

**TO:** Local District Commissioners, Medicaid Directors

**FROM:** Deborah Bachrach, Deputy Commissioner  
Office of Health Insurance Programs

**SUBJECT:** Disability Reviews and Spenddown for Individuals Seeking Treatment  
of an Emergency Medical Condition

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** Local District Support Unit  
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The purpose of this General Information System (GIS) message is to provide clarification to local departments of social services (LDSS) regarding Department policy for referring potentially disabled individuals to the State or local Disability Review Team (DRT), for a disability determination. Specifically, this message addresses disability reviews for undocumented/illegal aliens and temporary nonimmigrants.

In GIS 06 MA/005 and in 08 OHIP/INF-3, districts were informed that Medicaid disability reviews are generally required to be conducted when a determination of disability yields a Medicaid benefit for the applicant/recipient (A/R) or a financial benefit for the Medicaid program. This policy also applies to undocumented/illegal aliens and temporary nonimmigrants who apply for Medicaid coverage for the treatment of an emergency medical condition (Coverage Code 07).

Examples of a Medicaid benefit to such individuals are:

- Since the Single Individual or Childless Couple (S/CC) category cannot spend down, SSI-related budgeting enables a financially ineligible S/CC to qualify for Medicaid for the treatment of an emergency medical condition, if s/he has income above the Medicaid Standard; Undocumented/illegal aliens and temporary nonimmigrants may receive "emergency services" (coverage code 07) without regard to their citizenship status but they must be "otherwise eligible", i.e., they have to meet the categorical and financial requirements for one of Medicaid's eligibility groups.
- SSI-related budgeting reduces or eliminates a spenddown of an otherwise eligible Medically Needy individual seeking treatment of an emergency medical condition.

All individuals who claim an impairment or disability that has lasted, or is expected to last for at least twelve months, and do not have a certification of disability (e.g., SSA disability certification), must be informed about the advantages of disability certification. For undocumented/illegal aliens or temporary nonimmigrants, referral to the State or local DRT may be appropriate in order to give these individuals the benefit of SSI-related budgeting.

SPENDDOWN

The same spenddown provisions apply to undocumented/illegal aliens and temporary nonimmigrants as to legal immigrants and citizens (Refer to 96 ADM-15 for additional guidance on spenddown). In most cases, the A/R will have an inpatient hospital bill for treatment of an emergency medical condition. Paid or unpaid medical bills for non-emergency services may be used to meet spenddown coverage of the treatment of an emergency medical condition (Coverage Code 07). When coverage is established, Medicaid will only pay bills for care and services necessary for the treatment of an emergency medical condition for the time period authorized by the attending physician on the "Certification of Treatment of an Emergency Medical Condition" form.

The LDSS should track the "emergency services" (Coverage Code 07) case for the following six month period, not for "coverage", but for "potential coverage of another emergency/inpatient hospital stay" during the six month period. A new "Certification of Treatment of an Emergency Medical Condition" form must be provided from the provider/facility to indicate another emergency period. As previously stated, the A/R, because of his/her immigration status, is not eligible for continuing Medicaid coverage for non-emergency care and services. Such individuals should not be authorized with provisional coverage (i.e., Coverage Code 06).

NOTE: The coverage code would remain "07-emergency services only".

Social Services districts should direct any questions regarding disability determinations to their Medicaid Local District Liaison.