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SPECIAL MEDICAID BENEFICIARIES

In most States, categorical Medicaid eligibility for the aged, blind and disabled is directly tied to receipt of SSI benefits. For this reason, loss of SSI payments often results in loss of Medicaid coverage. Over the years, Congress has enacted special Medicaid continuation provisions to preserve critical Medicaid coverage for certain special groups of individuals who lose SSI payments. For the purposes of this paper, a "special Medicaid beneficiary" is someone who lost SSI payments due to receipt of or increases in Title II benefits (SSDI, CDB, DWB), but who is allowed to retain Medicaid coverage. This paper will not cover the extended Medicaid provisions for persons who lose SSI payments due to earned income, otherwise known as the 1619(b) provisions. For more information about 1619(b) refer to the VCU BARC briefing paper entitled "Understanding 1619 (b) at www.vcu-barc.org.

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A Word About States and Medicaid

Before we explain and use examples to demonstrate how these special Medicaid rules work, it is important to understand that States use different approaches to establishing Medicaid eligibility related to SSI. There are basically 3 different ways that States may function:

States that use the SSI Income Rules

For Medicaid eligibility purposes, States may elect to enroll SSI recipients who meet certain Medicaid-only tests (e.g., providing third-party insurers information automatically in Medicaid.) The States that elect to do this are called "1634 States". This Title refers to the part of the Social Security Act that authorizes the States to enter agreements with SSA to make Medicaid eligibility decisions.

Instead of having the SSA make the decisions, States may require that recipients apply directly to the state Medicaid agency, even though the state uses the same rules as SSI for determining eligibility for Medicaid. These States are called "SSI eligibility States".

States that do not use SSI Income Rules

Eleven States have elected to have at least one more stringent requirement than the SSI rules for Medicaid eligibility. These States are known as "209(b) States". This number refers to the part of Public Law 92-603 that authorized the States to make more strict requirements for Medicaid entitlement. The original 209(b) language has been incorporated and amended in section 1902(f) of the Social Security Act. It is important to understand the 209(b) state distinction, because it is possible for the income and resources limits to vary greatly in States that have elected to create their own eligibility rules. Although special Medicaid groups may exist in 209(b) States, the Title II income may not be



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treated in the same manner as discussed in the examples below. Benefits Specialists must check with the local Medicaid agency to learn exactly what income limits apply to these special Medicaid groups.

The 209(b) States are:

- | | | |
|-----------------|------------|-------------|
| ◆ Connecticut | ◆ Illinois | ◆ Minnesota |
| ◆ New Hampshire | ◆ Ohio | ◆ Virginia |
| ◆ Hawaii | ◆ Indiana | ◆ Missouri |
| ◆ North Dakota | ◆ Oklahoma | |

All 209(b) States are required to apply the same rules under these special Medicaid groups that the state would apply to SSI recipients as stated in POMS SI 01715.010 Medicaid and the SSI Program”

“If the agency uses more restrictive eligibility requirements than are used by the SSI program (i.e. 209(b) States, it must provide Medicaid to individuals ...using the same eligibility criteria basis as Medicaid is provided to individuals who receive SSI benefits. ...the state has the option of disregarding part, all, or none of the Title II benefit or increases in that benefit that make the individual ineligible provided that the same amount is disregarded for all members of the group.”

Types of Special Medicaid Benefits

The types of special Medicaid beneficiaries that Benefits Specialists could encounter are individuals who lost SSI eligibility because of:

1. Any reason, but who are not currently entitled to SSI because of Cost-of-Living increases in Social Security benefits (including SSDI);
2. Entitlement to or increase in Childhood Disability Benefits (CDB); or
3. Entitlement to Disabled Widow(er)s Benefit (DWB) until Medicare starts.

When determining Medicaid eligibility for these special former SSI recipients, State Medicaid agencies must exclude all, of the individual's Title II disability benefit that caused the loss of SSI payments. Essentially, if the individual would be entitled to SSI if those increases did not exist, that individual would be entitled to Medicaid under these provisions.

