

§ 400.90

45 CFR Ch. IV (10–1–10 Edition)

§ 400.90 Basis and scope.

This subpart sets forth requirements concerning grants to States under section 412(e) of the Act for refugee medical assistance (RMA), as defined at § 400.2 of this part.

§ 400.91 Definitions.

For purposes of this subpart—

Medically needy means individuals who are eligible for medical assistance under a State's approved Medicaid State plan in accordance with section 1902(a)(10)(C) of the Social Security Act.

Spend down means to deduct from countable income incurred medical expenses, thereby lowering the amount of countable income to a level that meets financial eligibility requirements in accordance with 42 CFR 435.831 (or, as applicable to Guam, the Virgin Islands, and Puerto Rico, 42 CFR 436.831).

APPLICATIONS, DETERMINATIONS OF ELIGIBILITY, AND FURNISHING ASSISTANCE

§ 400.93 Opportunity to apply for medical assistance.

(a) A State must provide any individual wishing to do so an opportunity to apply for medical assistance and must determine the eligibility of each applicant.

(b) In determining eligibility for medical assistance, the State agency must comply with regulations governing applications, determinations of eligibility, and furnishing Medicaid (including the opportunity for fair hearings) in the States and the District of Columbia under 42 CFR part 435, subpart J, and in Guam, Puerto Rico, and the Virgin Islands under 42 CFR part 436, subpart J, and 42 CFR part 431, subpart E.

(c) Notwithstanding any other provision of law, the State must notify promptly the agency (or local affiliate) which provided for the initial resettlement of a refugee whenever the refugee applies for medical assistance.

(d) In providing notice to an applicant or recipient to indicate that assistance has been authorized or that it has been denied or terminated, the State must specify the program(s) to which the notice applies, clearly dis-

tinguishing between refugee medical assistance and Medicaid or the State Children's Health Insurance Program (SCHIP). For example, if a refugee applies for assistance, is determined ineligible for Medicaid or the State Children's Health Insurance Program (SCHIP) but eligible for refugee medical assistance, the notice must specify clearly the determinations with respect both to Medicaid or the State Children's Health Insurance Program (SCHIP) and to refugee medical assistance.

[54 FR 5480, Feb. 3, 1989, as amended at 65 FR 15449, Mar. 22, 2000]

§ 400.94 Determination of eligibility for Medicaid.

(a) The State must determine Medicaid and SCHIP eligibility under its Medicaid and SCHIP State plans for each individual member of a family unit that applies for medical assistance.

(b) A State that provides Medicaid to medically needy individuals in the State under its State plan must determine a refugee applicant's eligibility for Medicaid as medically needy.

(c) A State must provide medical assistance under the Medicaid and SCHIP programs to all refugees eligible under its State plans.

(d) If the appropriate State agency determines that the refugee applicant is not eligible for Medicaid or SCHIP under its State plans, the State must determine the applicant's eligibility for refugee medical assistance.

[54 FR 5480, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995; 65 FR 15449, Mar. 22, 2000]

CONDITIONS OF ELIGIBILITY FOR REFUGEE MEDICAL ASSISTANCE

§ 400.100 General eligibility requirements.

(a) Eligibility for refugee medical assistance is limited to those refugees who—

(1) Are ineligible for Medicaid or SCHIP but meet the financial eligibility standards under § 400.101;

(2) Meet immigration status and identification requirements in subpart D of this part or are the dependent children of, and part of the same assistance unit as, individuals who meet the

requirements in subpart D, subject to the limitation in § 400.208 of this part with respect to nonrefugee children;

(3) Meet eligibility requirements and conditions in this subpart;

(4) Provide the name of the resettlement agency which resettled them; and

(5) Are not full-time students in institutions of higher education, as defined by the Director, except where such enrollment is approved by the State, or its designee, as part of an individual employability plan for a refugee under § 400.79 of this part or a plan for an unaccompanied minor in accordance with § 400.112.

(b) A refugee may be eligible for refugee medical assistance under this subpart during a period of time to be determined by the Director in accordance with § 400.211.

(c) The State agency may not require that a refugee actually receive or apply for refugee cash assistance as a condition of eligibility for refugee medical assistance.

(d) All recipients of refugee cash assistance who are not eligible for Medicaid or SCHIP are eligible for refugee medical assistance.

[45 FR 59323, Sept. 9, 1980, as amended at 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993; 60 FR 33603, June 28, 1995; 65 FR 15449, Mar. 22, 2000]

§ 400.101 Financial eligibility standards.

In determining eligibility for refugee medical assistance, the State agency must use—

(a) In States with medically needy programs under 42 CFR part 435, subpart D:

(1) The State's medically needy financial eligibility standards established under 42 CFR part 435, subpart I, and as reflected in the State's approved title XIX State Medicaid plan; or

(2) A financial eligibility standard established at up to 200% of the national poverty level; and

(b) In States without a medically needy program:

(1) The State's AFDC payment standards and methodologies in effect as of July 16, 1996, including any modifications elected by the State under section 1931(b)(2) of the Social Security Act; or

(2) A financial eligibility standard established at up to 200% of the national poverty level.

[54 FR 5480, Feb. 3, 1989, as amended at 65 FR 15449, Mar. 22, 2000]

§ 400.102 Consideration of income and resources.

(a) Except as specified in paragraphs (b), (c), and (d) of this section, in considering financial eligibility of applicants for refugee medical assistance, the State agency must—

(1) In States with medically needy programs, use the standards governing determination of income eligibility in 42 CFR 435.831, and as reflected in the State's approved title XIX State Medicaid plan.

(2) In States without medically needy programs, use the standards and methodologies governing consideration of income and resources of AFDC applicants in effect as of July 16, 1996, including any modifications elected by the State under section 1931(b)(2) of the Social Security Act.

(b) The State may not consider in-kind services and shelter provided to an applicant by a sponsor or local resettlement agency in determining eligibility for and receipt of refugee medical assistance.

(c) The State may not consider any cash assistance payments provided to an applicant in determining eligibility for and receipt of refugee medical assistance.

(d) The State must base eligibility for refugee medical assistance on the applicant's income and resources on the date of application. The State agency may not use the practice of averaging income prospectively over the application processing period in determining income eligibility for refugee medical assistance.

[65 FR 15449, Mar. 22, 2000]

§ 400.103 Coverage of refugees who spend down to State financial eligibility standards.

States must allow applicants for RMA who do not meet the financial eligibility standards elected in § 400.101 to spend down to such standard using an