



MISSISSIPPI DIVISION OF
MEDICAID

Administrative Code

Title 23: Medicaid

Part 102 Non- Financial Requirements

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Title 23: Division of Medicaid

Part 102: Non-Financial Requirements

Part 102 Chapter 1: Residency

Rule 1.1: State Residency.

- A. Medicaid must be available to eligible residents of the state.
- B. A resident is someone who voluntarily lives in Mississippi with the intention to remain permanently or for an indefinite period of time, or someone living in Mississippi, having entered with a job commitment or for the purpose of seeking employment, whether or not the individual is currently employed.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.2: Residency Requirements.

- A. The individual must live in Mississippi and meet all other eligibility requirements in order to receive Medicaid benefits.
- B. A spouse and children living in the same household with the individual are also considered Mississippi residents.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.3: No Permanent Mississippi Address.

- A. An individual, including someone with no permanent address, is a resident of Mississippi if he lives in the state and is capable of stating and does state intent to remain here permanently or for an indefinite period of time.
 - 1. Indefinite indicates the individual does not have a date in mind when he will no longer be a resident of the state.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.4: Residing in Another State.

- A. An individual who claims to be a resident of Mississippi, but is residing in another state, must show an established address or place of residence in Mississippi before he can be considered temporarily absent from Mississippi for Medicaid purposes.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.5: Incapable of Stating Intent.

A. An individual who is incapable of stating intent to reside is a resident of the state in which he is physically located. No statement of intent is needed.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.6: Stating Intent to Reside.

A. A person is considered capable of stating intent to reside unless he has an IQ of forty-nine (49) or less or has a mental age of seven (7) or less based on tests acceptable to the Department of Education; or is judged legally incompetent; or is found incapable of indicating intent based on medical documentation obtained from a physician, psychologist or other individual licensed by the state in the field of mental retardation.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.7: Specific Residency Prohibitions.

A. An individual cannot be denied Medicaid based on residency for the following reasons:

1. The individual has not resided in MS for a specified period of time. There is no durational requirement for residency.
2. The individual is temporarily absent from MS and intends to return when the purpose of the absence has been accomplished. However, if another state has accepted him as a resident for Medicaid purposes, the individual cannot be considered a MS resident.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.8: Temporary Absence From the State.

A. The recipient is responsible for reporting a temporary absence from Mississippi and for giving information on his purpose, plans and dates of departure and return. The recipient's eligibility must be reviewed every three (3) months to determine the recipient's continued intent to reside in MS.

B. No limit is place on the length of the out-of-state visit; however, if it is determined that an individual has left the state with no declared intention to return, the individual will be deemed to have given up MS residency and his eligibility will be terminated.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.9: Individuals Receiving a State Supplementary Payment.

- A. An individual receiving a state supplementary payment (optional or mandatory), such as state adoption assistance or state foster care payment, is a resident of the state making the supplementary payment.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.10: Individuals Receiving a Title IV-E Payment.

- A. An individual, who is receiving a Title IV-E foster care or adoption assistance payment, is a resident of the state in which the child is currently residing.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.11: Determination of Residency (Under Age 21).

- A. Determine residency for persons under age twenty-one (21) as follows:

- 1. Not in an Institution or Under Parental Care and Control.

- a) If a non-institutionalized individual under age twenty-one (21) is emancipated from his/her parents or is married and capable of stating intent, the state of residence is where the individual is living with the intent to remain permanently or for an indefinite period.

- 2. Blind or Disabled Not in an Institution.

- a) An individual, under age twenty-one (21) and in a private living arrangement, whose eligibility is based on blindness or disability, is a resident of the state where the individual is actually living.

- 3. Others under twenty-one (21) Not Living in an Institution.

- a) The state where the individual resides, with or without a fixed address, or
- b) The state of residency of the parent, caretaker or guardian with whom the individual resides.

- 4. Under twenty-one (21), In an Institution and Under Parental Care and Control

- a) The state of residence is:

- 1) The parent's state of residence at the time of placement; however, if a legal guardian has been appointed and parental rights have been terminated, the state of residence of the guardian is used instead of the parents; or
- 2) The current state of residence of the parent who files the application, if the individual is residing in an institution in that state. However, if a legal guardian has

been appointed and parental rights have been terminated, the state of residence of the guardian is used instead of the parents, or

- 3) The state of residence of the individual party that files an application if the individual:
 - (a) Has been abandoned by his parent(s),
 - (b) Does not have a legal guardian and
 - (c) Is residing in an institution in that state.

Source: 42 CFR § 435.403 (Rev. 2012).