1. Social Security Benefits COLA (“Pickle Amendment”)

Effective July 1, 1977, Medicaid eligibility was protected for SSI recipients who would be entitled to SSI or State Supplement Payments (SSP) eligibility if Title II cost-of-living adjustments (COLAs) were excluded. Under section 503 of Public Law 94-566, the “Pickle Amendment,” Title II beneficiaries who would continue to receive SSI/SSP payments (or would continue to be eligible for benefits under section 1619(b)) but for their Title II COLAs continue to be considered SSI or SSP recipients for Medicaid purposes. If an individual's other income would not have precluded continuing SSI payments (or deemed payments under section 1619(b)) without the Title II COLAs, the State must continue to consider the individual to be an SSI recipient for Medicaid purposes.

When a State agency computes Pickle eligibility it uses the current SSI Federal benefit rate (FBR) plus any State supplement payment. The agency compares that amount with the beneficiary's other countable income plus the part of the Title II benefit that can not be excluded. What can't be excluded is the amount of Title II benefit the person was

receiving when SSI/SSP payment eligibility was lost. Unlike the following two groups of special Medicaid beneficiaries, an individual who may receive Medicaid under the Pickle provision could have lost SSI for other reasons than the cost-of-living-Adjustment. Instead of what the person was receiving at the time of the lost benefit, the issue is whether the person would otherwise be eligible for SSI if the COLA(s) were deducted.

Example of how the Pickle Amendment applies:

Casey was receiving SSDI in the amount of \$564 in 2002. He was not working. Casey's cost-of-living adjustment raised his benefit to \$572 in 2003. In 2002, Casey was due \$1.00 in SSI, and was entitled to Medicaid. With the cost-of-living raise, however, Casey's unearned income is now too high for him to receive any SSI payment. Also, since it was unearned income rather than earnings that eliminated Casey's cash benefit, he may not access the 1619(b) work incentive. In Casey's situation, the Medicaid agency must exclude the increase between \$564 and \$572 that caused Casey to lose his SSI benefit. Since Casey has no other income, he is eligible for continued Medicaid through the state Medicaid agency if he would continue to be eligible for SSI but for the title II COLA (e.g., he is still in the US and is still disabled). If Casey had other income, the amount and type of that income would be material when the State was determining his eligibility for Medicaid.

2. Childhood Disability Beneficiaries (CDB)

Section 1634(c) of the Social Security Act requires States to consider Title II childhood disability beneficiaries who lose SSI eligibility as if they were still SSI recipients for Medicaid purposes, so long as they would have remained otherwise eligible for SSI benefits but for their entitlement to (or increases in) CDB benefits on or after July 1, 1987. SSA notifies the 1634 States about members of this group through the State Data Exchange (SDX).

Example when a CDB increase may be excluded:

Lucy was receiving Childhood Disability Benefits based on the work record of her stepmother. While the stepmother was alive, Lucy received \$500 per month. The stepmother died recently, however, and Lucy's CDB benefit was raised to the survivor's benefit level of \$750 per month. Regardless of whether or not Lucy is working, it is unearned income that has now made her ineligible for SSI. Because of this, Lucy also is ineligible for Medicaid entitlement through the 1619(b) provision. In Lucy's situation, the state Medicaid agency must exclude the \$250 difference between what Lucy was receiving before her stepmother's death, and what she currently receives. If Lucy has no other income, she would be eligible for Medicaid. If she has other income, she may or may not be eligible for Medicaid, depending on the type and amount of the income.

Example when the entire CDB payment may be excluded:

Cindy is 20 and receives SSI. Her mother retired and applied for Social Security Retirement Insurance Benefits. Her mother had high earnings, and Cindy's payment as a Childhood Disability Beneficiary based on her mother's work will be \$600 per month. Since Cindy had no Childhood Disability Benefits before her mother retired, the state must exclude all of Cindy's CDB benefits when determining her eligibility for Medicaid. If Cindy has other income, it might affect her entitlement to Medicaid.

