

SUBJECT: Medical Services Policy 27000, Appendix P, and PUB-405

DESCRIPTION: MS Policy 27000, Appendix P, and PUB-405 have been revised to incorporate the change for determining TEFRA Premium amounts. A premium will not be assessed if the family's annual income after allowable deductions is at or below 150% of the federal poverty level.

PUBLIC COMMENT: The public comment period ended May 16, 2011. No public hearing was held. There were no comments submitted to the Department. The proposed effective date is July 1, 2011.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: The incremental cost to implement this rule is \$137,376 for the current fiscal year (\$40,004 state and \$97,372 federal) and \$138,648 for the next fiscal year (\$40,374 state and \$98,274 federal).

LEGAL AUTHORIZATION: Arkansas Code § 20-76-201(1) generally authorizes the Department of Human Services to "[a]dminister assigned forms of public assistance." Arkansas Code § 20-76-201(12) further authorizes the department to "[m]ake rules and regulations and take actions as are necessary or desirable to carry out the provisions of this chapter." The TEFRA Waiver is part the federal government's Medicaid program.

MNH 6-13-2011

Agency # 016.20

MANUAL TRANSMITTAL

Arkansas Department of Human Services
Division of County Operations

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Policy Form Policy Directive

Issuance Number: MS 11-09

Medical Services Policy Manual

Issuance Date: 07-01-11

From: Joni Jones
Director

Expiration Date: Until Superseded

Subj: TEFRA Waiver Premium

<u>Pages to be Deleted</u>	<u>Dated</u>	<u>Pages to be Added</u>	<u>Dated</u>
MS 27000-27005	01-01-03 07-01-06	MS 27000-27005	07-01-11
MS 27005-27005	07-01-06	MS 27005-27005	07-01-11
MS 27005-27010	07-01-06 01-01-03	MS 27005-27010	07-01-11
MS 27010-27020	01-01-03	MS 27010-27020	07-01-11

Summary of Changes

Effective July 1, 2011, a TEFRA Premium will not be assessed to a family whose annual income after allowable deductions is at or below 150% of the Federal Poverty Level. MS Policy 27000, Appendix P and PUB-405 have been revised to incorporate this change.

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27000 TEFRA Waiver/Home Care for Children

07-01-11

TEFRA Waiver is a Section 1115(a) demonstration waiver that replaces the previous TEFRA eligibility category. This new category imposes cost sharing requirements on children age 18 and under who are otherwise eligible for Medicaid under Section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).

TEFRA, as amended by OBRA of 1987, provides for coverage of certain disabled children in the home if they would qualify for Medicaid as residents of a Title XIX Institution, such as a nursing home or ICF/MR Facility.

TEFRA Waiver is a Medicaid category that enables children to have care in their homes rather than in an institution. Children who live in institutions or receive extended care in institutions are not eligible in the TEFRA category. Recipients of TEFRA Waiver will receive the full range of Medicaid benefits and services. There will be no cap on the number of children covered by the program.

Cost sharing measures will be based on household size and total annual gross income of the custodial parent(s) as reflected on the most recently filed IRS Federal Tax Return. A family's total annual out-of-pocket cost sharing cannot exceed five percent of the family's gross income.

There are no co-payments charged for services to TEFRA Children.

Families of children eligible for TEFRA Waiver who are covered by insurance should not drop their existing coverage as it will cause the child to be ineligible for TEFRA Waiver benefits for a period of six (6) months from the date the insurance is dropped.

27005 Eligibility Requirements

07-01-11

The following eligibility requirements must be met for a child to be eligible for TEFRA Waiver:

1. Age: The child must be 18 years of age or younger. Eligibility will end on the child's 19th birthday.
2. Disability: The child must be disabled according to the SSI definition of disability. If disability has not been established by SSA, it must be determined by MRT ([MS 3322]).
3. Citizenship or Alien Status: The child must be a U.S. citizen or a qualified alien ([MS 3310 #3] and [MS 3324]).
4. Residency: The child must be an Arkansas resident ([MS 2200]).
5. Social Security Enumeration: The child must meet the Social Security Enumeration requirements shown at [MS 1390].

