ELIGIBILITY DETERMINATION GROUPS PRIOR TO 1/1/14

AFDC MEDICAID

Those who are eligible to receive AFDC Medicaid are those who would have qualified for an AFDC/U payment when the Program was active. For families that receive WV WORKS payments, Medicaid eligibility is not automatic. In order to qualify for AFDC Medicaid, each individual must be evaluated according to the criteria of the former AFDC/U Program. Only those WV WORKS recipients who also meet AFDC/U eligibility requirements are eligible for AFDC Medicaid. All others must be evaluated according to the eligibility criteria of all other coverage groups to determine Medicaid eligibility.

In addition to those individuals who receive WV WORKS, there may be others in the home who are not eligible for WV WORKS, but who would have been eligible to be included in an AFDC/U payment. These individuals must be evaluated for AFDC Medicaid. This also applies to any Medicaid applicant whether or not anyone in the home receives, or has applied for, WV WORKS.

Even though eligibility must be determined for each individual, income and asset eligibility are determined based on the circumstances of the Income Group. A deprivation factor must exist for each AFDC Medicaid-eligible child, the child must live with a specified relative and the individual must be eligible to be included in the AG, according to AFDC/U standards.

A. THE ASSISTANCE GROUP (AG)

NOTE: Whether an individual has earned or unearned income, other than SSI benefits, sufficient to meet his needs is not a factor to consider when determining if the individual is eligible to be included in the AG.

The process of determining who must be included in the AG begins with the child for whom AFDC Medicaid is sought. It is the child who draws his parent(s) and blood-related siblings into the AG, rather than the parent who draws his child into the AG. In addition, when two parents each have their own children and a common child, it is not the fact that the parents have a common child that determines AG composition. Instead, it is the fact that the common child is a blood-related sibling to each group of children that requires all of the children to be included in the same AG, if otherwise eligible. Otherwise eligible, for the purpose of this Section (9.4) only, means that a deprivation factor exists and the child lives with a specified relative. A child may not be excluded from the AG solely for financial reasons.

The AFDC Medicaid AG is composed of eligible children and their parent(s) or another specified relative.

1. Who Must Be Included

The following individuals are required to be included:

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- All otherwise eligible dependent children and their otherwise eligible parent(s) who are living in the same household must be included in the AG. Parent is defined as a natural or adoptive parent. See Chapter 15 for the definition of a dependent child.

- All otherwise eligible blood-related or adoptive siblings who are living in the same household must be included in the same AG. Stepbrothers and stepsisters are not blood-related and, therefore, are not included in the AG.

- All otherwise eligible adoptive siblings who receive federal, state or local adoption assistance, when the AFDC/U check amount would remain the same or increase. See item 3 for income calculations.

NOTE: When an individual is required to be in two or more AGs, the AGs must be combined.

When an individual, not related as a parent, a dependent minor child or a minor sibling to a member of an AFDC Medicaid AG, lives in the household and applies for Medicaid, eligibility is determined separately.

2. Who May Choose To Be Included

The following individuals may choose to be included:

- One caretaker relative, other than natural or adoptive parents, can choose to be either included or excluded from the AG. If included, his non-excluded income and assets must be considered.

NOTE: A caretaker relative who is not a natural or adoptive parent cannot be included in the AG when a parent lives in the home.

- The caretaker relative, who is otherwise eligible, when the only dependent child(ren) in the home receives federal, State or local foster care, adoption assistance payments or SSI. The needs and income of the child are not considered when determining the amount of the benefit. The relative is treated like a parent, except that he may choose to be excluded at any time.

There are no restrictions on the number of times the individual may choose to be included or excluded.

3. Who Cannot Be Included

The following situations result in ineligibility for the individual who meets at least one of the following criteria. However, when all members of the AG meet any of the criteria listed below the entire case is ineligible. In addition, when all otherwise-eligible children meet any of the criteria listed below, except receipt of SSI, foster care or adoption assistance, the entire case is ineligible.

- Parents and siblings who are SSI recipients. The caretaker relative may receive AFDC Medicaid when there are no children in the AG, if the children are ineligible for AFDC Medicaid only because they are SSI recipients.

- Parents and siblings who are aliens and are ineligible because they have been sponsored by a private or public agency or organization or because of deeming income from sponsor to alien.

