

Section 200

Definitions

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Aged" means a person who is 65 years old or older.

(2) "Aid to the Permanently and Totally Disabled" means a former category of public assistance mandated under Title XIV of the Social Security Act, 42 U.S.C. §1351 et seq., and replaced by Title XVI of the Social Security Act, 42 U.S.C. §1381 et seq.

(3) "Appeal" means a process by which an applicant, recipient, or representative obtains review of a decision, action, or inaction of the Department or the Local Department of Social Services (LDSS).

(4) "Applicant" means a person whose signed application for Medical Assistance has been submitted to the Local Department of Social Services but has not received final action. This includes a person, who need not be alive at the time of application, whose application is submitted through a representative.

(5) "Application" means the filing of a signed application form for Medical Assistance at the local department of social services or its designee.

(6) "Application date" means the date on which a signed application is received by the local department of social services.

(7) "Application form" means the form designated by the Local Department of Social Services to be completed, signed, and submitted to the local department of social services, or a designee, as an official application for Medical Assistance.

(8) "Assistance unit" means one person, or a group of persons whose eligibility for Medical Assistance benefits is determined in conjunction with each other.

(9) "Blindness" means a condition in which a person is certified by an ophthalmologist as having either central visual acuity of 20/200 or less in the better eye with correcting glasses, or a field defect in which the peripheral field has contracted to such an extent that the widest diameter of the visual field subtends an angular distance of no greater than 20 degrees.

(10) Caretaker Relative.

(a) "Caretaker relative" means a parent or other person related by blood, marriage, or adoption and living with and caring for an unmarried child younger than 21 years old who is deprived of parental support due to death, continued absence from the home, incapacitation of a parent, or unemployment of the principal wage earner parent. A parent whose absence is occasioned solely

by reason of the performance of active duty in the uniformed service of the United States is not considered absent from the home. The following relatives and their spouses meet this definition: father, mother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece, and persons of preceding generations as denoted by the prefix of grand, great, and great-great; persons who legally adopt a child or his parent as well as the natural and other legally adopted children of these persons; and other relatives of adoptive parents in accordance with State law. A caretaker relative retains his status as a caretaker relative when the only child or children in his custody receives SSI benefits. This is the only instance when a caretaker relative without children in an assistance unit qualifies as a caretaker relative.

(b) "Continued absence from the home" means that the parent is out of the home, the nature of the absence either interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of his function in planning for the present support or care of the child.

(c) "Incapacitation" means that a parent has a mental or physical defect, illness, or impairment which eliminates the parent's ability to support or care for the child and is expected to last for a period of at least 30 days.

(d) "Principal wage earner parent" means whichever parent, in a home in which both parents of a child are living, earned a greater amount of income in the period specified below:

(i) For initial eligibility, the 24 months immediately preceding the month in which application is filed on the basis of the unemployment of a parent;

(ii) For eligibility for each subsequent month of the certification period, the 24 months immediately preceding the current month.

(e) Unemployed Parent.

(i) "Unemployed parent" means the principal wage earner parent who:

(aa) Has been unemployed for at least 30 days before the receipt of Medical Assistance; and

(bb) Has not left a job or refused to seek or accept employment without good cause within 30 days of the date of application.

(ii) The condition of unemployment is met when the parent is employed less than 100 hours per month; or is employed 100 hours or more per month, if the parent's work is intermittent and the excess hours are of a temporary nature, as evidenced by the fact that the work hours were under the standard for the two previous months and are expected to be under the standard during the next month.

(10-1) "Carrier" means a:

- (a) Health insurer;
- (b) Non-profit health service plan;
- (c) Health maintenance organization;
- (d) Dental plan organization; and
- (e) Any other person included as a third party in Section 1902(a)(25)(A) of the Social Security Act, as amended by the Federal Deficit Reduction Act of 2005.

(11) "Categorically needy" means aged, blind, or disabled persons, or families and children, who are otherwise eligible for Medical Assistance and who meet the financial eligibility requirements for FIP, SSI, or Optional State Supplement.

(12) "Child" means an unmarried person younger than 21 years old.

(13) "Chronic hospital" means an institution which falls within the jurisdiction of Health-General Article, §19-307(a)(1), Annotated Code of Maryland, and is licensed pursuant to COMAR 10.07.01.

(14) "Comprehensive care facility" means a nursing facility licensed as a comprehensive care facility pursuant to COMAR 10.07.02.

(14-1) "Continuing care retirement community (CCRC)" means an entity that obtains certificate of registration issued by the Maryland Department of Aging in accordance with COMAR 32.02.01 and pursuant to its authority under Article 70B, Annotated Code of Maryland.

(15) "Corrective Managed Care Program" means the program administered by the Division of Utilization and Eligibility Review of the Medical Care Compliance Administration which limits recipients who have abused or misused Medical Assistance benefits to access most covered services through a single primary medical provider and a single pharmacy.

(16) "Department" means the Department of Health and Mental Hygiene, the single State agency designated to administer the Medical Assistance Program.

(17) "Department of Human Resources" means the department of State government which administers the FIP program.