**MS – TEFRA WAIVER/HOME CARE FOR CHILDREN
ELIGIBILITY REQUIREMENTS**

27005 - 27005

6. Income: The child's gross countable income must be less than the current Long Term Care (LTC) income limit, (Re: SSI Chart at [Appendix S]). In-Kind Support and Maintenance is not considered income in TEFRA cases. SSI exclusions are not allowed. Parental income is not considered in the eligibility determination, but is considered for the purpose of calculating the monthly premium (Re: [MS 27010]).
7. Resources: The child's countable resources cannot exceed \$2,000.00. The parents' resources are not considered. No period of ineligibility will be imposed for transfers made without compensation.
8. Medical Necessity: The child must either meet the medical necessity requirement for institutional placement in an acute care facility, a skilled nursing facility, an ICF/MR facility or Alternative Home placement, or be at risk for future institutional placement. The determination of medical necessity will also be based on services that improve, maintain or prevent regression of the child's health status and will be based on the child's medical, health and family situation.
9. Appropriateness of Care: Medical services must be available to provide care to the child in the home, and it must be appropriate to provide such care outside an institution.
10. Cost Effectiveness: The estimated cost of care for the child in the home cannot exceed the estimated cost of care for the child in an institution.
11. Child Support Enforcement Referral: A TEFRA child is eligible for free services through OCSE. If the child's custodial parent receives Medicaid in a category other than Pregnant Women or Family Planning, cooperation with OCSE is mandatory. If the custodial parent does not receive Medicaid, referral to and cooperation with OCSE is strictly voluntary.
12. Payment of Premiums: TEFRA households with annual income after allowable deductions above 150 percent of the Federal Poverty Level for their household size will be required to pay monthly premiums. (Re. [MS 27020]).
13. Dropped Health Insurance Coverage: A child can receive TEFRA Waiver services and retain health insurance coverage. For applicants, if primary comprehensive health insurance is voluntarily dropped for the Waiver child in the six months prior to application, the child will be ineligible for TEFRA benefits for a period of six (6) months from the date the insurance is dropped. Primary comprehensive health insurance is insurance that covers both physician and hospital charges. For recipients, if it is found at the yearly reevaluation that health insurance coverage was voluntarily dropped after the case was approved, the case will be closed for six (6) months beginning with the month following the month of discovery.

The six-month period of ineligibility will apply unless one of the following conditions is met:

- The health insurance is a non-group or non-employer sponsored plan.

**MS – TEFRA WAIVER/HOME CARE FOR CHILDREN
ELIGIBILITY REQUIREMENTS**

27005 - 27010

- The health insurance was lost through termination of employment for any reason, including voluntarily quitting
- The health insurance was lost through no fault of the custodial parent(s), guardian or custodian. For example, the employer ceases to provide employer sponsored health insurance, the insurance was carried by the non-custodial parent, and the non-custodial parent dropped it, the maximum benefit limit for the child has been reached, etc.

27010 Determining Monthly Premiums

07-01-11

TEFRA households with annual income after allowable deductions at or above 150 percent of the Federal Poverty Level for their household size will be required to pay monthly premiums. The amount of the premium will be determined based on the custodial parent(s) total gross income as reported on the applicable Federal Income Tax Return (e.g., line 22 of the 2009 version of form 1040 or line 15 of the 1040A) less the following deductions:

- Six hundred dollars (\$600) per child, biological or adopted including the waiver child, who lives in the home of the waiver child and is listed as a dependent child on the applicable Federal Income Tax Return of the parents.
- Excess medical and dental expenses as itemized on Schedule A of the Federal Income Tax Return of the parents. (e.g., line 4 on the 2009 version of Schedule A).

Example 1:

Family consists of 5 people - mom, dad, waiver child and 2 minor siblings, living in the home. Total Income on last year's Federal Income Tax Return showed \$65,417.48. Excess medical and dental on Schedule A showed \$9,463.25. All children in the home were included on the return.

- $\$65,417.48 - \$1,800.00 (\$600 \times 3) - \$9,463.25 = \$54,154.23.$

Compare the adjusted income to Chart 1 on Appendix P. The income is above the limit. Go to Chart 2. The premium range for the adjusted income is from \$52 to \$78.

Example 2:

Same family with less income reported.

- $\$46,500.00 - \$1,800.00 (\$600 \times 3) - \$9,463.25 = \$38,336.75$

Comparing income in Chart 1 on Appendix P, the annual Income is below \$39,255. Therefore, no premium required.

If the custodial parent alleges that household income has decreased significantly since filing the Federal Income Tax Return, additional verification can be submitted to determine current income.

**MS – TEFRA WAIVER/HOME CARE FOR CHILDREN
DETERMINING MONTHLY PREMIUMS**

27010 - 27020

Note: A stepparent living in the home will be considered a custodial parent and his or her income will be included when determining the premium amount.