- Parents and siblings who are aliens and are ineligible because they do not meet the citizenship and alienage requirements.

- A child who is a recipient of federal, state or local foster care maintenance payments.

- A child of a minor parent, when the minor parent is a recipient of federal foster care payments.

- A child who is a recipient of federal, state or local adoption assistance, unless the exclusion of the child reduces the amount of payment the AG would have received.

  When the child is included in the AG, any portion of the adoption assistance which meets any of the following criteria is excluded:

  - The adoption assistance is for a different purpose than the AFDC/U check would have been, i.e., vocational rehabilitation; or

  - The adoption assistance is for goods or services not included in the State's Standard of Need, i.e., money for special training or for medical care not provided for recipients of AFDC Medicaid; or

  - The adoption assistance makes up the difference between the State's payment standard and the Standard of Need.

NOTE: Any portion of the adoption assistance which is excluded, using the above criteria, is also excluded prior to determining if the AFDC/U benefit would have been reduced if the needs of the adopted child are included.

NOTE: West Virginia's adoption assistance payments do not meet the above criteria.

To determine whether to exclude the adopted child, complete the following steps:

Step 1: Determine the amount of the benefit, excluding the needs of the adopted child.

Step 2: Determine the amount of the benefit, including the needs and non-excluded income of the adopted child.

If the amount in Step 2 is less than the amount in Step 1, the adopted child must be excluded from the AG.

If the amount in Step 2 is greater than the amount in Step 1, the adopted child must be included in the benefit group.

EXAMPLE: Mr. and Mrs. T are eligible for $360 from the former AFDC Program for themselves and their three children. They adopt Sam and he receives $200 non-excluded adoption assistance.

Step 1: $360-AFDC AG of 5, excluding Sam

Step 2: Sam's $200 non-excluded adoption assistance reduces the amount of AFDC a 6-person AG would receive from $413 to $213.

Because $213 is less than $360, and the benefit is reduced, Sam must be excluded from the AG.

EXAMPLE: Same as the preceding example, except that, Sam receives non-excluded adoption assistance of $50.

Step 1: $360 AFDC AG for 5, excluding Sam

Step 2: Sam's $50 non-excluded adoption assistance reduces the AFDC 6 person AG payment of $413 to $363.

Because $363 is greater than $360, and the benefit is not reduced, Sam is included in the AG.

- Individuals who are ineligible due to failure to fulfill an eligibility requirement. This includes the following individuals:

  - The specified relative who fails to cooperate with BCSE medical support requirements without good cause, or who, after assigning rights, fails to cooperate without good cause

  - The individual who fails to meet the enumeration requirement

  - The mandatory referral to DRS who refuses referral or services, except surgery, without good cause

  - The caretaker relative, who is not a parent of the dependent child and who fails, without good cause, to apply for and accept a potential resource for which he may be eligible.

- Parents and siblings who are ineligible due to receipt of a lump sum

4. Treatment Of The Minor Parent (mp) In The AG

Treatment of the minor parent (mp) in the AG requires special consideration, depending upon whether he is under the care and control of the caretaker relative, or whether he has care and control of his own child.

Care and control is defined as providing or making provision for the day-to-day supervision of the child. Care and control may include, but is not limited to, the following:

- Managing the income of the child. This may include the payment of shelter expenses and the purchase of food, clothing, or incidentals for the child.

- Day-to-day care which may include meal preparation, feeding, dressing, bathing and supervision of activities

- Responsibility for obtaining medical treatment, including making appointments for and attending physician or clinic visits, and supervising the administration of prescribed treatment

- Responsibility for educational activities, such as making decisions about school enrollment, attending conferences or being listed as a contact person

The decision regarding care and control must be made on a case-by-case basis. If the Worker cannot make a decision using the above criteria, the Supervisor makes the decision.

A minor parent (mp) is treated as a dependent child in the AG when:

- An application is made by a caretaker relative who has care and control of both the mp and her child.

- An application is made for the mp only by a caretaker relative who has care and control of the mp.

NOTE: The mp who lives with a spouse cannot be considered a dependent child.

NOTE: When the mp is a dependent child, she must be included on the AG with her dependent blood-related siblings who are otherwise eligible.

The mp is treated as the caretaker relative anytime she has care and control of her own child.

