

DEPARTMENT OF HUMAN SERVICES, DIVISION OF COUNTY OPERATIONS

SUBJECT: Adding Unborn Child to Pregnant Woman Need Standard

DESCRIPTION:

Statement of Necessity

When the rule was converted to a new format, the clarification regarding the unborn child being counted in the need standard for the pregnant woman was not included in the text of the rule. It is necessary that this clarification be added to the current rule. In addition, universal changes should be updated for conciseness throughout the rule.

Rule Summary

The following are changes to Section O of the Medical Services Policy Manual:

1. Global Change – changing “Medicaid” to “Health Care” in sections -422, -430, and -451;
2. O-422 Deprivation Due to Unemployment of the Principal Wage Earner:
 - a. Corrected grammar and formatting;
 - b. Removal of “pin” graphic at Note;
3. O-430 Medically Needy Pregnant Women Categories:
 - a. Added clarification that the unborn child is counted in the need standard for the pregnant woman;
 - b. Corrected grammar and formatting;
4. O-451 Medically Needy – Foster Care: corrected grammar and formatting.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on November 12, 2022. The agency indicated that it received no public comments.

The proposed effective date is January 1, 2023.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).



Division of County Operations

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MEMORANDUM

TO: Interested Persons and Providers

FROM: Mary Franklin, Director, Division of County Operations

DATE: October 12, 2022

SUBJ: Adding Unborn Child to Pregnant Woman Need Standard

As a part of the Arkansas Administrative Procedure Act process, attached for your review and comment are proposed rule revisions.

Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you have any comments, please submit those comments in writing, no later than November 12, 2022.

All DHS proposed rules, public notices, and recently finalized rules may also be viewed at: [Proposed Rules & Public Notices](#).

NOTICE OF RULE MAKING

The Director of the Division of County Operations of the Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§20-76-201, 20-77-107, and 25-10-129.

Effective January 1, 2023:

The Director of the Division of County Operations amends Sections O-422, -430, and -451 of the Medical Services Policy Manual. The rule clarifies that the unborn child is counted in the need standard for the pregnant woman. The rule replaces the term “Medicaid” with “Health Care” throughout each section, and updates grammar and formatting in them as well.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than November 12, 2022. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter’s name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-534-4138.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. 4502100209



Mary Franklin, Director
Division of County Operations

MEDICAL SERVICES POLICY MANUAL, SECTION O

O-400 Medically Needy Eligibility Determination

O-422 Deprivation Due to Unemployment of the Principal Wage Earner

MS Manual 01/01/1401/01/23

Deprivation due to unemployment must be based on the parent who has been the principal wage earner (PWE) for the past two (2) years.

The PWE is the parent who earned the greater amount of income during the twenty-four (24) month period which immediately precedes the month in which application for assistance is made. The earnings of each parent are considered in determining the principal wage earner regardless of when their relationship began. Only one (1) parent can be the PWE.

Unemployed means:

1. The principal wage earner is not employed or is employed less than one hundred (100) hours a month; or
2. If one hundred (100) hours or more were worked in a particular month because the work was intermittent and the excess was temporary, the PWE must have been under the one hundred (100) hour standard for the two (2) prior months and is expected to be under the standard for the following month.

The PWE must meet each of the following criteria at initial application, or during the month of application, in order for Medicaid-Health Care coverage to begin in the month of application (see note below):

1. Must have been unemployed for at least thirty (30) consecutive days or is employed less than one hundred (100) hours a month;
2. Must have had six (6) quarters of work within any thirteen (13) calendar quarter period ending within one (1) year prior to application or received unemployment compensation within one (1) year prior to application. For the six (6) quarters of work, education may be substituted for up to four (4) of the six (6) quarters;
3. Must not, without good cause, have refused a bona fide offer of employment or training for employment within the last thirty (30) days; and
4. Must not have refused to apply for or accept unemployment compensation if qualified.



NOTE: If an applicant does not meet the above criteria at application, or during the month of application, eligibility cannot begin until the first day of the month in which the criteria are met.

EXAMPLE: An individual loses his job on May 15th, and applies for UP-MN on May 16th. He worked one hundred ten (110) hours in May before losing his job. He will not have been

MEDICAL SERVICES POLICY MANUAL, SECTION O

O-400 Medically Needy Eligibility Determination

unemployed for 30 consecutive days by the end of May; therefore, his family will not be eligible for [Medicaid Health Care](#) during May. He will have been unemployed for thirty (30) days on June 14th, however. Assuming all other eligibility criteria are met, [Medicaid Health Care](#) benefits could begin June 1st.

O-430 Medically Needy Pregnant Women Categories

MS Manual [01/01/1401/01/23](#)

Pregnant Women (Re. [MS B-230](#)) may be considered for Medically Needy-EC or SD, if they do not meet the need requirements for PW No-Grant. If a pregnant woman's income, and/or resources, or both exceed the limits for PW No-Grant, the PW's income and resources will be compared to the Medically Needy MNIL and MNRL to determine eligibility in PW-EC or SD.

If a pregnant woman has income above the MNIL but below two hundred percent (200%) of Poverty Level, then SOBRA PW eligibility will be determined prior to determining eligibility for Spend Down.

NOTE: -The unborn child will always be counted in the need standard for the pregnant woman.

O-451 Medically Needy - Foster Care

MS Manual [01/01/1401/01/23](#)

Foster Children (Re. [MS B-400](#)) who do not meet the income, and/or or resource need requirements, or both, of State FC (U-18 criteria – Re. [MS O-143](#)) or of Title IV-E-FC may be considered for Medically Needy FC - EC or SD by comparing income and resources to the Medically Needy MNIL and MNRL. The Division of Children and Family Services (DCFS) will determine IV-E and [Medicaid Health Care](#) eligibility for Foster Children.

Each child will be evaluated as a one-person household unit against the appropriate criteria. Consideration of parental income and resources will cease effective the month a child enters Foster Care by the Court awarding custody to the Agency. A child taken into foster care on the basis of

an emergency order only may be determined [Medicaid Health Care](#) eligible. If custody is later established by a judicial determination, the DCFS Worker will be required to include a copy of the order in the foster care [Medicaid Health Care](#) record.

If a Foster Child reenters his parent's home, the child's [Medicaid Health Care](#) eligibility redetermination will include parental income and resources, even if the reentry is a trial placement and the Agency retains custody.