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## 1430.0000 Family-Related Medicaid

Family-Related Medicaid has technical (non-financial) factors, which must be considered to determine eligibility.

The eligibility specialist must determine if each individual meets the appropriate requirements for the type of assistance requested. If the individual does not meet the applicable requirements, the individual is technically ineligible.

### 1430.0005 Family-Related Medicaid Technical Factors (MFAM)

The technical factors that may be considered are:

1. US Citizenship,
2. Noncitizen status,
3. Social Security number welfare enumeration,
4. Residency,
5. Age,
6. Identity,
7. Parent or other caretaker relative living in the home with a child,
8. Pregnancy,
9. Cooperation with child support, and
10. Assignment of rights for third party liability.

### 1430.0100 CITIZENSHIP/NONCITIZEN STATUS (MFAM)

The eligibility determination must include an evaluation of the citizenship/noncitizen status for each individual who applies for Medicaid. Citizenship information of those family members who are not applying for benefits is not required. Non-receiving members are to be asked only if they are citizens or noncitizens, not their U.S. Citizenship and Immigration Services status. The criterion in this section does not apply to the Emergency Medicaid for Aliens (EMA) Program.

### 1430.0101 Declaration of Citizenship/Noncitizen Status (MFAM)

Each applicant applying for public assistance must declare in writing whether each individual in the assistance group (AG) is an U.S. citizen, or a noncitizen in lawful immigration status.

An application declaring the citizenship/noncitizen status must be signed under penalty of perjury for all household members applying for assistance as a condition of eligibility. An adult applicant or designated representative may sign the application declaring the citizenship/noncitizen status of all members.

### 1430.0102 Definition of U.S. Citizenship (MFAM)

To be considered a U.S. citizen, an individual must meet one of the following conditions:

1. be born in the U.S., D.C., or a U.S. territory, (Puerto Rico, U.S. Virgin Islands, Northern Mariana, American Samoa, Harcon Tract, Swain's Island, and Guam).

**Note:** If the individual was born in a former U.S. territory while it was a territory, a clarification through the Region or Circuit Program Office is required.

2. be a naturalized citizen. An individual is a naturalized citizen when U.S. citizenship is gained after his birth either through individual naturalization, or derived from a naturalized parent.

3. be adopted by, a U.S. citizen.

A child acquires citizenship through adoption, if they meet all of the following conditions:

- a. the child was adopted while under the age of 16, has been in legal custody of, and has resided with the adopting U.S. citizen parent(s) for at least two years;
- b. the child is under the age of 18, or was under the age of 18 on February 27, 2001;
- c. the child is/was residing in the United States in the legal and physical custody of the U.S. citizen parent(s); and
- d. the child has a qualified alien status.

The child must meet all the above criteria, all at the same time, on at least one day at some point between February 27, 2001 and the present. The child must not have been married at any time on or before the day they meet all of the criteria.

**Note:** Proof of U.S. citizenship will not be automatically issued to eligible children.

4. be born abroad to a U.S. citizen. Individuals born abroad to a U.S. citizen and who make a written declaration of citizenship to the U.S. Counsel are considered U.S. citizens.

A child born abroad to unmarried parents may acquire citizenship at birth if one of the parents is a U.S. citizen at the time of the child's birth, and legal paternity has been established. To acquire citizenship, a child born abroad to unwed parents need only establish the mother's U.S. citizenship and her residence in the U.S. or U.S. territory prior to the birth of the child.

Citizenship acquired at birth occurs when:

1. both parents are U.S. citizens and at least one parent resides in the U.S. or a U.S. territory before the birth of the child; or
2. one parent is a citizen and the other is a noncitizen at the time of the child's birth. (Individuals claiming citizenship under this provision must be referred to USCIS to obtain a formal determination of their citizenship.)

Children become U.S. citizens after birth when all the following conditions are met:

1. one parent is a U.S. citizen by birth or naturalization,
2. the child is under age 18, or was under 18 on February 27, 2001,
3. the child is/was residing in the U.S. in the legal and physical custody of the U.S. citizen parent(s), and
4. the child has a qualified noncitizen status.

#### **1430.0103 Verification Sources for U.S. Citizens (MFAM)**

United States citizenship must be verified for all individuals who claim to be citizens, including those who are naturalized and those born abroad to U.S. citizens. If we have verification in our records, do not ask for it again, unless it appears fraudulent.

**Exceptions:** Presumptively eligible newborns (even after the first year), individuals who receive SSI, any part of Medicare, Social Security Disability based on their work history and children in the care of the Department are exempt from this requirement.

The following sections discuss what documents may be accepted as verification of U.S. citizenship and identity.

**The following can be used to document U.S. citizenship and identity:**

1. A U.S. passport (can be expired),
2. A Certificate of Naturalization (DHS form N-550 or N-570),
3. A Certificate of Citizenship (DHS form N-560 or N-561) or,
4. Data from the Driver's And Vehicle Express (DAVE) system,
5. Data from the Federal Data Services Hub.

**The following can only be used to verify citizenship (must show a U.S. place of birth):**

1. BVS record (MNOV or DEBP) if born in Florida,
2. VIS-CPS (SAVE) for naturalized citizens (must have their A#),
3. Verification of eligibility under the Child Citizenship Act of 2000, including the U.S. citizenship of the parent,
4. A U.S. birth certificate (originally issued prior to age five) (except for voided Puerto Rican birth certificates after September 30, 2010),
5. A final adoption decree, or if the adoption is pending and no birth certificate can be issued, a statement from the state adoption agency (U.S. born children),
6. A Report of Birth Abroad of a U.S. citizen (forms FS-240, FS-545 or DS1350),
7. A U.S. Citizen I.D. card (DHS form I-197 or I-179),
8. A Northern Mariana ID card (I-873),
9. An American Indian card (I-872, with "KIC" code),
10. Proof of civil service employment before 6/1/76, or
11. Official military record of service (ex.DD-214).

**If none of the above documents exist or can be located, the following documents can be used to verify U.S. citizenship if they show a U.S. place of birth and are dated five years prior to the Medicaid application (unless for a child under age five):**

1. Extract of hospital birth record on hospital letterhead (not a souvenir birth certificate),
2. Life or health insurance record with a U.S. place of birth,
3. Early school record, or
4. Religious record (ex baptism) within three months of birth.

**If none of the above documents exist or can be located, the following documents can be used to verify U.S. citizenship if they show a U.S. place of birth and are dated five years prior to the Medicaid application (unless for a child under age five):**

1. Federal census records from 1900-1950 showing the age and place of birth (the five year rule does not apply),
2. Tribal census records,
3. An amended birth certificate, after age five,
4. A signed statement from the doctor or midwife who was present at the birth,
5. Nursing home institution records that contain biographical information,
6. Medical records with biographical information,
7. Listed on the roll of Alaskan natives, or
8. A written statement signed under penalty of perjury by at least two people who have personal knowledge of the event(s) – (One cannot be related.). They must also prove their own citizenship and identity. A separate statement by the applicant/recipient/representative, signed under penalty of perjury, must also be completed stating why the documentation could not be obtained.

**1430.0103.01 Reasonable Opportunity Period (MFAM)**

Individuals declaring their United State citizenship shall be given a reasonable opportunity period of 90 days to submit proof of citizenship when their citizenship cannot be verified through the Federal Data Services Hub. During the reasonable opportunity period, Medicaid can be approved, provisionally, if the individual meets all other factors of eligibility. If the individual is unable to show proof of citizenship after the reasonable opportunity period, Medicaid is terminated after advance notice of adverse action is provided.

**1430.0104 Noncitizens (MFAM)**

Noncitizens may qualify for Medicaid based on their status granted by U.S. Citizenship and Immigration Services (USCIS). The following sections discuss different types of noncitizens and their eligibility.

**A North American Indian born outside the United States**, who is residing in the U.S. is eligible for Medicaid benefits, based on the factor of noncitizen status, if they are subject to section 289 of the Immigration and Nationality Act or a member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act.

**Proof of this status includes:**

1. I-551 with code S-13,
2. unexpired temporary I-551 stamp in a Canadian passport,
3. I-94 with code S-13, or
4. a letter or other tribal document certifying at least 50% American Indian blood, as required by Immigration and Nationality Act section 289, combined with a birth certificate or other satisfactory evidence of birth in Canada.

Verification of membership in an Indian tribe includes a membership card or other tribal document demonstrating membership in a federally recognized Indian tribe.

If the individual has no document evidencing tribal membership, contact the tribal government for confirmation of the individual's membership.

**Note:** These individuals are not subject to the five-year ban.

**1430.0105 Qualified Noncitizens (MFAM)**

Qualified noncitizens are defined as noncitizens who meet at least one of the following sections of the Immigration and Nationality Act (INA):

1. Lawful Permanent Residents;
2. Granted Asylum under section 208;
3. Refugee admitted under section 207;
4. Parolee under section 212(d)(5) admitted for at least 1 year;
5. Deportation withheld under section 243(h) or 241(b)(3);
6. Granted Conditional Entry pursuant to section 203(a)(7);
7. Cuban and Haitian Entrants;
8. Battered Spouse or Abused Child or the parent or child of a Battered person; and
9. Victims of Human Trafficking

**1430.0106 Lawful Permanent Resident (MFAM)**

A lawful permanent resident (LPR) is a noncitizen who lawfully immigrates to the U.S. and has permission to live and work in the U.S. LPRs may be eligible for Medicaid based on citizenship if they entered the U.S.:

1. prior to 8/22/96 and have remained continuously present,



2. on or after 8/22/96 under a prior asylee, refugee, Amerasian, deportation withheld, or Cuban/Haitian Entrant status, or
3. on or after 8/22/96 and have lived in the U.S. as a qualified noncitizen for at least five years.

Proof of this status includes:

1. resident alien card, (I-551) (commonly referred to as a "green card").
2. re-entry permit (I-327), or
3. foreign passport with a stamp stating "temporary evidence of lawful permanent resident status".

**Note:** LPRs who entered after 8/22/96 are subject to the five-year ban, except lawfully residing children up to age 19.

LPRs who are in the five-year ban may be eligible for Emergency Medicaid for Aliens, (EMA).

#### **1430.0106.01 Noncitizens Serving in the United States Armed Forces (MFAM)**

Noncitizens serving in the United States Armed Forces (Army, Air Force, Navy, Marines, or Coast Guard) on active duty for purposes other than training, noncitizen veterans honorably discharged from the United States Armed Forces for reasons other than noncitizen status, who have met the minimum active duty service requirements of Section 5303A(d) of Title 38, United States Code (24 months or the period for which the person was called to active duty), and their spouses and unmarried dependent children, are eligible to receive Medicaid on the factor of noncitizen status.

Verification of active duty military status includes:

1. a current Military Identification Card (DD Form 2) that lists an expiration date of more than one year from the date of determination. If the expiration date is less than one year, the individual will need to present a copy of current military orders,
2. verification through the nearest Real Time Automated Personnel Identification System (RAPIDS), or
3. contact with DEERS Support Office  
Attention: Research and Analysis  
400 Gigling Road  
Seaside, California 93955-6771  
Fax (408) 655-8317.

Proof of honorable discharge:

The discharge certificate (DD Form 214) or its equivalent indicates the type of discharge. If the individual is not in possession of their discharge certificate, the specialist should refer the individual to the local Veteran Administration Regional Office for a determination of the individual's veteran status.

**Note:** If the individual's discharge certificate indicates an original enlistment date in the Armed Forces prior to September 7, 1980, there is no minimum active duty service requirement.

An unmarried dependent child is defined as:

1. the biological or legally adopted dependent child of an honorably discharged veteran or an active duty member of the U.S. Armed Forces,
2. not married, and
3. under the age of 18 or under the age of 22 if a full-time student.

An un-remarried noncitizen surviving spouse may also be eligible when the:

1. veteran spouse was a Filipino described in Section 107 of Title 38, U.S. Code. (individuals who served in the Philippine Commonwealth Army during World War II or as a Philippine Scout following the war); or
2. spouse died while on active duty, provided the surviving spouse has not remarried and the marriage fulfills the requirements of Section 1304 of Title 38, U.S. Code.

Section 1304 defines marriage as having met one of the following conditions:

1. The surviving spouse was married to the veteran or active duty military personnel within 15 years after discharge in which the injury or disease leading to the death of the veteran or active duty personnel was incurred or aggravated (not a factor if the individual died while on active duty) and was married for a period of at least one year. or
2. A child was born during the relationship between the individual and the veteran or active duty military personnel either during or before the marriage.

**Note:** These individuals are not subject to the five-year ban.

#### **1430.0106.02 Amerasians (MFAM)**

Amerasians born in Vietnam fathered by a U.S. citizen and admitted to the U.S. as immigrants under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 are eligible for Medicaid, on the factor of citizenship.

Proof of this status includes unexpired temporary USCIS Form I-551 with code AM6, AM7, or AM8, or USCIS Form I-94 with codes AM1, AM2, or AM3.

**Note:** These individuals are not subject to the five-year ban.

#### **1430.0107 Asylees (MFAM)**

Noncitizens granted asylum under Section 208 have received permission to remain in the U.S. based on a "well-founded fear of persecution" should the individual return to the individual's native land may be considered for asylum. A prospective asylee applies for asylum after entering the U.S., a U.S. territory or a U.S. embassy.

**Proof of this status includes:**

1. USCIS Form I-94 showing grant of asylum under Section 208,
2. USCIS Form I-688B (Employment Authorization Card) annotated 274a.12(a)(5),
3. USCIS Form I-766 (Employment Authorization Card) annotated A5,
4. grant of asylum letter from the Asylum Office of the USCIS indicating this status is granted,
5. order of an immigration judge granting asylum, or
6. other conclusive documentation of this status.

**Note:** These individuals are not subject to the five-year ban.

#### **1430.0108 Refugees (MFAM)**

Refugees are defined as those noncitizens given permission to enter the U.S. under Section 207 of the Immigration and Nationality Act (INA). These noncitizens have applied to be admitted to the U.S. based upon a well-founded fear of persecution in their homeland. Persecution must be due to race, religion, nationality, social or political ties and cannot be economic in nature.

Proof of this status includes:

1. USCIS Form I-94 or I-551 bearing Section 207,
2. USCIS Form I-688B (Employment Authorization Card) annotated 274a.12(a)(3),
3. USCIS Form I-766 annotated A3,
4. USCIS Form I-571 (Refugee Travel Document), or
5. other conclusive documentation of this status.

**Note:** These individuals are not subject to the five-year ban.

#### **1430.0109 Victims of Human Trafficking (MFAM)**

Victims of severe forms of human trafficking are eligible for benefits to the same extent as a noncitizen who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act. The only exception is the human trafficking victim will not provide USCIS documents. Adult victims will provide a certification letter from the Department of HHS. Children under 18 years old are not required to be certified and will instead be provided an eligibility letter. The agency will accept the certification letter for adults or the eligibility letter for children in place of USCIS documentation.

Before approving these individuals for benefits, the validity of the certification or eligibility letter must be confirmed by calling the HHS' Office of Refugee Resettlement (ORR) at (866) 401-5510. The call will advise ORR of the benefits for which the individual has applied and ORR will verify whether or not the individual is a trafficking victim.

Certain family members of victims of human trafficking are now potentially eligible for Medicaid. This includes the spouse and children of a trafficking victim 21 years of age or older. If the severe trafficking victim is under 21 years of age, parents, spouses, children, and unmarried siblings under 18 on the date of the "T" visa's application are eligible, if they meet all other program criteria. These family members will have a nonimmigrant "T" Visa, with no additional USCIS documentation.

**Note:** These individuals are not subject to the five-year ban.

**Note:** Do not use the Verification Information System - Customer Processing System (VIS-CPS) for these individuals, as VIS-CPS does not contain information about them.

**Potential Child Trafficking Victims:** Potential child trafficking victims are eligible for federally funded benefits and services for up to 90 days pending a final trafficking eligibility decision. An "Interim Assistance Letter" issued to potential child victims by the Department of HHS, Office of Refugee Services (ORR) will certify this status. These children are eligible for benefits beginning with the eligibility began date on the interim assistance letter. ORR will issue a final trafficking determination on the child within this interim period. If denied a final trafficking status, terminate benefits at the end of the month in which the 90<sup>th</sup> day falls.

