

§ 435.122

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deduct from income incurred medical and remedial expenses (that is, spend down) to become eligible under this section. However, individuals with income above the categorically needy standards may only spend down to the standard selected by the State under paragraph (e)(2) of this section which applies to the individual's living arrangement.

(5) In a State that elects to provide medically needy coverage to aged, blind, and disabled individuals, the agency must allow individuals to deduct from income incurred medical and remedial care expenses (spend down) to become categorically needy when they are SSI recipients (including individuals deemed to be SSI recipients under §§ 435.135, 435.137, and 435.138), eligible spouses of SSI recipients, State supplement recipients, and individuals who are eligible for a supplement but who do not receive supplementary payments. Such persons may only spend down to the standard selected by the State under paragraph (e)(2) of this section. Individuals who are not SSI recipients, eligible spouses of SSI recipients, State supplement recipients, or individuals who are eligible for a supplement must spend down to the State's medically needy income standards for aged, blind, and disabled individuals in order to become Medicaid eligible.

(f) *Deductions from income.* (1) In addition to any income disregards specified in the approved State plan in accordance with § 435.601(b), the agency must deduct from income:

- (i) SSI payments;
- (ii) State supplementary payments that meet the conditions specified in §§ 435.232 and 435.234; and
- (iii) Expenses incurred by the individual or financially responsible relatives for necessary medical and remedial services that are recognized under State law and are not subject to payment by a third party, unless the third party is a public program of a State or political subdivision of a State. These expenses include Medicare and other health insurance premiums, deductions and coinsurance charges, and copayments or deductibles imposed under § 447.51 or § 447.53 of this chapter. The agency may set reasonable limits on

the amounts of incurred medical expenses that are deducted.

(2) For purposes of counting income with respect to individuals who are receiving benefits under section 1619(a) of the Act or are in section 1619(b)(1) of the Act status but who do not meet the requirements of paragraph (b)(3)(ii) of this section, the agency may disregard some or all of the amount of the individual's income that is in excess of the SSI Federal benefit rate under section 1611(b) of the Act.

[58 FR 4926, Jan. 19, 1993]

§ 435.122 Individuals who are ineligible for SSI or optional State supplements because of requirements that do not apply under title XIX of the Act.

If an agency provides Medicaid to aged, blind, or disabled individuals receiving SSI or optional State supplements, it must provide Medicaid to individuals who would be eligible for SSI or optional State supplements except for an eligibility requirement used in those programs that is specifically prohibited under title XIX.

[47 FR 43648, Oct. 1, 1982; 47 FR 49847, Nov. 3, 1982]

§ 435.130 Individuals receiving mandatory State supplements.

The agency must provide Medicaid to individuals receiving mandatory State supplements.

§ 435.131 Individuals eligible as essential spouses in December 1973.

(a) The agency must provide Medicaid to any person who was eligible for Medicaid in December 1973 as an essential spouse of an aged, blind, or disabled individual who was receiving cash assistance, if the conditions in paragraph (b) of this section are met. An "essential spouse" is defined in section 1905(a) of the Act as one who is living with the individual; whose needs were included in determining the amount of cash payment to the individual under OAA, AB, APTD, or AABD; and who is determined essential to the individual's well-being.

(b) The agency must continue Medicaid if—

- (1) The aged, blind, or disabled individual continues to meet the December

1973 eligibility requirements of the applicable State cash assistance plan; and

(2) The essential spouse continues to meet the conditions that were in effect in December 1973 under the applicable cash assistance plan for having his needs included in computing the payment to the aged, blind, or disabled individual.

§ 435.132 Institutionalized individuals who were eligible in December 1973.

The agency must provide Medicaid to individuals who were eligible for Medicaid in December 1973, or any part of that month, as inpatients of medical institutions or residents of intermediate care facilities that were participating in the Medicaid program and who—

(a) For each consecutive month after December 1973—

(1) Continue to meet the requirements for Medicaid eligibility that were in effect under the State's plan in December 1973 for institutionalized individuals; and

(2) Remain institutionalized; and

(b) Are determined by the State or a professional standards review organization to continue to need institutional care.

§ 435.133 Blind and disabled individuals eligible in December 1973.

The agency must provide Medicaid to individuals who—

(a) Meet all current requirements for Medicaid eligibility except the criteria for blindness or disability;

(b) Were eligible for Medicaid in December 1973 as blind or disabled individuals, whether or not they were receiving cash assistance in December 1973; and

(c) For each consecutive month after December 1973, continue to meet the criteria for blindness or disability and the other conditions of eligibility used under the Medicaid plan in December 1973.

§ 435.134 Individuals who would be eligible except for the increase in OASDI benefits under Pub. L. 92-336 (July 1, 1972).

The agency must provide Medicaid to individuals who meet the following conditions:

(a) In August 1972, the individual was entitled to OASDI and—

(1) He was receiving OAA, AB, APTD, or AABD; or

(2) He would have been eligible for one of those programs except that he had not applied, and the Medicaid plan covered this optional group; or

(3) He would have been eligible for one of those programs if he were not in a medical institution or intermediate care facility, and the Medicaid plan covered this optional group.

(b) The individual would currently be eligible for SSI or a State supplement except that the increase in OASDI under Pub. L. 92-336 raised his income over the limit allowed under SSI. This includes an individual who—

(1) Meets all current SSI requirements except for the requirement to file an application; or

(2) Would meet all current SSI requirements if he were not in a medical institution or intermediate care facility, and the State's Medicaid plan covers this optional group.

[43 FR 45204, Sept. 29, 1978, as amended at 45 FR 24883, Apr. 11, 1980]

§ 435.135 Individuals who become ineligible for cash assistance as a result of OASDI cost-of-living increases received after April 1977.

(a) If an agency provides Medicaid to aged, blind, or disabled individuals receiving SSI or State supplements, it must provide Medicaid to individuals who—

(1) Are receiving OASDI;

(2) Were eligible for and receiving SSI or State supplements but became ineligible for those payments after April 1977; and

(3) Would still be eligible for SSI or State supplements if the amount of OASDI cost-of-living increases paid under section 215(i) of the Act, after the last month after April 1977 for which those individuals were both eligible for and received SSI or a State supplement and were entitled to OASDI, were deducted from current OASDI benefits.

(b) Cost-of-living increases include the increases received by the individual or his or her financially responsible spouse or other family member (e.g., a parent).