

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.744; D.C. Official Code § 1-307.02 (2014 Repl. & 2016 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) (2012 Repl.)), hereby gives notice of the intent to amend Chapter 95 (Medicaid Eligibility) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), by adding a new Section 9513 (Non-MAGI Eligibility Group: Optional Aged and Disabled).

This proposed rule sets forth the non-Modified Adjusted Gross Income (non-MAGI) financial and non-financial eligibility factors, pursuant to Sections 1902(a)(10)(A)(ii)(X) and 1902(m)(1) of the Social Security Act, for the optional Aged and Disabled (AD) eligibility group. In order to be eligible for Medicaid under the AD eligibility group, an individual must meet the following requirements: (1) Be aged sixty-five (65) or older or be determined disabled pursuant to 42 USC § 1382c(a)(3); (2) Have income at or below one hundred percent (100%) of the federal poverty level; (3) Have resources at or below the Supplemental Security Income (SSI) resource levels of four thousand dollars (\$4,000) for an individual, and six thousand dollars (\$6,000) for a couple; and (4) Meet other non-financial requirements, including but not limited to District residency, social security number, and citizenship and/or immigration requirements.

The Director gives notice of the intent to take final rulemaking action to adopt these rules not less than thirty (30) days from 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 9513 is added to read as follows:

9513 NON-MAGI ELIGIBILITY GROUP: OPTIONAL AGED AND DISABLED

9513.1 This section shall govern eligibility determinations pursuant to sections 1902(a)(10)(A)(ii)(X) and 1902(m)(1) of the Social Security Act, for the optional Aged and Disabled (AD) eligibility group.

9513.2 The Department of Health Care Finance (“Department”) may provide Medicaid reimbursement under the optional Aged and Disabled (AD) eligibility group to individuals who:

- (a) Are aged sixty-five (65) years or older or who are determined disabled in accordance with 42 U.S.C. § 1382c(a)(3), by either the U.S. Social

Security Administration (SSA) or by the Department of Human Services, ESA Medicaid Review Team::

- (b) Have a household income at or below one hundred percent (100%) of Federal Poverty Level;
- (c) Meet the following non-financial eligibility factors in accordance with Subsection 9506.9:
 - (1) Are a District resident pursuant to 42 C.F.R. Section 435.403;
 - (2) Can provide a Social Security Number (SSN) or are exempt pursuant to 42 C.F.R. Section 435.910 and Subsection 9504.7; and
 - (3) Are a U.S. citizen or national, or be in a satisfactory immigration status; and
- (d) Have resources at or below the Supplemental Security Income (SSI) resource levels of four thousand dollars (\$4,000) for an individual and six thousand dollars (\$6,000) for a couple.

9513.3 The Department shall determine whether an applicant meets the eligibility factors for Medicaid reimbursement under the optional AD eligibility group based upon the submission of: :

- (a) A complete application for Medicaid in accordance with Subsection 9501.5 of this chapter. The date of application shall be the date that a complete application is received by the Department; and
- (b) A document containing verification from the Social Security Administration (SSA) in accordance with Subsection 9513.5, or the submission of a completed medical review form in accordance with Subsection 9513.7, if applying for the optional AD eligibility group based on disability.

9513.4 If an applicant is applying for Medicaid based on age, the Department shall accept self-attestation of aged sixty-five (65) or older unless the attestation is not reasonably compatible with other available information.

9513.5 If an applicant is applying for Medicaid based on disability, the applicant shall provide verification of disability from SSA, unless Subsection 9513.6 applies, and no further medical documentation shall be required to verify.

9513.6 If an applicant is applying for Medicaid based on a disability and SSA has not issued a disability determination, the Department shall immediately provide the applicant (by mail, in person, or other commonly available electronic means) a

medical review form that must be completed by a physician to document disability.

- 9513.7 The medical review form shall be submitted to the Department through the following means:
- (a) Mail;
 - (b) In person; or
 - (c) Other commonly available electronic means.
- 9513.8 The applicant shall submit the medical review form with supporting medical documentation to the Department for review within sixty (60) calendar days from the date of the application.
- 9513.9 Where the Department determines that an applicant is not at least aged sixty-five (65) or is not disabled based on a review of the submitted medical review form and supporting medical documentation, the applicant shall be ineligible for Medicaid under the optional AD eligibility group and the Department shall submit a notice to the applicant in accordance with Section 9508 of this Chapter.
- 9513.10 Application timeliness standards set forth under Subsection 9501.9 of this chapter shall apply.
- 9513.11 A beneficiary shall immediately notify the Department of any change in circumstances that directly affects the beneficiary's eligibility to receive Medicaid under the optional AD eligibility group.
- 9513.12 For continued Medicaid coverage under the optional AD eligibility group, each beneficiary shall complete and submit (by mail, in person, or through commonly available electronic means) the following renewal documents every twelve (12) months:
- (a) A completed and signed renewal form;
 - (b) A new medical review form that is completed by the beneficiary's physician or verification of disability if the beneficiary is receiving Medicaid based on a disabled determination by the Economic Security Administration Medical Review Team; and
 - (c) Documents that may be required in order to verify financial and non-financial eligibility factors set forth under Subsection 9513.2.

- 9513.13 When renewal is required in accordance with Subsection 9513.12, the Department shall send a renewal form for the beneficiary's completion prior to the end of the eligibility period subject to the District's policies.
- 9513.14 The beneficiary shall provide the required renewal information to the Department before the end of the beneficiary's renewal period.
- 9513.15 The Department shall not use a pre-populated renewal form, as described in Subsections 9501.22 through 9501.27, for beneficiaries under the AD eligibility group.

Comments on the proposed rule shall be submitted, in writing, to Claudia Schlosberg, JD, Senior Deputy Director/State Medicaid Director, Department of Health Care Finance, 441 4th Street, N.W., 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.