NOTE: When the mp and the legal father of the child live together, it is assumed that they are the caretakers of their child. When the mp as more than one child and all of the children do not have the same father, the mp is assumed to be the caretaker of all the children as long as the legal father of one child lives in the home. However, when the mp lives with a spouse who is not the legal father of the child, or any of the children, it is not assumed that the mp is the caretaker of the child.

When an individual in the home, other than the mp, has care and control of the mp's child and applies for AFDC Medicaid for the child, the mp who lives in the home must be included in the AG because she is the parent of the child, not because she is the caretaker relative. In this situation, the mp is considered to be the non-caretaker parent. The individual who has care and control of the mp's child is the caretaker relative of the child.

NOTE: The mp must be treated the same for the Income Group and for the AG, i.e., when the mp is treated as a dependent child in the AG, the mp's own income is treated as that of a child. When the mp is treated as a caretaker relative or a non-caretaker parent, the income is treated as that of an adult.

B. THE INCOME GROUP (IG)

The non-excluded income of all AG members is counted.

The non-excluded income of the following individuals must be counted when determining eligibility, but not when determining need:

- The sanctioned individual or ineligible / illegal alien
- The legal stepparent
- The spouse of a non-parent caretaker relative, when the non-parent caretaker is included in the AG
- The Major Parent who lives with a minor parent, when the minor parent is a caretaker relative or a non-caretaker parent

See Chapter 10 to determine how the income is counted.

C. THE NEEDS GROUP (NG)

Countable income is compared to the income limits for the number of persons in the AG to determine eligibility and the amount of the benefit.

D. EXAMPLES OF AG COMPOSITION

EXAMPLE: Household consists of Ms. A and her two dependent children. All are included in the AG.

EXAMPLE: Same as previous example, except that one child receives $200 VA benefits each month. All are included in the AG, and $200 is counted as income.

EXAMPLE: Household consists of Ms. B and her two nephews who are blood-related siblings. Both children are included. Mrs. B can choose to be either included or excluded. If she is included, her income is counted.

EXAMPLE: Household consists of Mr. and Mrs. C, their two children, and her child from a previous marriage. Mr. C is employed full-time. Therefore, he and his children are not eligible to be included because there is no deprivation factor. The AG consists of Mrs. C and her child. Mr. C's income is deemed to the AG according to instructions in Chapter 10. In addition, Mr. C's assets are considered when determining eligibility, since Mrs. C is included in the AG. See Chapter 11.

EXAMPLE: Household consists of Mr. and Mrs. D and their three children. One of the three children receives SSI. The AG consists of Mr. and Mrs. D and the two dependent children who do not receive SSI. The SSI child is not included in the AG and the SSI income is not counted.

EXAMPLE: Household consists of Mr. and Mrs. E, Mr. E's two children from a previous marriage and Mrs. E's child from a previous marriage. Mr. E and his two children are included in one AG. A separate AG is established for Mrs. E and her child.

EXAMPLE: Household consists of Mr. and Mrs. F, their two children and Mrs. F's niece. Mr. and Mrs. F and their children are in one AG. A separate AG is established for Mrs. F's niece.

EXAMPLE: Household consists of Mrs. G and her daughter Miss G. Mrs. G and her daughter receive AFDC Medicaid. After the birth of Miss G's child, Mrs. G seeks AFDC Medicaid for the child. Because the grandmother, the minor mother and the minor mother's child are all seeking AFDC Medicaid, the Worker must determine who is exercising responsibility for the care and control of Miss G's child.

If Miss G is the caretaker, the AG consists of Miss G and her child. Miss G is included in the AG as the caretaker relative. Mrs. G is no longer eligible because she has no dependent child.

If Mrs. G is the caretaker of Miss G's child, Miss G is still required to be included in the AG as the non-caretaker parent, and is treated as an adult.

If Mrs. G is the caretaker for both Miss G and Miss G's child, and applies for both as such, Miss G and her child are both treated as dependent children.

EXAMPLE: Household consists of Mrs. I and her two sons who receive AFDC Medicaid. Mrs. I's daughter Miss I, a minor parent, returns to the home with her child. Miss I has been living independently with her child, and receives AFDC Medicaid. After she returns home, Miss I continues to have responsibility for the care and control of her child. She and her child are a separate AG.

EXAMPLE: Household consists of Mr. J, his wife and her two children from a previous marriage. Mrs. J and her two children receive AFDC Medicaid.