#### **1430.0110 Parolees (MFAM)**

Parolees under Section 212(d)5 for at least one year; Noncitizens granted temporary parole status for a total period of at least one year by the Attorney General under Section 212(d)(5) of the Immigration and Nationality Act (INA) are eligible for on the factor of noncitizen status. Verification for this status includes:

1. USCIS Form I-94 indicating that the individual has been paroled under this section of the INA, or
2. USCIS Form I-688 with codes 274a.12(a)(4), 274a.12 (c)(11), or
3. USCIS Form I-766 with codes A4 or C11, or
4. other conclusive documentation of this status.

**Note:** If the USCIS document does not reflect at least a one-year period, the eligibility specialist must institute secondary verification.

**Note:** These individuals are subject to the five-year ban if the entry date is after 8/22/96 except lawfully residing children up to age 19.

#### **1430.0111 Deportation Withheld (MFAM)**

A noncitizen whose deportation has been withheld pursuant to Section 243(h) or 241(b)3 of the Immigration and Nationality Act (INA) may be eligible for Medicaid on the factor of noncitizen status.

Verification of this status includes:

1. an order from an immigration judge showing that deportation has been withheld under Section 243(h) of the INA as in effect prior to April 1, 1977, or removal withheld under 241(b)(3).
2. USCIS Form I-766 (Employment Authorization Card) annotated A-10.
3. USCIS Form I-688B (Employment Authorization Card) annotated 274a.12.(a)(10).

The court will include the date deportation was withheld. If the applicant does not present a court order, do secondary verification.

**Note:** These individuals are not subject to the five-year ban.

#### **1430.0112 Cuban/Haitian Entrants (MFAM)**

Cuban/Haitian Entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 any national of Cuba or Haiti who:

1. was granted parole status as a Cuban/Haitian Entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; or
2. any other national of Cuba or Haiti who:
  - a. was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act (INA);
  - b. is the subject of exclusion or deportation proceedings under the INA;
  - c. has an application for asylum pending with the USCIS, and with respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered; or
  - d. has special immigrant juvenile status.

Verification for this status includes:

1. USCIS Form I-94, stamped paroled as "Cuban/Haitian Entrant, Status Pending"
2. I-551 with code CU6 or CH6,
3. unexpired temporary I-551 stamp in foreign passport
4. USCIS Form I-94 with code CU6 or CH6, or
5. other conclusive documentation of this status.

**Note:** These individuals are not subject to the five-year ban.

**1430.0113 Battered (MFAM)**

A battered spouse or child, or parent or child of a battered person with a petition pending under Section 204(a)(1)(A) or (B) or 244(a)(3), as determined by USCIS are defined as noncitizens who are, or have been battered or subjected to extreme cruelty in the United States by a family member with whom they reside. This includes a noncitizen whose child or a noncitizen child whose parent has been abused. The phrase battered or subjected to extreme cruelty includes, but is not limited to, being the victim of any act or threatened act of violence.

Noncitizens who claim to be battered must satisfy all of the following requirements:

1. Show that noncitizen has an approved or pending petition which makes a prima facie case for immigrant status in one of the following categories:
  - a. a Form I-130 filed by their spouse or the child's parent;
  - b. a Form I-130 petition as a widow(er) of a U.S. citizen;
  - c. an approved self-petition under the Violence Against Women Act (including those filed by a parent; or
  - d. an application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.
2. The noncitizen, the noncitizen's child or the noncitizen child's parent has been abused in the U.S. under the following circumstances:
  - a. The noncitizen has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consent to the battery or cruelty.
  - b. The noncitizen's child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's family residing in the same house if the spouse or parent consents to the battery or cruelty, and the noncitizen did not actively participate in the battery or cruelty.
  - c. The parent of a noncitizen child has been battered or subjected to extreme cruelty in the U.S. by the parent's spouse, or by a member of the spouse's family residing in the household as the parent, if the spouse consents to or allows such battery or cruelty.
1. The battered noncitizen, child, or parent no longer lives in the same household as the abuser(s).
2. There is a substantial connection between the battery or extreme cruelty and the need for public assistance.

Proof of the battered status includes:

1. individual's statement for proof of no longer living with the abuser and direct connection between battery and need for public assistance,
2. approved petitions or orders granted by USCIS,
3. restraining order or criminal conviction against the abuser,
4. charges brought about that lead to the conviction of the abuser, or
5. credible evidence of the abuse which includes but is not limited to, reports or affidavits from law enforcement, judges or other court officials, medical personnel, school officials, social workers, mental health providers, other social service agency personnel, legal documents, residence in a battered spouse shelter or similar refuge, photographs of the injuries, or sworn affidavits from friends, family members, or other third parties with personal knowledge of the battery or cruelty.

There cannot be any delay in the authorization of an application or request for additional assistance while awaiting verification to establish battery or extreme cruelty. If it is later discovered that the noncitizen does not meet these criteria, a Benefit Recovery referral must be made.

**Note:** These individuals are subject to the five-year ban if entry is after 8/22/96 except lawfully residing children up to age 19.

**Note:** The eligibility determination does not need to include if the battered noncitizen meets the three criteria listed above for noncitizens who meet one of the other qualified noncitizen statuses unless it is to the noncitizen's advantage such as sponsored noncitizens.

#### **1430.0114 Verification Requirements for Noncitizens (MFAM)**

The eligibility determination must include verification of the immigration status of all non-citizens applying for or receiving Medicaid through the U.S. Citizenship and Immigration Services (USCIS) if the information was not verified through the HUB. The Verification Information System-Customer Processing System (VIS-CPS) is used to verify the immigration status.

If a noncitizen does not want the agency to contact USCIS to verify immigration status, the household has the option of withdrawing the application or excluding that individual from the assistance group. If the individual is excluded as technically ineligible, we will not attempt to obtain any documentation of status for that individual. If a noncitizen is unable to provide any documentation to verify immigration status the eligibility specialist is not responsible for contacting USCIS on the noncitizen's behalf unless the individual requests assistance in obtaining documentation or verification of immigration status.

An expired noncitizen registration card does not necessarily mean that the noncitizen lost their immigration status. If VIS-CPS does not indicate the noncitizen has an acceptable status, the noncitizen should be referred to USCIS to obtain current USCIS documentation. If obtaining USCIS documentation would place an undue hardship on the noncitizen, or the noncitizen is hospitalized or suffers from a medical disability, the eligibility specialist must have the noncitizen declare their noncitizen status and continue to process the application. The USCIS documentation provided will be manually verified with USCIS.

Examples of undue hardship include, but are not limited to, living a distance from the USCIS office, lack of transportation, or a several months waiting period for an appointment with USCIS.

If a noncitizen does not have any documentation of immigration status, but can provide the "noncitizen registration number", the eligibility specialist will verify the number using the VIS-CPS system. If the number is verified, and VIS-CPS indicates the individual has an immigration status, this is acceptable documentation of the noncitizen's immigration status for all programs. However, the individual's identity must be verified to ensure the noncitizen registration number belongs to the individual.

**Note:** If a noncitizen provides any form of USCIS documentation, regardless of the expiration date, showing an eligible Immigration Act section, the eligibility specialist must accept the documentation and verify the individual's status through the VIS-CPS system. When the VIS-CPS system requests secondary verification, benefits may not be withheld pending response from the secondary verification, providing all other technical eligibility factors are met.

If the secondary verification shows that the noncitizen no longer has an eligible immigration status, a Benefit Recovery referral will be initiated for the total amount of assistance received during the interim investigation period.

**1430.0115 VIS-CPS (MFAM)**

VIS-CPS must be completed for noncitizens:

1. at application or reapplication,
2. when adding a noncitizen individual,
3. at every review for individuals who do not have a permanent resident status, and
4. any time there is a change to alien status.

A noncitizen who has what appears to be a “good” USCIS document, when VIS-CPS indicates contradictory information, will be considered potentially eligible until secondary verification is returned confirming the status. Do not hold, deny or terminate benefits waiting for the secondary verification.

**1430.0116 Lawfully Residing Noncitizen Children up to age 19 (MFAM)**

Lawfully residing children, up to age 19, are potentially Medicaid eligible, regardless of their date of entry as long as they are in an immigration status considered “lawfully residing”. All technical and financial eligibility requirements must be met, including residency, prior to providing Medicaid (including Medically Needy) coverage.

A child, up to age 19, is considered lawfully residing if the verified immigration status is a:

1. Qualified Noncitizen
  - a. Lawful Permanent Resident (LPR)
  - b. Asylee
  - c. Refugee
  - d. Parolee (more than 1 year)
  - e. Deportation Withheld
  - f. Cuban and Haitian Entrants
  - g. Battered or Abused Child or Child of a Battered Person
  - h. Victim of Human Trafficking
2. Noncitizens with a valid Nonimmigrant Status (visa holders)
3. Paroled for less than 1 year
4. Other:
  - a. Temporary Resident
  - b. Temporary Protected Status (TPS)
  - c. Employment Authorization
  - d. Family Unity Beneficiaries
  - e. Deferred Enforced Departure (DED)
  - f. Deferred Action Status (not including Deferred Action for Childhood Arrivals (DACA))
  - g. Administrative Stay of Removal
  - h. Approved Visa Petition with a Pending Application for Adjustment of Status
5. Pending Application for Asylum, Withholding of Removal or Convention Against Torture who has also been Granted Employment Authorization or is under age 14 and their application has been pending for at least 180 days
6. Withholding of Removal under the Convention Against Torture
7. Pending Application for Special Immigrant Juvenile Status

**1430.0117 Assistance for Ineligible Noncitizens (MFAM)**

Any noncitizen who does not have an eligible qualified noncitizen status is not eligible for Medicaid on the factor of citizenship. These noncitizens may be eligible for Medicaid through Emergency Medical Assistance for Aliens (EMA), if they meet all other eligibility criteria.

Note: Lawfully residing children, up to age 19, are potentially eligible for Medicaid provided all other eligibility requirements are met.

**1430.0118 Noncitizens not Eligible for Assistance (MFAM)**

The following individuals are not eligible for Medicaid on the factor of citizenship status:

1. foreign government representatives on official business and their families and servants,
2. visitors for business or pleasure, including exchange visitors,
3. crewmen on shore leave,
4. noncitizens in travel status while traveling directly through the U.S.,
5. treaty traders and investors and their families,
6. foreign students,
7. international organization representatives and individuals and their families and servants,
8. temporary workers including agricultural contract workers, or
9. members of foreign press, radio, film, or other information media and their families.

Verification of these statuses is usually the I-94, Arrival-Departure Record, annotated with the letters "A" through "V" except "T" (A-2, B-1, etc.).

Note: Lawfully residing children, up to age 19, are potentially eligible for Medicaid provided all other eligibility requirements are met.

**1430.0119 Compact of Free Association (COFA) migrants (MFAM)**

The Compact of Free Association (COFA) are agreements between the United States and three independent states: the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

COFA migrants are considered qualified non-citizens for the purposes of Medicaid eligibility.

Verification of this status includes:

1. I-94 or I-766 with the following Class of Admission (COA) Codes:
  - a. CFA/RMI – Citizen of Republic of the Marshall Islands (RMI) due to the Compact of Free Association
  - b. CFA/FSM – Citizen of the Federated States of Micronesia (FSM)
  - c. CFA/PAL – Citizen of the Republic of Palau
2. I-766 Employment Authorization Document (EAD) with the following Category Code:
  - a. A-08 Citizen of the Marshall Islands, Micronesia or Palau admitted as a nonimmigrant
3. An unexpired passport with annotations "CFA/RMI," "CFA/FSM" or "CFA/PAL."

Note: These individuals are not subject to the five-year ban.

**1430.0200 SOCIAL SECURITY NUMBER (MFAM)**

The eligibility determination must include obtaining a Social Security number (SSN) for each individual or verify that the individual has applied for an SSN as a condition of eligibility. This requirement does not apply for the Emergency Medical Assistance for Noncitizens Program. The purpose of the SSN is to identify income and assets held by an individual.

A verbal statement providing the SSN is sufficient as the SSN is validated through data exchange. If the SSN is unknown or has never been obtained, the individual must:

1. Apply for an SSN through the welfare enumeration system at the local DCF office. (Original evidence of age, identification and citizenship or noncitizen status must be sent by the eligibility specialist to the local Social Security Administration (SSA) office with the



- completed SS-5. Refer to the FLORIDA Desk Guide for procedures for routing the SS-5.); or
2. Apply for an SSN through the local SSA office (The SSA filing receipt for application must be presented to the eligibility specialist as evidence that the individual has applied.); or
  3. Apply for an SSN through the Florida enumeration at birth process.

Evidence that the individual has applied includes:

1. an SSA 2853 indicating that an SSN was requested at the hospital,
2. the child's birth certificate with "yes" annotated in Section 11d, or
3. a screen print from BVS with a "y" indicator in the child issue field.

There may be circumstances under which an individual is unable to obtain an SSN. Under the following conditions an applicant's statement is acceptable that they are unable to obtain a SSN:

1. Social Security Administration (SSA) denies the application for an SSN, because the individual is not eligible to receive an SSN, or their application is declined by SSA.
2. The customer does not have an SSN and can only receive an SSN for a valid nonwork reason.
3. The customer refuses to obtain an SSN due to a well-established religious objection. The term well established religious objections means that the applicant-
  - a. Is a member of a recognized religious sect or division of the sect; and
  - b. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

There must be a request that SFU members whose income are included in the budget, but who are not members of the assistance group, provide their SSN for purposes of data exchange. These individuals are not required to comply with this request.

#### **1430.0204 When SSN is not Provided/Refusal to Apply (MFAM)**

If an individual fails to provide or apply for an SSN on his own behalf or on the behalf of the individual's child(ren), that individual or child, whichever is applicable, is technically ineligible and is denied.

If a child resides in a facility or with a nonrelative and the child's parent, caretaker relative, or designated official of the facility fails to apply for an SSN for that child, the child is ineligible.

#### **1430.0205 Suspected and Confirmed Multiple SSNs (MFAM)**

Suspected multiple SSNs exist when the eligibility specialist has reason to believe that an individual has more than one SSN. Confirmed multiple SSNs exist when an individual presents different Social Security cards with the same or similar names and different numbers.

One of the following actions must be taken if either of these situations arises:

1. the individual must be asked to clarify the problem with the SSA office, or
2. the eligibility specialist must copy the SS cards, complete an SS-5 for each SSN and send the forms to the SSA office.

#### **1430.0206 SSN Application Follow-Up (MFAM)**

There must be a request for an SSN at each future contact, once the application for an SSN has been made.

After 90 days, if an individual who has applied for an SSN has not received an SSN, there must be a determination to evaluate if another SS-5 should be submitted.

Department staff must contact the individual the second month after the month of application for an SSN and each month thereafter until the number is received.

If an individual has not received an SSN by the next complete eligibility review, the staff must resubmit an SS-5, but no sooner than three months from the previous SSN application.

**1430.0207 SSNs Not Validated Through Data Exchange (MFAM)**

If validation does not occur through data exchange, the eligibility specialist must obtain verification of the individual's SSN to ensure the correct number is being submitted for verification. The following documentation is acceptable:

1. SS card;
2. Correspondence from SSA containing the individual's name and account number (if the number has an A, J, M or T suffix, this is the SSN);
3. A Social Security check issued on the individual's own account number;
4. A Medicare card issued on the individual's own account number (if there is an A, J, M or T suffix, this is the SSN); or
5. An SSA certificate of award, which will contain a claim number (if there is an A, J, M or T suffix, this is the SSN).

Department staff must establish that coverage is provided under the individual's own account number and not as a beneficiary under another's account number.

**1430.0300 RESIDENCY (MFAM)**

In order to receive Medicaid, all individuals must be eligible on the factor of residency. Homeless individuals and residents of public or private nonprofit shelters for the homeless are considered residents. An otherwise eligible individual must not be required to reside in a permanent dwelling or have a fixed mailing address.

Residency exists when the intent of the individual is to remain in the state. Residency is not dependent upon the duration of the stay. Residency does not exist when the stay is for a temporary purpose such as a vacation and there is intent to return to a residence in another state.

When a child is in the child's usual family setting, the residency of the child is considered in the context of the family situation. If the child leaves the family setting to reside elsewhere, residence is determined based on the extent and nature of the child's own stay.

A child is considered a resident when the parent or caretaker relative is a migrant agricultural worker who maintains Florida as a home for the children and intends to return to Florida.

