

DEPARTMENT OF HUMAN SERVICES, DIVISION OF COUNTY OPERATIONS

SUBJECT: Updates to Presumptive Eligibility (20 CAR pt.500)

DESCRIPTION:

Statement of Necessity

The Department of Human Services (DHS) seeks to update the presumptive eligibility rules for pregnant women as a Medicaid Service category. The rules were promulgated effective July 1, 2025, pursuant to Acts 124 and 140 of 2025. Following promulgation, CMS requested revisions to ensure the rules aligned with federal regulations regarding the beginning and ending dates of coverage.

Summary

If determined presumptively eligible, an individual will have temporary coverage that begins on the day the determination is made. Coverage will end on the date DHS makes the final determination for full Health Care coverage. The individual must be pregnant at the time of the coverage being determined and cannot currently be receiving Health Care coverage through Medicaid or the Children's Health Insurance Program.

Medical Services Policy B-280 has been revised to clarify the coverage period such that the start date for coverage shall be the date that a Qualified Entity or DHS determines a member eligible. The end date shall be the date that the Health Care application determination for full coverage is made. Other clarifications include the provision that individuals must be pregnant and cannot be active on Health Care under Medicaid or CHIP coverage at the time of the determination, that coverage is temporary and does not require advance notice of closure. DHS removed a duplicate statement of items that may be self-attested and location of income limits, and updated a statement on covered services under the program.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on April 27, 2026. The agency provided the following public comment summary:

Commenters' Names: Camille Richoux, Health Policy Director; Christin Harper, Policy Director; and Keesa Smith-Brantley, Executive Director, on behalf of Arkansas Advocates for Children and Families

COMMENT: Arkansas Advocates for Children and Families (AACF) appreciates the opportunity to submit comments on the proposed updates to the Presumptive Eligibility for Pregnant Women (PE-PW) rules. We were enthusiastic to see this policy adopted in the Healthy Moms, Healthy Babies Act and want to support effective implementation to ensure women in Arkansas can access timely prenatal care. We appreciate the Department's goal of aligning state policy with federal requirements. However, we are concerned that the proposed revision does not fully align with federal regulation. Our reading of 42 CFR 435.1101 is that the presumptive eligibility period ends with the earlier of : (1) in the case of a child on whose behalf a Medicaid application has been

filed, the date on which a determination is made on that Medicaid application, or (2) for individuals who have not filed an application, the last day of the month following the month in which presumptive eligibility was determined.

Under the proposed changes, the rule is updated to include the first condition but removes the second. While this addresses one gap in the current policy, it appears to create a new inconsistency with federal requirements by omitting the time-limited backstop described in the regulation. As written, the revised rule could create ambiguity regarding the duration of coverage for individuals who do not submit a full application.

To ensure clarity and full compliance with federal regulations, we recommend that the final rule explicitly include both conditions for ending a presumptive eligibility period with the acknowledgement that the presumptive eligibility period ends with the earlier of the two dates, consistent with 42 CFR 435.1101. Thank you again for the opportunity to comment on these proposed changes. We appreciate your consideration of this feedback. **RESPONSE:** Arkansas thanks you for your concerns around the rules for the presumptive eligibility period. Arkansas did adopt only the one condition of eligibility ending once the Medicaid application determination has been made as the presumptive eligibility request is completed on the full Medicaid application and is not requested on a separate form. Due to this, it means we will always have the full Medicaid application at the time of determining the presumptive eligibility, and the second presumptive end date condition would never be an option.

The proposed effective date is July 1, 2026.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total estimated cost to implement this rule is a one-time cost of \$96,800 (\$29,785 in general revenue and \$67,015 in federal funds). The total estimated cost by fiscal year to a state, county, or municipal government to implement this rule is \$29,785 for the current fiscal year and \$0 for the next fiscal year.

The agency indicated that this is a one-time system update cost.

LEGAL AUTHORIZATION: This rule implements identical Acts 124 and 140 of 2025, sponsored by Representative Aaron Pilkington and Senator Missy Irvin, respectively. The Acts created the Healthy Moms, Healthy Babies Act and amended Arkansas law to improve maternal health outcomes in this state. The Acts required the Department of Human Services to adopt rules implementing Title 20, Chapter 77, Subchapter 29 of the Arkansas Code, regarding maternal health. *See* Act 124, § 3; Act 140, § 3.



