

(ii) The eligibility group or groups to which the less restrictive methodologies will be applied.

[58 FR 4929, Jan. 19, 1993, as amended at 59 FR 43052, Aug. 22, 1994]

§ 435.602 Financial responsibility of relatives and other individuals.

(a) *Basic requirements.* Subject to the provisions of paragraphs (b) and (c) of this section, in determining financial responsibility of relatives and other persons for individuals under Medicaid, the agency must apply the following requirements and methodologies:

(1) Except for a spouse of an individual or a parent for a child who is under age 21 or blind or disabled, the agency must not consider income and resources of any relative as available to an individual.

(2) In relation to individuals under age 21 (as described in section 1905(a)(1) of the Act), the financial responsibility requirements and methodologies that apply include considering the income and resources of parents or spouses whose income and resources would be considered if the individual under age 21 were dependent under the State's approved AFDC plan, whether or not they are actually contributed, except as specified under paragraphs (c) and (d) of this section. These requirements and methodologies must be applied in accordance with the provisions of the State's approved AFDC plan.

(3) When a couple ceases to live together, the agency must count only the income of the individual spouse in determining his or her eligibility, beginning the first month following the month the couple ceases to live together.

(4) In the case of eligible institutionalized spouses who are aged, blind, and disabled and who have shared the same room in a title XIX Medicaid institution, the agency has the option of considering these couples as eligible couples for purposes of counting income and resources or as eligible individuals, whichever is more advantageous to the couple.

(b) *Requirements for States using more restrictive requirements.* Subject to the provisions of paragraph (c) of this section, in determining financial eligibility of aged, blind, or disabled indi-

viduals in States that apply eligibility requirements more restrictive than those used under SSI, the agency must apply:

(1) The requirements and methodologies for financial responsibility of relatives used under the SSI program; or

(2) More extensive requirements for relative responsibility than specified in § 435.602(a) but no more extensive than the requirements under the Medicaid plan in effect on January 1, 1972.

(c) *Use of less restrictive methodologies.* The agency may apply income and resources methodologies that are less restrictive than those used under the cash assistance programs as specified in the State Medicaid plan in accordance with § 435.601(d).

(d) [Reserved]

[58 FR 4930, Jan. 19, 1993, as amended at 59 FR 43052, Aug. 22, 1994]

§ 435.604 [Reserved]

§ 435.606 [Reserved]

§ 435.608 Applications for other benefits.

(a) As a condition of eligibility, the agency must require applicants and recipients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so.

(b) Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation.

[43 FR 45204, Sept. 29, 1978. Redesignated at 58 FR 4931, Jan. 19, 1993]

§ 435.610 Assignment of rights to benefits.

(a) As a condition of eligibility, the agency must require legally able applicants and recipients to:

(1) Assign rights to the Medicaid agency to medical support and to payment for medical care from any third party;

(2) Cooperate with the agency in establishing paternity and in obtaining medical support and payments, unless the individual establishes good cause

for not cooperating, and except for individuals described in section 1902 (1)(1)(A) of the Act (poverty level pregnant women), who are exempt from cooperating in establishing paternity and obtaining medical support and payments from, or derived from, the father of the child born out of wedlock; and

(3) Cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan, unless the individual establishes good cause for not cooperating.

(b) The requirements for assignment of rights must be applied uniformly for all groups covered under the plan.

(c) The requirements of paragraph (a) of this section for the assignment of rights to medical support and other payments and cooperation in obtaining medical support and payments are effective for medical assistance furnished on or after October 1, 1984. The requirement for cooperation in identifying and providing information for pursuing liable third parties is effective for medical assistance furnished on or after July 1, 1988.

[55 FR 48609, Nov. 21, 1990, as amended at 58 FR 4907, Jan. 19, 1993. Redesignated at 58 FR 4931, Jan. 19, 1993]

§ 435.622 Individuals in institutions who are eligible under a special income level.

(a) If an agency, under § 435.231, provides Medicaid to individuals in medical institutions, nursing facilities, and intermediate care facilities for the mentally retarded who would not be eligible for SSI or State supplements if they were not institutionalized, the agency must use income standards based on the greater need for financial assistance that the individuals would have if they were not in the institution. The standards may vary by the level of institutional care needed by the individual (hospital, nursing facility, or intermediate level care for the mentally retarded), or by other factors related to individual needs. (See § 435.1005 for FFP limits on income standards established under this section.)

(b) In determining the eligibility of individuals under the income standards

established under this section, the agency must not take into account income that would be disregarded in determining eligibility for SSI or for an optional State supplement.

(c) The agency must apply the income standards established under this section effective with the first day of a period of not less than 30 consecutive days of institutionalization.

[43 FR 45204, Sept. 29, 1978, as amended at 45 FR 24884, Apr. 11, 1980; 53 FR 3595, Feb. 8, 1988. Redesignated and amended at 58 FR 4932, Jan. 19, 1993]

§ 435.631 General requirements for determining income eligibility in States using more restrictive requirements for Medicaid than SSI.

(a) *Income eligibility methods.* In determining income eligibility of aged, blind, and disabled individuals in a State using more restrictive eligibility requirements than SSI, the agency must use the methods for treating income elected under §§ 435.121 and 435.230, under § 435.601. The methods used must be comparable for all individuals within each category of individuals under § 435.121 and each category of individuals within each optional categorically needy group included under § 435.230 and for each category of individuals under the medically needy option described under § 435.800.

(b) *Categorically needy versus medically needy eligibility.* (1) Individuals who have income equal to, or below, the categorically needy income standards described in §§ 435.121 and 435.230 are categorically needy in States that include the medically needy under their plans.

(2) Categorically needy eligibility in States that do not include the medically needy is determined in accordance with the provisions of § 435.121 (e)(4) and (e)(5).

[58 FR 4932, Jan. 19, 1993]

§ 435.640 Protected Medicaid eligibility for individuals eligible in December 1973.

In determining whether individuals continue to meet the income requirements used in December 1973, for purposes of determining eligibility under