(18) "Determination" means a decision regarding an applicant's eligibility for Medical Assistance.

(19) "Disabled" means the inability to perform any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(20) "Eligibility technician" means an employee of the local department of social services responsible for determining eligibility of applicants and recipients.

(20-1) "Emergency services" means services provided by a licensed medical practitioner after the onset of a medical condition manifesting itself by symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected by a prudent layperson, possessing an average knowledge of health and medicine, to result in:

- (a) Placing health in jeopardy;
- (b) Serious impairment to bodily functions;
- (c) Serious dysfunction of any bodily organ or part; or
- (d) Development or continuance of severe pain.

(20-2) "Entrance fee" means a sum of money or other consideration, other than a surcharge that:

- (a) Is paid by a resident to a CCRC initially or in deferred payments, pursuant to a written continuing care agreement between the CCRC and the resident, which governs the use, treatment, and refund of the entrance fee;
- (b) Assures a resident of continuing care in the CCRC facility for a term of more than 1 year or for life; and
- (c) Is at least three times the weighted average of the monthly cost of the periodic fees charged to independent living and assisted living units.

(21) "Extended care facility" means a nursing facility licensed as an extended care facility pursuant to COMAR 10.07.02.

(21-1) "Family Investment Program (FIP)" means a category of public assistance mandated under Title IV-A of the Social Security Act, 42 U.S.C. §601 et seq.

(22) "Hospital" means an institution which falls within the jurisdiction of Health-General Article, §19-307(a)(1), Annotated Code of Maryland, and is licensed pursuant to COMAR 10.07.01, or is licensed according to applicable standards established by the state in which the hospital is located.

(23) Income.

(a) "Income" means any property or service received by a person in cash or in-kind which can be applied directly, or by sale or conversion, to meet basic needs for food, shelter, and medical expenses.

(b) "Earned income" means payment received by a person in cash or in-kind as a result of employment, including self-employment. Earned income consists of wages, salaries, commissions, tips, and profit from self-employment.

(c) "In-kind income" means support or benefits in the form of food or shelter, or both, received by a person.

(d) "Unearned income" means all income which does not meet the definition of earned income.

(24) "Family Investment Administration" means the administrative unit of the Department of Human Resources and its affiliated local departments responsible for determining an applicant's or recipient's eligibility for Public Assistance, Medical Assistance, and Medical Assistance, State-Only.

(25) "Incurred medical expenses" means those paid or unpaid bills for medical care which are recognized under State law and are or will be the obligation of the applicant.

(26) "Intermediate care facility" means a nursing facility which meets the standards for certification and participation in Title XIX and has entered into a provider agreement with the Department pursuant to COMAR 10.09.11.

(27) "Intermediate care facility-mental retardation" means a nursing facility for the mentally retarded which meets the standards for certification and participation in Title XIX and has entered into a provider agreement with the Department pursuant to COMAR 10.09.11.

(28) "Living together" means sharing a common household.

(29) "Local department of social services (LDSS)" means the Baltimore City or a county social services department under the supervision of the Department of Human Resources.

(30) "Long-term-care facility" means a skilled nursing facility, intermediate care facility, intermediate care facility—mental retardation, chronic hospital, tuberculosis hospital, or mental hospital.

(31) "Mandatory State Supplement" means a cash payment a state is required to make under Section 212, P.O. 93-66 to an aged, blind, or disabled person to provide him with the same amount of cash assistance he was receiving under Old Age Assistance, Aid to the Permanently and Totally Disabled, or Public Assistance to the Needy Blind if his SSI payment is less than that amount.

(31-1) "Maryland Medicaid Managed Care Program" means the Medicaid reform program established under COMAR 10.09.62—10.09.73, as authorized by Health-General Article, Title 15, Subtitle 1, Annotated Code of Maryland.

(32) "Medicaid" means Medical Assistance provided under the State Plan approved under Title XIX of the Social Security Act.

(33) "Medical Assistance (MA)" means the program administered by the State under Title XIX which provides comprehensive medical and other health-related care for eligible categorically and medically needy persons.

(34) "Medical Care Compliance Administration" means the administrative unit of the Department responsible for ensuring that health care services provided to recipients are appropriate and effectively utilized.

(35) "Medical Care Operations Administration" means the administrative unit of the Department responsible for maintaining a file of all eligible persons and paying providers of service.

(36) "Health Systems Financing Administration" means the administrative unit of the Department responsible for establishing regulations, policies, and procedures for the Medical Assistance program.

(37) "Medical institution" means an institution that:

(a) Is organized to provide medical care, including nursing and convalescent care;

(b) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards;

(c) Is authorized under State law to provide medical care; and

(d) Is staffed by professional personnel who are responsible to the institution for professional medical and nursing services.

(38) "Medically needy" means persons who are otherwise eligible for Medical Assistance, who are not categorically needy, and whose income and resources are within the limits set under the State Plan.

(39) "Medicare" means the medical insurance program administered by the federal government under Title XVIII of the Social Security Act, 42 U.S.C. §1395 et seq.