Children born in the U.S. of undocumented or ineligible noncitizen parents residing in the state may meet the residency requirement if they intend to remain even if parents may not legally remain due to USCIS status.

An individual must satisfy one of the following residence requirements:

1. must reside in the State of Florida with the intent to remain, (individuals statement as to their intent to remain is acceptable) or
2. must be living in the State of Florida for employment purposes without intent to remain and meets the following conditions:
  - a. the individual or caretaker relative is not receiving assistance from another state, and

- b. the individual or caretaker relative came to Florida with a job commitment or is actively seeking employment during the stay in the state.

Verification of residency for employment purposes must be verified and includes:

1. letter from employment agency,
2. letter of employment offer,
3. home visits,
4. collateral contacts,
5. rent/mortgage or utility receipts,
6. other forms of ID,
7. driver's license records, and
8. institutionalized in Title XIX facilities.

Some individuals in the U.S. with a valid temporary Visa and their U.S. born children may meet the Florida residency requirement if they verify their residency and state an intent to remain. Lawfully residing children, up to age 19, are potentially eligible for Medicaid provided all other eligibility requirements, including residency, are met. Examples of verification of residency include:

1. employment or school records,
2. bank statements,
3. lease agreements,
4. utility bills,
5. Florida driver's license or state ID card, and
6. other reliable information.

#### **1430.0310 Temporary Absence from the State (MFAM)**

An individual may be temporarily absent from the state if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined the individual is a resident there for purposes of Medicaid.

#### **1430.0400 IDENTITY (MFAM)**

The identity of each U.S. citizen applying for, or receiving Medicaid must be documented.

**Exceptions:** Presumptively eligible newborns (even after the first year), individuals who receive SSI, Medicare (any part), Social Security Disability based on their work history and children in the care of the Department are exempt from this requirement.

The following documents are acceptable as proof of identity:

1. State driver's license with photo or other identifying information;
2. State ID card with photo or other identifying information;
3. School ID card with photo (for children under 16, includes nursery, daycare records, or school records, including school conference records and no photo is required);
4. Clinic, doctor, or hospital record for children under 16 (except for voided Puerto Rican birth certificates after September 30, 2010);
5. U.S. military card or draft record;
6. A military dependent's ID card;
7. Federal, state, or local government ID card with photo;
8. A certificate of Indian blood;
9. Native American tribal document;

10. Three or more of the following documents unless a fourth tier verification of citizenship was used:
  - a. Marriage license,
  - b. Divorce decree,
  - c. High school diploma,
  - d. Employer ID card, or
  - e. Any other document from a similar source.
11. Food Stamp, CSE, Department of Corrections, child protection and DJJ data records,
12. U.S. Coast Guard merchant mariner card; or
13. Attestation (a written, signed statement under penalty of perjury) for children under age 16, or a disabled adult living in a residential facility, stating the date and place of birth. (cannot be used if statement was used for citizenship verification.)

Do not accept a Social Security card, birth certificate, voter's registration card or Canadian driver's license for identity verification.

An automated, real-time, process to verify the identity of the primary information person will be conducted through identity proofing. Before submitting an online application, the applicant will be prompted to answer a series of questions about himself or herself. The information provided will be matched against a data collection/storage system. If enough questions are answered correctly, the system will return a response confirming the individual's identity.

#### **1430.0500 AGE (MFAM)**

Children in the assistance group must meet requirements for the factor of age in order for the assistance group to be eligible. A child must be under age 21 to be eligible for assistance.

#### **1430.0504 Definition of a Child (MFAM)**

An individual is considered a child if under the age of 21, and unmarried, and not legally emancipated. A child is unmarried when the child has never been married or was married and the marriage was annulled.

Children ages 19 to 21 may be eligible for Medicaid based on the same MAGI federal poverty level of a parent or caretaker relative.

A child is eligible to receive assistance on the factor of age through the month of the child's appropriate birthday unless born on the first day of the month. Eligibility then ceases effective the birth month.

An individual who is enrolled in or received Medicaid when they aged-out of the Florida Foster Care Program are eligible for protected Medicaid until they turn 26.

#### **1430.0505 Verification of Age (MFAM)**

The parent or caretaker relative's statement of the child's birth date and marital status is sufficient to verify age. If information is questionable, documentation must be obtained.

Sources of acceptable documentation when verification is needed include:

1. the birth certificate,
2. hospital certificate,
3. medical records,
4. BVS,
5. DH form 432, "Consenting Affidavit Acknowledging Paternity",
6. physician's statement, or
7. census records.

**1430.0700 PARENTS (MFAM)****1430.0701 Who is Considered a Parent (MFAM)**

A "parent" is defined as a natural, biological, adopted or step parent.

**1430.0702 Definition of Biological Father (MFAM)**

An individual is the biological father when he or the child's mother alleges that he is the biological father, and the Department has made a non-judicial determination of paternity.

When the child has a legal father and the mother alleges that someone else is the biological father, the alleged biological father cannot be considered the child's parent until paternity of the alleged biological father is legally established.

**1430.0703 Definition of a Legal Father (MFAM)**

An individual is considered the legal father if:

1. married to the mother at the time of the child's conception or birth,
2. he is the natural, biological father who marries the mother after the child's birth and there was no legal father at the time of the marriage,
3. paternity has been legally established,
4. procedures to amend the child's surname on the birth certificate have been conducted, or
5. the individual is the adoptive father.

This legal relationship supersedes any subsequent allegation of paternity for a natural biological father.

**1430.0704 When an Individual Becomes a Parent (MFAM)**

An individual becomes a parent under the following circumstances:

1. Ceremonial marriage,
2. Common-law marriage,
3. Being a biological parent,
4. Establishing paternity, and
5. Adoption.

**1430.0705 Ceremonial Marriage (MFAM)**

A ceremonial marriage is a wedding ceremony in which a marriage license is obtained. The ceremony must be performed by a religious official, judge, notary, or other individual authorized by law to perform weddings.

Individuals become parents if they marry under either of the following circumstances:

1. In cases in which prior individual marriages exist, a subsequent marriage is still considered binding until determined otherwise by a court of competent jurisdiction. If the legality of a marriage is questioned, the case should be cleared with the Circuit Legal Counsel.
2. If the mother of a child born out of wedlock and the alleged father marry each other at any time after the child's birth, they become the child's parents. A couple considered to be legally married under the laws of another state or country are considered to be legally married for purposes of determining a child's eligibility for Medicaid in Florida.

**1430.0706 Biological Parents (MFAM)**

Biological parents, the birth mother and the natural biological father are considered parents of the child, except as noted in passage 1430.0705.

**1430.0707 Common-Law Marriage (MFAM)**

Children born to a father and mother who had a "common-law" marriage which occurred in Florida prior to January 1, 1968, are considered legitimate. After January 1, 1968, Florida law does not provide for legalization of a new common-law relationship, unless it occurred in another state or foreign country under that state's or country's laws. Information given by the parent or relative concerning the dates and circumstances of the "common-law" marriage should be obtained. Mothers and fathers married through these "common-law" marriages are considered parents.

**1430.0708 Establishment of Paternity (MFAM)**

An individual is considered a parent when paternity is established by one of the following methods:

1. Civil court action through a paternity suit followed by the issuance of a court order declaring the natural father to be the legal father;
2. Written acknowledgment of fatherhood by the natural father in the presence of a juvenile court judge;
3. Establishment of paternity in another state;
4. The father's voluntary placement of his surname on the child's Florida birth certificate when both parents request in writing that his name be shown; or
5. A signed, notarized statement by the father stating that he is the child's father under the penalty of perjury and fraud prosecution (such as Form 432, "Consenting Affidavit Acknowledging Paternity").

An Application for an Amended Certificate of Birth by Acknowledgment of Paternity must be signed by both parents in the presence of a notary and must be issued by the DH Office of Vital Records. Information given by the parent or relative concerning the date and circumstances under which the parents took this action is sufficient to establish that paternity has been declared for the child.

**1430.0709 Adoption (MFAM)**

Legal adoption supersedes other parental relationships (biological and marital ties). When a parent dies and the child is adopted by the stepparent, the child's relationship to the deceased parent's relatives remains intact.

**1430.0710 Joint Custody (MFAM)**

If parents are awarded joint custody of the child and visitation provides for partial residence with each parent, the eligibility specialist must establish one parent as the primary caretaker of the child. Often, a court order or binding separation, divorce or custody agreement will establish physical custody controls as well as which parent may claim the child as a tax dependent. In cases where the child spends equal time with both parents and custody becomes an issue, the child must be included in the household of the parent who claims the child as a tax dependent.

If there is no such order or agreement, the custodial parent is the parent with whom the child spends most nights.

**1430.0800 LIVING IN THE HOME (MFAM)**

There is no requirement for a child to live with an adult caretaker for the child to qualify for Medicaid.

As a condition of eligibility for a parent or other caretaker relative to derive Medicaid for themselves, a child must be living in the home of the parent or other caretaker relative.

**1430.0802 Definition of Parent/Caretaker Relative (MFAM)**

The individual with whom the child resides must be related to the child as specified in the following groups:

1. the mother;
2. father (legal or biological);

**Note:** When there is both a legal and biological father, the biological (natural) father is considered a caretaker relative rather than a parent.

3. blood relatives, including those of half-blood, within the relationship of siblings, first cousins, nephews, nieces, aunts, uncles and individuals of preceding generations as denoted by prefixes of grand, great, great-great, or great-great-great. This group includes relatives within the fifth degree of kinship to the dependent child; therefore, this includes first cousins once removed (children of first cousins), but not second cousins;
4. stepfather, stepmother, stepbrother, and stepsister (The parent of the stepparent does not meet this degree of relationship.);
5. an individual who legally adopts a child or the child's parent, as well as the natural and other legally adopted children and other relatives of the adoptive parents; and
6. legal spouses of any individuals named in the above groups even though the marriage terminated by death or divorce.

**Note:** A child's adoption severs his legal ties to his biological parents; however, it does not terminate his blood relationship to his family. Even after adoption, the biological parents and relatives continue to meet the specified degree of relationship. However, the parents of the child are considered relatives, not parents.

**1430.0803 Verifying Parenthood/Caretaker Relationship (MFAM)**

The mother, legal father, maternal relatives and relatives of the legal father must provide sufficient information to explain their exact relationship to the child. The verbal statement of the individual is sufficient unless questioned.

For a natural biological father, or his relatives, make a non-judicial determination of paternal relationship and record this information. Any two of the following sources may be used to substantiate this relationship:

1. Birth certificate(s) containing the name(s) of the alleged parent(s) through which the relationship exists. If the natural, biological father requests or receives assistance, the birth certificate of the child is sufficient. If a relative of the natural (biological) father requests or receives assistance, the relative must also produce a birth certificate showing his relationship to the father.
2. Written or oral statements verifying paternal relationship from individuals who have personal knowledge of the blood relationship. These statements may be from a natural or legal parent, friend or relative. Record the name, address, and telephone number (if available) of the individual giving the statement, and an explanation of their knowledge of the blood relationship.
3. Other verification or documentation that verifies the alleged relationship.

**1430.0804 Sources of Verification (MFAM)**

The following sources of verification may be used when the information is insufficient to explain the relationship or if a non-judicial determination of paternal relationship is necessary:

1. Birth certificates of the child, relative, and intermediary relatives;
2. Marriage licenses, divorce records or other court records which specify the relationship;
3. Adoption papers;

4. Hospital birth records or written statements of physicians or midwives who attended the births and remember the names of the people involved;
5. Religious records;
6. Written or oral statements of individuals in a position to know about the relationship;
7. Census bureau records listing the children belonging to a particular family;
8. Family bible or other family records which are written in ink and have not been altered (includes wills and deeds to property naming individuals and specifying relationships);
9. Social agency records including those of DCF which are at least one year old and which consistently specify the degree of relationship (TCA and Medicaid case records are included under this provision);
10. Juvenile court, other court, and hospital records;
11. Insurance policies at least one year old in which relationship of the child to the individual is specified;
12. Copies of income tax returns listing the child's relationship;
13. School records which specify relationship;
14. An award letter or other acceptable evidence from SSA that RSDI payments have been awarded to a child based on his parent's account;
15. Trust documents or related documents;
16. Military or veteran's records;
17. USCIS, Indian Agency, or other government or agency records; or
18. Newspaper records and local histories.

**1430.0805 Definition of Living in the Home (MFAM)**

The child must live on a continual basis in the home of the parent or specified relative. In cases where both parents are awarded joint custody, living in the home may exist if the conditions as outlined in 1430.0710 are met. A home need not be a fixed dwelling. The home is considered the family setting shared by the parent/relative. This "home" may include a group facility such as a drug treatment center, spouse abuse center or maternity home. The parent/relative must assume and continue to take day-to-day care and responsibility for the child in this family setting. The type of facility, length of stay, setting for the child in the facility and responsibility for the child's supervision and care must be carefully evaluated.

Individuals are not considered to be in a family setting or to be "living in the home" and are ineligible for assistance if they are:

1. inmates, prisoners, detainees, or convicts under detention or custody of a Federal, State, or local penal, correctional, or other detention facility or psychiatric facility or institution; or
2. in a licensed maternity home where their care is being paid for by the state.

**Note:** For Medicaid eligibility policy for children under 18 and residents of an Institute of Mental Diseases (IMD), please see passage 1430.1103.

**1430.0806 Verification/Documentation (MFAM)**

The parent or relative's explanation of his home setting, degree of responsibility and supervision of the child and statement that the child lives in the home are usually sufficient to establish eligibility on this factor. When the information is questioned, or when the parent/relative resides in a group facility, documentation/verification must be obtained. Sources for this include:

1. Home visit,
2. School records, or
3. Collateral contacts with landlords, neighbors, or others in a position to know the child's living arrangements, including the administrator of the group facility.



**1430.0807 Temporary Absence from the Home (MFAM)**

Temporary absences from the home by the child, parent, or relative of 30 days or less duration do not affect the parent's or other caretaker relative's ability to continue to derive eligibility. Absences of more than thirty days do not affect eligibility when:

1. the parent or relative continues to exercise care and control of the child during the absence;

**Note:** Care and control are considered to exist when the parent/relative continues to have contact with the child through visits, phone calls or mail; and gives directions on the child's care to the substitute caretaker. The child may be cared for in his own home or in the home of the substitute caretaker:

2. a definite plan exists for the absent child or parent/relative to return to the home at the end of the temporary period; and
3. the absence is not for a reason listed in passage 1430.0805.

If the temporary absence is due to out of home residential care, refer to passage 1430.0808 for the absence period allowed.

**Note:** The parent or relative's statement concerning how the above conditions will be met during the period of absence is usually sufficient. When questioned, the eligibility specialist will secure additional facts from the individual with whom the child will live during the absence.

**1430.0808 Children Who Remain Hospitalized (MFAM)**

The parent's or other caretaker relative's ability to derive eligibility from a child who remain hospitalized following delivery for medical care and do not immediately return to the home for this reason can be Medicaid eligible if other criteria for temporary absence are met.

**1430.1000 PREGNANCY (MFAM)**

Medicaid is provided to pregnant women whose household income is at or below the applicable income standard. Self attestation of pregnancy is acceptable, including the number of unborns when multiple births are anticipated.

**1430.1100 LIVING ARRANGEMENTS (MFAM)**

This section describes policies relating to eligibility and living arrangements.

**1430.1103 Residents of Public Institutions/IMDs (MFAM)**

Individuals residing in public institutions or institutions for mental diseases (IMDs) throughout an entire calendar month are ineligible to receive Medicaid. This includes inmates, prisoners, detainees, or convicts under detention or custody of a Federal, State, or local penal, correctional, or other detention facility or institution.

An institution is an establishment that furnishes food, shelter, and some treatment or services to four or more persons unrelated to the proprietor. A public institution is administrated by a governmental unit. Public institutions exist at all levels: federal, state, and local.

An IMD is an institution that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services.

Medical institutions (for example, hospitals, nursing homes and intermediate care facilities), or a publicly operated community residence that serves no more than 16 residents or certain child care institutions are not considered public institutions.

Residents of a state mental hospital who are age 65 or older may be eligible for Medicaid.

Exception: Children who are under 18 years of age and are placed in an IMD under the Statewide Inpatient Psychiatric Waiver Program (SIPP) remain eligible for Medicaid.