3. Disabled Widow(er)s Benefits

Effective January 1, 1991, section 1634(d) of the Social Security Act was amended so that any former SSI eligible widow(er) who:

- ◆ Would continue to be eligible for SSI benefits or SSP but for their Title II benefits;
- ◆ Received an SSI/SSP benefit the month before their Title II payments began; and
- ◆ Is not entitled to Medicare Part A,

will be considered by the State to be an SSI/SSP recipient for Medicaid purposes until they become entitled to Medicare Part A.

This provision does not “sunset”; it is permanent. SSA notifies members of this group as they become ineligible for federally administered payments due to excess income and notifies the 1634 States as these cases occur through the State Data Exchange (SDX).

NOTE: When a former SSI recipient is found entitled to DWB benefits, **all** months on the SSI rolls at **any** time are credited concurrently against the 5-month disability waiting period and 24-month Medicare Qualifying Period. The months counted go from the first month of **any** (including prorated) payment to the month of DWB entitlement. **All** months are counted, including months of nonpayment, suspension and termination **for any reason**. Since the Disability Determination Services adopt the SSI medical decision for these cases, a DWB who received as little as one payment from SSI more than two years ago and meets the non-disability entitlement factors can become entitled to Title II and Medicare Part A with no waiting period.

Example of how Disabled Widow's Benefit applies:

Katherine has never worked. She applied for SSI six months ago when she became disabled. She was receiving an SSI payment in the amount of \$564 when her ex-husband, Hal, died. Katherine applied for benefits on Hal's record as a Disabled Widow, and was awarded. Katherine's benefit was \$759 per month, and she was no longer eligible for SSI because of her unearned income. The state Medicaid agency must exclude all of Katherine's Disabled Widow's benefit when making a determination about Katherine's eligibility for benefits. Note that Disabled Widow's Benefits differ from SSDI and Childhood Disability Benefits because the ability to exclude the income ends as soon as a disabled widow or widower becomes entitled to Medicare.

What happens to special Medicaid beneficiaries when other income is involved?

The challenge for these special Medicaid beneficiaries is predicting when the individual involved will lose Medicaid coverage. There is no easy way to predict because it depends entirely on how much of the Social Security benefit is excluded, and on how much and what types of other income the beneficiary receives.

Both 1634 and SSI eligibility States treat income the same way that the SSI program treats income. The SSI income rules divide income into two categories: earned and unearned. Unearned income has a profound effect on SSI entitlement. Only up to \$20 of unearned income may be excluded when calculating SSI payments or SSI related Medicaid eligibility.

Earned income is treated more favorably. First, if the \$20 exclusion was not used on unearned income, it may be deducted from earnings. Next, \$65 of earnings is excluded as income. Deductions may be made due to student status. Also, the cost of items or services necessary for work, related to the disability, and paid out of pocket may be deducted. What's left is divided in half, and additional deductions for work expenses paid out of pocket by blind individuals, or income dedicated to Plans for Achieving Self-Support (PASS) may be subtracted. Only what is left after these deductions counts against an individual's SSI payment, or eligibility for Medicaid in States that use SSI rules for Medicaid entitlement.

Examples of special Medicaid beneficiaries with other income:

Casey - SSDI: In the previous examples, different amounts of the Social Security benefit were excluded for each person. Casey, for example, had \$18 of his SSDI excluded for Medicaid eligibility purposes. Excluding that \$18 allowed Casey's unearned income to be below the Medicaid eligibility threshold. When making the determination, the state Medicaid agency would then deduct the \$20 general income exclusion, leaving Casey with \$544 in countable unearned income. If the state Medicaid limit were \$552, Casey would be able to have countable income of up to \$8, (the difference between the countable SSDI and the state income limit) before his Medicaid would be at risk. As Casey's benefits increase in the future, his exclusion also would increase. Thus Casey's unearned income is treated as if it had remained at the level it was prior to the increase that stopped SSI entitlement. In Casey's example, that means his SSDI would be counted as if it were \$564 indefinitely.

