

NOTICE OF RULE ADOPTION—FINAL RULE

STATE OF MISSISSIPPI
OFFICE OF THE GOVERNOR
DIVISION OF MEDICAID

FILED
DEC 19 2008

MISSISSIPPI
SECRETARY OF STATE

Miss. Division of Medicaid
c/o Ginnie McCardle, Staff Officer
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Specific Legal Authority Authorizing the promulgation of
Rule: Miss Code Ann. §43-13-121(1972), as amended

Reference to Rules repealed, amended or suspended by the Proposed Rule :

MS State Plan Section 2, Page 11a; Section 3, Page 21 and 29a; Supplement 8b to Attachment 2.6-A, Page 5; Attachment 2.6A, Page 4e, Page 25, Supplement 9b to Attachment 2.6-A, Page 1 thru Page 6; and Supplement 17 to Attachment 2.6-A, Page 1

Date Rule Proposed: October 13, 2008

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule:

SPA2008-003 This State Plan amendment is being filed to make technical corrections that remove the QI-2 group and presumptive eligibility from the MS State Plan; to add the CHIP group and existing income disregards to the State Plan; to insert new provisions of the Deficit Reduction Act of 2005 for transfer of assets and home equity into the State Plan; and to add a broader description of DOM's outstationing activity. Supplement 8b to Attachment 2.6-A, Page 1, Supplement 8a to Attachment 2.6-A, Page 1 and Page 4, and Attachment 2.2-A, Page 23b were removed from the amendment per approval from CMS.

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

An oral proceeding was held on this rule:

Date:
Time:
Place:

An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

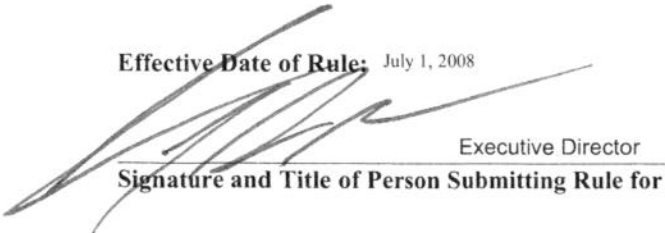
This rule as adopted is without variance from the proposed rule.

This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

The rule as adopted differs from the proposed rule. The differences however are:
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: July 1, 2008



Executive Director

Signature and Title of Person Submitting Rule for Filing

State of Mississippi
Section 2 – Coverage and Eligibility

1902(a)(55) 2.1(d) The Medicaid agency has procedures to take applications, assist applicants and perform initial processing of applications from those low income pregnant women, infants, and children under age 19, described in S1902(a)(10)(A)(i) (IV), (a)(10)(A)(i) (VI), (a)(10)(A)(i)(VIII), and (a)(10)(A)(ii)(IX) at locations other than those used by the title IV-A program including FQHCs and disproportionate share hospitals. Such application forms do not include the ADFC form except as permitted by HCFA instructions.

Mississippi has implemented Section 1902(a) (55) of the Act by operating regional district offices and outstationing workers or developing procedures to assure that applications are taken and clients are assisted in completion of same at sites other than the single state agency's primary place of business:

- The agency maintains thirty (30) full service regional offices throughout the state which are open from 7:30 a.m. to 5:30 p.m. (excluding holidays) during the normal business week. These offices are staffed by employees of the agency who assist clients and applicants with the processing, review and determination of applications.
- In addition to the regional offices, the agency operates a network of outstationed locations within facilities not owned, leased or operated by the agency. Such locations include county departments of health (WIC locations), FQHCs, disproportionate share hospitals and rural health clinics.
- The agency has either an outstationed location or a regional office in 81 of the state's 82 counties. The one county without an office shares many government services (including a combined school district, health department office, and human services office) with a neighboring county because both counties are so small in population. In addition, the agency has three regional offices within a thirty (30) minute drive of that county. Approximately sixty-four (64) out of eighty two (82) counties have more than one location.
- Posters and pamphlets will be placed in prominent places in all admission offices and emergency rooms of disproportionate share hospitals, as well as in all FQHCs and rural health clinics. Information describes the closest location of the full service regional offices and outstation locations and provides telephone numbers for additional assistance.