**1430.1400 REQUIREMENT TO FILE FOR OTHER BENEFITS (MFAM)**

Individuals must apply for and diligently pursue to conclusion an application for all other benefits for which they may be eligible as a condition of eligibility. Need cannot be established nor eligibility determined upon failure to do so. Benefits that must be applied for include, but are not limited to:

1. pensions from local, state, or federal government,
2. retirement benefits,
3. disability,
4. Social Security benefits,
5. Veteran's benefits,
6. UC benefits,
7. Military benefits,
8. Railroad retirement benefits,
9. Worker's Compensation benefits,
10. Health and accident insurance payments, and
11. Medicare Part A, Part B and Part D.

Individuals applying for Family-Related Medicaid are not required to apply for SSI as a condition of eligibility.

In some cases, individuals who are already receiving benefits may be eligible for increased benefits due to a change in their circumstances. Individuals are required to apply for all increased benefits for which they might qualify.

Exception: Individuals applying for Emergency Medicaid for Aliens (EMA), and children under age 18 (unless a parent is deceased, aged, or disabled) are not required to apply for Social Security Disability (SSDI) payments.

**1430.1600 ASSIGNMENT OF RIGHTS FOR TPL (MFAM)**

This section discusses the requirement for assigning to the state any right to any third party payment (TPP) for medical care.

**1430.1601 Assignment of Rights to TPP (MFAM)**

Individuals must assign to the state their right to any third party payment for medical care.

When a child resides with a nonrelative, the child's parent, caretaker relative, or the designated official of the facility must cooperate with the state in obtaining third party payments. They must assign to the state, when legally able, the rights of the child to any third party payments.

Third party payments include but are not limited to the following:

1. Insurance policies,
2. Court ordered medical support, and

3. Irrevocable trusts which provide for medical expenses (under Florida law this assignment is automatic when receiving Medicaid, and the individual's signature on the application acknowledges the assignment).

**1430.1602 Identification of Third Party Liability (MFAM)**

Individuals must cooperate in identifying all potential third parties who may be liable to pay for their care. An individual who refuses to cooperate is ineligible for assistance unless the individual has good cause not to cooperate. Inability to provide the requested information does not constitute refusal to cooperate. If good cause does not exist, the needs of the individual must be removed from the SFU; however, the individual's income must be considered. This individual continues to be entitled to the earned income disregards, if otherwise eligible.

Good cause includes situations in which the individual claims that the revealing of third party sources would result in physical or emotional harm to the individual. Cases involving good cause should be referred through the Region or Circuit Program Office to Headquarters for clearance.

**1430.1700 CHILD SUPPORT COOPERATION (MFAM)**

Under state and federal law, the state must take action to locate non-custodial parents, establish paternity, and secure all child support, medical support, or other benefits for children receiving Medicaid.

Applicants for and recipients of Medicaid (including relative caregivers and caretaker relatives) must cooperate with Child Support Enforcement (CSE) as a condition of eligibility; unless it is determined that good cause for non-cooperation with CSE exists.

**Exceptions:** Child support cooperation is not a factor of eligible for pregnant woman Medicaid, Emergency Medicaid for Aliens (EMA), transitional Medicaid, Children Only Medicaid cases, and Family Planning (MMFP).

Under federal law, a parent's cooperation in establishing paternity, assigning rights to medical support and payments, and providing information about liable third parties cannot be required as a condition of a child's eligibility for Medicaid. Therefore, states are not required to ask about paternity or to seek cooperation in pursuing medical support and third party payments when an application is filed, or a redetermination is done, only on behalf of the child.

**1430.1702 Child Support Cooperation Requirements (MFAM)**

Cooperation with Child Support Enforcement (CSE) by a parent or other caretaker relative is required when:

1. Paternity has not been established and the alleged father is not in the home,
2. But one or both parents are absent from the home, and
3. Good cause for non-cooperation does not exist as determined by CSE.

The parent or other caretaker relative must cooperate with the following:

1. Identifying and locating the parent(s) of the child,
2. Establishing the paternity of the child, and
3. Obtaining child support payments for the child.

**1430.1704 Definition of Cooperation (MFAM)**

The receipt of a signed application indicates the individual's intent to cooperate with CSE and is sufficient to process the application. No additional action is necessary unless CSE notifies the Department of a sanction.

CSE cooperation includes the following:

1. Providing complete information required to obtain child support (if information about the non-custodial parent is known by the recipient but is withheld, the recipient may face a possible penalty of perjury);
2. Completing and signing affidavits attesting to paternity of the child;
3. Making court appearances and providing testimony in paternity hearings and support actions; and
4. Reporting payments of child support made directly to the parent or caretaker relative.

#### **1430.1705.01 Definition of Non-custodial Parent (MFAM)**

The term "non-custodial parent" refers to non-custodial (absent) legal fathers, non-custodial (absent) mothers, and all putative (non-legal biological) fathers.

#### **1430.1705.02 Legal Father and Natural Father (MFAM)**

If both a legal and a putative father exist, or the responsibility for support is not clear, the parent or caretaker relative must provide information on each parent.

#### **1430.1706 Cooperation by a Pregnant Woman (MFAM)**

In order to receive Medicaid benefits, a pregnant woman is not required to cooperate with CSE during the pregnancy. The pregnant woman can receive Medicaid for herself only.

#### **1430.1707 Good Cause for Failure to Cooperate (MFAM)**

Cooperation in establishing paternity and/or securing support may be contrary to the best interest of the family. In those situations, a parent or caretaker relative may have good cause for not cooperating. Child Support Enforcement (CSE) must advise these individuals of reasons for good cause.

Refer the individual to CSE even when it appears that good cause exists.

#### **1430.1708 Reasons for Good Cause (MFAM)**

Good cause is determined by Child Support Enforcement (CSE). Good cause may exist when cooperation in establishing paternity or securing child support could result in one of the following conditions:

1. Physical harm to the child - examples are broken bones, bruises, burns, lacerations, etc.;
2. Emotional harm to the child - examples are poor school performance, sleep disturbances, self-destructive behavior, eating disorders, etc.;
3. Physical harm to the parent or caretaker relative which reduces the individual's capacity to care for the child adequately (such as life threatening injury); or
4. Emotional harm to the parent or caretaker relative to such a degree that the individual's capacity to adequately care for the child is diminished (such as any psychological disorder or dysfunction which has a serious impact on the individual's abilities as a caretaker).

Good cause may also exist under the following circumstances:

1. The child was conceived as a result of incest or forcible rape,
2. Legal proceedings for the adoption of the child are pending before a court, or
3. The parent or caretaker relative is being assisted by a public or licensed private social agency to determine whether or not to relinquish the child for adoption (this circumstance is valid for three months).

**1430.1710 CSE Reports of Failure to Cooperate (MFAM)**

When Child Support Enforcement (CSE) directs the eligibility specialist to impose sanctions based upon a Medicaid assistance group member's noncompliance with Child Support Enforcement requirements, the eligibility specialist will take immediate action to remove the noncompliant individual from Medicaid unless that person is pregnant.

**Note:** If pregnant, women will remain Medicaid eligible during the pregnancy and postpartum period as long as they meet all other factors of eligibility.

**1430.1711 Ending Sanction (MFAM)**

Eligibility staff must:

1. Remove the sanction upon CSE's request that the individual complied.
2. Add the individual back to Medicaid assistance (must meet all other factors of eligibility).
3. Not require an application.

Remove CSE imposed sanctions for noncooperation without CSE approval in the following situations:

1. When the last child subject to cooperation leaves the home.
2. When the last child subject to cooperation turns 18.
3. When the absent parent, based on established legal paternity, moves into the home and
4. When a non-legal parent moves into the home and completes the DH 432 acknowledging paternity and staff forwards the completed DH 432 to CSE or the Department of Health State Office of Vital Statistics.

The effective date for adding the sanctioned individual is retroactive to the first day of the month of compliance.

**1430.2300 COOPERATION WITH QUALITY CONTROL (MFAM)**

Households are not required to cooperate with Quality Control (QC) reviewers. Denial or termination of other household benefits due to refusal to cooperate with QC reviewers will not affect Medicaid eligibility.

If the household refuses to cooperate in a QC review, sanctions will not be imposed. The eligibility specialist should schedule a complete review upon notification of the non-cooperation to assess if there has been a change in the family's circumstances.

## 1440.0000 SSI-Related Medicaid, State Funded Programs

The eligibility specialist must determine if each individual meets the appropriate requirements for the type of assistance requested. If the individual does not meet the applicable requirements, the individual is technically ineligible. The eligibility specialist must keep in mind that these factors will not always apply to all types of assistance.

### 1440.0006 SSI-Related Technical Factors (MSSI, SFP)

The technical factors that may be considered are:

1. Citizenship/noncitizen status,
2. Social Security number,
3. Residency,
4. Aged, blind/disabled,
5. Level of care/appropriate placement,
6. Living arrangement,
7. File for other benefits,
8. Receipt of other benefits,
9. Assignment of rights for third party liability,
10. Medicare status, and
11. Receipt of institutional, hospice or home and community based services.

### 1440.0007 Medicaid - Technical Factors for ICP (MSSI)

Any Medicaid eligible individual applying for institutional care or HCBS or PACE services must meet the following requirements:

1. level of care/appropriate placement,
2. requirement to file for other benefits, and
3. transfer of assets provisions.

### 1440.0008 Additional Criteria - HCBS Waivers (MSSI)

The individual must also meet additional program specific criteria that vary according to the Home and Community Based Services (HCBS) Program waiver type.

For Familial Dysautonomia Waiver(FD/HCBS) individuals must:

1. be age three or older (must meet disability criteria if under age 65);
2. meet a level of care of being at risk of hospitalization as determined by CARES;
3. have a diagnosis of Familial Dysautonomia and a need for medically necessary services provided by the waiver as determined by CARES, and
4. be enrolled in the Familial Dysautonomia waiver as documented by form CF-ES 2515.

For the iBudget Florida Waiver individuals must:

1. be aged three or older (must meet disability criteria if under 65);
2. meet level of care requirements as determined by the Agency for Persons with Disabilities; and
3. be enrolled in the iBudget Florida waiver as documented by form CF-ES 2515

The iBudget Florida waiver is targeted to develop mentally disabled individuals and allows the customer more choice and control over his or her services.

For the Model Waiver, individuals must:

1. be under 21 years of age;
2. be diagnosed as having a degenerative spinocerebellar disease; and
3. meet the appropriate level of care for inpatient hospital care as determined by Children's Medical services as documented by form CF-ES 2515.

Florida can only serve five children at any one time under this program. The Agency for Health Care Administration evaluates each case and authorizes slots.

For the Statewide Medicaid Managed Care-Long Term Care Waiver (SMMC LTC) individuals must:

1. be enrolled in the SMMC-LTC waiver as documented by form CF-ES 2515;
2. meet the appropriate level of care requirement as determined by CARES; and
3. be 18 years of age or older (must meet disability criteria if under 65).

#### **1440.0100 CITIZENSHIP/NONCITIZEN STATUS (MSSI, SFP)**

The eligibility specialist must evaluate the citizenship/noncitizen status for each individual who applies for Medicaid. Citizenship information of those family members who are not applying for benefits is not required. Non-receiving members are to be asked only if they are citizens or noncitizens, not their U.S. Citizenship and Immigration Services status. The criterion in this section does not apply to the Emergency Medicaid for Aliens (EMA) Program.

#### **1440.0101 Declaration of Citizenship/Noncitizen Status (MSSI, SFP)**

Each applicant applying for public assistance must declare in writing whether each individual in the assistance group (AG) is an U.S. citizen, or a noncitizen in lawful immigration status.

An application declaring the citizenship/noncitizen status must be signed under penalty of perjury for all household members applying for assistance as a condition of eligibility. The form must be signed at application and when adding individuals to the AG. An adult applicant or designated representative may sign the application declaring the citizenship/noncitizen status of all members.

#### **1440.0102 Definition of U.S. Citizenship (MSSI, SFP)**

To be considered a U.S. citizen, an individual must meet one of the following conditions:

1. be born in the U.S., D.C., or a U.S. territory, (Puerto Rico, U.S. Virgin Islands, Northern Mariana, American Samoa, Harcon Tract, Swain's Island, and Guam).  
**Note:** If the individual was born in a former U.S. territory while it was a territory, a clarification through the Region or Circuit Program Office is required.
2. be a naturalized citizen. An individual is a naturalized citizen when U.S. citizenship is gained after his birth either through individual naturalization, or derived from a naturalized parent.
3. be adopted by, a U.S. citizen.

A child acquires citizenship through adoption, if they meet all of the following conditions:

- a. the child was adopted while under the age of 16, has been in legal custody of, and has resided with the adopting U.S. citizen parent(s) for at least two years;
- b. the child is under the age of 18, or was under the age of 18 on February 27, 2001;
- c. the child is/was residing in the United States in the legal and physical custody of the U.S. citizen parent(s); and

- d. the child has a qualified alien status.

The child must meet all the above criteria, all at the same time, on at least one day at some point between February 27, 2001 and the present. The child must not have been married at any time on or before the day they meet all of the criteria.

**Note:** Proof of U.S. citizenship will not be automatically issued to eligible children.

4. be born abroad to a U.S. citizen. Individuals born abroad to a U.S. citizen and who make a written declaration of citizenship to the U.S. Counsel are considered U.S. citizens.

A child born abroad to unmarried parents may acquire citizenship at birth if one of the parents is a U.S. citizen at the time of the child's birth, and legal paternity has been established. To acquire citizenship, a child born abroad to unwed parents need only establish the mother's U.S. citizenship and her residence in the U.S. or U.S. territory prior to the birth of the child.

Citizenship acquired at birth occurs when:

1. both parents are U.S. citizens and at least one parent resides in the U.S. or a U.S. territory before the birth of the child; or
2. one parent is a citizen and the other is a noncitizen at the time of the child's birth. (Individuals claiming citizenship under this provision must be referred to USCIS to obtain a formal determination of their citizenship.)

Children become U.S. citizens after birth when all the following conditions are met:

1. one parent is a U.S. citizen by birth or naturalization,
2. the child is under age 18, or was under 18 on February 27, 2001,
3. the child is/was residing in the U.S. in the legal and physical custody of the U.S. citizen parent(s), and
4. the child has a qualified noncitizen status.

#### **1440.0103 Verification Sources for U.S. Citizens (MSSSI, SFP)**

United States citizenship must be verified for all individuals who claim to be citizens, including those who are naturalized and those born abroad to U.S. citizens.

**Exceptions:** Individuals who receive SSI, any part of Medicare, Social Security Disability based on their work history and children in the care of the Department are exempt from this requirement. If we have verification in our records, do not ask for it again, unless it appears fraudulent.

The following sections discuss what documents may be accepted as verification of U.S. citizenship and identity.

**The following can be used to document U.S. citizenship and identity:**

1. A U.S. passport (can be expired),
2. A Certificate of Naturalization (DHS form N-550 or N-570),
3. A Certificate of Citizenship (DHS form N-560 or N-561) or,
4. Data from the Driver's And Vehicle Express (DAVE) system.
5. Data from the Federal Data Services Hub (FDSH).

**The following can only be used to verify citizenship (must show a U.S. place of birth):**

1. BVS record (MNOV or DEBP) if born in Florida,
2. VIS-CPS (SAVE) for naturalized citizens (must have their A#),



3. Verification of eligibility under the Child Citizenship Act of 2000, including the U.S. citizenship of the parent,
4. A U.S. birth certificate (originally issued prior to age five) (except for voided Puerto Rican birth certificates after September 30, 2010),
5. A final adoption decree, or if the adoption is pending and no birth certificate can be issued, a statement from the state adoption agency (U.S. born children),
6. A Report of Birth Abroad of a U.S. citizen (forms FS-240, FS-545 or DS1350),
7. A U.S. Citizen I.D. card (DHS form I-197 or I-179),
8. A Northern Mariana ID card (I-873),
9. An American Indian card (I-872, with "KIC" code),
10. Proof of civil service employment before 6/1/76, or
11. Official military record of service (ex.DD-214).

