



Ohio Administrative Code

Rule 5160:1-3-02.6 Medicaid: grandfathering provisions and deemed eligibility.

Effective: December 14, 2020

(A) Various grandfathering provisions and deemed eligibility requirements were enacted to assure that aged, blind, or disabled individuals previously eligible for cash assistance and medicaid under former programs of aid would not be disadvantaged by eligibility conditions when the supplemental security income (SSI) program was implemented.

(B) Definitions.

(1) "Cash assistance," for the purpose of this rule, means the receipt of at least one of the following: Ohio works first (OWF), SSI or residential state supplement (RSS), or the former programs of aid known as aid for dependent children (ADC), aid for the aged (AFA), aid for the blind (AFB), and aid for the disabled (AFD).

(2) "Essential spouse" for the purpose of this rule means one who is living with the individual whose needs were included in determining the amount of cash assistance and who is determined essential to the individual's well-being.

(C) Under the grandfathering provisions, certain individuals who were eligible for medicaid in December 1973 are entitled to continued medicaid eligibility coverage even though they may not meet the medicaid eligibility requirements imposed beginning in January 1974 for the coverage of the aged, blind, and disabled.

(1) The grandfathered groups are the following:

(a) Individuals receiving mandatory state supplements as described in 42 C.F.R. 435.130 (as in effect October 1, 2019): an individual who is the recipient of mandatory state supplement payments (SSP) administered by the social security administration is automatically eligible for medicaid.

(b) Individuals who are essential spouses as described in 42 C.F.R. 435.131 as in effect October 1,



2019): any individual who was eligible in December 1973 as an essential spouse remains eligible under the following criteria:

(i) The aged, blind or disabled spouse continues to meet the December 1973 eligibility requirements of the applicable cash assistance programs; and

(ii) The essential spouse continues to be the spouse of and lives with the spouse described in paragraph (C)(1)(b)(i) of this rule; and

(iii) The essential spouse continues to meet the conditions that were in effect in December 1973 under the applicable cash assistance program for having his or her needs included in computing the payment to the individual described in paragraph (C)(1)(b)(i) of this rule.

(c) Blind or disabled individuals eligible in 1973 as described in 42 C.F.R. 435.133 (as in effect October 1, 2019): an individual who was eligible for medicaid in December 1973 because the individual met the definition of blindness or disability in effect under the former programs of AFB or AFD and meets the following criteria:

(i) The individual meets all current requirements for medicaid eligibility except for blindness or disability; and

(ii) The individual was eligible for medicaid in December 1973 as blind or disabled, whether or not the individual received cash assistance in December 1973; and

(iii) For each consecutive month after December 1973, the individual has continued to meet the December 1973 criteria for blindness or disability; and

(iv) For each consecutive month after December 1973, the individual has continued to meet all other eligibility requirements which were in effect December 1973.

(d) Individuals who lost eligibility for SSI due to an increase in retirement, survivors and disability insurance (RSDI) as described in 42 C.F.R. 435.134 (as in effect October 1, 2019): individuals eligible despite the October 1972 twenty per cent general increase:



(i) An individual who would currently be eligible for SSI or cash assistance except for the amount of increased income resulting from the October 1972 twenty per cent general increase in RSDI is eligible for medicaid if, for the month of August 1972, the individual met the following criteria:

(a) The individual was eligible for and receiving cash assistance under the ADC, AFA, AFB, or AFD programs, and

(b) The individual received and was entitled to monthly RSDI benefits.

(ii) Only the October 1972 RSDI increase is disregarded. Any subsequent increases in RSDI are not disregarded.

(iii) Although the amount of the October 1972 RSDI increase is disregarded in determining financial eligibility, the individual must meet all of the current eligibility requirements for medicaid.

(e) Institutionalized individuals continuously eligible since 1973 as described in 42 C.F.R. 435.132 (as in effect October 1, 2019): an individual who was eligible for medicaid in December 1973 as an inpatient or resident of a Title XIX institution and for each consecutive month after December 1973 meets the following criteria:

(i) Continues to meet the requirements for medicaid eligibility that were in effect in December 1973 for institutionalized individuals; and

(ii) Remains institutionalized; and

(iii) Is determined to continue to need institutional care.