Hours of operation are posted at each outstationed location and on the agency's website and are available at each regional office. Applicants are directed to the closest outstation site or regional office to file an application. Applicants may apply or be seen or assisted in any location, regardless of regional office boundary lines. Health facilities that do not participate in the outstationing of workers have access to the outstation schedules of each regional office.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM

Page 21

State of Mississippi
Section 3 – Services: General Provisions

<u>Citation</u>	3.1	<u>Amount, Duration, and Scope of Services (continued)</u>
1902(a)(10)(E)(i) and clause (VIII) of the matter following (F), and 1905(p)(3) of the Act	(a)(3)	<u>Other Required Special Groups: Qualified Medicare Beneficiaries</u> Medicare cost sharing for qualified Medicare beneficiaries described in section 1905(p) of the Act is provided only as indicated in item 3.2 of this plan.
1902(a)(10)(E)(ii) and 1905(s) of the Act	(a)(4)(i)	<u>Other Required Special Groups: Qualified Disabled and Working Individuals</u> Medicare Part B premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the Act are provided as indicated in item 3.2 of this plan.
1902(a)(10)(E)(iii) and 1905(p)(3)(A)(ii) of the Act	(ii)	<u>Other Required Special Groups: Specified Low-Income Medicare Beneficiaries</u> Medicare Part B premiums for specified low-income Medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the Act are provided as indicated in item 3.2 of this plan.
1902(a)(10)(E)(iv) 1905(p)(3)(A)(ii), and 1933 of the Act	(iii)	<u>Other Required Special Groups: Qualifying Individuals – 1</u> Medicare Part B premiums for qualifying individuals described in 1902(a)(10)(E)(iv)(1) and subject to 1933 of the Act are provided as indicated in item 3.2 of this plan.
1925 of the Act	(a)(5)	<u>Other Required Special Groups: Families Receiving Extended Medicaid Benefits</u> Extended Medicaid benefits for families described in section 1925 of the Act are provided as indicated in item 3.5 of this plan.

TN No. 2008-003
Supersedes
TN No. 98-01

Date Received: 08/27/08
Date Approved: 11/24/08
Date Effective: 07/01/08

State of Mississippi
Section 3 – Services: General Provisions

Citation

1902(a)(10)(E)(ii)
and 1905(s) of the Act

(ii) Qualified Disabled and Working Individual (QDWI)

The Medicaid agency pays Medicare Part A premiums under a group premium payment arrangement, subject to any contribution required as described in ATTACHMENT 4.18-E. for individuals in the QDWI group defined in item A.26 ATTACHMENT 2.2-A of this plan.

1902(a)(10)(E)(iii) and
1905(p)(3)(A)(II)
of the Act

(iii) Specified Low-Income Medicare Beneficiary (SLMB)

The Medicaid agency pays Medicare Part B premiums under the State buy-in process for individuals in the SLMB group defined in item A.27 of ATTACHMENT 2.2-A of this plan.

1902(a)(10)(E)(iv)
1905(p)(3)(A)(ii), and
1933 of the Act

(iv) Qualifying Individual -1 (QI-1)

The Medicaid agency pays Medicare Part B premiums under the State buy-in process for individuals described in 1902(a)(10)(E)(iv) and subject to 1933 of the Act.

Revision: HCFA-PM-97-2
December 1997

ATTACHMENT 2.6A
Page 4e
OMB No.:0938-0673

State: Mississippi

Citation

Condition or Requirement

-
- c. Amounts for health care expenses described below that are incurred by and for the institutionalized individual and are not subject to payments by a third party.
- (i) Medicaid, Medicare and other health insurance premiums, deductibles or coinsurance charges, or copayments.
 - (ii) Necessary medical or remedial care recognized under State law, but not covered under the State plan. (Reasonable limits on amounts are described in Supplement 1-A ATTACHMENT 2.6A)
- 435.725 4. In addition to any amounts deductible under the items above, the
435.733 following monthly amounts are deducted from the remaining monthly
435.832 income of an institutionalized individual or an institutionalized
couple:
- a. An amount for the maintenance needs of each member of a family living in the institutionalized individual's home with no community spouse living in the home. The amount must be based on a reasonable assessment of need but must not exceed the higher of the :
- AFDC level; or
 - Medically needy level:
- (Check one)
- AFDC levels in Supplement 1-A
 - Medically needy level in Supplement 1
 - Other: same as the monthly income allowance for other dependent family members living with the community spouse.

