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DATE: October, 1997			**TO:** All Income Maintenance Manual Holders		

This change is being made to update Chapter 12 for WV WORKS and TANF and to remove references to GA for DA.

Please pay particular attention to Sections 12.3,C and 12.11,B,3.

Questions should be directed to the IM Policy Unit in the Office of Family Support.

12.1 INTRODUCTION

Several of the Department's Income Maintenance Programs require that a medically determined physical and/or mental impairment exist for the client and/or family to receive benefits. Some decisions are made by the Medical Review Team (MRT) in OFS. These are found in item A below and the remaining Sections of this Chapter deal with these programs. Other Medicaid disability determinations are made elsewhere. These coverage groups are listed in item B.

A. MRT Decisions

The following incapacity/disability decisions are made by MRT:

- TANF, when the deprivation factor is incapacity of a parent
- TANF, when the deprivation factor is unemployment, but an exemption from the work requirement, based on incapacity or temporary incapacity is alleged
- AFDC/U-Related Medicaid, when eligibility of the family is based on incapacity of a parent
- SSI-Related Medicaid when eligibility of the individual is based on disability or blindness
- Food Stamp Program policies when a disability determination may be necessary and the Worker and Supervisor are unable to make the determination.
- WV WORKS, when a temporary exemption from the work requirement, based on incapacity or temporary incapacity is alleged and the Worker and Supervisor are unable to make the determination.

The nature, degree and duration of the impairment required for eligibility purposes varies from program to program.

B. OTHER DISABILITY DECISIONS

Other Medicaid coverage groups require a medical determination of disability or blindness, but the responsibility for the determination rests elsewhere. The Worker, therefore, is not usually involved in the process, but must be notified of the disability decision prior to case approval and recertification. These coverage groups are:

- SSI Recipients. The disability decision is made by SSA.

- Deemed SSI Recipients, except essential spouses of SSI Recipients. The disability decision is made by SSA.

- QDWI Recipients. The disability decision is made by SSA.

- HCB and MR/DD Waiver Recipients. The case management agency gathers medical information and presents it to BMS where the disability decision is made. The Worker is notified of the decision by BMS.

- CDCS Recipients. The case management agency gathers medical information and presents it to BMS where the disability decision is made. The Worker is notified of the decision by BMS.

- AIDS Programs. A medical diagnosis of HIV positive is the only disability requirement. The Worker obtains the medical statement from the client and forwards it to BMS with the application.

12.2 DEFINITIONS OF DISABILITY AND BLINDNESS

NOTE: Incapacity is defined in Chapter 15.

A. DEFINITION OF DISABILITY

The definition of disability for Medicaid purposes is the same as the definitions used by SSA in determining eligibility for SSI or RSDI based on disability.

These definitions are as follows:

1. Individuals Age 18 Or Over

An individual who is age 18 or over is considered to be disabled if he is unable to engage in any substantial gainful activity due to any medically determined physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than 12 months, or can be expected to result in death.

2. Individuals Under Age 18

The child who is under age 18 is considered to be disabled if he has a physical or mental impairment which can be expected to last for at least 12 months and which severly interferes with his process of maturation. Maturation refers to skills and emotional and social development.

An individual under age 18 is not considered a child if he:

- Is legally married, or
- Is divorced, or
- He is living in a common household with a member of the opposite sex, and they are holding themselves out to the community in which they reside, as husband and wife, or
- He is over age 16 and has been emancipated by a court of law.

B. DEFINITION OF BLINDNESS

To meet the definition of blindness, the individual must have:

- Central visual acuity of 20/200 or less in the better eye with corrective glasses, or

- A limited visual field of 20 degrees or less in the better eye with the use of eyeglasses.

C. CONSIDERATION OF MEDICAL AND SOCIAL FACTORS IN DETERMINING DISABILITY

In determining whether or not an individual is disabled, medical and social factors and the relationship between the two must be considered.

If the medical information indicates that the individual has an impairment which has lasted or can be expected to last the required length of time, social factors must be examined to determine the effect of the impairment on the individual.

When a case is referred to MRT for a disability decision, the Worker completes form ES-RT-1, Social Summary Outline. This form is designed to identify the social information used by the Worker in making a presumptive decision and by MRT in making the final disability decision.

12.3 PROCESS FOR DETERMINING DISABILITY, INCAPACITY AND BLINDNESS

A. GENERAL REQUIREMENTS

NOTE: The determination of disability, incapacity or blindness for AFDC/U- and SSI-Related Medicaid applicants must not be delayed to determine if the client will meet his spenddown. The establishment of disability, incapacity or blindness and meeting a spenddown requirement are both eligibility factors and both must be pursued simultaneously. If the application is denied in the M-219 system prior to a MRT decision and reason code 0136 (See Chapter 23) is used, the system will automatically notify MRT of the denial. MRT will stop consideration of the case and return all information to the Worker. Should the Worker determine that the client is ineligible due to any other reason at any time prior to the MRT decision, the application is denied, and the Worker must notify MRT to stop consideration of the case.