One essential factor to remember is that this exclusion only applies if the result of the calculation is Medicaid entitlement. If Casey's countable income exceeded the SSI income limit, then the amount of Casey's benefit that was previously excluded would be added back in when determining entitlement under any other Medicaid eligibility group. If, for example, Casey were given an inherited annuity that gave him \$100 more a month in unearned income, the Medicaid agency would consider Casey to have \$672 in unearned income, not \$664. Adding the excluded amount back in becomes more important with larger excluded amounts, as you will see in the rest of the examples.

Lucy – CDB: In the previous example, the Medicaid agency excluded \$250 of Lucy's unearned income. The state Medicaid countable income cap would be the same as SSI. If this happened in 2004, for example, Lucy would not be eligible for Medicaid if her total countable income exceeded \$564. Lucy has \$500 in unearned income after the \$250 of additional Childhood Disability Benefits is excluded. The Medicaid agency will deduct the \$20 general exclusion from that remaining \$500. That means that Lucy's countable income from her CDB benefits is \$480. If Lucy has other countable income over \$84, it would cause her countable income total to exceed the SSI limit of \$564. Lucy would lose eligibility to Medicaid as a special Medicaid beneficiary. If that were to happen, the state Medicaid agency would use all of Lucy's unearned income, the whole \$750, when calculating eligibility under other possible Medicaid groups.

Cindy – CDB: Cindy is in a better position. Since initial entitlement to Childhood Disability Benefits eliminated her entitlement to SSI, the whole amount may be excluded by the state Medicaid agency when determining eligibility as a special Medicaid beneficiary. That means Cindy could have other countable

income that totals \$564 and still retain her Medicaid eligibility. If her other countable income exceeds that threshold, however, the state Medicaid agency would simply add the \$600 of CDB benefits back in when making eligibility determinations under other Medicaid groups.

Katherine – DWB: Katherine also went from full SSI to a full disabled Widow's benefit. Like Cindy, Katherine will be eligible for Medicaid unless her other countable income exceeds the current SSI income threshold of \$564. Unlike Cindy, however, Katherine is only eligible for Medicaid under this provision until her Medicare entitlement begins.



How to Estimate Break-Even Point

Once a Benefits Specialist knows the amount of a person's benefits that may be excluded under the special Medicaid beneficiary provisions, the Benefits Specialist could possibly estimate how much a person could earn before losing Medicaid. The process of calculating a break-even point for Medicaid is very similar to estimating a break-even point for SSI benefits. It is essential, however, that the Benefits Specialist find out if the state has an SSI supplement, because a supplement will increase the amount of work income a beneficiary may have before losing Medicaid as a special Medicaid beneficiary. The estimate is further complicated because some States may offer other exclusions, or change the order of the calculation. The best practice is to develop a good relationship with the local Medicaid agency and ask for their help in understanding how much a particular beneficiary could earn before losing this category of Medicaid.

Challenges

These examples demonstrate why it is difficult to determine how much a person may earn and retain Medicaid eligibility without closely examining the individual's particular circumstances. To correctly determine the amount of Title II payment to exclude, the State Medicaid agency needs to establish:

- ◆ That the person lost SSI entitlement under one of these special circumstances,
- ◆ The amount the individual was receiving in Social Security benefits before the SSI entitlement was lost, and
- ◆ Amounts and types of other income the individual receives at the time the decision is being made.

Additional challenges exist when considering that the individual involved may not know, or understand that this exclusion might exist. That often means that the Medicaid worker doesn't know, and thus does not apply the exclusion.