See [Appendix P] for the amount of premiums to be paid. The maximum annual premium amount to be paid by any family is \$5,500. Families having more than one child receiving TEFRA Waiver benefits will pay only one premium for all covered children. There will be no increase in premium amount for additional Waiver children.

The caseworker will key the income and household size along with the names of the TEFRA children living in the home to a Web application. The system will figure the premium amount due for the household.

27015 Adjustment of Premiums

07-01-11

Premiums will begin in the month after eligibility is approved. The premium will be charged on a monthly basis and will not be pro-rated. Income will be reviewed annually for calculation of the premium, when there is a change that will make a difference of more than 10% in annual household income or a change in the number of family members. An adjustment can be made to the premium during the year if a significant change is reported in excess of 10% of the expected annual income or if there is a change in the household size. Verification of the income change must be provided. Income that fluctuates due to seasonal employment will not affect the monthly premium. The premium can only be adjusted a maximum of once every six months.

27020 Payment of Premiums

01-01-03

Payments must be made through monthly bank drafts or quarterly payments in advance. For new recipients, premiums will be applied beginning with the month after the month of approval.

The TEFRA Premium Unit will collect the TEFRA Medicaid premium payments and send the premium invoices to TEFRA households. When a TEFRA case is approved, the TEFRA Premium Unit will send a TEFRA Premium Payment Selection Form to the recipient giving the option of authorizing an automatic bank draft or making quarterly payments in advance. Regardless of payment choice, everyone will be required to pay for the first two months' premiums by check. The check must be sent in with the Payment Selection Form. The draft or quarterly payment will begin with the third month after the month of approval.

For those individuals who choose to pay through monthly bank drafts, the TEFRA Premium Unit will draft the account for the third month after approval and the following months. Each draft will be made on the first day of the covered month. The TEFRA Premium Unit will send monthly invoices that the bank account has been drafted.

For those who choose quarterly payments, the individual must initially pay for the month after the month of approval and the following month in advance by check, after which the TEFRA Premium Unit will send monthly invoices requesting premium payment in the month prior to the covered quarter.

27000 TEFRA Waiver/Home Care for Children

01-01-03

TEFRA Waiver is a Section 1115(a) demonstration waiver that replaces the previous TEFRA eligibility category. This new category imposes cost sharing requirements on children age 18 and under who are otherwise eligible for Medicaid under Section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).

TEFRA, as amended by OBRA of 1987, provides for coverage of certain disabled children in the home if they would qualify for Medicaid as residents of a Title XIX Institution, such as a nursing home or ICF/MR Facility.

TEFRA Waiver is a Medicaid category that enables children to have care in their homes rather than in an institution. Children who live in institutions or receive extended care in institutions are not eligible in the TEFRA category. Recipients of TEFRA Waiver will receive the full range of Medicaid benefits and services. There will be no cap on the number of children covered by the program.

Cost sharing measures will be based on the total gross income of the custodial parent(s) as reflected on the most recently filed IRS Federal Tax Return.

Families of children eligible for TEFRA Waiver who are covered by insurance should not drop their existing coverage as it will cause the child to be ineligible for TEFRA Waiver benefits for a period of six (6) months from the date the insurance is dropped.

27005 Eligibility Requirements

07-01-06

The following eligibility requirements must be met for a child to be eligible for TEFRA Waiver:

- 1) Age: The child must be 18 years of age or younger. Eligibility will end on the child's 19th birthday.
- 2) Disability: The child must be disabled according to the SSI definition of disability. If disability has not been established by SSA, it must be determined by MRT (MS 3322).
- * 3) Citizenship or Alien Status: The child must be a U.S. citizen or a qualified alien (MS 6705 and MS 6710 - 6783).
- 4) Residency: The child must be an Arkansas resident (MS 2200).
- 5) Social Security Enumeration: The child must meet the Social Security Enumeration requirements shown at MS 1390.

