

TO: Local District Commissioners, Medicaid Directors

FROM: Judith Arnold, Director, Division of Eligibility and Enrollment

SUBJECT: Medicaid Buy-In Program for Working People with Disabilities:
Eligibility Under the Medicaid Level Substantial Gainful Activity
and Trial Work Period Disability Certification

EFFECTIVE DATE: Immediately

CONTACT PERSON: Local District Liaison
Upstate: (518)474-8887 NYC: (212)417-4500

The purpose of this GIS message is three-fold. First, it clarifies the procedure to be used when an applicant/recipient (A/R) is eligible for Medicaid without a spenddown and also eligible for the Medicaid Buy-In program for Working People with Disabilities (MBI-WPD). Second, it addresses consideration of earned income, Substantial Gainful Activity and Trial Work Period in the disability process for the Aid to Disabled and MBI-WPD programs. Third, it provides a current list of acceptable proofs of disability for the MBI-WPD program, including those when an A/R is in the Social Security Disability Insurance (SSDI) Extended Period of Eligibility (EPE) or is transitioning from the Supplemental Security Income (SSI) 1619(b) program to the MBI-WPD program.

Eligibility Under the Medicaid Level

The MBI-WPD program is the most advantageous program for an A/R who is found to meet the eligibility requirements for both Medicaid without a spenddown and the MBI-WPD program. In this circumstance, the individual must be given a copy of the *Explanation of the MBI-WPD Program* and have all questions answered regarding the program and its eligibility requirements so the individual may make an informed choice between the two programs. Individuals should be encouraged to choose the most advantageous program.

This policy helps prevent a circumstance in which a working, certified disabled individual is on Medicaid and loses eligibility due to medical improvement. Unless the individual is in the MBI-WPD program, he/she may not medically improve without losing disability certification and possibly Medicaid eligibility. However, a recipient in the MBI-WPD Basic group who medically improves, may continue Medicaid coverage under the MBI-WPD Medical Improvement group, as long as all eligibility requirements are met.

Effective immediately, this policy should be applied at application or renewal.

Substantial Gainful Activity, Trial Work Period and Transition to MBI-WPD

Substantial Gainful Activity (SGA)

To determine if an individual is working at the SGA level, the gross earnings from work minus any Impairment Related Work Expenses (IRWEs) are compared to the SGA level of \$900. The monthly SGA amount for statutorily blind individuals for 2007 is \$1,500. These amounts change yearly with cost of living adjustments and may be found online in the Medicaid Disability Manual.

SGA is a factor in determining disability for the Aid to Disabled (AD) program and is not considered for the MBI-WPD program because recipients in that program are expected to work.

For any *working* individual alleging a physical or mental impairment, the individual's gross earnings from work activities, minus IRWEs are compared to the SGA level. This is done:

- at application for Medicaid;
- at the time of renewal for an individual with a current AD disability certification; and
- any time an individual with a current AD disability certification reports an increase in earned income.

New Medicaid applicants:

- If the gross earnings from work minus IRWEs are greater than the SGA level, and the individual does not have acceptable certification of disability, a disability determination must be performed by the State Disability Review Team for the MBI-WPD program. These individuals are ineligible for disability under the Aid to Disabled program.
- If the gross earnings from work minus IRWEs are less than the SGA level, the individual is encouraged to participate in the MBI-WPD program. Districts are reminded that these individuals have the option for Medicaid under the AD program.

Renewal or when an individual reports a change in income - For working recipients on regular Medicaid with a current disability certification:

- If the gross earnings from work minus IRWEs are greater than SGA, the individual must be transitioned to the MBI-WPD program.
- If the gross earnings are less than SGA the individual is encouraged to participate in the MBI-WPD program. Districts are reminded that these individuals have the option for Medicaid under the AD program.

Trial Work Period and Transition to MBI-WPD

There may be instances in which a recipient with a current AD certification may benefit from a Medicaid Trial Work Period (see Medicaid Reference Guide) prior to the transition to the MBI-WPD program. For example, if a recipient in the AD program is working over the Trial Work Period amount but his/her work pattern is erratic a Trial Work Period of up to 9 months (not necessarily consecutive) may give the individual the opportunity to develop a more consistent pattern of work. Care must be taken to transition the recipient to the MBI-WPD program before the Trial Work Period ends or the disability certificate expires. Subsequent Continuing Disability Reviews (CDRs) for these individuals must be performed by the State Disability Review Team (SDRT).

Disability Certifications

Applicants for the MBI-WPD program must provide proof of disability. Acceptable proof of disability includes the following:

- a **current** disability certification by the State or local Disability Review Team (DRT); a verification of receipt of Railroad Retirement benefits due to total and permanent disability;

- a **current** disability certification by the Social Security Administration (SSA), for SSDI benefits; this may include a current award letter, proof of receipt of SSDI benefits such as a check or bank statement listing the benefit, or a Medicare card;
- a **current** certification from the Commission for the Blind and Visually Handicapped (CBVH). (See the Medicaid Disability manual for instructions.);
- a **current** letter from SSA placing the individual in a SSDI Extended Period of Eligibility (see explanation below);
- a **current** SSA letter informing the individual that he/she is no longer eligible for the 1619(b) program (the SSA medical diary date is required, see explanation below).

Extended Period of Eligibility

Applicants who have lost SSDI benefits due to substantial work, following a nine-month trial work period, and are entitled to a 36-month extended period of eligibility (EPE), may be enrolled in the MBI-WPD Basic Coverage Group for the duration of the EPE. If all other eligibility requirements for the program are met a new disability determination is not necessary. Approximately 2-3 months prior to the end of the EPE, local districts must gather appropriate medical evidence and submit a complete disability packet to the SDRT for a Continuing Disability Review (CDR). Documentation of the diagnosis(es) for which the applicant was determined disabled by SSA must be obtained in order for a CDR to be performed.

SSI 1619(b) Program

Applicants transitioning from the SSI 1619(b) program to the MBI-WPD program due to excess income and/or resources may be enrolled in the MBI-WPD Basic Coverage Group without a disability determination if the SSI medical diary date has not yet expired and all other eligibility requirements are met. Approximately 2-3 months prior to the medical diary date, local districts must gather appropriate medical evidence from providers and submit a complete disability packet to the SDRT for CDR. Documentation of the diagnosis(es) for which the applicant was determined disabled by SSA must be obtained in order for a CDR to be performed.

Local districts are reminded that applicants for the MBI-WPD program who meet the eligibility requirements and have a valid disability certification by the State or local DRT must be transitioned to the MBI-WPD Basic Coverage Group before the certificate expires. If the individual does not have a valid certification of disability at the time of application, a disability determination must be performed by the SDRT for the MBI-WPD program.

All CDRs for the MBI-WPD program are performed by the SDRT.