The Benefits Specialist's Role

It is essential that Benefits Specialists establish good working relationships with the local Medicaid agencies. Benefits Specialists need to know what Medicaid eligibility groups and income limits exist in the state, especially how individuals with disabilities may become entitled or may lose entitlement. Benefits Specialists should recognize situations where special Medicaid involvement is likely. If, for example, a beneficiary states that the beneficiary used to receive SSI, but lost it because of an increase in benefits, and still has Medicaid, it may be possible that work income could affect Medicaid entitlement. The Benefits Specialist's role in that situation is to fully investigate other options to meet the beneficiary's medical needs.

An Important Reminder

Because these groups are based on deemed SSI entitlement, the individual must still meet all of the non-income rules for SSI. For example, the individual's Resources must be below the SSI Resource limits, and the person must continue to have a disability, blindness or be 65 or older. In addition, for individuals who have only an exclusion of the cost-of-living increases under the Pickle Amendment, the person must be entitled to both Social Security and SSI cash benefits for at least one month before the SSI cash payments were lost.

Frequently Asked Questions

How long do these special Medicaid exclusions last?

Once entitlement to Medicaid as a special Medicaid beneficiary is established for someone under these provisions, the Medicaid agency can use the exclusion whenever it results in Medicaid entitlement. In other words, there is no established time limit. The exception is, of course, for DWB beneficiaries who have become entitled to Medicare. Once Medicare occurs, DWB beneficiaries are no longer eligible to exclude income under these provisions.

What happens if someone receives Medicaid through the 1619(b) provision when they lose entitlement to SSI because of a Title II cost-of-living increase, or lose SSI due to entitlement to CDB or DWB benefits?

If a person is eligible under 1619(b) and loses that eligibility because of receipt of or increases in benefits under one of the pertinent "deemed" SSI groups, the title II benefit deductions applicable to the deemed group in question would apply. In these circumstances, the person may earn up to the state 1619(b) threshold without losing Medicaid entitlement. If the person has high Medicaid costs, that individual may also establish a higher, individualized threshold. Medicaid entitlement under the 1619(b) provision is only conferred on individuals who were already receiving Medicaid under 1619(b) at the point their Social Security income increased and caused loss of SSI entitlement. If the individual was receiving an SSI cash benefit when the Social Security increase caused the loss of SSI, the 1619(b) provision does not apply.

Can a state Medicaid agency allow an individual to earn more and retain Medicaid as a Special Medicaid beneficiary if the individual has a Plan for Achieving Self-Support (PASS)?

No, in fact in 1634, or SSI eligibility States, a PASS and special Medicaid eligibility are mutually exclusive. One of the primary requirements for PASS eligibility is that an individual is eligible for SSI, or becomes eligible for SSI for the duration of the PASS. That means that as long as someone has a PASS in effect in a 1634 or SSI eligibility state, that person would also have Medicaid, either as an SSI cash recipient, or under the 1619(b) provision. Special Medicaid eligibility would not be an issue when a PASS was possible.

I have heard of these types of exclusions referred to as Pickle exclusions. Where does that Title originate?

Pickle refers to the surname of the Congressman who introduced the legislation that allowed Medicaid to continue when someone lost SSI eligibility due to a SSDI cost-of-living raise. This legislation is also referred to as Section 503, referring to the section of the Social Security Act that requires States to continue Medicaid in these circumstances. The exclusions for CDB and DWB beneficiaries are actually not "Pickle" provisions.



Resources

- ◆ "Groups Deemed to Be Receiving SSI for Medicaid Purposes: Eligibility Criteria and Processes"; Technical Assistance Series 01, June 12, 2002 from the Centers for Medicare and Medicaid Services, Baltimore, MD, www.cms.hhs.gov/
- ◆ Social Security Program Operations Manual System (POMS) references:
 - SI 01730.000 - Determinations of Medicaid Eligibility
 - SI 01715.000 - Medicaid and the SSI Program
 - SI 01715.015 - Special Groups of Former SSI Recipients
- ◆ "A Quick and Easy Method of Screening for Medicaid Eligibility Under the Pickle Amendment". Poverty Law News, www.povertylaw.org/pln/pln_articles/pickle.cfm

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