HSD determines that eligibility was erroneously granted at determination or renewal of eligibility because of agency error, fraud, abuse, or perjury attributed to the child or the child's representative;
7. change in household composition; or
8. any factor of eligibility with the exception of increased income is not met.

B. Continuous Eligibility for pregnant women: Recipients who are or become pregnant, will remain eligible for medicaid up to 2 months port partum regardless of changes in circumstances. This provision does not apply when any of the following circumstances occur:

1. death of the eligible household member;
2. the eligible recipient or the family moves out of state;
3. failure to respond to an HSD request for information;
4. the individual or the individual's representative requests a voluntary termination of eligibility;
5. HSD determines that eligibility was erroneously granted at determination or renewal of eligibility because of agency error, fraud, abuse, or perjury attributed to the child or the child's representative.

Q7: What is administrative renewal? Is a new application needed? Reinstate back to closure?

A7: 120 days before an individual has to recertify their ACA Medicaid, HSD will utilize its Electronic Sources (Department of Workforce Solutions, Social Security...) to verify income of the budget group. If able to verify income the system will recertify the individuals. If not, the recertification will take place as usual.

If an individual fails to complete a recertification for either failure to submit the recertification form or did not submit the necessary information, the individual(s) may have their eligibility reinstated back to the closure date if the following occurs. The individual(s) subsequently submits the necessary information to compete the recertification within 90 days after the date of termination without an application or submits a new application with all the necessary information to recertify prior to 90 days.

Q8: How is an undocumented individual handled in determining eligibility for Medicaid?

A8: Because we are now following a Modified Adjusted Gross Income (MAGI) Methodology an undocumented will be handled the same as any other individual. The only difference is that the individual will fail the Citizenship/immigrant requirement.

Q9: Unavailable income: individuals included in the budget group may have a legal right to income but not access to it.

A9: Analysis: Since the definition of income under MAGI now devolves to IRS policy, this issue is addressed in the IRS pamphlet "Taxable and Nontaxable Income 2012". In most cases, an amount included in your income is taxable unless it is specifically exempted by law. Income that is taxable must be reported on your return and is subject to tax. Income that is nontaxable may have to be shown on your tax return but is not taxable. The IRS definition of "constructively received income," in the same publication, states that "you are generally taxed on income that is available to you, regardless of whether it is actually in your possession." In the same publication, "assignment of income" states that "income received by an agent for you is income you constructively received in the year the agent received it. If you agree by contract that a third party is to receive income for you, you must include the amount in your income when the third party receives it."

Q10: Do both adults and children transition to (old categories 27 and 28)? Which household members would transition if there are different tax-paying statuses?

A10: No, only adults would be transitioned to a Transitional Medicaid category. The child should remain on its current category (continuous eligibility if applicable) and the adults, depending on the circumstance of Parent Caretaker closure, would be transitioned to the applicable category.

Q11: Medical support rights: Families who list individuals such as a 19+ year old son/daughter on the application, do we have the right to run eligibility on them if they have not signed the application. Does the assignment still apply even though the parents listed them as a dependent on their taxes?

A11: Yes, 42 CFR 435.610 (which addresses assignment of Medicaid support rights) has not been revised or deleted by ACA. It reads as follows:

As a condition of eligibility, the agency must require applicants and recipients to (1) Assign rights to the Medicaid agency to medical support to payment for Medicaid care from any third party;

(2) Cooperative with the agency in establishing paternity and in obtaining Medicaid support and payment, unless the individuals establishes good cause for not cooperating and except for individuals described in section 1902(1)(1)(a) of the Act (poverty level pregnant women) who are exempt from cooperating in establishing paternity and obtaining medical support and payments from the father or the child born out of wedlock, and

(3) Cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan, unless the individual establishes good cause for not cooperating.

(b) The requirements for assignment of rights must be applied uniformly for all groups covered under the plan.

The following statement had been added to the signature portion of the new application HSD100/MAD100:

"A person who is applying for or receiving Medicaid Assistance shall assign to HSD all rights against any and all individuals for medical support or payments for medical expenses paid on the applicants' or client's behalf and the behalf of any other person for whom application is made or assistance is received."

Q12: Did the Medicaid requirements for Citizenship/Alien status change?

A12: No, the requirements remain the same but the verification of citizenship did, please see 8.291.410.14 NMAC for new requirements of verification.

Q13: Will the Federal Poverty Levels (FPL) increase every year for ACA categories of eligibility?

A13: Yes, they will be adjusted according to the FPL, with the exception of the Parent Caretaker category, this will **NOT** be adjusted every year.

Q14: Can an individual within the 5th degree of relationship be evaluated for Parent Caretaker eligibility if the child's parent(s) is in the household?

A14: No, as long as there is parent(s)/step-parent(s) in the household filling the parental role that individual must be evaluated for other Medicaid eligibility.

Q15: What programs are going away when ACA is effective?

A15: State Coverage Insurance (062) will be sun setting as of December 31, 2013.

Q16: What is a tax payer, tax dependent and a non-filer for Medicaid purposes?

A16: Tax filer for Medicaid purposes is the person filing a tax return who manages the household which has dependents such as children and/or other dependent/relatives on the Federal tax return. Tax dependent is an individual, such as a qualifying child or other dependent/relative, whom a taxpayer can claim on his or her federal income tax returns. A non-filer is an individual who either has not filed for taxes because their income does not exceed the taxable standard (the amount of income that you can earn before you are required to file a tax return, also depends on the type of income, your age and your filing status) or has simply not filed for Federal Taxes.

Q17: What are the new policy sections for ACA?

A17: New ACA eligibility sections have been created below:

- General Provisions: 8.291.400, 410,420,430 NMAC
- Parent Caretaker: 8.292.400, 500, 600 NMAC
- Pregnant Women: 8.293.400, 500, 600 NMAC
- Pregnancy Related Services: 8.294.400, 500, 600 NMAC
- Children under 19: 8.295.400, 500, 600 NMAC
- Other Adults: 8.296.400, 500, 600 NMAC
- Transitional-Spousal Support: 8.297.400, 500, 600 NMAC
- Transitional-Employment: 8.298.400, 500, 600 NMAC

Q18: What is the different between the ACA Medicaid and Centennial Care?

A18: ACA is the creation of new Medicaid categories and a new methodology of determining eligibility for the newly created categories. Centennial Care is the way services will be provided to eligible Medicaid recipients. Four managed care organizations will provide services including physical health, behavioral health, and long-term care and community benefits.

Q19: If I have health insurance coverage, can I still apply for ACA Medicaid?

A19: Yes, with the exception to Children's Health Insurance Program (CHIP), a client/recipient can have other health insurance.

Q20: The application I filled out is it just for me to receive benefits or can I get benefits for everyone I have listed on the application?

A20: Yes, an application can be used for just one person or many. In section 3, everybody in the household should be listed, but only the area that states "Fill out this section ONLY for each person applying for benefits." must be completed for individuals seeking assistance. **Note: Depending on what assistance you are applying for, certain individual information must be included on the application.**

Q21: Can I apply for Medicaid and the Health Insurance Marketplace at the same time?

A21: Yes, all individuals requesting service will first be evaluated for a full ACA Medicaid benefit and if ineligible, the applicant/recipient's information (account) will be forwarded to the Health Insurance Marketplace for evaluation.

Q22: If I have family planning will I be transition into the new Medicaid expansion program?

A22: Yes, all individuals receiving family planning services will be evaluated for ACA eligibility in January 2014, without requiring an application. If eligible, the individual will retain their recertification dates and if ineligible, the client's information will be forwarded to the Health Insurance Marketplace.