ARKANSAS
DEPARTMENT OF
**HUMAN
SERVICES**

Office of Policy and Rules

P.O. Box 1437, Slot S295, Little Rock, AR 72203-1437

P: 501.320.6383 F: 501.404.4619

March 27, 2026

Mrs. Rebecca Miller-Rice
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
#1 Capitol, 5th Floor
Little Rock, AR 72201

Dear Mrs. Rebecca Miller-Rice:

Re: Updates to Presumptive Eligibility

Please arrange for this rule to be reviewed by the ALC-Administrative Rules Subcommittee. If you have any questions or need additional information, please contact me at 501-320-6383 or by emailing Mac.E.Golden@dhs.arkansas.gov.

Sincerely,

Mac Golden

Mac Golden
Attorney III
Office of Policy and Rules

Attachments

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT _____
 BOARD/COMMISSION _____
 BOARD/COMMISSION DIRECTOR _____
 CONTACT PERSON _____
 ADDRESS _____
 PHONE NO. _____ EMAIL _____
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
 PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes No

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

NOTICE OF RULE MAKING

The Department of Human Services (DHS) announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§20-76-201, 20-77-107, and 25-10-129. The proposed effective date of the rule is July 1, 2026.

The Director of the Division of County Operations (DCO) updates the presumptive eligibility rules for pregnant women as a Medicaid Service category to align with federal regulations. DCO revises the Medical Services Policy section B-280 to clarify coverage periods. The start date for coverage shall be the date that a Qualified Entity or DHS determines a member eligible. The end date shall be the date that the Health Care application determination for full coverage is made. Eligible individuals must be pregnant at the time of the coverage being determined and cannot currently be receiving Health Care coverage through Medicaid or the Children's Health Insurance Program. DCO clarifies that coverage is temporary and does not require advance notice of closure. Removed from the rule were duplicate statements of items that may be self-attested and the location of income limits. Also, DCO updated a statement on the services covered under the program. The proposed rule estimates a one-time implementation cost of \$96,800.00.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Policy and Rules, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at [ar.gov/dhs-proposed-rules](https://www.ar.gov/dhs-proposed-rules).

Public comments can be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than April 27, 2026. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Policy and Rules at 501-320-6428.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. **4502292178**

Mary Franklin, Director
Division of County Operations

From: [Legal Ads](#)
To: [Renita Jones](#)
Cc: [Mac Golden](#); [Jack Tiner](#); [Lakeya Gipson](#); [Elaine Stafford](#)
Subject: Re: Full Run AD - (Rule #317) - Updates to Presumptive Eligibility
Date: Thursday, March 26, 2026 8:29:45 AM
Attachments: [image001.png](#)

CAUTION: External Email

Sorry for that last e-mail.

Notice is scheduled for Sun 3/29, Mon 3/30, and Tues 3/31.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Renita Jones" <Renita.Jones@dhs.arkansas.gov>
To: "Legal Ads" <legalads@arkansasonline.com>
Cc: "Renita Jones" <Renita.Jones@dhs.arkansas.gov>, "Mac Golden" <Mac.E.Golden@dhs.arkansas.gov>, "Jack Tiner" <jack.tiner@dhs.arkansas.gov>, "Lakeya Gipson" <Lakeya.Gipson@dhs.arkansas.gov>, "Elaine Stafford" <elaine.stafford@dhs.arkansas.gov>
Sent: Wednesday, March 25, 2026 9:52:11 AM
Subject: Full Run AD - (Rule #317) - Updates to Presumptive Eligibility

Good morning,

Please Reply to this email using REPLY ALL.

Please run the attached ad in the Arkansas Democrat-Gazette on the following days:

- Sunday March 29, 2026
- Monday March 30, 2026
- Tuesday March 31, 2026

I am aware that the print version will only be provided to all counties on Sundays.