- 6) Income: The child's gross countable income must be less than the current Long Term Care (LTC) income limit. (Re: SSI Chart at Appendix S). In-Kind Support and Maintenance is not considered income in TEFRA cases. SSI exclusions are not allowed. Parental income is not considered in the eligibility determination, but is considered for the purpose of calculating the monthly premium (Re: MS 27010).
- 7) Resources: The child's countable resources cannot exceed \$2,000.00. The parents' resources are not considered. No period of ineligibility will be imposed for transfers made without compensation.
- 8) Medical Necessity: The child must either meet the medical necessity requirement for institutional placement in an acute care facility, a skilled nursing facility, an ICF/MR facility or Alternative Home placement, or be at risk for future institutional placement. The determination of medical necessity will also be based on services that improve, maintain or prevent regression of the child's health status and will be based on the child's medical, health and family situation.
- 9) Appropriateness of Care: Medical services must be available to provide care to the child in the home, and it must be appropriate to provide such care outside an institution.
- 10) Cost Effectiveness: The estimated cost of care for the child in the home cannot exceed the estimated cost of care for the child in an institution.
- 11) Child Support Enforcement Referral: A TEFRA child is eligible for free services through OCSE. If the child's custodial parent receives Medicaid in a category other than Pregnant Women or Family Planning, cooperation with OCSE is mandatory. If the custodial parent does not receive Medicaid, referral to and cooperation with OCSE is strictly voluntary.
- 12) Payment of Premiums: TEFRA Waiver households with annual income over \$25,000 will be required to pay monthly premiums. (Re. MS 27020).
- 13) Dropped Health Insurance Coverage: A child can receive TEFRA Waiver services and retain health insurance coverage. For applicants, if primary comprehensive health insurance is voluntarily dropped for the Waiver child in the six months prior to application, the child will be ineligible for TEFRA benefits for a period of six (6) months from the date the insurance is dropped. Primary comprehensive health insurance is insurance that covers both physician and hospital charges. For recipients, if it is found at the yearly reevaluation that health insurance coverage was voluntarily dropped after the case was approved, the case will be closed for six (6) months beginning with the month following the month of discovery.

The six-month period of ineligibility will apply unless one of the following conditions is met:

- ◆ The health insurance is a non-group or non-employer sponsored plan.
- ◆ The health insurance was lost through termination of employment for any reason, including voluntarily quitting.
- ◆ The health insurance was lost through no fault of the custodial parent(s), guardian or custodian. For example, the employer ceases to provide employer sponsored health insurance, the insurance was carried by the non-custodial parent, and the non-custodial parent dropped it, the maximum benefit limit for the child has been reached, etc.

27010

Determining Monthly Premiums

01-01-03

All waiver recipients with annual gross family income over \$25,000 will pay a monthly premium. The amount of the premium will be determined based on the custodial parent(s) total income as reported on the applicable Federal Income Tax Return (e.g., line 22 of the 2001 version of form 1040 or line 15 of the 1040A) less the following deductions:

- ◆ Six hundred dollars (\$600) per child, biological or adopted, including the waiver child, who lives in the home of the waiver child and is listed as a dependent child on the applicable Federal Income Tax Return of the parents.
- ◆ Excess medical and dental expenses as itemized on Schedule A of the Federal Income Tax Return of the parents. (e.g., line 4 on the 2001 version of Schedule A).

Example: Family consists of 5 people - mom, dad, waiver child and 2 minor siblings, living in the home. Total Income on last year's Federal Income Tax Return showed \$65,417.48. Excess medical and dental on Schedule A showed \$9,463.25. All children in the home were included on the return. The budget is:

\$65,417.48
- 1,800.00 (\$600 X 3)
<u>- 9,463.25</u>
\$54,154.23

If the custodial parent alleges that household income has decreased significantly since filing the Federal Income Tax Return, additional verification can be submitted to determine current income.

Note: A stepparent living in the home will be considered a custodial parent and his or her income will be included when determining the premium amount.

APPENDIX P TEFRA
Premium Schedule
How to determine TEFRA Premium Range

Step 1

Look at the chart below. If the family has income after allowable deductions at or below the amount listed for the household size, a premium will not be assessed.

If the household has income that is greater than the amount listed below for the household size, continue to Step 2.

Family Size	150% FPL
1	\$16,335
2	\$22,065
3	\$27,795
4	\$33,525
5	\$39,255
6	\$44,985
7	\$50,715
8	\$56,445
For each additional member add:	\$3,820

Step 2

Find the income here to determine the TEFRA Premium Range

Gross Annual Income		Monthly Premiums		
From	To	Percent %	From	To
\$0	\$25,000	0.0%	\$0	\$0
\$25,001	\$50,000	1.00%	\$21	\$42
\$50,001	\$75,000	1.25%	\$52	\$78
\$75,001	\$100,000	1.50%	\$94	\$125
\$100,001	\$125,000	1.75%	\$146	\$182
\$125,001	\$150,000	2.00%	\$208	\$250
\$150,001	\$175,000	2.25%	\$281	\$328
\$175,001	\$200,000	2.50%	\$365	\$417
\$200,001	Unlimited	2.75%	\$458	\$458

