



DEPARTMENT OF HEALTH & HUMAN SERVICES
Health Care Financing Administration

Center for Medicaid and State Operations
7500 Security Boulevard
Baltimore, MD 21244-1850

April 22, 1997

Dear State Medicaid Director:

This letter clarifies and expands upon our February 6, 1997 advice to you concerning your responsibilities to conduct redeterminations arising from the changes in Medicaid eligibility made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Contract with America Advancement Act of 1996. These changes in Federal law will require States to redetermine the Medicaid eligibility of many individuals, including children currently eligible for SSI, many non-U.S. citizens, and individuals who had been receiving disability cash assistance (SSI) based on alcoholism and drug addiction. In most cases, SSI must complete its redeterminations by August 22, 1997.

We make several key points below: (1) States must make a redetermination without the involvement of the beneficiary if at all possible (see Section 1 below); (2) States can contact beneficiaries if they are unable to complete the redetermination without additional information (see section 2); and (3) States may not automatically terminate individuals (see section 3).

Because it appears that the Medicaid redetermination process does not always operate in a manner that fully protects eligible individuals from termination before an ex parte redetermination is completed, we are clarifying and emphasizing Federal policy that recipients must be afforded a full and fair redetermination.

1. State Ex Parte Redeterminations

When an individual is about to lose Medicaid because of the loss of eligibility for cash assistance (such as the loss of AFDC benefits through the transition from AFDC to the State's TANF program, or the loss of SSI benefits in States that provide Medicaid to individuals because they receive SSI), the State is required to make an ex parte redetermination of the individual's Medicaid eligibility under any other eligibility group. For example, if an individual has lost SSI benefits because of new statutory provisions relating to immigration status, the State must determine if the person qualifies for Medicaid under another eligibility category. This process is derived from two court decisions: Stenson v. Blum and Massachusetts Association of Older Americans v. Sharp.

The term "ex parte redetermination" means a redetermination made by one party, the State, without the involvement of any other party such as the recipient. Thus, an ex parte redetermination is based to the maximum extent possible on information contained in the individual's Medicaid file including information available through the SDX or BENDEX that the State believes is accurate. If the State is able to make a decision that the individual continues to be eligible for Medicaid, the beneficiary should be notified. When the State needs additional or updated information upon which to base a redetermination of eligibility under any other group in the State plan, follow the process below.

2. Contacting the Beneficiary

When an ex parte redetermination cannot be made because it is clear that additional information is needed, the State should contact the individual for information, or take other reasonable steps to obtain the information it needs. Such steps may include asking the individual to come into the local office or to complete forms needed to perform the redetermination. We encourage you, when requesting information from beneficiaries, to use language which will not cause alarm. When performing redeterminations, the State should not combine a request for additional information with a termination notice. You should not inform the individual that reapplication is necessary to retain Medicaid. You may use an application form as a data collection instrument to secure updated information.

Once a redetermination has been made, the State promptly notifies the individual either of the change in eligibility status or, if the individual is not Medicaid eligible under any other group, that eligibility is terminated. As part of the notice, the State also notifies the individual of the right to appeal any adverse decision. (See regulations at 42 CFR 431 Subpart E and State Medicaid Manual instructions at 2900-2903.5 for rules on proper notice actions affecting Medicaid eligibility).

3. Terminations From Medicaid

States are not permitted to terminate an individual until they have determined that the individual is not eligible under any other eligibility group. States are expected to keep individuals on the Medicaid rolls while the redetermination process is underway. During the redetermination process, if within a reasonable period of time, an individual fails to cooperate in providing information the State has requested, then, as indicated above, the individual could be terminated from Medicaid.

If an individual has lost SSI because he or she no longer meets the definition of disability because of changes in the law (e.g., pertaining to alcohol or drug abuse or childhood disability), the State must continue Medicaid during the SSI redetermination and during any subsequent timely appeal to SSA of its termination decision. Thus, Medicaid benefits continue throughout the SSA hearing process.

If a State amends its State Plan to eliminate an eligibility group, the State must still send notice and the right to appeal factual issues to each affected individual as provided in SMM 2900-2903.5 and 42 CFR 431.220. For example, this policy would apply to any State which elects to drop coverage of optional qualified aliens.

4. Familiarity of Eligibility Workers With Contents of the SDX Tape

Because Welfare Reform has brought new responsibilities to States to look at other aspects of former SSI cases, it is becoming increasingly important that eligibility staff become familiar with the SDX data already on hand at the State level. Examples of two steps which can be helpful in this process are to upgrade your computer systems to handle the full SDX data, and to train your staff to recognize and understand the coding on the SDX.

5. Performing Timely Redeterminations

We remind you that the regulations at 42 CFR 435.916 require that you redetermine the eligibility of Medicaid recipients at least every 12 months with respect to circumstances that may change. This regulation sets the maximum interval between redeterminations, but you may use shorter intervals at your discretion. Therefore, because of the added burden of redeterminations required by welfare reform, you may wish to stagger your redeterminations, with some recipients being redetermined at shorter intervals in order to smooth your workload.

6. Use of English Only Notices

Longstanding HCFA policy requires that States provide a translation into the language understood by the applicant or recipient when communicating with the applicant or recipient. The requirement is found at 2900.4.

Thank you for your continued cooperation in the implementation of the Medicaid aspects of welfare reform.

Sincerely,

/s/

Judith D. Moore

Acting Director Medicaid Bureau

cc: All Regional Administrators All Associate Regional Administrators for Medicaid Lloyd Bishop, OLIGA Jennifer Baxendell, NGA Lee Partridge, APWA Joy Wilson, NCSL