

November 13, 1997

Dear State Medicaid Director:

This letter is one of a series of letters that provide guidance on the implementation of changes to Medicaid made by the Balanced Budget Act (BBA). Under the BBA, Medicaid eligibility is continued for eligible children who on August 22, 1996 were receiving SSI but who effective July 1, 1997, or later, lose that SSI payment because of a disability determination under the rules enacted in welfare reform (P.L. 104-193). FFP is available for Medicaid furnished to children whose eligibility is reinstated under this provision retroactive to July 1, 1997. We urge you to publicize throughout your State this change in the law.

### **Protection of Certain Children Who Had Received SSI**

Section 4913 of BBA provides that children who were receiving SSI payments on August 22, 1996 and who, but for the passage of the new disability definition would continue to be paid such benefits, are mandatory categorically eligible for Medicaid. Only those children living in States which do not provide Medicaid eligibility to children based on disability, or in States that use a more restrictive disability definition as permitted by section 1902(f) of the Act, are unaffected by this provision. This section has an effective date of July 1, 1997 because that is the first date on which SSI could terminate children who have been found not to meet the new definition of disability established by welfare reform and were being paid SSI on August 22, 1996.

### **Outreach to Eligible Children**

In the event you terminated any of these children from Medicaid, contrary to the policies set forth in this letter, you must reopen your determination and reinstate their Medicaid eligibility. In addition, you should use the information in your files to locate any children protected by section 4913 whom you terminated from Medicaid. You should also attempt to find any protected children whom you could not locate using the information in your files. When you have identified these children, you should reopen your determination and reinstate their Medicaid eligibility. This action will restore them to the situation they were in at the time of termination from Medicaid based upon SSA's finding they were not disabled under the new childhood disability definition. You should then apply the policies set forth in the attachment to this letter to determine whether these children may continue to receive Medicaid.

Additional guidance on this subject is contained in the attachment. If you have questions about the implementation of this provision, please write to us.

Sincerely,

Sally K. Richardson  
Director  
Center for Medicaid and State Operations

Attachment

cc:

All Regional Administrators  
All Associate Regional Administrators for Medicaid  
Jennifer Baxendell, NGA  
Lee Partridge, APWA  
Joy Wilson, NCSL  
Carolyn Colvin, SSA

---

## **ATTACHMENT**

This attachment provides policies to address the issues most commonly encountered by States in implementing the requirements of section 4913 of the BBA.

### **Determining Who is an SSI Child Covered by Section 4913**

The SDX notice from the Social Security Administration (SSA) does not provide a unique identifier for SSI children who may be covered by section 4913. Therefore, to assist you in identifying children affected by this provision, SSA is making available, upon your request, lists of children whose cash benefits were terminated effective July 1, 1997 or who lose such benefits after that date due to a finding, including a finding of noncooperation with the disability redetermination process, that the child does not meet the definition of disability enacted by section 211 of welfare reform. These lists are only available electronically over the network data mover (NDM). You must contact your SSA Regional Commissioner to request the list. Once your request is received by SSA, monthly updates will be transmitted to you.

In the event a Medicaid eligible child who is not included on an SSA list of affected children loses SSI, you will need to contact SSA to determine the reason for the SSI termination. If the child is not eligible for SSI because the child does not meet the new disability definition, you will also need to determine whether the child was receiving SSI on August 22, 1996. If SSA determines that the child was not receiving SSI on that date the child is not protected by section 4913. A child who loses SSI after August 22, 1996 for a non disability reason is also not protected by section 4913. If either of the two preceding situations occur, redetermine the Medicaid eligibility of the child under another eligibility group in accordance with the policies on ex-parte redeterminations set forth in our letters of February 6 and April 21, 1997.

Once you have determined that a child is covered by section 4913, beginning with SSI terminations on July 1, 1997 or later, you should retain the child on the Medicaid rolls.

### **Reopening Claims for Children Terminated by SSI Because the Child Does Not Meet the New Disability Definition in Section 211 of Welfare Reform**

If you have terminated a child covered by section 4913 from Medicaid, use the criteria in the State Medicaid Manual at sections 2904- 2904.1 to reopen the case. After reopening the case, determine whether the child meets the SSI non disability eligibility criteria, or qualifies for Medicaid on some other basis. Do not examine the issue of disability at this time. Subsequent redeterminations of both disability and eligibility should be performed according to the policies set forth in 42 CFR 435.916 as described in the following section.

You do not need to reopen the case in the event you did an ex-parte redetermination in accordance with the policies described in the following section.

### **Redeterminations For Children Retained on Medicaid**

Children covered by section 4913 whose Medicaid eligibility is uninterrupted do not need to be redetermined at this time. Redetermine their eligibility based on the policies set forth in 42 CFR 435.916, which provide for a review with respect to circumstances that may change at least every 12 months. The task of redetermining whether these children continue to be Medicaid eligible is solely the State's responsibility.

When performing subsequent redeterminations of eligibility for children covered by section 4913, follow the regulations cited above, the policies set forth in our letters to you of February 6, and April 21, 1997 concerning ex-parte redeterminations and the additional policies described below to determine whether the child continues to meet the section 4913 criteria or meets the criteria for another eligibility group:

- Use the SSA definition of disability and accompanying regulations for evaluating disability in effect on or before August 22, 1996. These regulations are incorporated by reference in 42 CFR 435.541(f). Therefore, at any time a redetermination of disability is necessary, use the pre August 22, 1996 policies to conduct the redetermination. These regulations establish procedures for creating reexamination diaries and the criteria to be used in evaluating whether the individual continues to be disabled.
- Use the non-disability eligibility criteria in effect at the time you conduct the redetermination when redetermining the Medicaid eligibility of a disabled former SSI eligible child to whom section 4913 applies. This policy applies any time you conduct a redetermination of eligibility for a former SSI eligible child, including any future redetermination of eligibility.
- To assist you in determining and redetermining that a child covered by section 4913 meets the disability requirements in effect prior to August 22, 1996, we are working with SSA to ascertain whether the SSA medical

evidence can be released to the States in order to avoid duplication when redetermining disability and to limit the necessity for securing additional medical evidence.

Additional policy and regulations will be issued to assist you in implementing the new definition of disability as well as processing the continued eligibility of children covered by the pre August 22, 1996 definition of disability.

### **Former SSI Children Retaining Medicaid Eligibility as Poverty Level Children**

You may place a child protected by section 4913 in a mandatory poverty level group, unless the amount, duration or scope of eligibility or services is less than that provided to SSI eligible individuals. We are permitting this policy to lessen the administrative burden associated with disability determinations and redeterminations while assuring that the children receive the same level of services. However, you cannot provide eligibility under an optional group to a person who is eligible under a mandatory group, such as the group established by section 4913.