

DEPARTMENT OF HEALTH CARE FINANCE

NOTICE OF FINAL 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.744; D.C. Official Code § 1-307.02 (2016 Repl. & 2017 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) (2013 Repl.)), hereby gives notice of the adoption of an amendment to Chapter 95 (Medicaid Eligibility) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), by adding a new Section 9514 (Non-MAGI Eligibility Groups: Supplemental Security Income and Optional State Supplemental Payment).

DHCF is the single state agency responsible for the administration of the State Medicaid program under Title XIX of the Social Security Act (the Act) and Children's Health Insurance Program (CHIP) under Title XXI of the Act in the District. This final rule amends Chapter 95 of Title 29 DCMR by incorporating a new section that details the non-Modified Adjusted Gross Income (non-MAGI) Medicaid eligibility factors for the Supplemental Security Income (SSI) eligibility group pursuant to 42 CFR § 435.120, and the Optional State Supplemental Payment (OSP) eligibility group pursuant to Section 1902(a)(10)(A)(ii)(IV) of the Act and 42 CFR § 435.232. An individual shall be deemed categorically eligible for Medicaid under the SSI eligibility category when determined eligible for SSI by the U.S. Social Security Administration. An individual shall be deemed categorically eligible for Medicaid under the OSP eligibility category if found eligible to receive OSP, which is a monthly payment to assist individuals residing in an adult foster care setting with the cost of room and board.

This rulemaking is needed to ensure appropriate codification of existing eligibility requirements for the SSI and OSP non-MAGI eligibility groups and is consistent with current eligibility requirements and practice.

An initial Notice of Proposed Rulemaking was published in the *D.C. Register* on February 23, 2018 at 65 DCR 001890. No comments were received and no changes have been made. The Director has adopted these rules as final on June 12, 2018, and they shall become effective on the date of publication of this rulemaking in the *D.C. Register*.

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

A new Section 9514 is added to read as follows:

9514 NON-MAGI ELIGIBILITY GROUPS: SUPPLEMENTAL SECURITY INCOME AND OPTIONAL STATE SUPPLEMENTAL PAYMENT

- 9514.1 This section shall govern eligibility requirements for the following:
- (a) The Supplemental Security Income (SSI) eligibility group pursuant to 42 CFR § 435.120; and
 - (b) The Optional State Supplemental Payment (OSP) eligibility group pursuant to § 1902(a)(10)(A)(ii)(IV) of the Social Security Act (the Act) and 42 CFR § 435.232.
- 9514.2 Consistent with the requirements of 42 CFR § 435.120, the SSI eligibility group shall include aged, blind, and disabled individuals or couples who are receiving or are deemed to be receiving SSI by the U.S. Social Security Administration (SSA), which includes individuals who are:
- (a) Receiving SSI pending a final determination of blindness or disability;
 - (b) Receiving SSI under an agreement with SSA to dispose of resources that exceed the SSI dollar limits on resources; or
 - (c) Receiving benefits under § 1619(a) of the Act or in § 1619(b) status (blind individuals or those with disabling impairments whose income equals or exceeds a specific Supplemental Security Income limit), and those qualified severely impaired individuals defined in § 1905(q) of the Act.
- 9514.3 Aged, blind, and disabled shall have the same meanings as set forth under § 1614 of the Act.
- 9514.4 In order to be eligible for Medicaid under the OSP eligibility group, individuals and couples shall meet the following requirements:
- (a) Be deemed eligible for SSI by SSA or meet SSI disability standards set forth by SSA, consistent with 20 CFR §§ 416.2101 through 416.2176; and
 - (b) Reside in an adult foster care setting, as described in 20 CFR § 416.1143(a)(1), that is located in the District of Columbia.
- 9514.5 SSA shall be responsible for conducting renewals and redeterminations in accordance with SSA's requirements for beneficiaries' continued receipt of SSI and OSP payments from SSA. The Department shall continue to deem beneficiaries with continued eligibility for SSI and OSP payments eligible for Medicaid.
- 9514.6 The Department shall make eligibility for Medicaid for SSI and OSP applicants effective no later than the third month before the month of application if the following requirements are met:

- (a) The applicant received Medicaid services, at any time during that period, of a type covered under the District of Columbia's Medicaid State Plan; and
- (b) The applicant would have been eligible for Medicaid at the time the applicant received the services if the applicant had applied (or someone had applied for the applicant), regardless of whether the individual is alive when application for Medicaid is made.

9514.7 The earliest possible date for retroactive eligibility shall be the first day of the third month preceding the month of application.

9514.8 Eligibility for Medicaid shall include meeting all financial, non-financial, and medical factors (as applicable).