Mr. J's ex-wife and her two children move into Mr. J's home and apply for AFDC Medicaid. Mr. J is the father of his ex-wife's children and meets the definition of an unemployed parent.

Mrs. J and her two children are included in one AG. A separate AG is established for Mr. J, his ex-wife and their two children.

EXAMPLE: Household consists of Mrs. K, her daughter Miss K, who is a dependent child, and Miss K's child. Mrs. K adopts Miss K's child and applies for AFDC Medicaid for her adopted child. The AG consists of Mrs. K, her adopted child and the natural mother, Miss K. Miss K, because she is a dependent child, is included as a sibling of the child adopted by her mother, Mrs. K.

EXAMPLE: A WV WORKS household consists of Mr. and Mrs. L and their 4 children. Mr. L was convicted of a felony for selling illegal drugs on 8/23/96. Mrs. L and the children are eligible for WV WORKS. Mr. L is not eligible for WV WORKS, but he meets the AFDC Medicaid definition of an unemployed parent. He also is otherwise eligible under all other AFDC Medicaid criteria. Because Mr. L would have been eligible for an AFDC check, Mr. L is eligible for AFDC Medicaid coverage only. In addition, due to Mr. L's deprivation factor, Mrs. L and the children also meet the requirements for being included in the AFDC Medicaid AG. Mr. L's ineligibility for WV WORKS has no bearing on his eligibility for AFDC Medicaid.

QUALIFIED AND POVERTY-LEVEL CHILDREN

NOTE: SSI recipients, whether they are adults or children, are not included in the AG, Income or Needs Group.

A. THE ASSISTANCE GROUP (AG)

1. Who Must Be Included

   The Qualified and Poverty-Level child must be included.

2. Who Cannot Be Included

   Only the Qualified and Poverty-Level child is included.

B. THE INCOME GROUP (IG)

The income of the following individuals, including ineligible/ illegal aliens, is used to determine the child's eligibility:

- The child
- The child's mother, if living in the home
- The child's legal father, if living in the home
- The child's legal spouse, if living in the home

NOTE: In a joint custody situation in which a child resides 50% of the time with each parent throughout the year, the income of both parents is counted for the child. In a joint custody situation in which the child spends the majority of his time with one parent, only the income of that parent is counted.

C. THE NEEDS GROUPS (NG)

The needs of the following individuals are used to determine the child's eligibility.

- The child
- The child's mother, if living in the home
- The child's legal father, if living in the home
- The child's legal spouse, if living in the home
- The child's blood-related or adopted siblings who are under age 19, regardless of school attendance or course completion date, if living in the home

NOTE: When the income of both parents is counted for a child who resides with each parent 50% of the time throughout the year, both parents are included in the child's Needs Group.

Countable income is compared to the income limit for the number of persons in the Needs Group to determine financial eligibility.

POVERTY-LEVEL PREGNANT WOMEN

NOTE: SSI recipients, whether they are adults or children, are not included in the AG, Income or Needs Group.

A. THE ASSISTANCE GROUP (AG)

1. Who Must Be Included

   The pregnant woman must be included.

2. Who Cannot Be Included

   Only the pregnant woman is included. The unborn child(ren) is not included.

B. THE INCOME GROUP (IG)

The income of the following individuals, including ineligible / illegal aliens, is used to determine eligibility for the Poverty-Level pregnant woman:

- The pregnant woman
- The legal father of the unborn child, if living in the home, including the legal father who is court-ordered to perform unpaid public work or community service.
- The parent(s) of an under-age-18 pregnant woman when the pregnant woman lives with her parent(s).

See Chapter 10 to determine how the income is counted.

C. THE NEEDS GROUP (NG)

The needs of the following individuals are included in determining eligibility for the Poverty-Level pregnant woman:

- The pregnant woman
- The unborn child or children, when a multiple birth is medically verified
- The legal father of the unborn child, if living in the home. However, he is not included if he is court-ordered to perform unpaid public work or community service.
- Children of the pregnant woman and other blood-related siblings of the unborn child, up to age 19, regardless of school attendance.

Do not include the parent(s) or sibling(s) of the pregnant woman who is under age 18.

Countable income is compared to the income limit for the number of persons in the Needs Group to determine financial eligibility.