The following steps are necessary in the process of determining incapacity, disability and blindness. These steps do not apply to the determination of disability for Food Stamp policies.

- Accept the application.
- Prepare the Social Summary, using form ES-RT-1
- Obtain initial medical reports
- Evaluate for presumptive approval and/or referral to MRT
- Obtain additional medical reports when indicated
- Reevaluate for presumptive approval
- Re-referral to MRT
- MRT decision
- Disposition

NOTE: Should the Worker determine that the client is ineligible at any time during this process, he denies the application immediately and notifies MRT.

B. SSI-RELATED DISABILITY PROCESSING REQUIREMENTS

1. Target Time Frames

Target time periods have been established to assure that SSI-Related disability cases are processed within the 90-day processing time limit except when the delay is beyond the Department's control.

REQUIRED ACTION	TIME LIMIT
Interview client and request medical records and reports	By the 7th calendar day after application
Follow-up request(s) for medical records or reports	By 30 days after initial request (and each 30 days thereafter)
Submission to MRT	By 7 days after medical records/reports received.
Receipt of file and logged	By 2 days after receipt by MRT
Initial review by MRT staff	By 7th day after receipt
Physician review (initial)	By 14th day after receipt
Additional medical information requested (if required) by physician	By 7th day after initial physician review
Physician's final review	By 7th day after receipt of additional medical information
Final decision (completion of ES-RT-3 form)	By 7th day after final physicians review
File returned to county office	By 3rd day after final review decision
Notice to the client	By 7th day after receipt of final decision at county office

NOTE: The 90-day processing time limit concludes with the mailing of the client notification, not data system action.

2. ES-20

Disability cases which have been pending longer than 90 days must receive an ES-20 by the 100th day stating the reason for the delay.

A copy of the ES-20 must be filed in the case record.

3. Holcomb Log Sheet

As a result of Holcomb v. Lewis, the processing of SSI-related disability applications was tracked using the Holcomb Log Sheet.

Effective October 1, 1995, the Holcomb Log Sheet is no longer required by the court order. Its use is optional.

C. INCAPACITY FOR WV WORKS

A determination of incapacity is not made to determine if a child(ren) is deprived of parental support and care. For WV WORKS purposes, it is made only to determine if an individual may be temporarily exempt from participating in work activities.

NOTE: There are no permanent exemptions due to incapacity.

The decision is made by the Worker and/or Supervisor, at the discretion of the Community Services Manager. If the incapacity is obvious, no medical verification is required. The Worker must record his findings and justify the temporary exemption.

If the incapacity is not obvious, verification must be provided from a physician, licensed or certified psychologist, surgeon, doctor of osteopathy, chiropractor, or other medically-qualified individual. The verification must include an estimate of the duration of the incapacity. The medical practitioner is not required to state that the individual must be exempt from participation and for how long. The Worker and/or Supervisor make this decision, based on medical records submitted and any necessary follow-up contact.

Only when the Worker and/or Supervisor are unable to make a decision about the exemption based on medical evidence, is the case referred to MRT. When this is necessary, instructions in Section 12.10 are used.

The medical condition must be reevaluated according to the statement of the medical practitioner or as determined by MRT. However, each individual who is temporarily exempt must have a medical reevaluation at least once every 12 months. During the time that the individual is unable to participate in work activities, he must be referred to other potential resources, such as SSA and DRS. Such referrals and follow-up must be added to the PRC as appropriate.

12.9 PRESUMPTIVE APPROVAL

A. INTRODUCTION

The process of making a disability, incapacity or blindness decision at the county level is referred to as the presumptive eligibility process.

In some situations the decision may be made prior to obtaining any medical reports.

However, in all other situations, the presumptive decision is made only when medical information and the social summary are available. The presumptive decision is always one of presumptive approval, not presumptive denial.

When the case is referred to MRT for a final decision, the presumptive eligibility decision is made by the Worker, with approval of his Supervisor.

The guidelines for presumptive decisions based on medical and social information are found in items B-F below. The definitions of incapacity, blindness and disability follow.

In making a presumptive decision of incapacity or disability, the Worker uses the guidelines appropriate for the coverage group to determine if the medical/psychological impairment of the applicant is likely to last the required length of time. He then uses the social summary information to determine if the impairment:

- Prevents the TANF incapacitated parent, age 18 and over, from working.

- Prevents the applicant under age 18 from functioning independently and effectively in an age-appropriate manner.

- Prevents the incapacitated parent from caring for himself or performing household duties and, therefore, requires the presence of the spouse in the home.

B. WHEN THE APPLICANT HAS RECEIVED SSI BASED ON DISABILITY OR BLINDNESS

When an individual whose SSI payment has terminated applies for TANF or Medicaid, and it is necessary to establish incapacity, disability or blindness, the procedure is as follows:

- If it is verified that the SSI payment was terminated for some reason other than the lack of disability or blindness, medical eligibility is presumed prior to obtaining medical reports.

- The Worker then follows the usual procedures to obtain medical reports, complete the social summary, submit the case to the MRT for a final decision, etc.