Invoice to: **AR Dept of Human Services**

OPR, ATTN: Lakeya Gipson

P.O. Box 1437, Slot S295

Little Rock, AR 72203-8068

Lakeya.Gipson@dhs.arkansas.gov

Thank you,



Renita Jones

Rules and Regulations Coordinator

Arkansas Department of Human Services

Office of Policy and Rules

P: 501.320.3949

Renita.Jones@dhs.arkansas.gov

humanservices.arkansas.gov

Privacy Notice: This email may contain confidential information protected by state/federal laws.

From: [Renita Jones](#)
To: register@sos.arkansas.gov
Cc: [Renita Jones](#); [Mac Golden](#); [Jack Tiner](#); [Lakeya Gipson](#); [JAMIE EWING](#)
Subject: DHS/DCO - Proposed Filing - Updates to Presumptive Eligibility (Rule #317)
Date: Friday, March 27, 2026 8:30:00 AM
Attachments: [image001.png](#)
[Initial Filing - Sec of State - Rule #317.pdf](#)

Good morning,

Please see attached for initial filing. The public notice will run:

Sunday, March 29th

Monday, March 30th

Tuesday, March 31st

The public comment period will end on April 27th.

Thank you,



Renita Jones

Rules and Regulations Coordinator
Arkansas Department of Human Services
Office of Policy and Rules

P: 501.320.3949

Renita.Jones@dhs.arkansas.gov

humanservices.arkansas.gov

Privacy Notice: This email may contain confidential information protected by state/federal laws. If you are not the intended recipient, please let the sender know, and delete the message/attachment(s) from your system.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
 - (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Updates to Presumptive Eligibility

Statement of Necessity

The Department of Humans Services (DHS) seeks to update the presumptive eligibility rules for pregnant women as a Medicaid Service category. The rules were promulgated effective July 1, 2025, pursuant to Acts 124 and 140 of 2025. Following promulgation, CMS requested revisions to ensure the rules aligned with federal regulations regarding the beginning and ending dates of coverage.

Summary

If determined presumptively eligible, an individual will have temporary coverage that begins on the day the determination is made. Coverage will end on the date DHS makes the final determination for full Health Care coverage. The individual must be pregnant at the time of the coverage being determined and cannot currently be receiving Health Care coverage through Medicaid or the Children's Health Insurance Program.

Medical Services Policy B-280 has been revised to clarify the coverage period such that the start date for coverage shall be the date that a Qualified Entity or DHS determines a member eligible. The end date shall be the date that the Health Care application determination for full coverage is made. Other clarifications include the provision that individuals must be pregnant and cannot be active on Health Care under Medicaid or CHIP coverage at the time of the determination, that coverage is temporary and does not require advance notice of closure. DHS removed a duplicate statement of items that may be self-attested and location of income limits, and updated a statement on covered services under the program.

B-280 Presumptive Eligibility-Pregnant Woman (PE-PW)

MS Manual ~~07/01/26~~~~07/01/25~~

Agencies who have been designated by DHS as Qualified Entities (QE)* may determine women presumptively eligible for PE-PW Health Care based on preliminary information, subject to federal and state requirements, in order that the individual may receive temporary coverage until ongoing eligibility for Health Care is officially determined by DHS. The goal of the PE-PW process is to offer immediate health care coverage to pregnant women likely to be Health Care eligible before there has been a full Health Care eligibility determination.

* See the Medical Services Policy Glossary for more information on Qualified Entities for PE-PW.

If determined eligible for PE-PW, the individual will have temporary coverage during the PE-PW period. The PE-PW period begins on the day that a QE or DHS qualified entity determines the individual to be presumptively eligible and will end the date DHS makes the final determination for full Health Care coverage. The individual must be pregnant at the time of the PE-PW coverage being determined and cannot be currently receiving Health Care coverage through Medicaid or the Children's Health Insurance Program (CHIP). Pregnant women are limited to one PE-PW determination per pregnancy. If a woman is pregnant more than once in a calendar year, they may have more than one presumptive eligibility period in a calendar year due to multiple pregnancies.

NOTE: PE-PW coverage is temporary coverage that is restricted to the designated PE-PW period outlined above. Due to this the PE-PW category does not require advance notice in order to end the PE-PW coverage once the final determination for full Health Care is made, no matter the outcome of that final determination and will end on the last day of the month following the month in which the client was determined presumptively eligible by the qualified entity.