**If none of the above documents exist or can be located, the following documents can be used to verify U.S. citizenship if they show a U.S. place of birth and are dated five years prior to the Medicaid application (unless for a child under age five):**

1. Extract of hospital birth record on hospital letterhead (not a souvenir birth certificate),
2. Life or health insurance record with a U.S. place of birth,
3. Early school record, or
4. Religious record (ex baptism) within three months of birth.

**If none of the above documents exist or can be located, the following documents can be used to verify U.S. citizenship if they show a U.S. place of birth and are dated five years prior to the Medicaid application (unless for a child under age five):**

1. Federal census records from 1900-1950 showing the age and place of birth (the five year rule does not apply),
2. Tribal census records,
3. An amended birth certificate, after age five,
4. A signed statement from the doctor or midwife who was present at the birth,
5. Nursing home institution records that contain biographical information,
6. Medical records with biographical information,
7. Listed on the roll of Alaskan natives, or
8. A written statement signed under penalty of perjury by at least two people who have personal knowledge of the event(s) – (One cannot be related.). They must also prove their own citizenship and identity. A separate statement by the applicant/recipient/representative, signed under penalty of perjury, must also be completed stating why the documentation could not be obtained.

#### **1440.0104 Noncitizens (MSSSI, SFP)**

Noncitizens may qualify for Medicaid based on their status granted by U.S. Citizenship and Immigration Services (USCIS). The following sections discuss different types of noncitizens and their eligibility.

A North American Indian born in Canada, who is residing in the U.S., is eligible for Medicaid benefits, based on the factor of noncitizen status, if they are subject to section 289 of the Immigration and Nationality Act or a member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act.

**Proof of this status includes:**

1. I-551 with code S-13,
2. unexpired temporary I-551 stamp in a Canadian passport,
3. I-94 with code S-13, or

4. a letter or other tribal document certifying at least 50% American Indian blood, as required by Immigration and Nationality Act section 289, combined with a birth certificate or other satisfactory evidence of birth in Canada.

Verification of membership in an Indian tribe includes a membership card or other tribal document demonstrating membership in a federally recognized Indian tribe.

If the individual has no document evidencing tribal membership, contact the tribal government for confirmation of the individual's membership.

**Note:** These individuals are not subject to the five-year ban.

#### **1440.0105 Qualified Noncitizens (MSSI, SFP)**

Qualified noncitizens are defined as noncitizens who meet at least one of the following sections of the Immigration and Nationality Act (INA):

1. Lawful Permanent Residents;
2. Granted Asylum under section 208;
3. Refugee admitted under section 207;
4. Parolee under section 212(d)(5) admitted for at least 1 year;
5. Deportation withheld under section 243(h) or 241(b)(3);
6. Granted Conditional Entry pursuant to section 203(a)(7);
7. Cuban and Haitian Entrants;
8. Battered Spouse or Abused Child or the parent or child of a Battered person; and
9. Victims of Human Trafficking

#### **1440.0106 Lawful Permanent Resident (MSSI, SFP)**

A lawful permanent resident (LPR) is a noncitizen who lawfully immigrates to the U.S. and has permission to live and work in the U.S. LPRs may be eligible for Medicaid based on citizenship if they entered the U.S.:

1. prior to 8/22/96 and have remained continuously present,
2. on or after 8/22/96 under a prior asylee, refugee, Amerasian, deportation withheld, or Cuban/Haitian Entrant status, or
3. on or after 8/22/96 and have lived in the U.S. as a qualified noncitizen for at least five years.

Proof of this status includes:

1. resident alien card, (I-551)(commonly referred to as a "green card");
2. re-entry permit (I-327), or
3. foreign passport with a stamp stating "temporary evidence of lawful permanent resident status".

**Note:** LPRs who entered after 8/22/96 are subject to the five-year ban, except lawfully residing children up to age 19.

LPRs who are in the five-year ban may be eligible for Emergency Medicaid for Aliens, (EMA).

#### **1440.0106.01 Noncitizens Serving in the United States Armed Forces (MSSI, SFP)**

Noncitizens serving in the United States Armed Forces (Army, Air Force, Navy, Marines, or Coast Guard) on active duty for purposes other than training, noncitizen veterans honorably discharged from the United States Armed Forces for reasons other than noncitizen status, who have met the minimum active duty service requirements of Section 5303A(d) of Title 38, United States Code

(24 months or the period for which the person was called to active duty), and their spouses and unmarried dependent children, are eligible to receive Medicaid on the factor of noncitizen status.

Verification of active duty military status includes:

1. a current Military Identification Card (DD Form 2) that lists an expiration date of more than one year from the date of determination. If the expiration date is less than one year, the individual will need to present a copy of current military orders,
2. verification through the nearest Real Time Automated Personnel Identification System (RAPIDS), or
3. contact with DEERS Support Office  
Attention: Research and Analysis  
400 Gigling Road  
Seaside, California 93955-6771  
Fax (408) 655-8317.

Proof of honorable discharge:

The discharge certificate (DD Form 214) or its equivalent indicates the type of discharge.

If the individual is not in possession of their discharge certificate, the specialist should refer the individual to the local Veteran Administration Regional Office for a determination of the individual's veteran status.

**Note:** If the individual's discharge certificate indicates an original enlistment date in the Armed Forces prior to September 7, 1980, there is no minimum active duty service requirement.

An unmarried dependent child is defined as:

1. the biological or legally adopted dependent child of an honorably discharged veteran or an active duty member of the U.S. Armed Forces,
2. not married, and
3. under the age of 18 or under the age of 22 if a full-time student.

An un-remarried noncitizen surviving spouse may also be eligible when the:

1. veteran spouse was a Filipino described in Section 107 of Title 38, U.S. Code. (individuals who served in the Philippine Commonwealth Army during World War II or as a Philippine Scout following the war); or
2. spouse died while on active duty, provided the surviving spouse has not remarried and the marriage fulfills the requirements of Section 1304 of Title 38, U.S. Code.

Section 1304 defines marriage as having met one of the following conditions:

1. The surviving spouse was married to the veteran or active duty military personnel within 15 years after discharge in which the injury or disease leading to the death of the veteran or active duty personnel was incurred or aggravated (Not a factor if the individual died while on active duty) and was married for a period of at least one year. or
2. A child was born during the relationship between the individual and the veteran or active duty military personnel either during or before the marriage.

**Note:** These individuals are not subject to the five-year ban.

**1440.0106.02 Amerasians (MSSI, SFP)**

Amerasians born in Vietnam fathered by a U.S. citizen and admitted to the U.S. as immigrants under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 are eligible for Medicaid, on the factor of citizenship.

Proof of this status includes unexpired temporary USCIS Form I-551 with code AM6, AM7, or AM8, or USCIS Form I-94 with codes AM1, AM2, or AM3.

**Note:** These individuals are not subject to the five-year ban.

**1440.0107 Asylees (MSSI, SFP)**

Noncitizens granted asylum under Section 208 have received permission to remain in the U.S. based on a "well-founded fear of persecution" should the individual return to the individual's native land may be considered for asylum. A prospective asylee applies for asylum after entering the U.S., a U.S. territory or a U.S. embassy.

Proof of this status includes:

1. USCIS Form I-94 showing grant of asylum under Section 208,
2. USCIS Form I-688B (Employment Authorization Card) annotated 274a.12(a)(5),
3. USCIS Form I-766 (Employment Authorization Card) annotated A5,
4. grant of asylum letter from the Asylum Office of the USCIS,
5. order of an immigration judge granting asylum, or
6. other conclusive documentation of this status.

**Note:** These individuals are not subject to the five-year ban.

**1440.0108 Refugees (MSSI, SFP)**

Refugees are defined as those noncitizens given permission to enter the U.S. under Section 207 of the Immigration and Nationality Act (INA). These noncitizens have applied to be admitted to the U.S. based upon a well-founded fear of persecution in their homeland. Persecution must be due to race, religion, nationality, social or political ties and cannot be economic in nature.

Proof of this status includes:

1. USCIS Form I-94 or I-551 bearing Section 207,
2. USCIS Form I-688B (Employment Authorization Card) annotated 274a.12(a)(3),
3. USCIS Form I-766 annotated A5,
4. USCIS Form I-571 (Refugee Travel Document), or
5. other conclusive documentation of this status.

**Note:** These individuals are not subject to the five-year ban.

**1440.0109 Victims of Human Trafficking (MSSI, SFP)**

Victims of severe forms of human trafficking are eligible for benefits to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act. The only exception is the human trafficking victim will not provide USCIS documents. Adult victims will provide a certification letter from the Department of HHS. Children under 18 years old are not required to be certified and will instead be provided an eligibility letter. The agency will accept the certification letter for adults or the eligibility letter for children in place of USCIS documentation.

Before approving these individuals for benefits, the validity of the certification or eligibility letter must be confirmed by calling the HHS' Office of Refugee Resettlement (ORR) at (866) 401-5510.

The call will advise ORR of the benefits for which the individual has applied and ORR will verify whether or not the individual is a trafficking victim.

Certain family members of victims of human trafficking are now potentially eligible for Medicaid. This includes the spouse and children of a trafficking victim 21 years of age or older. If the severe trafficking victim is under 21 years of age, parents, spouses, children, and unmarried siblings under 18 on the date of the T visa's application are eligible, if they meet all other program criteria. These family members will have a nonimmigrant T Visa, with no additional USCIS documentation.

**Note:** These individuals are not subject to the five-year ban.

**Note:** Do not use the Verification Information System - Customer Processing System (VIS-CPS) for these individuals, as VIS-CPS does not contain information about them.

**Potential Child Trafficking Victims:** Potential child trafficking victims are eligible for federally funded benefits and services for up to 90 days pending a final trafficking eligibility decision. An "Interim Assistance Letter" issued to potential child victims by the Department of HHS, Office of Refugee Services (ORR) will certify this status. These children are eligible for benefits beginning with the eligibility began date on the interim assistance letter. ORR will issue a final trafficking determination on the child within this interim period. If denied a final trafficking status, terminate benefits at the end of the month in which the 90<sup>th</sup> day falls.

#### **1440.0110 Parolees (MSSI, SFP)**

Parolees under Section 212(d)5 for at least one year; Noncitizens granted temporary parole status for a total period of at least one year by the Attorney General under Section 212(d)(5) of the Immigration and Nationality Act (INA) are eligible for on the factor of noncitizen status.

Verification for this status includes:

1. USCIS Form I-94 indicating that the individual has been paroled under this section of the INA, or
2. other conclusive documentation of this status.

**Note:** If the USCIS document does not reflect at least a one-year period, the eligibility specialist must institute secondary verification.

**Note:** These individuals are subject to the five-year ban if the entry date is after 8/22/96 except lawfully residing children up to age 19.

#### **1440.0111 Deportation Withheld (MSSI, SFP)**

A noncitizen whose deportation has been withheld pursuant to Section 243(h) or 241(b)3 of the Immigration and Nationality Act (INA) may be eligible for Medicaid on the factor of noncitizen status.

Verification of this status includes:

1. An order from an immigration judge showing that deportation has been withheld under Section 243(h) of the INA as in effect prior to April 1, 1977, or removal withheld under 241(b)(3).
2. USCIS Form I-766 (Employment Authorization Card) annotated A-10.
3. USCIS Form I-688B (Employment Authorization Card) annotated 274a.12.(a)(10).

The court will include the date deportation was withheld. If the applicant does not present a court order, do secondary verification.

**Note:** These individuals are not subject to the five-year ban.

**1440.0112 Cuban/Haitian Entrants (MSSI, SFP)**

Cuban/Haitian Entrants is defined in Section 501(e) of the Refugee Education Assistance Act of 1980 any national of Cuba or Haiti who:

1. was granted parole status as a Cuban/Haitian Entrant (status pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; or
2. any other national of Cuba or Haiti who:
  - a. was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act (INA);
  - b. is the subject of exclusion or deportation proceedings under the INA;
  - c. has an application for asylum pending with the USCIS, and with respect to whom a final, non-appealable, and legally enforceable order of deportation or exclusion has not been entered; or
  - d. has special immigrant juvenile status.

Verification for this status includes:

1. USCIS Form I-94, stamped paroled as "Cuban/Haitian Entrant, Status Pending"
2. USCIS Form I-551 with code CU6 or CH6,
3. unexpired temporary I-551 stamp in foreign passport
4. USCIS Form I-94 with code CU6 or CH6, or other conclusive documentation of this status.

**Note:** These individuals are not subject to the five-year ban.

**1440.0113 Battered (MSSI, SFP)**

A battered spouse or child, or parent or child of a battered person with a petition pending under Section 204(a)(1)(A) or (B) or 244(a)(3), as determined by USCIS are defined as noncitizens who are, or have been battered or subjected to extreme cruelty in the United States by a family member with whom they reside. This includes a noncitizen whose child or a noncitizen child whose parent has been abused. The phrase battered or subjected to extreme cruelty includes, but is not limited to, being the victim of any act or threatened act of violence

Noncitizens who claim to be battered must satisfy all of the following requirements:

1. Show that noncitizen has an approved or pending petition which makes a prima facie case for immigrant status in one of the following categories:
  - a. a Form I-130 filed by their spouse or the child's parent;
  - b. a Form I-130 petition as a widow(er) of a U.S. citizen;
  - c. an approved self-petition under the Violence Against Women Act (including those filed by a parent; or
  - d. an application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.
2. The noncitizen, the noncitizen's child or the noncitizen child's parent has been abused in the U.S. under the following circumstances:

- a. The noncitizen has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consent to the battery or cruelty.
  - b. The noncitizen's child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the noncitizen, or by a member of the spouse's family residing in the same house if the spouse or parent consents to the battery or cruelty, and the noncitizen did not actively participate in the battery or cruelty.
  - c. The parent of a noncitizen child has been battered or subjected to extreme cruelty in the U.S. by the parent's spouse, or by a member of the spouse's family residing in the household as the parent, if the spouse consents to or allows such battery or cruelty.
3. The battered noncitizen, child, or parent no longer lives in the same household as the abuser(s).
  4. There is a substantial connection between the battery or extreme cruelty and the need for public assistance.

Proof of the Battered status includes:

1. individual's statement for proof of no longer living with the abuser and direct connection between battery and need for public assistance.
2. approved petitions or orders granted by USCIS.
3. restraining order or criminal conviction against the abuser.
4. charges brought about that lead to the conviction of the abuser. or
5. credible evidence of the abuse which includes but is not limited to, reports or affidavits from law enforcement, judges or other court officials, medical personnel, school officials, social workers, mental health providers, other social service agency personnel, legal documents, residence in a battered spouse shelter or similar refuge, photographs of the injuries, or sworn affidavits from friends, family members, or other third parties with personal knowledge of the battery or cruelty.

The eligibility specialist cannot delay authorization of an application or request for additional assistance while awaiting verification to establish battery or extreme cruelty. If it is later discovered that the noncitizen does not meet these criteria, a Benefit Recovery referral must be made.

**Note:** These individuals are subject to the five-year ban if entry date is after 8/22/1996 except lawfully residing children up to age 19.

**Note:** The eligibility specialist does not need to determine if the battered noncitizen meets the three criteria listed above for noncitizens who meet one of the other qualified noncitizen statuses unless it is to the noncitizen's advantage such as sponsored noncitizens.

#### **1440.0114 Verification Requirements for Noncitizens (MSSI, SFP)**

The eligibility specialist must verify the immigration status of all noncitizens applying for or receiving Medicaid through the U.S. Citizenship and Immigration Services (USCIS). The Verification Information System-Customer Processing System (VIS-CPS) is used to verify the immigration status.

If a noncitizen does not want the agency to contact USCIS to verify immigration status, the household has the option of withdrawing the application or excluding that individual from the assistance group. If the individual is excluded as technically ineligible, we will not attempt to obtain any documentation of status for that individual. If a noncitizen is unable to provide any documentation to verify immigration status the eligibility specialist is not responsible for contacting

USCIS on the noncitizen's behalf unless the individual requests assistance in obtaining documentation or verification of immigration status.

An expired noncitizen registration card does not necessarily mean that the noncitizen lost their immigration status. If VIS-CPS does not indicate the noncitizen has an acceptable status, the noncitizen should be referred to USCIS to obtain current USCIS documentation. If obtaining USCIS documentation would place an undue hardship on the noncitizen, or the noncitizen is hospitalized or suffers from a medical disability, the eligibility specialist must have the noncitizen declare their noncitizen status and continue to process the application. The USCIS documentation provided will be manually verified with USCIS.