Rule 1.12: Determination of Residency (Age 21 and Older).

A. Determine residency for individuals age twenty-one (21) and older as follows:

1. Not in an Institution.

- a) The state of residence is where the individual is living with the intent to remain there permanently or for an indefinite period, or the state where the individual is living because the individual had a job commitment or is seeking employment, either currently employed or not. If the individual is incapable of stating intent, the state of residence is where the individual is living.

2. In an Institution and Became Incapable of Stating Intent before Age Twenty-One (21)

a) The state of residence is:

- 1) The state of residence of the parent who is applying for Medicaid on the individual's behalf. If a legal guardian has been appointed and parental rights have been terminated, the state of residence of the legal guardian is used instead of the parents.
- 2) The state of residence of the parent at the time of placement. If the legal guardian has been appointed and parental rights have been terminated, the state of residence of the guardian is used instead of the parents.
- 3) The current state of residence of the parent or legal guardian who files the application, if the individual is residing in an institution in that state. If a legal guardian has been appointed and parental rights have been terminated, the state residence of the guardian is used instead of the parents.
- 4) The state of residence of the individual or party that files an application if the individual:

- (a) Has been abandoned by his parent(s),
- (b) Does not have a legal guardian and
- (c) Is residing in an institution in that state.

3. In an Institution and Became Incapable of Stating Intent at or After Twenty-One (21).

- a) The state of residence is where the individual is physically present, except in instances where another state made the placement.

4. Any Other Individual in an Institution

- a) The state of residence is where the individual is living permanently or for an indefinite period of time.
- b) When a competent individual leaves the facility in which he was placed, his residence becomes the state where he is physically located.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.13: State Placement in an Out-of-State Institution.

- A. If a state agency arranges for an individual to be placed in an institution in another state, the state arranging or making the placement is the individual's state of residence.
- B. For purposes of state placement, the term “institution” also includes licensed foster care homes that provide food, shelter, and supportive services for one or more individuals unrelated to the proprietor. The following actions are not considered state placement:
 - 1. Providing basic information to individuals about another state’s Medicaid program and information about healthcare services and facilities in another state or
 - 2. Providing information regarding institutions in another state if the individual is capable of indicating intent and decides to move.

Source: 42 CFR § 435.403 (Rev. 2006).

Rule 1.14: Out-of-State Placements.

- A. There are two circumstances under which Mississippi will pay for placement in an out-of-state nursing facility.
 - 1. If the agency has a part in the placement or otherwise approves or authorizes an out-of-state placement, regional offices will be notified on an individual case basis.

2. When a MS resident moves to a nursing facility in another state, only the partial month of the move can be paid if the facility enrolls as a Mississippi provider. The individual is considered a resident of the new state effective with the first full month of residence and has to qualify for Medicaid eligibility and vendor payment in the new state.

B. If an individual moves to Mississippi, he would apply for benefits here and meet all eligibility requirements. If he is transferred directly from one medical facility to another, the time spent in the out-of-state facility can be used to meet the thirty (30) consecutive day requirement.

Source: 42 CFR § 435.403 (Rev. 2006). Miss. Code Ann. 43-13-121.1 (Rev. 2005).

Rule 1.15: Recipients Moving to Mississippi From Another State.

A. Termination of Benefits in the Former State of Residence.

1. An individual coming to MS from another state may be considered a resident of Mississippi in the month of the move, provided the individual intends to reside in Mississippi.
2. Individuals are not entitled to duplication of Medicaid services from both the former state and Mississippi. When a Medicaid recipient moves from one state to another, the former state initiates the change effective the first month in which it can administratively terminate the case in accordance with timely and adequate notice regulations.

B. Request for Mississippi Medicaid Prior to Termination in Former State.

1. There will be occasions when a recipient requests that eligibility in Mississippi begin prior to the effective date of closure in the former state. Neither state can deny coverage because of administrative requirements or time constraints needed to take action to terminate benefits in the former state.
2. When an individual is no longer a resident of a state, that state is not required to pay for any services incurred in Mississippi.
 - a) If the former state will pay out of state claims or the partial and subsequent months for a nursing home recipient, Mississippi cannot approve eligibility until the former state has terminated services.
 - b) If the former state will not pay out of state claims, duplication of services is not an issue and Medicaid eligibility in Mississippi can potentially begin with the month of the move.

C. When two (2) or more states cannot agree on residence, the state where the individual is physically located is his residence. Coordination efforts should ensure that an eligible person does not experience a discontinuation of benefits.

Source: 42 CFR § 435.403 (Rev. 2012).