

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in an Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.774; D.C. Official Code § 1-307.02 (2006 Repl. & 2012 Supp.)) and Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6) (2008 Repl.)), hereby gives notice of the intent to adopt a new Section 963, of Chapter 9 (Medicaid Program), Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), entitled "Application of Affordable Care Act Eligibility Methodologies".

On or before January 1, 2014, DHCF will publish rules to ensure compliance with several provisions of the Patient Protection and Affordable Care Act of 2010, approved March 23, 2010 (Pub. L. No. 111-148, 124 Stat 119), as amended and supplemented by the Health Care and Education Reconciliation Act of 2010, approved January 5, 2010 (Pub. L. No. 111-152, 124 Stat. 1029)(codified as amended in scattered sections of 42 U.S.C.) (collectively referred to as the Affordable Care Act)(ACA). The ACA: (1) establishes the statutory minimum Medicaid income eligibility level of one hundred thirty-three percent (133%) of the Federal Poverty Level (FPL) across the country for most adults who are not disabled and who are under age sixty-five (65); (2) eliminates outdated eligibility categories and collapses other categories into four primary groups: children, pregnant women, parents, and the new adult group; (3) reforms eligibility verification rules to rely primarily on electronic data sources; (4) streamlines income-based rules and systems for processing Medicaid applications and renewals; and (5) ensures coordination across Medicaid and the Exchanges, a government-regulated and standardized marketplace, from which eligible individuals may purchase health insurance with or without federal subsidies. On or before January 1, 2014, DHCF will publish rules that incorporate policy changes to the District of Columbia Medicaid program related to eligibility, enrollment, renewals, public availability of program information, and coordination with the District of Columbia Health Benefits Exchange Authority (DC HBX).

The Director also gives notice of the intent to take final rulemaking action to adopt this proposed rule in not less than thirty (30) days form the date of publication of this notice in the *D.C. Register*.

Title 29 (Public Welfare) of the DCMR is amended as follows:

Add a new section 963 (Application of Affordable Care Act Eligibility Methodologies) to read as follows:

963 **APPLICATION OF AFFORDABLE CARE ACT ELIGIBILITY
METHODOLOGIES**

963.1 On or before January 1, 2014, Department of Health Care Finance (DHCF) shall adopt policies and procedures to implement the use of Modified Adjusted Gross Income (MAGI) in determining financial eligibility for Medicaid, pursuant to the definitions of MAGI and household income as set forth in 26 U.S.C. § 36B. The household income standards apply to taxable years ending after December 31, 2013.

963.2 Under MAGI-based methodologies, DHCF shall simplify and consolidate specific existing mandatory and optional eligibility groups into four (4) major eligibility groups:

- (a) Children who are not otherwise eligible and enrolled for mandatory Medicaid coverage and have MAGI-based income at or below three hundred (300) percent of the federal poverty level (FPL);
- (b) Pregnant women who are not otherwise eligible and enrolled for mandatory Medicaid coverage and have MAGI-based income at or below three hundred (300) percent of the federal poverty level (FPL);
- (c) Parents and other caretaker relatives who are not otherwise eligible and enrolled for mandatory Medicaid coverage and have MAGI-based income at or below two hundred (200) percent of the federal poverty level (FPL); and
- (d) Adults without dependent children who are not otherwise eligible and enrolled for mandatory Medicaid coverage, are not entitled to or enrolled in Medicare, and have MAGI-based income at or below one hundred thirty-three percent (133%) of the federal poverty level (FPL).

963.3 The MAGI-based methodologies described in Subsections 963.1 and 963.2 shall not apply to individuals whose eligibility for Medicaid is determined on a basis other than MAGI.