(40) "Mental hospital" means an institution which falls within the jurisdiction of Health-General Article, §19-307(a)(1), Annotated Code of Maryland, and is licensed pursuant to COMAR 10.07.04.

(41) "Migrant worker" means a person who moves from place to place to harvest or process seasonal crops.

(42) "Old Age Assistance" means a former category of public assistance mandated under Title I of the Social Security Act, and replaced by Title XVI of the Social Security Act, 42 U.S.C. §1381 et seq.

(43) "One-time-only" means a time-limited certification.

(44) "Optional State Supplement" means a cash payment made by a state to an aged, blind, or disabled person, under §1616 of the Social Security Act.

(45) "Period under consideration" means the specified months which are assessed for determination of eligibility.

(46) "Public Assistance" means cash assistance payments, including state supplementary payments, made to persons who are eligible for programs administered under Title IV-A or Title XVI of the Social Security Act.

(47) "Public Assistance to the Needy Blind" means a former category of public assistance mandated under Title X of the Social Security Act and replaced by Title XVI of the Social Security Act, 42 U.S.C. §1381 et seq.

(48) Public Institution.

(a) "Public institution" means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(b) "Institution" means an establishment that furnishes, in single or multiple facilities, food, shelter, and some treatment or services to four or more persons unrelated to the proprietor.

(c) "Public institution" does not mean a medical institution, a skilled nursing facility, or a publicly operated community residence that serves no more than 16 residents.

(49) Publicly Operated Community Residence that Serves No More Than 16 Residents.

(a) "Publicly operated community residence that serves no more than 16 residents" means a facility that is publicly operated, serves no more than 16 residents, and offers services beyond food and shelter.

(b) "Publicly operated community residence that serves no more than 16 residents" does not mean:

(i) Residential facilities located on or adjacent to any large institution or multipurpose center;

(ii) Educational or vocational institutions that primarily provide an approved or accredited program to some or all of their residents;

(iii) Medical treatment facilities which provide medical care or remedial service on an inpatient basis; or

(iv) Correctional or holding facilities which provide for persons who are prisoners, have been arrested or detained, or are held under court order as material witnesses or juveniles.

(49-1) "Qualified alien" means an alien who:

(a) Has been fully admitted for permanent residence under the Immigration and Nationality Act (INA);

(b) Has been granted asylum under §208 of the INA;

(c) Has been admitted into the United States as a refugee under §207 of the INA;

(d) Has been paroled into the United States under §212(d)(5) of the INA for a period of at least 1 year;

(e) Has had deportation withheld under §243(h) of the INA; or

(f) Has been granted conditional entry under §203(a)(7) of the INA in effect before April 1, 1980.

(50) "Recipient" means a person who is certified as eligible for Medical Assistance.

(51) "Redetermination" means a determination regarding continuing eligibility of a recipient.

(52) "Remedial service" means any service, other than a physician's service, provided within the scope of practice as defined by State law by a person licensed as a practitioner under State law.

(53) "Resources" means accumulated personal wealth over which a person has the authority or power to liquidate his interest, including cash savings, savings accounts, certificates of deposit, money market certificates, checking accounts, stocks, bonds, cash value of life insurance, burial plots, prepaid burial plans, real property, personal property, mortgages, and mutual funds.

(54) "Retroactive coverage" means the availability of coverage for incurred medical expenses covered under the State Plan for a period not to exceed 3 months before the month of application.

(55) "Skilled nursing facility" means a nursing facility which:

(a) Is licensed as a comprehensive care facility (SNF/CCF), or as an extended care facility (SNF/ECF), or both;

(b) Meets the requirements for certification and participation in Title XIX of the Social Security Act as a skilled nursing facility; and

(c) Has entered into a provider agreement with the Department pursuant to COMAR 10.09.10.

(56) "Social Security Administration" means the administrative unit in the United States Department of Health and Human Services responsible for administering programs under Titles II, IV-A, IV-D, and XVI of the Social Security Act.

(57) "Spend-down" means a procedure by which an applicant who is ineligible for Medical Assistance due to excess income becomes eligible by deducting incurred medical expenses from excess income.

(58) "Spouse" means a person who has been determined to be the husband or wife of another person under State law or for the purposes of determining eligibility for Social Security benefits.

(59) "State Plan" means a comprehensive written commitment by a Medicaid agency, submitted under §1902(a) of the Social Security Act, to administer or supervise the administration of a medical assistance program in accordance with federal requirements.

(60) "Supplemental Security Income (SSI)" means a federally administered program providing benefits to needy aged, blind, and disabled individuals under Title XVI of the Social Security Act, 42 U.S.C. §1381 et seq.

(61) "Third party" means a person, institution, corporation, public or private agency or organization who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient.

(62) "Title XIX" means the title of the Social Security Act, 42 U.S.C. §1396 et seq., which governs establishment of a medical assistance program for low income persons.

(63) "Tuberculosis hospital" means an institution which falls within the jurisdiction of Health-General Article, §19-307(a)(1), Annotated Code of Maryland, and is licensed pursuant to COMAR 10.07.01.