(f) Individuals who would be eligible for SSI but not for RSDI COLA increases since April 1977 (Pickle Amendment Group) as described in 42 C.F.R. 435.135 (as in effect October 1, 2019): an individual receiving RSDI and meets the following criteria:

(i) Became ineligible for SSI after April 1977; and



(ii) Would continue to be eligible for SSI if all of the RSDI cost-of-living increases received by the individual, the individual's spouse or other family member after April 1977 were deducted from current RSDI benefits.

(g) Ineligible for SSI due to requirements prohibited by Medicaid as described in 42 C.F.R. 435.122 (as in effect October 1, 2019): individuals who would be eligible for SSI or residential state supplements except for an eligibility requirement used in those programs that is specifically prohibited under Medicaid.

(2) Failure to meet any one of the conditions listed in paragraph (C)(1) of this rule renders the individual ineligible for grandfathered status under the blind or disabled grandfathering provisions.

(3) An individual described in paragraph (C)(1)(c) of this rule permanently loses grandfathered status when the individual fails to meet any December 1973 eligibility requirement for any one month.

(4) Any change in circumstances requires a redetermination of eligibility based upon all the conditions set forth in paragraph (C)(1) of this rule.

(5) Eligibility under a grandfathered group does not apply to individuals in a long-term care facility or enrolled in a home and community-based services waiver.

(D) Under deemed eligibility, certain individuals who were ineligible for SSI, due to receipt of social security benefits, are entitled to continued Medicaid coverage for the aged, blind and disabled if certain criteria are met.

(1) The deemed eligibility groups are the following:

(a) Disabled widows(ers) ineligible for SSI or RSS due to increase in RSDI as described in 42 C.F.R. 435.137 (as in effect October 1, 2019): disabled widows(ers) who became ineligible for SSI or RSS benefits as a result of the elimination of the additional reduction factor for disabled widows(ers) under age sixty and meet all of the following criteria:



- (i) Entitled to a monthly RSDI benefit for December 1983, and
 - (ii) Entitled to and received a social security widow(er)'s disability benefit in January 1984, and
 - (iii) Became ineligible for SSI benefits in the first month in which the increase in social security disabled widows(ers) benefits, as a result of the elimination of the additional reduction factor, was received, and
 - (iv) Continuously entitled to widow(er)'s disability benefits from the first month that the increase was received, and
 - (v) Would be eligible for SSI or RSS if the increase in RSDI benefits due to the elimination of the reduction factor and subsequent cost-of-living adjustments in RSDI benefits were excluded, and
 - (vi) Filed a medicaid application or renewal on or before June 30, 1988 for deemed eligibility.
- (b) Disabled adult children as described in section 1634 of the Social Security Act (as in effect October 1, 2019): disabled individuals who have attained the age of eighteen and received SSI benefits on the basis of blindness or disability which began before he or she attained the age of twenty-two and meet all of the following criteria:
- (i) Entitled to social security child's insurance benefits on the basis of disability or an increase in the amount of the child's insurance benefits which are payable, and
 - (ii) Became ineligible for SSI benefits solely because of their receipt of social security child's insurance benefits or increase in social security child's insurance benefits, and
 - (iii) Would be eligible for SSI if the social security child's insurance benefits were excluded.
- (c) Disabled widows(ers) ineligible for SSI due to early receipt of social security as described in 42 C.F.R. 435.138 (as in effect October 1, 2019): disabled widows(ers) at least age sixty who became ineligible for SSI as a result of the receipt of widows(ers) social security disability benefits and meet all of the following criteria:



- (i) Receives widows(ers) social security disability benefits, and
 - (ii) Became ineligible for SSI benefits solely because of the receipt of widows(ers) social security disability benefits, and
 - (iii) Received a SSI benefit in the month before the month of receipt of widows(ers) social security disability benefits, and
 - (iv) Not entitled to medicare part A.
 - (v) Although the amount of the widows(ers) social security disability benefits is excluded in determining financial eligibility, the individual must meet all of the current eligibility requirements for medical assistance.
- (2) Any changes in circumstances requires a redetermination of eligibility based upon all conditions set forth in paragraph (D)(1) of this rule.
- (3) Eligibility under a deemed group does not apply to individuals in a long-term care facility or enrolled in a home and community-based services waiver.