

has considered the spouse's needs in determining the amount of cash assistance provided to the individual.

Subpart D—Optional Coverage of the Medically Needy

§ 436.300 Scope.

This subpart specifies the option for coverage of medically needy individuals.

§ 436.301 General rules.

(a) A Medicaid agency may provide Medicaid to individuals specified in this subpart who:

(1) Either:

(i) Have income that meets the standard in § 436.811; or

(ii) If their income is more than allowed under the standard, have incurred medical expenses at least equal to the difference between their income and the applicable income standards; and

(2) Have resources that meet the standard in §§ 436.840 and 436.843.

(b) If the agency chooses this option, the following provisions apply:

(1) The agency must provide Medicaid to the following individuals who meet the requirements of paragraph (a) of this section:

(i) All pregnant women during the course of their pregnancy who, except for income and resources, would be eligible for Medicaid as mandatory or optional categorically needy under subparts B and C of this part;

(ii) All individuals under 18 years of age who, except for income and resources, would be eligible for Medicaid as mandatory categorically needy under subpart B of this part;

(iii) All newborn children born on or after October 1, 1984, to a woman who is eligible as medically needy and receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible as medically needy for one year so long as the woman remains eligible and the child is a member of the woman's household. If the woman's basis of eligibility changes to categorically needy, the child is eligible as categorically needy under § 436.124. The woman is considered to remain eligible if she

meets the spend-down requirements in any consecutive budget period following the birth of the child.

(iv) Women who, while pregnant, applied for, were eligible for, and received Medicaid services as medically needed on the day that their pregnancy ends. The agency must provide medically needy eligibility to these women for an extended period following termination of pregnancy. This period begins on the last day of the pregnancy and extends through the end of the month in which a 60-day period following termination of pregnancy ends. Eligibility must be provided, regardless of changes in the women's financial circumstances that may occur within this extended period. These women are eligible for the extended period for all services under the plan that are pregnancy-related (as defined in § 440.210(c)(1) of this subchapter).

(2) The agency may provide Medicaid to any or all of the following groups of individuals:

(i) Individuals under age 21 (§ 436.308).

(ii) Specified relatives (§ 436.310).

(iii) Aged (§ 436.320).

(iv) Blind (§ 436.321).

(v) Disabled (§ 436.322).

(3) If the agency provides Medicaid to any individual in a group specified in paragraph (b)(2) of this section, the agency must provide Medicaid to all individuals eligible to be members of that group.

[46 FR 47990, Sept. 30, 1981; 46 FR 54743, Nov. 4, 1981, as amended at 52 FR 43073, Nov. 9, 1987; 55 FR 48610, Nov. 21, 1990; 58 FR 4935, Jan. 19, 1993]

§ 436.308 Medically needy coverage of individuals under age 21.

(a) If the agency provides Medicaid to the medically needy, it may provide Medicaid to individuals under age 21 (or at State option, under age 20, 19, or 18) as specified in paragraph (b) of this section:

(1) Who would not be covered under the mandatory medically needy group of individuals under 18 under § 436.301(b)(1)(ii); and

(2) Who meet the income and resource requirements of subpart I of this part.

(b) The agency may cover all individuals in paragraph (a) of this section or

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individuals in reasonable classifications. Examples of reasonable classifications are as follows:

(1) Individuals in foster homes or private institutions for whom a public agency is assuming a full or partial financial responsibility. If the agency covers these individuals, it may also provide Medicaid to individuals placed in foster homes or private institutions by private nonprofit agencies.

(2) Individuals in adoptions subsidized in full or in part by a public agency.

(3) Individuals in nursing facilities when nursing facility services are provided under the plan to individuals within the age group selected under this provision. When the agency covers such individuals, it may also provide Medicaid to individuals in intermediate care facilities for the mentally retarded.

(4) Individuals receiving active treatment as inpatients in psychiatric facilities or programs, if inpatient psychiatric services for individuals under 21 are provided under the plan.

[46 FR 47990, Sept. 30, 1981, as amended at 58 FR 4935, Jan. 19, 1993]

§ 436.310 Medically needy coverage of specified relatives.

(a) If the agency provides for the medically needy, it may provide Medicaid to specified relatives, defined in paragraph (b) of this section, who meet the income and resource requirements of subpart I of this part.

(b) *Specified relatives* means individuals who:

(1) Are listed under section 406(b)(1) of the Act and in 45 CFR 233.90(c)(1)(v)(A); and

(2) Have in their care an individual who is determined to be (or would, if needy, be) dependent, as specified in § 436.510.

[58 FR 4936, Jan. 19, 1993]

§ 436.320 Medically needy coverage of the aged.

If the agency provides Medicaid to the medically needy, it may provide Medicaid to individuals who—

(a) Are 65 years of age and older, as provided for in § 436.520; and

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(b) Meet the income and resource requirements of subpart I of this part.

[46 FR 47991, Sept. 30, 1981]

§ 436.321 Medically needy coverage of the blind.

If the agency provides Medicaid to the medically needy, it may provide Medicaid to blind individuals who meet—

(a) The requirements for blindness, as specified in §§ 436.530 and 436.531; and

(b) The income and resource requirements of subpart I of this part.

[46 FR 47991, Sept. 30, 1981]

§ 436.322 Medically needy coverage of the disabled.

If the agency provides Medicaid to the medically needy, it may provide Medicaid to disabled individuals who meet—

(a) The requirements for disability, as specified in §§ 436.540 and 436.541; and

(b) The income and resource requirements of subpart I of this part.

[46 FR 47991, Sept. 30, 1981]

§ 436.330 Coverage for certain aliens.

If an agency provides Medicaid to the medically needy, it must provide the services necessary for the treatment of an emergency medical condition, as defined in § 440.255(c) of this chapter to those aliens described in § 436.406(c) of this subpart.

[55 FR 36820, Sept. 7, 1990]

Subpart E—General Eligibility Requirements

§ 436.400 Scope.

This subpart prescribes general requirements for determining the eligibility of both categorically needy and medically needy individuals specified in subparts B, C, and D of the part.

§ 436.401 General rules.

(a) The agency may not impose any eligibility requirement that is prohibited under title XIX.

(b) The agency must base any optional group covered under subparts B