Qualified Entities (QE), including DHS, are responsible for determining eligibility for PE-PW. The QE will make the PE-PW determination based on the following criteria:

- State residency
- Income

PE-PW Coverage will be determined based off self-attested information and may be approved while information is pending to determine eligibility for an ongoing Health Care coverage. Self-attestation of all household income and state residency information will be accepted for PE-PW. The income limit for the PE-PW category may be found in Appendix F.

~~Citizenship or immigration status, household income and state residency will be accepted for PE-PW. The income limit for the PE-PW category may be found in Appendix F.~~

~~Medicaid provides temporary Presumptive Eligibility Pregnant Woman (PE-PW).~~

~~Coverage is limited Medicaid that is restricted to prenatal services and services for conditions that may complicate the pregnancy. These services are further limited to the outpatient setting only.~~

B-280 Presumptive Eligibility-Pregnant Woman (PE-PW)

MS Manual 07/01/26

Agencies who have been designated by DHS as Qualified Entities (QE)* may determine women presumptively eligible for PE-PW Health Care based on preliminary information, subject to federal and state requirements, in order that the individual may receive temporary coverage until ongoing eligibility for Health Care is officially determined by DHS. The goal of the PE-PW process is to offer immediate health care coverage to pregnant women likely to be Health Care eligible before there has been a full Health Care eligibility determination.

* See the Medical Services Policy Glossary for more information on Qualified Entities for PE-PW.

If determined eligible for PE-PW, the individual will have temporary coverage during the PE-PW period. The PE-PW period begins on the day that a QE or DHS determines the individual to be presumptively eligible and will end the date DHS makes the final determination for full Health Care coverage. The individual must be pregnant at the time of the PE-PW coverage being determined and cannot be currently receiving Health Care coverage through Medicaid or the Children's Health Insurance Program (CHIP). Pregnant women are limited to one PE-PW determination per pregnancy. If a woman is pregnant more than once in a calendar year, they may have more than one presumptive eligibility period in a calendar year due to multiple pregnancies.

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Qualified Entities (QE), including DHS, are responsible for determining eligibility for PE-PW. The QE will make the PE-PW determination based on the following criteria:

- State residency
- Income

PE-PW Coverage will be determined based off self-attested information and may be approved while information is pending to determine eligibility for an ongoing Health Care coverage. Self-attestation of all household information will be accepted for PE-PW. The income limit for the PE-PW category may be found in Appendix F.

Presumptive Eligibility Pregnant Woman (PE-PW) coverage is limited Medicaid that is restricted to prenatal services and services for conditions that may complicate the pregnancy. These services are further limited to the outpatient setting only.

This content is from the eCFR and is authoritative but unofficial.

Title 42 – Public Health

Chapter IV – Centers for Medicare & Medicaid Services, Department of Health and Human Services

Subchapter C – Medical Assistance Programs

Part 435 – Eligibility in the States, District of Columbia, the Northern Mariana Islands, and American Samoa

Subpart L – Options for Coverage of Special Groups under Presumptive Eligibility

Source: 66 FR 2667, Jan. 11, 2001, unless otherwise noted.

Authority: 42 U.S.C. 1302.

Source: 43 FR 45204, Sept. 29, 1978, unless otherwise noted.

Editorial Note: Nomenclature changes to part 435 appear at 89 FR 39435, May 8, 2024.

§ 435.1101 Definitions related to presumptive eligibility.

For the purposes of this subpart, the following definitions apply:

Application means, consistent with the definition at § 435.4, the single streamlined application adopted by the agency under § 435.907(a); and

Period of presumptive eligibility means a period that begins on the date on which a qualified entity determines that a child is presumptively eligible and ends with the earlier of—

- (1) In the case of a child on whose behalf a Medicaid application has been filed, the day on which a decision is made on that application; or
- (2) In the case of a child on whose behalf a Medicaid application has not been filed, the last day of the month following the month in which the determination of presumptive eligibility was made.