Examples of undue hardship include, but are not limited to, living a distance from the USCIS office, lack of transportation, or a several months waiting period for an appointment with USCIS.

If a noncitizen does not have any documentation of immigration status, but can provide the "noncitizen registration number," the eligibility specialist will verify the number using the VIS-CPS system. If the number is verified, and VIS-CPS indicates the individual has an immigration status, this is acceptable documentation of the noncitizen's immigration status for all programs. However, the individual's identity must be verified to ensure the noncitizen registration number belongs to the individual.

**Note:** If a noncitizen provides any form of USCIS documentation, regardless of the expiration date, showing an eligible Immigration Act section, the eligibility specialist must accept the documentation and verify the individual's status through the VIS-CPS system. When the VIS-CPS system requests secondary verification, benefits may not be withheld pending response from the secondary verification, providing all other technical eligibility factors are met.

If the secondary verification shows that the noncitizen no longer has an eligible immigration status, a Benefit Recovery referral will be initiated for the total amount of assistance received during the interim investigation period.

#### **1440.0115 VIS-CPS (MSSI, SFP)**

VIS-CPS must be completed for noncitizens:

1. at application or reapplication,
2. when adding a noncitizen individual,
3. at every review for individuals who do not have a permanent resident status, and
4. any time there is a change to alien status.

A noncitizen who has what appears to be a "good" USCIS document, when VIS-CPS indicates contradictory information, will be considered potentially eligible until secondary verification is returned confirming the status. Do not hold, deny or terminate benefits waiting for the secondary verification.

#### **1440.0116 Lawfully Residing Noncitizen Children up to age 19 (MSSI)**

Lawfully residing children, up to age 19, are potentially Medicaid eligible, regardless of their date of entry as long as they are in an immigration status considered "lawfully residing". All technical and financial eligibility requirements must be met, including residency, prior to providing Medicaid (including Medically Needy) coverage.

A child, up to age 19, is considered lawfully residing if the verified immigration status is a:

1. Qualified Noncitizen
  - a. Lawful Permanent Resident (LPR)
  - b. Asylee
  - c. Refugee



- d. Parolee (more than 1 year)
- e. Deportation Withheld
- f. Cuban and Haitian Entrants
- g. Battered or Abused Child or Child of a Battered Person
- h. Victim of Human Trafficking
2. Noncitizens with a valid Nonimmigrant Status (visa holders)
3. Paroled for less than 1 year
4. Other:
  - a. Temporary Resident
  - b. Temporary Protected Status (TPS)
  - c. Employment Authorization
  - d. Family Unity Beneficiaries
  - e. Deferred Enforced Departure (DED)
  - f. Deferred Action Status (not including Deferred Action for Childhood Arrivals (DACA))
  - g. Administrative Stay of Removal
  - h. Approved Visa Petition with a Pending Application for Adjustment of Status
5. Pending Application for Asylum, Withholding of Removal or Convention Against Torture who has also been Granted Employment Authorization or is under age 14 and their application has been pending for at least 180 days
6. Withholding of Removal under the Convention Against Torture
7. Pending Application for Special Immigrant Juvenile Status

**1440.0117 Assistance for Ineligible Noncitizens (MSSI, SFP)**

Any noncitizen who does not have an eligible qualified noncitizen status is not eligible for Medicaid on the factor of citizenship. These noncitizens may be eligible for Medicaid through Emergency Medical Assistance for Aliens (EMA), if they meet all other eligibility criteria.

Note: Lawfully residing children, up to age 19, are potentially eligible for Medicaid provided all other eligibility requirements are met.

**1440.0118 Noncitizens not Eligible for Assistance (MSSI, SFP)**

The following individuals are not eligible for public assistance on the factor of citizenship status:

1. foreign government representatives on official business and their families and servants;
2. visitors for business or pleasure, including exchange visitors;
3. crewmen on shore leave;
4. noncitizens in travel status while traveling directly through the U.S.;
5. treaty traders and investors and their families;
6. foreign students;
7. international organization representatives and individuals and their families and servants;
8. temporary workers including agricultural contract workers; and
9. members of foreign press, radio, film, or other information media and their families.

Verification is usually the I-94, Arrival-Departure Record, annotated with the letters "A" through "V" except "T" (A-2, B-1, etc.).

Note: Lawfully residing children, up to age 19, are potentially eligible for Medicaid provided all other eligibility requirements are met.

**1440.0119 Compact of Free Association (COFA) migrants (MSSI)**

The Compact of Free Association (COFA) are agreements between the United States and three independent states: the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

COFA migrants are considered qualified non-citizens for the purposes of Medicaid eligibility.

Verification of this status includes:

1. I-94 or I-766 with the following Class of Admission (COA) Codes:
  - a. CFA/RMI – Citizen of Republic of the Marshall Islands (RMI) due to the Compact of Free Association
  - b. CFA/FSM – Citizen of the Federated States of Micronesia (FSM)
  - c. CFA/PAL – Citizen of the Republic of Palau
2. I-766 Employment Authorization Document (EAD) with the following Category Code:
  - a. A-08 Citizen of the Marshall Islands, Micronesia or Palau admitted as a nonimmigrant
3. An unexpired passport with annotations “CFA/RMI,” “CFA/FSM” or “CFA/PAL.”

Note: These individuals are not subject to the five-year ban.

#### **1440.0200 SOCIAL SECURITY NUMBER (MSSSI, SFP)**

The eligibility specialist must obtain a Social Security number (SSN) for each individual or verify that the individual has applied for an SSN as a condition of eligibility. This requirement does not apply for the Emergency Medical Assistance for Noncitizens Program. The purpose of the SSN is to identify income and assets held by an individual.

A verbal statement providing the SSN is sufficient as the SSN is validated through data exchange. If the SSN is unknown or has never been obtained, the individual must:

1. apply for an SSN through the welfare enumeration system at the local DCF office. (Original evidence of age, identification and citizenship or noncitizen status must be sent by the eligibility specialist to the local Social Security Administration (SSA) office with the completed SS-5.); or
2. apply for an SSN through the local SSA office (The SSA filing receipt for application must be presented to the eligibility specialist as evidence that the individual has applied.); or
3. apply for an SSN through the Florida enumeration at birth process.

Evidence that the individual has applied includes:

1. an SSA 2853 indicating that an SSN was requested at the hospital,
2. the child's birth certificate with "yes" annotated in Section 11d, or
3. a screen print from BVS with a "y" indicator in the child issue field.

There may be circumstances under which an individual is unable to obtain an SSN. Under the following conditions an applicant's statement is acceptable that they are unable to obtain a SSN:

1. Social Security Administration (SSA) denies the application for an SSN, because the individual is not eligible to receive an SSN, or their application is declined by SSA.
2. The customer does not have an SSN and can only receive an SSN for a valid nonwork reason.
3. The customer refuses to obtain an SSN due to a well-established religious objection. The term well established religious objections means that the applicant-
  - a. Is a member of a recognized religious sect or division of the sect; and
  - b. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

The eligibility specialist must request that SFU members whose income and/or assets are included in the budget, but who are not members of the assistance group, provide their SSN for purposes of data exchange. These individuals are not required to comply with this request. The agency must not deny or delay services to an otherwise eligible individual pending issuance or verification of the individual's SSN by SSA.

Refer to the FLORIDA Desk Guide for procedures for routing the SS-5.

**1440.0204 When SSN is not Provided/Refusal to Apply (MSSSI, SFP)**

If an individual fails to provide or apply for an SSN on his own behalf or on the behalf of the individual's child(ren), the needs of that individual or child, whichever is applicable, must be excluded from the assistance group.

If a child resides in a facility or with a nonrelative and the child's parent, caretaker relative, or designated official of the facility fails to apply for an SSN for that child, the child is ineligible.

**1440.0205 Suspected and Confirmed Multiple SSNs (MSSSI, SFP)**

Suspected multiple SSNs exist when the eligibility specialist has reason to believe that an individual has more than one SSN.

Confirmed multiple SSNs exist when an individual presents different Social Security cards with the same or similar names and different numbers.

One of the following actions must be taken if either of these situations arises:

1. the individual must be asked to clarify the problem with the SSA office, or
2. the eligibility specialist must copy the SS cards, complete an SS-5 for each SSN and send the forms to the SSA office.

**1440.0206 SSN Application Follow-Up (MSSSI, SFP)**

The eligibility specialist must request an SSN at each future contact, once the application for an SSN has been made.

After 90 days, if an individual who has applied for an SSN has not received an SSN, the eligibility specialist must determine if another SS-5 should be submitted.

**1440.0207 SSNs Not Validated Through Data Exchange (MSSSI, SFP)**

If validation does not occur through data exchange, the eligibility specialist must obtain verification of the individual's SSN to ensure the correct number is being submitted for verification. The following documentation is acceptable:

1. SS card;
2. correspondence from SSA containing the individual's name and account number (if the number has an A, J, M or T suffix, this is the SSN);
3. a Social Security check issued on the individual's own account number;
4. a Medicare card issued on the individual's own account number (if there is an A, J, M or T suffix, this is the SSN); or
5. an SSA certificate of award which will contain a claim number (if there is an A, J, M or T suffix, this is the SSN).

The eligibility specialist must establish that coverage is provided under the individual's own account number and not as a beneficiary under another's account number.

**1440.0300 RESIDENCY (MSSI, SFP)**

In order to receive public assistance, all individuals must be eligible on the factor of residency.

**1440.0301 Residency of Homeless Individuals (MSSI, SFP)**

Homeless individuals and residents of public or private nonprofit shelters for the homeless are considered residents. An otherwise eligible individual must not be required to reside in a permanent dwelling or have a fixed mailing address.

**1440.0303.01 Residency Requirements (MSSI, SFP)**

An individual must satisfy one of the following residency requirements:

1. Reside in the State of Florida with the intent to remain.
2. Be living in the State of Florida for employment purposes. or
3. Some individuals in the U.S. with a valid temporary Visa and their U.S. born children may meet the Florida residency requirement if they verify their residency and state an intent to remain. Lawfully residing children, up to age 19, are potentially eligible for Medicaid provided all other eligibility requirements, including residency, are met. Examples of verification of residency include:
  - a. employment or school records,
  - b. bank statements,
  - c. lease agreements,
  - d. utility bills,
  - e. Florida driver's license or state ID card, and
  - f. other reliable information.

**1440.0303.02 Residents of Florida (MSSI, SFP)**

Residency exists when the intent of the individual is to remain in the state. Residency is not dependent upon the duration of the stay. Residency does not exist when the stay is for a temporary purpose such as a vacation and there is intent to return to a residence in another state.

When a child is in the child's usual family setting, the residency of the child is considered in the context of the family situation. If the child leaves the family setting to reside elsewhere, residence is determined based on the extent and nature of the child's own stay.

A child is considered a resident when the parent or caretaker relative is a migrant agricultural worker who maintains Florida as a home for the children and intends to return to Florida.

**Note:** Children born in the U.S. of undocumented or ineligible noncitizen parents residing in the state may meet the residency requirement if they intend to remain even if parents may not legally remain due to USCIS status. Lawfully residing children, up to age 19, are potentially eligible for Medicaid provided all other eligibility requirements, including residency, are met.

**1440.0303.03 Residency for Employment (MSSI, SFP)**

An individual is considered a resident if he is living in the state for purposes of employment without intent to remain and meets the following conditions:

1. the individual or caretaker relative is living in Florida without intent to remain and is not receiving assistance from another state, and
2. the individual or caretaker relative came to Florida with a job commitment or is actively seeking employment during the stay in the state.

**1440.0307 Residents of Title XIX Facilities (MSSI, SFP)**

For any institutionalized individual under age 21 who is neither married nor emancipated, the state of residence is:

1. the parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's); or
2. the current state of residence of the parent or legal guardian who files the application if the individual is institutionalized in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's); or
3. the state of residence of the individual or party who files an application is used if the individual has been abandoned by his parent(s), does not have a legal guardian and is institutionalized in that state.

For any institutionalized individual age 21 or older who became incapable of indicating intent before age 21, the state of residence is:

1. that of the parent applying for Medicaid on the individual's behalf, if the parents reside in separate states (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's);
2. the parent's or legal guardian's state of residence at the time of placement (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's);
3. the current state of residence of the parent or legal guardian who files the application if the individual is institutionalized in that state (if a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used instead of the parent's); or
4. the state of residence of the individual or party who files an application is used if the individual has been abandoned by his parent(s), does not have a legal guardian, and is institutionalized in that state.

For any institutionalized individual age 21 or older who became incapable of indicating intent at or after age 21, the state of residence is the state in which the individual is physically present, except where another state makes a placement.

For any other institutionalized individual, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period.

Title XIX facilities include, but are not limited to, the following: nursing homes, ICF/DD facilities, and state mental health hospitals. The same policies apply to individuals placed in temporary long term care settings such as swing beds and hospital based distinct part nursing facility beds.

**1440.0309 Residency Verification (MSSI, SFP)**

If residency is established by intent to remain in the state, verification is only necessary when the residency statement is questionable.

Residency due to employment purposes must be verified. Verification includes but is not limited to the following:

1. home visits,
2. collateral contacts,
3. rent/mortgage or utility receipts,
4. other forms of ID,
5. driver's license records,

6. letter of employment offer, or
7. letter from employment agency.

**1440.0310 Temporary Absence from the State (MSSI)**

An individual may be temporarily absent from the state if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined the individual is a resident there for purposes of Medicaid.

**1440.0400 IDENTITY (MSSI)**

The identity of each U.S. citizen applying for, or receiving Medicaid must be documented.

**Exceptions:** Individuals who receive SSI, Medicare (any part), Social Security Disability based on their work history and children in the care of the Department are exempt from this requirement.

The following documents are acceptable as proof of identity:

1. State driver's license with photo or other identifying information;
2. State ID card with photo or other identifying information;
3. School ID card with photo (for children under 16, includes nursery, daycare records, or school records, including school conference records and no photo is required);
4. Clinic, doctor, or hospital record for children under 16 (except for voided Puerto Rican birth certificates after September 30, 2010);
5. U.S. military card or draft record;
6. A military dependent's ID card;
7. Federal, state, or local government ID card with photo;
8. A certificate of Indian blood;
9. Native American tribal document;
10. Three or more of the following documents unless a fourth tier verification of citizenship was used:
  - a. Marriage license,
  - b. Divorce decree,
  - c. High school diploma,
  - d. Employer ID card, or
  - e. Any other document from a similar source.
11. Food Stamp, CSE, Department of Corrections, child protection and DJJ data records,
12. U.S. Coast Guard merchant mariner card; or
13. Attestation (a written, signed statement under penalty of perjury) for children under age 16, or a disabled adult living in a residential facility, stating the date and place of birth. (Cannot be used if statement was used for citizenship verification.)

Do not accept a Social Security card, birth certificate, voter's registration card or Canadian driver's license for identity verification.

**1440.0500 AGE (MSSI, SFP)**

Individuals must meet special age requirements to qualify for the program specific services.

**1440.0507 Age Requirements (MSSI, SFP)**

**For the ICP Program**, there is no age requirement for individuals requiring skilled, intermediate, or intermediate care for the mentally retarded, institutional care benefits. However, an individual must be 65 years of age or older if care in a state mental hospital is required.

**For Hospice care**, individuals may be eligible regardless of age.

**For the OSS and HCDA Programs**, the individual must be 18 or older. Refer to passage 1440.0008 for specific HCBS age requirements.

All individuals must also meet the aged, blind or disabled criteria to be determined eligible for Medicaid under SSI-Related Programs, which are discussed in passages 1440.1200 - 1440.1206.

**1440.0508 Verification of Age (MSSSI, SFP)**

The same verification sources used as proof that an individual is "aged" may be used to prove any individual's age. Refer to passage 1440.1202.

**1440.1100 LIVING ARRANGEMENTS (MSSSI, SFP)**

This section describes policies relating to eligibility and living arrangements.

**1440.1103 Residents of Public Institutions/IMDs (MSSSI)**

Individuals residing in public institutions or institutions for mental diseases (IMDs) throughout an entire calendar month are ineligible to receive Medicaid. This includes inmates, prisoners, detainees, or convicts under detention or custody of a Federal, State, or local penal, correctional, or other detention facility or institution.