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APPENDIX P

TEFRA Premium Schedule

Family Income		Monthly Premiums		
From	To	%	From	To
\$0	\$25,000	0.0%	\$0	\$0
\$25,001	\$50,000	1.00%	\$21	\$42
\$50,001	\$75,000	1.25%	\$52	\$78
\$75,001	\$100,000	1.50%	\$94	\$125
\$100,001	\$125,000	1.75%	\$146	\$182
\$125,001	\$150,000	2.00%	\$208	\$250
\$150,001	\$175,000	2.25%	\$281	\$328
\$175,001	\$200,000	2.50%	\$365	\$417
\$200,001	???	2.75%	\$458	\$458

The maximum premium is \$5,500 per year (\$458 per month) for income levels of \$200,001 and above.

The premiums listed above represent family responsibility. The premiums will not increase if a family has more than one TEFRA Waiver child.

TEFRA WAIVER PROGRAM



The **TEFRA Waiver** is a cost sharing Medicaid program that enables certain disabled children to have care in their homes rather than in an institution.

Medical Evaluation Process

Disability, Medical Necessity and Appropriateness of Care are separate determinations that the TEFRA child must meet. Each determination is described below.

Disability:

A child must meet Social Security Administration's (SSA) definition of disabled. If the child received SSI within one year prior to applying for TEFRA and lost benefits due to reasons other than disability, the child meets the disability requirements. If SSA has not established disability, a Medical Review Team (MRT) disability review must be completed. Your local DHS office will request the review for you.

Medical Necessity:

Medical necessity is a separate determination from the disability determination. For medical necessity, the child must have a medical condition that would require institutional placement in an acute care facility, a skilled nursing facility, an ICF/MR facility, an Alternative Home placement or be at risk for future institutional placement. Medical necessity is also based on services that improve, maintain or prevent regression of the child's health status.

Appropriateness of Care:

Medical services that are appropriate to be provided outside of an institution must be available to care for the child in the home. The estimated cost of the care cannot exceed the estimated cost of care for the child in an institution.

TEFRA FACT SHEET

TEFRA Waiver Program Frequently Asked Questions

What is Cost Sharing?

Families of children determined eligible for the TEFRA WAIVER whose annual income after allowable deductions exceeds 150% of the Federal Poverty Level will be required to pay a monthly premium to participate in the program. The premium payment will begin the first month following the month the application is approved. The total annual out-of-pocket cost sharing cannot exceed five percent of the family's gross income.



How is the premium determined?

Whether or not you must pay a premium is based on your household size and annual income as reported to IRS. Allowable deductions include a \$600 deduction per dependent child living in the home and excess medical and dental expenses as shown on Schedule A of the parent's federal tax return. Premiums will not be required if annual income is at or below 150% of the Federal Poverty Level. To determine your premium range, find your family size on Chart 1 below. If your annual income after allowable deductions is at or below the amount listed for your household size, you will not be assessed a premium. If your income is greater than the amount listed below for your household size, please continue to Chart 2 to find your premium range.

Family Size	150% FPL
1	\$16,335
2	\$22,065
3	\$27,795
4	\$33,525
5	\$39,255
6	\$44,985
7	\$50,715
For each additional member add:	\$3,820

Monthly Premium Range				
From	To	%	From	To
\$ 0	\$ 25,000	0.00%	\$ 0	\$ 0
\$ 25,001	\$ 50,000	1.00%	\$21	\$42
\$ 50,001	\$ 75,000	1.25%	\$52	\$78
\$ 75,001	\$100,000	1.50%	\$ 94	\$125
\$100,001	\$125,000	1.75%	\$146	\$182
\$125,001	\$150,000	2.00%	\$208	\$250
\$150,001	\$175,000	2.25%	\$281	\$328
\$175,001	\$200,000	2.50%	\$365	\$417
\$200,001	Unlimited	2.75%	\$458	\$458

How are premiums collected?

Premium payments are collected by either a monthly bank draft or quarterly advance payments by check or money order. You will choose your payment option preference upon approval of your application. Regardless of the option you choose, the first two-month's premiums must be paid in advance by check or money order.