Presumptive income standard means the highest income eligibility standard established under the plan that is most likely to be used to establish the regular Medicaid eligibility of a child of the age involved.

Qualified entity means an entity that is determined by the State to be capable of making determinations of presumptive eligibility for children, and that—

- (1) Furnishes health care items and services covered under the approved plan and is eligible to receive payments under the approved plan;
- (2) Is authorized to determine eligibility of a child to participate in a Head Start program under the Head Start Act;
- (3) Is authorized to determine eligibility of a child to receive child care services for which financial assistance is provided under the Child Care and Development Block Grant Act of 1990;
- (4) Is authorized to determine eligibility of an infant or child to receive assistance under the special nutrition program for women, infants, and children (WIC) under section 17 of the Child Nutrition Act of 1966;

- (5) Is authorized to determine eligibility of a child for medical assistance under the Medicaid State plan, or eligibility of a child for child health assistance under the State Children's Health Insurance Program;
- (6) Is an elementary or secondary school, as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);
- (7) Is an elementary or secondary school operated or supported by the Bureau of Indian Affairs;
- (8) Is a State or Tribal child support enforcement agency;
- (9) Is an organization that—
 - (i) Provides emergency food and shelter under a grant under the Stewart B. McKinney Homeless Assistance Act;
 - (ii) Is a State or Tribal office or entity involved in enrollment in the program under title XIX, Part A of title IV, or title XXI; or
 - (iii) Determines eligibility for any assistance or benefits provided under any program of public or assisted housing that receives Federal funds, including the program under section 8 or any other section of the United States Housing Act of 1937 (42 U.S.C. 1437) or under the Native American Housing Assistance and Self Determination Act of 1996 (25 U.S.C. 4101 *et seq.*);
- (10) Is a health facility operated by the Indian Health Service, a Tribe or Tribal organization under the Indian Self Determination and Education Assistance Act (25 U.S.C. 450 *et seq.*), or an Urban Indian Organization under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 *et seq.*).
- (11) Any other entity the State so deems, as approved by the Secretary.

Services means all services covered under the plan including EPSDT (see part 440 of this chapter).

[66 FR 2667, Jan. 11, 2001, as amended at 66 FR 33822, June 25, 2001; 81 FR 86460, Nov. 30, 2016]

This content is from the eCFR and is authoritative but unofficial.

Title 42 – Public Health

Chapter IV – Centers for Medicare & Medicaid Services, Department of Health and Human Services

Subchapter C – Medical Assistance Programs

Part 435 – Eligibility in the States, District of Columbia, the Northern Mariana Islands, and American Samoa

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Source: 66 FR 2667, Jan. 11, 2001, unless otherwise noted.

Authority: 42 U.S.C. 1302.

Source: 43 FR 45204, Sept. 29, 1978, unless otherwise noted.

Editorial Note: Nomenclature changes to part 435 appear at 89 FR 39435, May 8, 2024.

§ 435.1102 Children covered under presumptive eligibility.

- (a) The agency may elect to provide Medicaid services for children under age 19 or a younger age specified by the State during a presumptive eligibility period following a determination by a qualified entity, on the basis of preliminary information, that the individual has gross income (or, at state option, a reasonable estimate of household income, as defined in § 435.603 of this part, determined using simplified methods prescribed by the agency) at or below the income standard established by the State for the age of the child under § 435.118(c) or under § 435.229 if applicable and higher.
- (b) If the agency elects to provide services to children during a period of presumptive eligibility, the agency must—
 - (1) Provide qualified entities with application forms for Medicaid and information on how to assist parents, caretakers and other persons in completing and filing such forms;
 - (2) Establish procedures to ensure that qualified entities—
 - (i) Notify the parent or caretaker of the child at the time a determination regarding presumptive eligibility is made, in writing and orally if appropriate, of such determination;
 - (ii) Provide the parent or caretaker of the child with a regular Medicaid application form;
 - (iii) Within five working days after the date that the determination is made, notify the agency that a child is presumptively eligible;
 - (iv) For children determined to be presumptively eligible, notify the child's parent or caretaker at the time the determination is made, in writing and orally if appropriate, that—
 - (A) If a Medicaid application on behalf of the child is not filed by the last day of the following month, the child's presumptive eligibility will end on that last day; and
 - (B) If a Medicaid application on behalf of the child is filed by the last day of the following month, the child's presumptive eligibility will end on the day that a decision is made on the Medicaid application.