An institution is an establishment that furnishes food, shelter, and some treatment or services to four or more persons unrelated to the proprietor. A public institution is administrated by a governmental unit. Public institutions exist at all levels: federal, state, and local.

An IMD is an institution that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services.

Medical institutions (for example, hospitals, nursing homes and intermediate care facilities), or a publicly operated community residence that serves no more than 16 residents or certain child care institutions are not considered public institutions.

Residents of a state mental hospital who are age 65 or older may be eligible for Medicaid.

Exception: Children who are under 18 years of age and are placed in an IMD under the Statewide Inpatient Psychiatric Waiver Program (SIPP) remain eligible for Medicaid.

**1440.1104 Reduced SSI - Patients in Medical Institutions (MSSSI, SFP)**

SSI individuals who enter a medical institution are not entitled to receive a full SSI payment, but receive a reduced payment of \$30.00. This limited Federal Benefit Rate (FBR) applies if the individual is an inpatient throughout a full month and Medicaid will pay a substantial part (over 50 percent) of the cost of care. The individual is entitled to the full FBR for the month he first enters the nursing home.

If the individual has other income over \$30.00, his SSI will stop and his patient responsibility will be determined using only the other income.

**1440.1105 Full FBR for Temporary Institutionalization (MSSSI, SFP)**

One exception to the reduced FBR applies to individuals who enter a nursing home for a temporary stay. If he has expenses at home and his doctor expects he will stay for less than 91 days, he can receive the full FBR for three months. The individual must provide proof of these conditions to SSA by the 10th day of the month after the month of admission. The SSI payment is for the individual's personal needs and home expenses and is not used to pay the facility or to determine patient responsibility. A supplement to the personal needs allowance is not authorized in these cases because the individual's income exceeds the personal needs allowance.

**1440.1106 Receipt of Assistive Care Services (MSSSI)**

Individuals residing in an assisted living facility, adult family care home or mental health residential treatment facility may qualify for the MEDS-AD Program if the facility in which they reside is licensed to provide assistive care services (ACS) and the individual meets all other program criteria.

**1440.1200 AGED, BLIND, OR DISABLED (MSSSI, SFP)**

An individual must be aged, blind, or disabled to be eligible for SSI-Related Medicaid. Exceptions to these criteria are individuals who qualify for QMB and SLMB benefits.

**Note:** To qualify for MEDS-AD, an individual must be aged or disabled. Blindness alone will not satisfy the criteria. If a blind person receiving SSA benefits applies, he should be referred to the Division of Disability Determinations (DDD).

**1440.1201 Aged Requirement (MSSSI, SFP)**

An individual must be 65 or older to be eligible for assistance on the factor of being aged.

The following exceptions are allowed: for the HCDA Program, the individual must be 60 or older unless disabled. A disabled individual must be 18 years of age or older to qualify for HCDA.

**1440.1202 Age Verification (MSSSI, SFP)**

The following are acceptable methods of age verification:

1. Social Security's (RSHDI) determination of age, or
2. public or religious records established prior to age five indicating date of birth.

If the above are not available, two sources of verification established at least five years prior to the application date are required.

Examples of acceptable verification include but are not limited to the following:

1. birth certificates;
2. records of marriage, employment, immigration, or naturalization;
3. passports; or
4. religious records.

**1440.1203 Blind/Disability Requirement (MSSSI, SFP)**

If an individual is not aged, he must meet the factor of blindness and/or disability.

Blindness is defined as central visual acuity of 20/200 or less in the better eye with the use of a corrective lens.

**Note:** Blindness does not apply to the MEDS-AD Program.

Disability is defined as:

1. the inability to engage in any substantial activity due to any medically determinable physical or mental impairment, and
2. a disability which has lasted or can be expected to last for a period of at least 12 consecutive months or result in death.



**1440.1204 Blindness/Disability Determinations (MSSSI, SFP)**

If the individual has not received a disability decision from SSA, a blindness/disability application must be submitted to the Division of Disability Determinations (DDD) for individuals under age 65 who are requesting Community Medicaid under community MEDS-AD, Medically Needy, and Emergency Medicaid for Alien Programs.

State disability determinations for disability-related Medicaid applications must be done for all applicants with pending Title II or Title XVI claims unless SSA has denied their disability within the past year. If SSA has denied disability within the past year and the decision is under appeal with SSA, do not consider the case as pending. Use the decision SSA has already rendered. The SSA denial stands while the case is pending appeal.

When the individual files an application within 12 months after the last unfavorable disability determination by SSA and provides evidence of a new condition not previously considered by SSA, the state must conduct an independent disability determination. Request a copy of the SSA denial letter. The SSA denial letter contains an explanation of all the conditions considered and the reason for denial.

In some regions or circuits, Children's Medical Services (CMS) and the Multi-Handicapped Assessment Team (CMAT) handle disability determinations for children under age 21.

The disability determination for the Home Care for Disabled Adults (HCDA) Program is determined by the Adult Services Counselor.

A medical prognosis with a life expectancy of six months or less satisfies the disability requirement for an individual who elects Hospice.

A level of care from the Agency for Persons with Disabilities giving an appropriate level for the iBudget Florida satisfies the disability requirement.

For individuals applying for dual programs such as OSS and MEDS-AD, the (DMRT) may be used to determine disability for both. When determining eligibility for ongoing ICP or HCBS and the individual is requesting MEDS-AD or Medically Needy for the prior months, use DMRT for both.

**Note:** If Social Security determines an individual is not disabled, the decision generally replaces that which was made by the state. Refer to passages 1440.1205 and 1440.1206 for guidance.

**1440.1205 Exceptions to State Determination of Disability (MSSSI, SFP)**

The state does not make a disability determination under the following conditions:

1. When an individual only applies to SSA (no application is filed with DCF and no SSI denial or ex parte is involved).
2. When an individual receives Title II disability or SSI benefits based on their own disability (not dependent or early retirement benefits).
3. When an earlier favorable federal or state determination of blindness/disability is still in effect and no unfavorable decision has been rendered by SSA.
4. When an individual is no longer eligible for SSI solely due to institutionalization.
5. When the applicant is appealing an earlier decision from SSA and claims no new disabling condition (condition not previously considered by SSA).
6. When the individual files an application within 12 months after the last unfavorable disability determination by SSA, and the individual alleges no new disabling condition or claims a deterioration of an existing condition previously considered by SSA. Refer the individual to SSA for disability reconsideration or appeal. Only request a disability decision from DDD if:

- a. SSA refuses (or has already refused) to reconsider the unfavorable disability decision, or
- b. the applicant no longer meets SSI non-disability criteria such as income or assets.

The eligibility specialist must explore eligibility for Medicaid for the individual based on other coverage criteria, e.g., family-related coverage prior to exploring eligibility for disability-related Medicaid.

#### **1440.1206 Change in Disability Determination by SSA (MSSSI, SFP)**

When the Social Security Administration (SSA) renders a disability decision that is different than that made by DCF, the SSA decision must be adopted unless the SSA decision was based on a condition different than that which the state reviewed.

If SSA determines the individual is not disabled or that the disability has ceased, action must be taken to close the SSI-Related Medicaid benefits on FLORIDA that are based upon disability, allowing for ten days advance notice of adverse action. Should the individual file a timely appeal with SSA, Medicaid benefits must be continued, pending a final decision by SSA.

If SSA renders a favorable disability decision on a case previously determined not disabled by the Department, the Department must adopt the SSA decision. Standard application processing policy applies.

#### **1440.1207 Blindness and/or Disability Redetermination (MSSSI, SFP)**

Blindness and/or disability must be redetermined under the following conditions:

1. when the DMRT, hearing officer, or DDD requests a review; or
2. three years following the date of a hearing officer's final order (in absence of a request for an alternative review date from DMRT, DDD, or the hearing officer); or
3. for a regularly scheduled review as indicated on the Transmittal for Incapacity (DCF Form 82), or the Disability Determination and Transmittal (DCF Form 2909); or
4. when the eligibility specialist becomes aware of a notable improvement in the individual's condition; or
5. when a child receiving MTA coverage is approaching his/her 18th birthday.

#### **1440.1208 Presumptive Disability (MSSSI, SFP)**

The eligibility specialist must refer potential expedited disability decisions for MEDS-AD and Medically Needy individuals to the Division of Disability Determinations for a presumptive disability decision.

Presumptive disability is defined as a preliminary finding of disability when available evidence and/or readily observable severe categories of impairments (without obtaining medical evidence) reflect a high degree of probability that the individual is disabled.

#### **1440.1209 Confidential Information Regarding Disability (MSSSI, SFP)**

Any information received from DDD is treated as confidential information. If a request for this information is received, the eligibility specialist must have a release (Authorization to Release Medical Information) signed by the individual allowing the release of information to a third party.

The Financial/Medical Release form is not a release for a third party. This form only allows information to be obtained from others. It does not allow information to be released to a third party. (Also see Chapter 400 on Use of Confidential Information.)

#### **1440.1210 How to Request a Disability Redetermination (MSSSI, SFP)**

When requesting a disability redetermination, the eligibility specialist must submit the original Medical evidence along with updated forms to indicate the applicant's current condition.

For DDD applications, the new packet must include the following:

1. Original DDD packet;
2. New CF-ES-2909;
3. New CF-ES 2911 (Include information on physicians and treatments received since the last 2911 was completed. Enter information to indicate if the individual continues to suffer from the same condition and limitations as when last 2911 was completed. If no change in condition, the eligibility specialist may state no change or refer to previous 2911);
4. New CF-ES 2912, if mental disability is a factor;
5. New CF-ES 2514s for each medical provider who has treated the applicant;
6. Copy of hearing decision if the applicant was granted disability by the hearing officer through the appeal process.

#### **1440.1300 APPROPRIATE PLACEMENT (MSSI)**

To qualify for the Institutional Care Program (ICP) or Home and Community Based Services (HCBS), or the Program for All-Inclusive Care for the Elderly (PACE), the individual must meet special institutional eligibility criteria, including "appropriate placement."

Appropriate placement means that an individual must be placed in a facility or coverage certified to provide the type and level of care the Department has determined the individual requires.

Two basic requirements must be met for placement to be considered appropriate. These are:

1. Determined by the Department to be medically in need of the type of care provided by the specific coverage group, and
2. Actually receiving the services (or for HCBS, must be enrolled in the waiver) which the Department has determined that the individual needs.

To be appropriately placed for ICP, a person must have been determined in need of an ICP level of care (by CARES) and actually be placed in a Medicaid facility which provides the specified level of care. No level of care is required for a QMB eligible individual (Medicaid eligible individual with income less than the federal poverty level) in a nursing home during the Medicare coverage period.

For Home and Community Based Services (HCBS), to be appropriately placed, a person must be in need of waiver services and be enrolled in the waiver as documented by form CF-ES 2515 with the appropriate Aging and Disability Resource Center (ADRC).

**Note:** The need for a level of care is verified in the case record by the, DOEA CARES Form 603, the Notification of Level of Care. The need for a level of care and waiver services is verified in the case record by the CF-ES 2515, Certification of Enrollment for Home and Community Based Services.

#### **1440.1301 When to Determine Need for Appropriate Placement (MSSI)**

A special determination to evaluate the individual's need for ICP or HCBS must be requested by the eligibility specialist at the following times:

1. application,
2. reapplication,
3. an ex parte from Community Medicaid to Long-Term Care Medicaid (ICP or HCBS), or

4. any time that placement in a special living arrangement or facility is not made within 45 days of a physician's signature on DOEA CARES Form 603 (Notification of Level of Care).

The eligibility specialist is not required to obtain an updated level of care determination at the time of the eligibility redetermination or when there is a change of placement for the individual between two Long-Term Care Medicaid Programs (ICP or HCBS). The DOEA CARES Form 603 or Certification of Enrollment Status for Home and Community Based Services Form (CF-ES 2515) is considered in effect until such time as the eligibility specialist is notified of a change.

There are circumstances when CARES will not need to complete another full determination. However, the eligibility specialist must request a determination in all of the above circumstances and will be notified if the current documentation is still valid.

#### **1440.1302 Who Determines Need for Placement (MSSI)**

The agency or office responsible for determining the need for care depends on the applicant's age and what kind of facility or program is needed. After the eligibility specialist requests a determination, the specialist must receive DOEA CARES Form 603 (Notification of Level of Care) for nursing home placement or the Certification of Enrollment Status for Home and Community Based Services (HCBS) Form (CF-ES 2515) for HCBS waivers from the responsible office to document the specific need in the case record.

**Note:** The eligibility specialist does not request level of care decisions for HCBS waivers but must receive documentation of decisions from case managers, APD or CARES.

The determination will be obtained from one of the following offices:

**CARES** (Comprehensive Assessment and Review for Long Term Care Services), Department of Elder Affairs:

1. For ICP: determines Level of Care for applicant/recipients over age 21 in nursing facilities, swing beds or hospital based nursing facility beds.
2. For HCBS: determines if applicant/recipient meets waiver requirements for the specific HCBS waiver.
3. For PACE: determines if the applicant/recipient meets the Level of Care.

**CMAT** (Children's Multidisciplinary Assessment Team), Children's Medical Services in the Department of Health:

1. For ICP: determines Level of Care for children under age 21, unless they are applicants for the Developmental Disabilities (DD) iBudget Florida Waiver.
2. For HCBS: determines if applicants meet waiver requirements for the Model Waiver.

**APD** (Agency for Persons with Disabilities):

1. For Intermediate Care Facility for Developmental Disabilities: Kepro determines Level of Care/Reimbursement for ICF/DD placement.
2. For HCBS: APD determines if applicant meets waiver requirements for iBudget Florida Waiver.

If the eligibility specialist is not sure who is handling this determination, or whether a determination has been requested, he should request assistance from his supervisor.

**1440.1303 Appropriate Placement for Institutional Care (MSSI)**

The Institutional Care Program (ICP) includes coverage for individuals in nursing homes, Intermediate Care Facilities for the Developmentally Disabled (ICF/DD), certain state mental hospitals for those aged 65 and over, and certain rural hospitals on a temporary basis (swing beds).

Placement is appropriate when the individual is placed in a Medicaid facility certified to provide the level of care the individual requires. The individual must be in a bed certified to provide the same level of care determined necessary by CARES.

Individuals must require one of the following levels of care:

1. Skilled, Intermediate I, or Intermediate II in a nursing home or hospital swing bed;
2. one of three types of care/reimbursements Level 1, 2 or 3 (LOR 1, LOR 2, or LOR 3)
3. appropriate care in a mental hospital for individuals age 65 and over.

The individual must be in a bed certified to provide the same level of care as determined necessary by CARES, CMAT, or APD.

Certified rural hospital swing bed providers or hospital based nursing facility bed providers can provide skilled or intermediate levels of care to individuals for a 30-day period. Prior authorization for stays beyond 30 days must be approved by CARES.

**Note:** For swing bed providers, 30-day extensions may be granted. For hospital based nursing facility bed providers, only one 15-day extension may be granted.

**1440.1304 Appropriate Placement for Hospice Services (MSSI)**

An individual must meet the following requirements for appropriate placement for Hospice services.

**Medical Programs** - The individual must have a medical prognosis as terminally ill with a life expectancy of six months or less, if the illness runs its normal course. The written certification must be signed by the Hospice director or the physician member of the Hospice interdisciplinary group, and the individual's attending physician, if the individual has one. This certification satisfies the level of care and the disability determination requirements. No determination is made by CARES.

**Election of Hospice Care** - An individual must elect Hospice care services in order to receive that care, by signing and filing with the Hospice an Election Statement. An individual's representative may also make the election. The individual or his representative must designate the effective date of his election of Hospice care. The effective date is the first date of Hospice care. An effective date may not be a date that is earlier than the date the election is made.

**1440.1305 Appropriate Placement for HCBS (MSSI)**

Individuals seeking alternatives to nursing home placement are considered for placement in the HCBS Program. The following criteria must be met for an individual to be considered appropriately placed for HCBS:

1. be determined to meet a need for waiver services as evidenced by receipt of DOEA CARE Form 603 in case record (as determined by CARES, CMAT or DS), and
2. be enrolled in a Medicaid waiver with an appropriate case manager as evidenced by a CF-ES 2515.

It is the HCBS case manager's responsibility to request a level of care (LOC) for HCBS applicants. In no situation should ACCESS staff submit requests for LOC to CARES, CMAT, DS or other entities that make LOC determinations for HCBS applicants.