If you choose the bank draft option, the premium will automatically be drafted from your bank account. If you choose the advance payment option, you will receive monthly invoices in the mail.



www.state.ar.us/dhs/TEFRA
Questions about Medicaid coverage and services call 1-800-482-5431
Questions about Medicaid eligibility call 1-800-482-8988

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TEFRA WAIVER PROGRAM

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The TEFRA Waiver: is a cost sharing Medicaid program that enables certain disabled children to have care in their homes rather than in an institution.

Medical Evaluation Process:

Disability, Medical Necessity and Appropriateness of Care are separate determinations that the TEFRA child must meet. Each determination is described below.

Disability:

A child must meet Social Security Administration's (SSA) definition of disabled. If the child received SSI within one year prior to applying for TEFRA and lost benefits due to reasons other than disability, the child meets the disability requirements. If SSA has not established disability, a Medical Review Team (MRT) disability review must be completed. Your local DHS office will request the review for you.

Medical Necessity:

Medical necessity is a separate determination from the disability determination. For medical necessity, the child must have a medical condition that would require institutional placement in an acute care facility, a skilled nursing facility, an ICF/MR facility, an Alternative Home placement or be at risk for future institutional placement. Medical necessity is also based on services that improve, maintain or prevent regression of the child's health status.

Appropriateness of Care:

Medical services that are appropriate to be provided outside of an institution must be available to care for the child in the home. The estimated cost of the care cannot exceed the estimated cost of care for the child in an institution.

TEFRA Waiver Program Frequently Asked Questions

What is Cost Sharing?

Families of children determined eligible for the TEFRA WAIVER whose annual income exceeds \$25,000 will be required to pay a monthly premium to participate in the program. The premium payment will begin the first month following the month the application is approved.

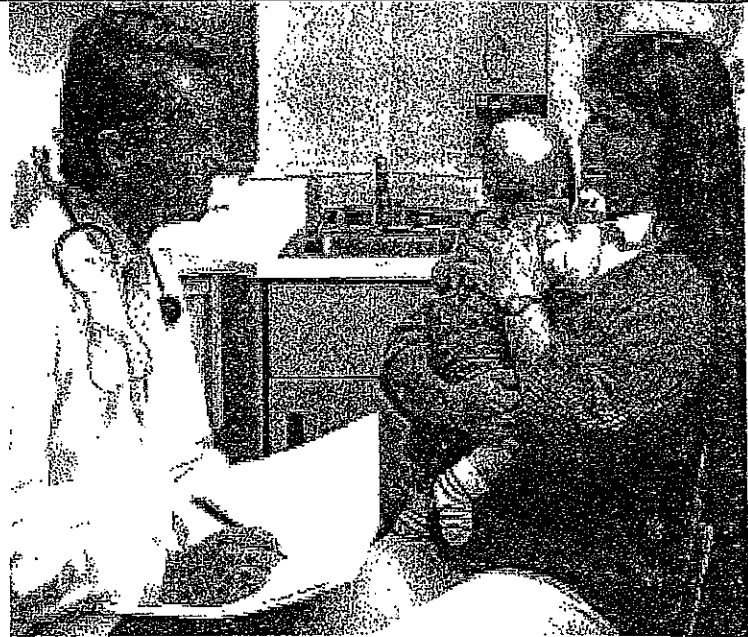
How is the premium determined?

The amount of the premium is based on the custodial parent(s) total income as reported to IRS less a \$600 deduction per dependent child living in the home and excess medical and dental expenses as shown on Schedule A of the parent's federal tax return. See TEFRA Cost Share Schedule below for monthly premium.

How are premiums collected?

Premium payments are collected by either a monthly bank draft or quarterly advance payments by check or money order. You will choose your payment option preference upon approval of your application. Regardless of the option you choose, the first two-month's premiums must be paid in advance by check or money order.

If you choose the bank draft option, the premium will automatically be drafted from your bank account. If you choose the advance payment option, you will receive monthly invoices in the mail.



TEFRA Cost Share Schedule				
Family Income		Monthly Premiums		
From	To	%	From	To
\$ 0	\$ 25,000	0.00%	\$ 0	\$ 0
\$ 25,001	\$ 50,000	1.00%	\$ 21	\$ 42
\$ 50,001	\$ 75,000	1.25%	\$ 52	\$ 78
\$ 75,001	\$100,000	1.50%	\$ 94	\$125
\$100,001	\$125,000	1.75%	\$146	\$182
\$125,001	\$150,000	2.00%	\$208	\$250
\$150,001	\$175,000	2.25%	\$281	\$328
\$175,001	\$200,000	2.50%	\$365	\$417
\$200,001	???	2.75%	\$458	\$458

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