TN No: 2008-003

Approval Date: 11/24/08

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Supersedes

TN No. 2000-01

Date Received: 08/27/08

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Citation(s)	Conditions or Requirements
1920(b)(1) of the Act	<p><u> </u> (3) For a presumptive eligibility for pregnant women only.</p> <p>Coverage is available for ambulatory prenatal care for the period that begins on the day a qualified provider determines that a woman meets any of the income eligibility levels specified in Attachment 2.6-A of this approved plan. If the woman files an application for Medicaid by the last day of the month following the month in which the qualified provider made the determination of presumptive eligibility, the period ends on the day that the state agency makes the determination of eligibility based on that application. If the woman does not file an application for Medicaid by the last day of the month following the month in which the qualified provider made the determination, the period ends on that last day.</p>
1902(e) (8) and 1905(a) of the Act Division of Medicaid	<p><u> x </u> b. For qualified Medicare beneficiaries defined in Section 1905(p)(1) of the Act, coverage is available beginning with the first day of the month after the month in which the individual is first determined to be a qualified Medicare beneficiary under Section 1905(p)(1). The eligibility determination is valid for -</p> <p><u> x </u> 12 months <u> </u> 6 months <u> </u> months (no less than 6 months and no more than 12 months)</p>

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

MORE LIBERAL METHODS OF TREATING RESOURCES
UNDER SECTION 1902(r)(2) OF THE ACT

 Section 1902(f) State

Non-Section 1902(f) State

METHODOLOGIES FOR TREATMENT OF RESOURCES
THAT DIFFER FROM THOSE OF THE SSI PROGRAM

4. The following liberalized resource policy applies to all reduced services coverage groups:
- Qualified Medicare Beneficiaries (QMB's)
1902(a)(10)(E)(i) and 1905(p)(1) of the Act
 - Specified Low Income Medicare Beneficiaries (SLMB's).
1902(a)(10)(E)(iii) and 1905(p)(3)(A)(ii) of the Act
 - Qualifying Individuals (QI-1's).
1902(a)(10)(E)(iv), 1905(p)(3)(A)(ii) and 1933 of the Act

The liberalized policy is the disregard of all resources. (Previously approved 03/22/00 in TN No. 99-15 effective 07/01/99.)

TN No: 2008-003

Approval Date: 11/24/08

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Supersedes

TN No: 2001-09

Date Received: 08/27/08

HCFA ID: 7985E

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

TRANSFER OF ASSETS

1917(c) **FOR TRANSFERS OF ASSETS FOR LESS THAN FAIR MARKET VALUE MADE ON OR AFTER FEBRUARY 8, 2006**, the agency provides for the denial of certain Medicaid services.

1. Institutionalized individuals are denied coverage of certain Medicaid services upon disposing of assets for less than fair market value on or after the look-back date.

The agency does not provide medical assistance coverage for institutionalized individuals for the following services:

Nursing facility services;

Nursing facility level of care provided in a medical institution;

Home and community-based services under a 1915(c) or (d) waiver.

2. Non-institutionalized individuals:

_____ The agency applies these provisions to the following non-institutionalized groups. These groups can be no more restrictive than those set forth in section 1905(a) of the Social Security Act:

The agency withholds payment to non-institutionalized individuals for the following services:

Home health services (section 1905(a)(7));

Home and community care for functionally disabled elderly adults (section 1905(a)(22));

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

TRANSFER OF ASSETS

Personal care services furnished to individuals who are not inpatients in certain medical institutions, as recognized under agency law and specified in section 1905(a)(24).

___ The following other long-term care services for which payment for medical assistance is otherwise made under the agency plan:

3. Penalty Date - - the beginning date of each penalty period imposed for an uncompensated transfer of assets is the later of:

- for less than fair market value:

X The State uses the first day of the month in which the assets were transferred

___ The State uses the first day of the month after the month in which the assets were transferred, or

OR

- The date on which the individual is eligible for medical assistance under the State plan and is receiving institutional level care services described in paragraphs 1 and 2 that, were it not for the imposition of the penalty period, would be covered by Medicaid;

AND

which does not occur during any other period of ineligibility for services by reason of a transfer of assets penalty.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

TRANSFER OF ASSETS

4. Penalty Period – Institutionalized Individuals - -

In determining the penalty for an institutionalized individual, the agency uses:

X the average monthly cost to a private patient of nursing facility services in the State at the time of application;

_____ the average monthly cost to a private patient of nursing facility services in the community in which the individual is institutionalized at the time of application.

