

AS 47.07.020. Eligible Persons.

(a) All residents of the state for whom the Social Security Act requires Medicaid coverage are eligible to receive medical assistance under 42 U.S.C. 1396 - 1396p (Title XIX, Social Security Act).

(b) In addition to the persons specified in (a) of this section, the following optional groups of persons for whom the state may claim federal financial participation are eligible for medical assistance:

(1) persons eligible for but not receiving assistance under any plan of the state approved under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act, Supplemental Security Income) or a federal program designated as the successor to the aid to families with dependent children program;

(2) persons in a general hospital, skilled nursing facility, or intermediate care facility, who, if they left the facility, would be eligible for assistance under one of the federal programs specified in (1) of this subsection;

(3) persons under 21 years of age who are under supervision of the department, for whom maintenance is being paid in whole or in part from public funds, and who are in foster homes or private child-care institutions;

(4) aged, blind, or disabled persons, who, because they do not meet income and resources requirements, do not receive supplemental security income under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act), and who do not receive a mandatory state supplement, but who are eligible, or would be eligible if they were not in a skilled nursing facility or intermediate care facility to receive an optional state supplementary payment;

(5) persons under 21 years of age who are in an institution designated as an intermediate care facility for the mentally retarded and who are financially eligible as determined by the standards of the federal program designated as the successor to the aid to families with dependent children program;

(6) persons in a medical or intermediate care facility whose income while in the facility does not exceed \$1,656 a month but who would not be eligible for an optional state supplementary payment if they left the hospital or other facility;

(7) persons under 21 years of age who are receiving active treatment in a psychiatric hospital and who are financially eligible as determined by the standards of the federal program designated as the successor to the aid to families with dependent children program;

(8) persons under age 21 and not covered under (a) of this section, who would be eligible for benefits under the federal program designated as the successor to the aid to families with dependent children program, except that they have the care and support of both their natural and adoptive parents;

(9) pregnant women not covered under (a) of this section and who meet the income and resource requirements of the federal program designated as the successor to the aid to families with dependent children program;

(10) persons under 21 years of age not covered under (a) of this section who the department has determined cannot be placed for adoption without medical assistance because of a special need for medical or rehabilitative care and who the department has determined are hard-to-place children eligible for subsidy under AS [25.23.190](#) - [25.23.210](#);

(11) persons who can be considered under 42 U.S.C. 1396a(e)(3) (Title XIX, Social Security Act, Medical Assistance) to be individuals with respect to whom a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act) because they meet all of the following criteria:

(A) they are 18 years of age or younger and qualify as disabled individuals under 42 U.S.C. 1382c(a) (Title XVI, Social Security Act);

(B) the department has determined that

(i) they require a level of care provided in a hospital, nursing facility, or intermediate care facility for the mentally retarded;

(ii) it is appropriate to provide their care outside of an institution; and

(iii) the estimated amount that would be spent for medical assistance for their individual care outside an institution is not greater than the estimated amount that would otherwise be expended individually for medical assistance within an appropriate institution;

(C) if they were in a medical institution, they would be eligible for medical assistance under other provisions of this chapter; and

(D) home and community-based services under a waiver approved by the federal government are either not available to them under this chapter or would be inappropriate for them;

(12) disabled persons, as described in 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under applicable federal regulations or guidelines, is less than 250 percent of the official poverty line applicable to a family of that size according to the United States Department of Health and Human Services, and who, but for earnings in excess of the limit established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be individuals with respect to whom a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c; a person eligible for assistance under this paragraph who is not eligible under another provision of this section shall pay a premium or other cost-sharing charges according to a sliding fee scale that is based on income as established by the department in regulations;

(13) persons under 19 years of age who are not covered under (a) of this section and whose household income does not exceed 175 percent of the federal poverty line as defined by the United States Department of Health and Human Services and revised under 42 U.S.C. 9902(2);

(14) pregnant women who are not covered under (a) of this section and whose household income does not exceed 175 percent of the federal poverty line as defined by the United States Department of Health and Human Services and revised under 42 U.S.C. 9902(2);

(15) persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage under 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII).

(c) Receipt of medical assistance under this chapter is considered to be an additional benefit to these individuals and does not affect other assistance payments, federal or state, for which the recipient is eligible.

(d) Additional groups may not be added unless approved by the legislature.

(e) Notwithstanding (b)(4) of this section, a person is not eligible for Medicaid benefits until a final determination is made on the eligibility of that person for benefits under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act).

(f) A person may not be denied eligibility for medical assistance under this chapter on the basis of a diversion of income, whether by assignment or after receipt of the income, into a Medicaid-qualifying trust that, according to a determination made by the department,

(1) has provisions that require that the state will receive all of the trust assets remaining at the death of the individual, subject to a maximum amount that equals the total medical assistance paid on behalf of the individual; and

(2) otherwise meets the requirements of 42 U.S.C. 1396p(d)(4).

(g) A person's eligibility for medical assistance under this chapter may not be denied or delayed on the basis of a transfer of assets for less than fair market value if the person establishes to the satisfaction of

the department that the denial or delay would work an undue hardship on the person as determined on the basis of criteria in applicable federal regulations.

(h) A person who meets the eligibility requirements of (a) or (b) of this section, except that the person is a qualified alien as defined in 8 U.S.C. 1641, is eligible for medical assistance unless the person is not eligible under the limited eligibility provision of 8 U.S.C. 1613.

(i) The department may allow a person under 19 years of age who is determined to be eligible for benefits under this chapter to remain eligible for those benefits for up to 11 calendar months following the month that the person is determined eligible for benefits or until the person is 19 years old, whichever occurs earlier.

(j) [See conditional effective date note]. A person may not apply for medical assistance coverage on behalf of a child under 18 years of age who is not emancipated unless the person is the parent or legal guardian of the child or, if the parent or legal guardian can be contacted and consents to the application, the person is

(1) an adult caretaker relative who lives with the child and who is exercising care and control of the child; or

(2) an employee of the department who is applying on behalf of a child who is in the custody of the department.

(k) [See conditional effective date note]. A child who is unemancipated may apply for medical assistance coverage on the child's own behalf if the parent or legal guardian of the child consents to the application. The department may waive consent under this section if the child expresses a reasonable fear of the child's parent or legal guardian or the department has been unable to contact the parent or legal guardian after the department has made reasonable efforts to do so. If a waiver of consent is granted, the department shall document the reason for the waiver in the child's medical assistance record.

(l) [See conditional effective date note]. Notwithstanding the eligibility provisions under (a) and (b) of this section, a person may not receive medical assistance under this section unless the person first enrolls in the Medicare program under 42 U.S.C. 1395 to the extent that the person is eligible to receive benefits and services under the program.

(m) [See conditional effective date note]. Except as provided in (g) of this section, the department shall impose a penalty period of ineligibility for the transfer of an asset for less than fair market value by an applicant or an applicant's spouse consistent with 42 U.S.C. 1396p(c)(1).

(n) [See conditional effective date note]. Except as provided under 42 U.S.C. 1396p(f) and 42 U.S.C. 1396u-1, the department shall include as an asset for eligibility purposes the value of an applicant's home if the equity value in the home exceeds \$500,000 at the time the application is completed. Nothing in this subsection prohibits an applicant from reducing the equity value in the applicant's home by selling the home or by taking out a loan that affects the equity.