

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

**Medicaid Eligibility
Medically Needy Program Termination
(LAC 50:III.939 and 2313)**

The Department of Health, Bureau of Health Services Financing repeals LAC 50:III.939 and §2313 in the Medical Assistance Program as authorized by R.S. 36:254, pursuant to Title XIX of the Social Security Act and as directed by Act 3 of the 2017 Second Extraordinary Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year (SFY) 2018-2019, the department has determined that it is

necessary to promulgate an Emergency Rule to repeal all of the provisions governing the Medically Needy Program (MNP), including Spend-Down MNP, in order to terminate this optional Medicaid program.

This action is being taken to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$32,730,908 for state fiscal year 2018-2019.

Effective July 1, 2018, the Department of Health, Bureau of Health Services Financing repeals all of the provisions governing the Medically Needy Program.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 1. Eligibility Groups and Factors

Chapter 9. Financial Eligibility

Subchapter D. Incurred Medical

§939. Medically Needy

~~A. The following criteria apply to all incurred medical expenses for medically needy.~~

~~1. Bills for necessary medical and remedial services furnished more than three months before the Medicaid application is filed will be excluded as an incurred expense. Current~~

~~payments on excluded expenses will be allowed as an incurred expense.~~

~~2. The first budget period for the Medically Needy will begin the first month in the three-month period prior to the date of application in which the applicant received covered services.~~ Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1702 (August 2004), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2313. Medically Needy Program

~~A. The Medically Needy Program (MNP) provides Medicaid coverage when an individual's or family's income and/or resources are sufficient to meet basic needs in a categorical assistance program, but not sufficient to meet medical needs according to the MNP standards.~~

~~1. The income standard used in the MNP is the federal medically needy income eligibility standard (MNIES).~~

~~2. Resources are not applicable to modified adjusted gross income (MAGI) related MNP cases.~~

~~3. MNP eligibility cannot be considered prior to establishing income ineligibility in a categorically related assistance group.~~

~~B. MNP Eligibility Groups~~

~~1. Regular Medically Needy~~

~~a. Prior to the implementation of the MAGI income standards, parents who met all of the parent and caretaker relative (PCR) group categorical requirements and whose income was at or below the MNIES were eligible to receive Regular MNP benefits. With the implementation of the MAGI-based methodology for determining income and household composition and the conversion of net income standards to MAGI equivalent income standards, individuals who would have been eligible for the Regular Medically Needy Program are now eligible to receive Medicaid benefits under the parent and caretaker relative eligibility group. Regular medically needy coverage is only applicable to individuals included in the MAGI-related category of assistance.~~

~~b. Individuals in the non-MAGI [formerly aged (A), blind (B), or disability (D)] related assistance groups cannot receive Regular MNP.~~

~~_____ c. The certification period for Regular MNP cannot exceed six months.~~

~~_____ 2. Spend-Down Medically Needy~~

~~_____ a. Spend-Down MNP is considered after establishing financial ineligibility in categorically related Medicaid programs and excess income remains. Allowable medical bills/expenses incurred by the income unit, including skilled nursing facility coinsurance expenses, are used to reduce (spend-down) the income to the allowable MNP limits.~~

~~_____ b. The following individuals may be considered for Spend-Down MNP:~~

~~_____ i. individuals who meet all of the parent and caretaker relative group requirements;~~

~~_____ ii. non-institutionalized individuals (non-MAGI related); and~~

~~_____ iii. institutionalized individuals or couples (non-MAGI related) with Medicare co-insurance whose income has been spent down.~~

~~_____ c. The certification period for spend-down MNP begins no earlier than the spend-down date and shall not exceed three months.~~

~~_____ 3. Long Term Care (LTC) Spend-Down MNP~~

~~_____ a. Individuals residing in Medicaid LTC facilities, not on Medicare coinsurance with resources within~~

~~the limits, but whose income exceeds the special income limits (three times the current federal benefit rate), are eligible for LTC Spend-Down MNP.~~

~~C. The following services are covered in the Medically Needy Program:~~

- ~~1. inpatient and outpatient hospital services;~~
- ~~2. intermediate care facilities for persons with intellectual disabilities (ICF/ID) services;~~
- ~~3. intermediate care and skilled nursing facility (ICF and SNF) services;~~
- ~~4. physician services, including medical/surgical services by a dentist;~~
- ~~5. nurse midwife services;~~
- ~~6. certified registered nurse anesthetist (CRNA) and anesthesiologist services;~~
- ~~7. laboratory and x-ray services;~~
- ~~8. prescription drugs;~~
- ~~9. early and periodic screening, diagnosis and treatment (EPSDT) services;~~
- ~~10. rural health clinic services;~~
- ~~11. hemodialysis clinic services;~~
- ~~12. ambulatory surgical center services;~~
- ~~13. prenatal clinic services;~~
- ~~14. federally qualified health center services;~~

- ~~15. family planning services;~~
- ~~16. durable medical equipment;~~
- ~~17. rehabilitation services (physical therapy, occupational therapy, speech therapy);~~
- ~~18. nurse practitioner services;~~
- ~~19. medical transportation services (emergency and non-emergency);~~
- ~~20. home health services for individuals needing skilled nursing services;~~
- ~~21. chiropractic services;~~
- ~~22. optometry services;~~
- ~~23. podiatry services;~~
- ~~24. radiation therapy; and~~
- ~~25. behavioral health services.~~ Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1888 (November 2016), repealed by the Department of Health, Bureau of Health Services Financing, LR 44:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

(CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH

Secretary