- (v) For children determined not to be presumptively eligible, notify the child's parent or caretaker at the time the determination is made, in writing and orally if appropriate—
 - (A) Of the reason for the determination; and
 - (B) That he or she may file an application for Medicaid on the child's behalf with the Medicaid agency; and
- (vi) Do not delegate the authority to determine presumptive eligibility to another entity.
- (3) Establish oversight mechanisms to ensure that presumptive eligibility determinations are being made consistent with the statute and regulations.
- (c) The agency must adopt reasonable standards regarding the number of periods of presumptive eligibility that will be authorized for a child in a given time frame.
- (d) The agency—
 - (1) May require, for purposes of making a presumptive eligibility determination under this section, that the individual has attested to being, or another person who attests to having reasonable knowledge of the individual's status has attested to the individual being, a—
 - (i) Citizen or national of the United States or in satisfactory immigration status; or
 - (ii) Resident of the State; and
 - (2) May not—
 - (i) Impose other conditions for presumptive eligibility not specified in this section; or
 - (ii) Require verification of the conditions for presumptive eligibility.
- (e) Notice and fair hearing regulations in subpart E of part 431 of this chapter do not apply to determinations of presumptive eligibility under this section.

[43 FR 45204, Sept. 29, 1978, as amended at 77 FR 17212, Mar. 23, 2012; 78 FR 42304, July 15, 2013]

This content is from the eCFR and is authoritative but unofficial.

Title 42 – Public Health

Chapter IV – Centers for Medicare & Medicaid Services, Department of Health and Human Services

Subchapter C – Medical Assistance Programs

Part 435 – Eligibility in the States, District of Columbia, the Northern Mariana Islands, and American Samoa

Subpart L – Options for Coverage of Special Groups under Presumptive Eligibility

Source: 66 FR 2667, Jan. 11, 2001, unless otherwise noted.

Authority: 42 U.S.C. 1302.

Source: 43 FR 45204, Sept. 29, 1978, unless otherwise noted.

Editorial Note: Nomenclature changes to part 435 appear at 89 FR 39435, May 8, 2024.

§ 435.1103 Presumptive eligibility for other individuals.

- (a) The terms of §§ 435.1101 and 435.1102 apply to pregnant women such that the agency may provide Medicaid to pregnant women during a presumptive eligibility period following a determination by a qualified entity that the pregnant woman has income at or below the income standard established by the State under § 435.116(c), except that coverage of services provided to such women is limited to ambulatory prenatal care and the number of presumptive eligibility periods that may be authorized for pregnant women is one per pregnancy.
- (b) If the agency provides Medicaid during a presumptive eligibility period to children under § 435.1102 or to pregnant women under paragraph (a) of this section, the agency may also apply the terms of §§ 435.1101 and 435.1102 to the individuals described in one or more of the following sections of this part, based on the income standard established by the state for such individuals and providing the benefits covered under that section: §§ 435.110 (parents and caretaker relatives), 435.119 (individuals aged 19 or older and under age 65), 435.150 (former foster care children), and 435.218 (individuals under age 65 with income above 133 percent FPL).
- (c)
 - (1) The terms of §§ 435.1101 and 435.1102 apply to individuals who may be eligible under § 435.213 of this part (relating to individuals with breast or cervical cancer) or § 435.214 of this part (relating to eligibility for limited family planning benefits) such that the agency may provide Medicaid during a presumptive eligibility period following a determination by a qualified entity described in paragraph (c)(2) of this section that—
 - (i) The individual meets the eligibility requirements of § 435.213; or
 - (ii) The individual meets the eligibility requirements of § 435.214, except that coverage provided during a presumptive eligibility period to such individuals is limited to the services described in § 435.214(d).
 - (2) Qualified entities described in this paragraph include qualified entities which participate as providers under the State plan and which the agency determines are capable of making presumptive eligibility determinations.

[78 FR 42304, July 15, 2013]