**1440.1306 Appropriate Placement for the HCDA Program (SFP)**

The individual must meet the following requirements as certified by CF-ES Form 1020 from the Adult Services counselor:

1. have a physician's statement that the resident is in danger of immediate nursing home placement and that care provided by the HCDA provider is appropriate for the well-being of the individual; and
2. have a priority need for home care services based on the scoring of the comprehensive applicant/recipient assessment. (This assessment is completed by Adult Services.)

The eligibility specialist should refer to the OSS/HCDA Desk Guide Pamphlet 140-3 (July 1, 1993) for more specific information regarding procedures for HCDA.

**1440.1307 Appropriate Placement for the OSS Program (SFP)**

The Adult Services counselor or Mental Health case manager is responsible for evaluating the individual's needs for OSS placement in a facility most compatible with those needs. Individuals must be in an approved home or licensed facility which will provide room and board with personal care for a set charge called "provider rate". Placements are made in one of the following types of living arrangements:

1. Adult Family Care Homes,
2. Assisted Living Facility (ALF),
3. Home for Special Services, or
4. Mental Health Residential Treatment Facility (MHRTF).

See 1440.1308 and 1440.1309 for more information on OSS placement.

**1440.1308 Appropriate Placement for OSS/Absence Provision (SFP)**

If an individual leaves the OSS facility for a period of 30 consecutive days, the individual is no longer eligible for OSS. Therefore, action must be taken to terminate assistance and intercept the warrant for the following month.

If the individual leaves the facility with no intent to return, cancel the case immediately. A written notice is required but 10 days advance notice may be waived in this situation. (See Chapter 3400 regarding notice requirements.)

**Note:** If the facility becomes unlicensed and the individual will not be moving to a licensed facility, take immediate action to cancel the case providing 10 days advance notice.

**1440.1309 Verification of Appropriate Placement for OSS (SFP)**

Appropriate placement for OSS is determined by the need for alternate care and placement in a setting which will provide that care. Form CF-ES 1006 (Alternate Care Certification for Optional State Supplementation) is required as evidence of appropriate placement and must be in the applicant/recipient's case record. The form verifies that the Adult Services counselor or Mental Health case manager certify that the applicant/recipient needs alternate care and the applicant/recipient and provider agree that care will be provided for the specified amount.

The CF-ES 1006 (Alternate Care Certification for OSS) must be updated any time there is a change. The eligibility specialist must request the CF-ES 1006 from the Adult Services counselor, Mental Health case manager, Developmental Services counselor, or their contract providers in the following circumstances:

1. at time of placement,
2. at each eligibility review (certification within 3 months may be considered "current"),
3. when the individual moves from one home/facility to another, or
4. when the individual is no longer appropriate for alternate care.

**1440.1310 Appropriate Placement for PACE (MSSSI)**

Individuals seeking alternatives to nursing home placement who live in participating areas are considered for placement in the Program for All-Inclusive Care for the Elderly (PACE) Program. The following criteria must be met for an individual to be considered appropriately placed for PACE.

1. be determined to meet NEED for PACE services as evidenced by receipt of DOEA CARE form 603 in case record (as determined by CARES, and
2. elect the PACE provider as his/her sole source of Medicare and/or Medicaid service delivery.

**Note:** Although PACE enrollees will initially enter into the program while living at home, once enrolled and determined eligible, a participant may move to an ALF or a nursing care facility without disenrolling from PACE.

A PACE participant cannot elect Hospice while simultaneously receiving PACE services.

**1440.1400 REQUIREMENT TO FILE FOR OTHER BENEFITS (MSSSI, SFP)**

Individuals must apply for and diligently pursue to conclusion an application for all other benefits for which they may be eligible as a condition of eligibility. Need cannot be established nor eligibility determined upon failure to do so. Benefits that must be applied for include, but are not limited to:

1. Pensions from local, state, or federal government,
2. Retirement benefits,
3. Disability,
4. Social Security benefits,
5. Veterans' benefits,
6. UC benefits,
7. Military benefits,
8. Railroad retirement benefits,
9. Workers' Compensation benefits,
10. Health and accident insurance payments, and
11. Medicare Part A, Part B and Part D.

Exception: Individuals applying for Emergency Medicaid for Aliens (EMA), and children under age 18 (unless a parent is deceased, aged, or disabled) are not required to apply for Social Security Disability (SSDI) payments.

Individuals applying for Medicaid on the basis of age (65 or older) or disability must apply for Medicare if the state will pay the Medicare premium, deductible or co-insurance. If the individual is not eligible for a Medicare Savings Program (MSP), there is no requirement to apply for Medicare.

The Medicare Enrollment Data Base (EDB) file received from the Center for Medicare and Medicaid Services (CMS) contains information on individuals receiving both Medicaid and Medicare. The information from the EDB file is used to automatically enroll individuals in Medicare.

The application for Social Security benefits based on age or disability is presumed to be an application for Medicare.

Individuals applying for SSI-Related Medicaid, HCDA, TCA, or Family-Related Medicaid are not required to apply for SSI as a condition of eligibility.

Individuals who apply for OSS and are potentially eligible for SSI must apply for SSI as a condition of eligibility.

Individuals are required to apply for all increased benefits for which they might qualify.

#### **1440.1401 VA Pensions (MSSI, SFP)**

Wartime veterans, their spouses and/or survivors may be entitled to certain veterans' benefits including the following:

1. VA compensation,
2. VA pensions, and
3. Allowances for dependents.

Veterans in need of nursing home care, the regular aid and attendance of another person or special services for the permanently housebound may be entitled to additional benefits such as:

1. Aid and attendance allowance,
2. Housebound allowance, and
3. Unreimbursed medical expenses.

Individuals applying for MSSI or SFP must apply for these additional benefits. Verification that the applicant/recipient has applied for these benefits must be received before approving the case.

**Exception:** For ICP, if the applicant/recipient was not placed at the time of application, the case may still be approved if the PAS:

1. gets supervisory authorization, and
2. has all other required verifications needed for approval (including verification of placement), and
3. sets an expected change for the following month to verify that the application for VA A&A was filed.

**Note:** If the applicant/recipient was placed at the time of the original application or shortly thereafter, the eligibility specialist must verify the VA application was filed before approving the case.

#### **1440.1402 VA Improved Pension (MSSI, SFP)**

The Improved Pension Program, initiated December 31, 1978, may offer veterans additional benefits to the previous Old Law Pension Program. Therefore, all applicants/recipients who receive a VA pension under the old law must apply for the improved pension under the new law.

**Exception:** If applying for these benefits under the new law would reduce the amount of benefits received, community Medicaid recipients are not required to apply.

All applicants/individuals who currently do not receive VA benefits but appear potentially eligible must apply for the VA improved pension.



**1440.1500 RECEIPT OF OTHER BENEFITS (MSSSI, SFP)**

Individuals must receive or be eligible for benefits from other programs as a condition of eligibility for specific types of assistance.

**1440.1503 Receipt of SSI (MSSSI, SFP)**

Individuals must receive or be approved for SSI as a condition of eligibility for the following coverage groups:

1. For OSS, individuals must meet this requirement if they are potentially eligible for SSI.
2. For Protected Medicaid, individuals must have received SSI and Social Security Disability benefits in the same month prior to cancellation of SSI.

**1440.1504 Receipt or Entitlement to Medicare Part A (MSSSI)**

Individuals must be enrolled in Medicare Part A as a condition of eligibility for Qualified Medicare Beneficiary (QMB).

When a person who is otherwise eligible for QMB (for example, someone who has reached age 65, and is a US resident, a citizen or lawful permanent resident, with income at or below 100% of the federal poverty level, assets within QMB asset limit) but does not have Part A, they must go the Social Security Administration to enroll for Medicare. The usual open enrollment period does not apply. SSA needs only a letter from DCF stating the person is QMB eligible and the state will pay the premium. This is what is referred to as conditionally enrolled.

Individuals must be enrolled in Medicare Part A as a condition of eligibility for Special Low-Income Medicare Beneficiary (SLMB) and Qualifying Individuals 1 (QI1). To qualify for SLMB or QI1, an individual must have either free Part A or their Part A premiums must be paid by someone other than the state. Medicare beneficiaries whose Medicare claim number ends in "M" do not have free Part A and, therefore, do not qualify for SLMB or QI1 benefits unless they are paying their own premium or someone other than the state is paying their premium.

Individuals must be entitled to enroll for hospital insurance benefits as determined by SSA as a condition of eligibility for working disabled benefits.

**1440.1600 ASSIGNMENT OF RIGHTS FOR TPL (MSSSI)**

This section discusses the requirement for assigning to the state any right to any third party payment (TPP) for medical care.

**1440.1601 Assignment of Rights to TPP (MSSSI)**

Individuals must assign to the state their right to any third party payment for medical care.

When a child resides with a nonrelative, the child's parent, caretaker relative, or the designated official of the facility must cooperate with the state in obtaining third party payments. They must assign to the state, when legally able, the rights of the child to any third party payments.

Third party payments include but are not limited to the following:

1. insurance policies,
2. court ordered medical support, and
3. irrevocable trusts which provide for medical expenses (under Florida law this assignment is automatic when receiving Medicaid, and the individual's signature on the application acknowledges the assignment).

**1440.1602 Identification of Third Party Liability (MSSI)**

Individuals must cooperate in identifying all potential third parties who may be liable to pay for their care. An individual who refuses to cooperate is ineligible for assistance unless the individual has good cause not to cooperate. Inability to provide the requested information does not constitute refusal to cooperate. If good cause does not exist, the needs of the individual must be removed from the SFU; however, the individual's income and/or assets must be considered. This individual continues to be entitled to the earned income disregards, if otherwise eligible.

Good cause includes situations in which the individual claims that the revealing of third party sources would result in physical or emotional harm to the individual. Cases involving good cause should be referred through the Region or Circuit Program Office to Headquarters for clearance.

**1440.1700 CHILD SUPPORT COOPERATION (MSSI)**

Under state and federal law, the state must take action to locate non-custodial parents, establish paternity, and secure all child support, medical support, or other benefits for children receiving public assistance.

Applicants for and recipients of Temporary Cash Assistance and Medicaid (including caretaker relatives receiving Temporary Cash Assistance) must cooperate with Child Support Enforcement (CSE) as a condition of eligibility; unless it is determined that good cause for non-cooperation with CSE exists.

**Exceptions:** Emergency Medicaid for Aliens (EMA), transitional Medicaid, and Child Only Medicaid cases.

Under federal law, a parent's cooperation in establishing paternity, assigning rights to medical support and payments, and providing information about liable third parties cannot be required as a condition of a child's eligibility for Medicaid. Therefore, states are not required to ask about paternity or to seek cooperation in pursuing medical support and third party payments when an application is filed, or a redetermination is done, only on behalf of the child.

**1440.1702 Child Support Cooperation Requirements (MSSI)**

Cooperation with Child Support Enforcement (CSE) by a parent or caretaker relative is required when:

1. the parent or caretaker relative is applying for or receiving Temporary Cash Assistance for a child(ren),
2. paternity has not been established and the alleged father is not in the home,
3. but one or both parents are absent from the home, and
4. good cause for non-cooperation does not exist as determined by CSE.

The parent or caretaker relative must cooperate with the following:

1. identifying and locating the parent(s) of the child,
2. establishing the paternity of the child, and
3. obtaining child support payments for the child.

**Note:** This policy does not apply to children in Institutional Care Facilities for the Developmentally Disabled (ICF/DDs) or for child only cases.

**1440.1704 Definition of Cooperation (MSSI)**

Cooperation includes the following:

1. providing complete information required to obtain child support (if information about the non-custodial parent is known by the applicant/recipient but is withheld, the applicant/recipient may face a possible penalty of perjury);
2. completing and signing affidavits attesting to paternity of the child;
3. making court appearances and providing testimony in paternity hearings and support actions; and
4. reporting to the eligibility specialist within 10 calendar days payments of child support made directly to the parent or caretaker relative.

**1440.1705.01 Definition of Non-custodial Parent (MSSI)**

The term "non-custodial parent" refers to:

1. non-custodial (absent) legal fathers,
2. non-custodial (absent) mothers, and
3. all putative (non-legal biological) fathers.

**1440.1705.02 Legal Father and Natural Father (MSSI)**

If both a legal and putative father exists, or the responsibility for support is not clear, the parent or caretaker relative must provide information on both the legal and putative father.

**1440.1706 Cooperation by a Pregnant Woman (MSSI)**

In order to receive Medicaid benefits, a pregnant woman is not required to cooperate with CSE during the pregnancy. The pregnant woman can receive Medicaid for herself only.

**1440.1707 Good Cause for Failure to Cooperate (MSSI)**

Cooperation in establishing paternity and/or securing support may be contrary to the best interest of the family. In those situations, a parent or caretaker relative may have good cause for not cooperating. Child Support Enforcement (CSE) must advise these individuals of reasons for good cause.

The eligibility specialist must refer the individual to CSE even when it appears that good cause exists.

**1440.1708 Reasons for Good Cause (MSSI)**

Good cause is determined by Child Support Enforcement (CSE). Good cause may exist when cooperation in establishing paternity or securing child support could result in one of the following conditions:

1. physical harm to the child - examples are broken bones, bruises, burns, lacerations, etc.;
2. emotional harm to the child - examples are poor school performance, sleep disturbances, self-destructive behavior, eating disorders, etc.;
3. physical harm to the parent or caretaker relative which reduces the individual's capacity to care for the child adequately (such as life threatening injury); or
4. emotional harm to the parent or caretaker relative to such a degree that the individual's capacity to adequately care for the child is diminished (such as any psychological disorder or dysfunction which has a serious impact on the individual's abilities as a caretaker).

Good cause may also exist under the following circumstances:

1. the child was conceived as a result of incest or forcible rape,
2. legal proceedings for the adoption of the child are pending before a court, or

3. the parent or caretaker relative is being assisted by a public or licensed private social agency to determine whether or not to relinquish the child for adoption (this circumstance is valid for three months).

**1440.1709 Failure to Cooperate (MSSI)**

When the parent or caretaker relative refuses to provide information regarding the non-custodial parent during an application or eligibility review, the eligibility specialist must review child support cooperation requirements with the individual. Deny the application for Medicaid for the noncompliant adult unless the adult is pregnant and meets all other factors of eligibility. Medicaid for children will be approved if they meet all other factors of eligibility.

**Note:** If the individual who failed to cooperate was a child in a parent's grant (a teen parent), the child would not be removed from Medicaid eligibility and the child's parent would not be eligible for Medicaid.

Deny Medicaid assistance for an adult subject to child support cooperation if he/she does not express an intent to claim good cause or the intent to cooperate with Child Support Enforcement and authorize benefits for the other household members, if eligible. A referral to the Department of Revenue, Child Support Enforcement Agency to establish cooperation is not necessary when the individual expresses intent not to cooperate or claim "good cause".

**1440.1710 CSE Reports of Failure to Cooperate (MSSI)**

When Child Support Enforcement (CSE) directs the eligibility specialist to impose sanctions based upon a cash assistance group member's (including a child in a parent's grant in the case of a teen parent) noncompliance with Child Support Enforcement requirements, the eligibility specialist will:

1. take immediate action to impose sanctions on the entire cash assistance group. The applicant/recipient may reapply for the optional member(s),
2. take immediate action to remove the noncompliant individual from Medicaid unless that person is pregnant, and  
**Note:** (If pregnant, women will remain Medicaid eligible during the pregnancy and postpartum period as long as they meet all other factors of eligibility.)
3. apply "Riverside" provisions to the food stamp assistance group.

**1440.1711 Ending Sanction (MSSI)**

Eligibility staff must:

1. Remove the sanction upon Child Support Enforcement's request that the individual complied.
2. Add the individual back to Medicaid assistance (must meet all other factors of eligibility).
3. Not require an application.

Remove CSE imposed sanctions for noncooperation without CSE approval in the following situations:

1. When the last child subject to cooperation leaves the home.
2. When the last child subject to cooperation turns 18.
3. When the absent parent, based on established legal paternity, moves into the home and
4. When a non-legal parent moves into the home and completes the DH 432 acknowledging paternity and staff forwards the completed DH 432 to CSE or the Department of Health State Office of Vital Statistics.

The effective date for adding the sanctioned individual is retroactive to the first day of the month of compliance.