5. Penalty Period – Non-institutionalized Individuals - -

The agency imposes a penalty period determined by using the same method as is used for an institutionalized individual, including the use of the average monthly cost of nursing facility services;

_____ imposes a shorter penalty period than would be imposed for institutionalized individuals, as outlined below:

6. Penalty Period for amounts of transfer less than cost of nursing facility care –

_____ where the amount of the transfer is less than the monthly cost of nursing facility care, the agency imposes a penalty for less than a full month, based on the option selected in item 4.

X the state adds together all transfers for less than fair market value made during the look-back period in more than one month and calculates a single period of ineligibility, that begins on the earliest date that would otherwise apply if the transfer had been made in a single lump sum.

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TN No: _____

Date Received: 08/27/08

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

TRANSFER OF ASSETS

7. Penalty periods – transfer by a spouse that results in a penalty period for the individual - -

(a) The agency apportions any existing penalty period between the spouses using the method outlined below, provided the spouse is eligible for Medicaid. A penalty can be assessed against the spouse, and some portion of the penalty against the individual remains.

(b) If one spouse is no longer subject to a penalty, the remaining penalty period must be served by the remaining spouse.

8. Treatment of a transfer of income - -

When income has been transferred as a lump sum, the agency will calculate the penalty period on the lump sum value.

When a stream of income or the right to a stream of income has been transferred, the agency will impose a penalty period for each income payment.

For transfers of individual income payments, the agency will impose partial month penalty periods using the methodology selected in 6. above.

For transfers of the right to an income stream, the agency will base the penalty period on the combined actuarial value of all payments transferred.

9. Imposition of a penalty would work an undue hardship - -

The agency does not impose a penalty for transferring assets for less than fair market value in any case in which the agency determines that such imposition would work an undue hardship. The agency will use the following criteria in making undue hardship determinations:

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TN No: _____

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

TRANSFER OF ASSETS

Application of a transfer of assets penalty would deprive the individual;

- (a) Of medical care such that the individual's health or life would be endangered; or,
- (b) Of food, clothing, shelter, or other necessities of life.

Undue hardship does not exist when the application of a transfer penalty merely causes an applicant/recipient or their family member(s) inconvenience or restricts their lifestyle.

Undue hardship does not exist when assets in excess of the spousal impoverishment federal maximum (less any assets transferred under the Income First provision) are transferred to the community spouse and the community spouse refuses to cooperate in making the excess resources available to the institutionalized spouse.

Undue hardship does not exist if assets are transferred to a person (spouse, child or other person) handling the financial affairs of an applicant/recipient unless it is established that transferred funds cannot be recovered, even through exhaustive legal measures.

Undue hardship exists when the applicant/recipient or their designated representative has exhausted all legal actions to have transferred assets causing the penalty period to be returned to the applicant/recipient.

10. Procedures for Undue Hardship Waivers

The agency has established a process under which hardship waivers may be requested that provides for:

- (a) Notice to a recipient subject to a penalty that an undue hardship exception exists;

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TN No: _____

Date Received: 8/27/08

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

TRANSFER OF ASSETS

- (b) A timely process for determining whether an undue hardship waiver will be granted; and,
- (c) A process, which is described in the notice, under which an adverse determination can be appealed.

These procedures shall permit the facility in which the institutionalized individual is residing to file an undue hardship waiver application on behalf of the individual with the consent of the individual or the individual's personal representative.

11. Bed Hold Waivers for Hardship Applicants

The agency provides that while an application for an undue hardship waiver is pending in the case of an individual who is a resident of a nursing facility:

X payments to the nursing facility to hold the bed for the individual will be made for a period not to exceed 30 days (may not be greater than 30).

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TN No: 05-014

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Mississippi

DISQUALIFICATION FOR LONG-TERM CARE ASSISTANCE FOR
INDIVIDUALS WITH SUBSTANTIAL HOME EQUITY

1917(f) The State agency denies reimbursement for nursing facility services and other long-term care services covered under the State plan for an individual who does not have a spouse, child under 21 or adult disabled child residing in the individual's home, when the individual's equity interest in the home exceeds the following amount:

\$500,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning with 2011, rounded to the nearest \$1,000).

An amount that exceeds \$500,000 but does not exceed \$750,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning with 2011, rounded to the nearest \$1,000).

The amount chosen by the State is _____.

This higher standard applies statewide,

This higher standard does not apply statewide. It only applies in the following areas of the State:

This higher standard applies to all eligibility groups.

This higher standard only applies to the following eligibility groups:

The State has a process under which this limitation will be waived in cases of undue hardship.

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