

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health Care Finance (DHCF or the Department), pursuant to the authority set forth in An Act to enable the District of Columbia (District) 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 (2014 Repl.)), 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) (2012 Repl.)), hereby gives notice of the intent to amend Chapter 95 (Medicaid Eligibility), Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), by adding a new Section 9509, entitled “Eligibility of Individuals Above 133% FPL”.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), has promulgated Medicaid and the Children’s Health Insurance Program (CHIP) eligibility rules, which create a new state option to provide Medicaid coverage to all non-elderly individuals with incomes above one hundred thirty-three percent (133%) that does not exceed two hundred and ten percent (210%) of the federal poverty level (FPL). Under this option, this population’s eligibility for Medicaid shall be determined pursuant to 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.), and related regulations, under a modified adjusted gross income standard.

DHCF elects this state option to improve the health outcomes of adults living in the District of Columbia, with low-incomes and without dependent children. Accordingly, this proposed rule delineates this new eligibility category under the District of Columbia State Plan for Medical Assistance (State Plan) and establishes the requirements for eligibility determinations under this category.

The corresponding amendment to the State Plan requires approval by the Council of the District of Columbia (Council) and the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The State Plan amendment (SPA) has been approved by the Council of the District of Columbia (Council) through the Medicaid Assistance Program Emergency Amendment Act of 2014, signed July 14, 2014 (D.C. Act 20-377; 61 DCR 007598 (August 1, 2014)), and is awaiting approval by CMS. The proposed rule is contingent upon approval by CMS of the corresponding SPA.

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*.

Chapter 95, MEDICAID ELIGIBILITY, of Title 29 DCMR, PUBLIC WELFARE, is amended as follows:

A new Section 9509 is added to read as follows:

9509 ELIGIBILITY OF INDIVIDUALS ABOVE 133% FPL

9509.1 To be determined eligible for Medicaid under this section, an individual shall:

- (a) Be age twenty-one (21) through sixty-four (64);
- (b) Have a household income determined in accordance with §§ 9506.10 through 9506.30, that is above one hundred thirty-three percent (133%) of the FPL but does not exceed two hundred-ten percent (210%) of the FPL;
- (c) Not be a parent or caretaker relative of a dependent child;
- (d) Not be otherwise eligible or enrolled under the following mandatory groups:
 - (1) SSI and related groups;
 - (2) Parent or Caretaker Relative;
 - (3) Pregnant Woman; or
 - (4) Former Foster Child.
- (e) Meet all other applicable non-financial eligibility requirements identified at § 9506.9.

9509.2 The Department shall determine eligibility under this section effective January 1, 2016.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, J.D., Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, NW, Suite 900S, Washington, D.C. 20001, via telephone on (202) 442-8742, via email at DHCFPubliccomments.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.