963.4 On or before January 1, 2014, DHCF shall establish a new mandatory coverage group for individuals who:

- (a) Are under age twenty-six (26);
- (b) Were in foster care under the responsibility of the District of Columbia government while enrolled in Medicaid under the District of Columbia State Plan for Medical Assistance or § 1115 demonstration at or after age eighteen (18); and

- (c) Are not eligible for or enrolled in Medicaid under another mandatory eligibility category.
- 963.5 On or before January 1, 2014, DHCF shall establish a single, streamlined application for individuals whose eligibility is based upon MAGI methodologies.
- 963.6 On or after January 1, 2014, DHCF shall establish a simplified renewal process for all eligibility determinations for Medicaid.
- 963.7 In verifying eligibility for insurance affordability programs, DHCF shall rely, to the maximum extent possible, on electronic data matches with trusted third party data sources rather than on documentation provided by applicants and beneficiaries. Trusted third party data sources shall include, but are not are limited to, the following:
- (a) Social Security Administration;
 - (b) Internal Revenue Service; and
 - (c) Local data sources.
- 963.8 In addition to the requirements described in Subsection 963.7, DHCF may not require an applicant or beneficiary to complete an in-person interview as part of the application or renewal process for an eligibility determination using MAGI-based methodologies.
- 963.9 On or before January 1, 2014, DHCF shall ensure coordinated eligibility, enrollment, and appeals between the District of Columbia Medicaid program and the District of Columbia Health Benefits Exchange Authority (DC HBX).
- 963.10 DHCF shall establish the conditions upon which the Department of Human Services will determine eligibility for benefits under the District of Columbia Medicaid program.
- 963.11 DHCF shall establish the conditions upon which the Office of Administrative Hearings will conduct appeal hearings related to eligibility determinations for benefits under the District of Columbia Medicaid program.
- 963.12 This section shall not invalidate a policy or procedure adopted on or before January 1, 2014, if the policy or procedure conformed to federal and District law at the time of adoption.

963.99 **DEFINITIONS**

For the purposes of this section, the following terms shall have the meanings ascribed:

Adult: An individual age twenty-one (21) or older.

Application: The single, application described at 42 C.F.R. § 435.907(b) submitted by or on behalf of an individual to establish eligibility.

Caretaker Relative: A relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care (as may, but is not required to, be indicated by claiming the child as a tax dependent for Federal income tax purposes), and who is one of the following: (1) the child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece; (2) the spouse of such parent or relative, even after the marriage is terminated by death or divorce; or (3) another relative of the child based on blood (including those of half-blood), adoption, or marriage; the domestic partner of the parent or other caretaker relative; or an adult with whom the child is living and who assumes primary responsibility for the dependent child's care.

Child Health Insurance Program: A program that provides, under Title XXI of the Social Security Act, comprehensive benefits to children, including the standard Medicaid benefit package and Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services.

Dependent Child: A child under the age of eighteen (18), or is age eighteen (18) and a full-time student in secondary school (or equivalent vocational or technical training), and is reasonably expected to complete the school or training before attaining age nineteen (19).

District of Columbia Healthcare Alliance: A program established pursuant to §7a of the Health Care Privatization Amendment Act of 2001, effective July 12, 2001 (D.C. Law 14-18; D.C. Official Code § 7-1405.01 (2008 Repl.)) to provide health care benefits to District residents without any health insurance.

District of Columbia Health Benefit Exchange Authority: The independent District of Columbia government agency established pursuant to the Health Benefit Exchange Authority Establishment Act of 2011, effective March 2, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.04(a)(5)(2012 Supp.)) to provide a health insurance marketplace for District residents and small businesses.

Insurance Affordability Program: A program that is one of the following: (1) a State Medicaid program under Title XIX of the Social Security Act; (2) a State children's health insurance program (CHIP) under Title XXI of the Social Security Act; (3) a State basic health program established under the Affordable Care Act; or (4) a program that makes coverage available through the District of Columbia Health Benefit Exchange Authority with advance payments of premium tax credits or cost-sharing reductions.

Section 1115 Demonstration: A program that extends Medicaid coverage to childless, non-disabled adults ages twenty-one (21) through sixty-four (64) with incomes between one hundred thirty-three percent (133%) and at or below two hundred percent (200%) of the federal poverty level (FPL).

Comments on the proposed rule shall be submitted, in writing, to Linda Elam, Ph.D., MPH, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 899 North Capitol Street, NE, Suite 6037, Washington, D.C. 20002, via telephone on (202)442-9075 , via email at DHCF_Publiccomments@dc.gov, or online at www.dcregs.dc.gov, within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rule may be obtained from the above address.