C. GUIDELINES FOR PRESUMPTIVE DECISION OF BLINDNESS

To meet the definition of blindness, central visual acuity of 20/200 or less in the better eye with correcting glasses.

D. GUIDELINES FOR PRESUMPTIVE DECISION OF DISABILITY FOR SSI-RELATED MEDICAID, AGE 18 OR OVER

1. Definition Of Disability

An individual, who is age 18 or over, is considered disabled if he is unable to engage in substantial gainful employment by reason of any medically determined physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months.

2. Role Of The Worker In The Presumptive Approval Process

Prior to referral to MRT, the Worker must review the medical information to determine if the client's conditions meet any of the criteria for presumptive approval listed in Appendix A.

E. GUIDELINES FOR PRESUMPTIVE DECISION OF DISABILITY FOR SSI-RELATED MEDICAID UNDER AGE 18

1. Definition of Disability

The child who is under age 18 is considered disabled if he has a physical or mental impairment which can be expected to last or has lasted for at least 12 months and is of comparable severity to that which qualifies an individual age 18 or over.

Comparable severity exists, provided the child is not engaged in substantial gainful activity, when the child's physical or mental impairment(s) so limits his ability to function independently, appropriately and effectively in an age-appropriate manner that the impairment(s) and the limitation(s) resulting from it are comparable to those which would disable an adult.

2. Role Of The Worker In The Presumptive Approval Process

Prior to referral to MRT, the Worker must review the medical information to determine if the client's conditions meets any of the criteria for presumptive approval listed in Appendix B.

F. GUIDELINES FOR PRESUMPTIVE DECISION OF INCAPACITY FOR TANF AND AFDC-RELATED MEDICAID

1. Definition of Incapacity

To be considered incapacitated, the parent must have a medically determined physical or mental impairment which is expected to last for at least 30 days.

For those who are mandatory JOBS participants and who claim exemptions, the same criteria is applied to determine their ability/inability to work.

2. Role Of The Worker In The Presumptive Approval Process

Prior to referral to MRT, the Worker must review the medical information to determine if the client's conditions meet any of the criteria for presumptive approval listed in Appendix D.

12.10 REFERRAL TO THE MEDICAL REVIEW TEAM (MRT)

A. THE MEDICAL REVIEW TEAM (MRT)

MRT is housed at the State Office in the Office of Family Support, and has the following responsibilities:

- Evaluating available medical and social information and determining if the individual is medically incapacitated, disabled or blind. To determine disability, MRT uses the Sequential Evaluation process established by SSA for SSI disability determinations.

- Evaluating WV WORKS recipients who maintain they are physically/mentally unable to participate in work activities, when the decision cannot be made by the Worker and/or Supervisor.

- Notifying the Worker of MRT's decision using form ES-RT-3 or ES-B-13a.

B. THE MRT REFERRAL

1. Content And Organization Of Material Submitted

- The following items are required to submit a case to MRT, and they must be arranged in the following order:

  - ES-RT-2
  - ES-RT-1
  - Medical reports arranged in order from oldest to latest
  - If a case has been referred to MRT before, the old packet of material must be included with the new information.

- All information related to one case must be stapled together.

2. Cases Submitted to MRT for Reevaluation

When a case is submitted for reevaluation of disability, incapacity, blindness, JOBS or WV WORKS work requirement exemption, the following materials must be included:

- ES-RT-2

  If MRT requested the reevaluation, the Worker must check the appropriate column and note the month the reevaluation is due in the comments section.

  If the Worker is requesting reevaluation, the comment must explain the reason for the request.

- A current ES-RT-1, Social Summary Outline, if the previous ES-RT-3 indicated one would be needed.

- The latest ES-RT-3.

- All material on which the original decision was based.

- The new information requested by MRT for reevaluation purposes.

- Hearing Summary, if the MRT decision was reversed by the Hearings Officer on the issue of incapacity, disability, or blindness.

3. Division of Rehabilitation Services (DRS) Referrals

   When an individual is active with DRS, the Worker requests medical reports from DRS. These reports should be included in the material when sent to MRT for evaluation.

4. Fair Hearings

   When a Hearings Officer reverses a decision of MRT, it is the responsibility of the Hearing Officer to decide when the case is to be reevaluated and the information which will be needed. The Worker is to advise MRT using form ES-RT-2. A copy of the Hearing summary must be included in the material submitted to MRT for the next reevaluation.

5. Notifying MRT of Eligibility Related Information

   After a case is submitted to MRT, the Worker must notify MRT immediately if the client is found ineligible for any other reason or if SSA makes a

disability or blindness determination. MRT must also be notified when a client moves to another county. MRT is notified using form ES-RT-2.

12.11 ACTION FOLLOWING RECEIPT OF THE FINAL MRT DECISION

Upon receipt of the notification of MRT's final decision, the Worker records the receipt of the form and the decision on the ES-5. Additional action depends on the content of the information on the notification form.

A. SSI-RELATED MEDICAID

1. Client Is Blind Or Disabled

If the applicant was found to be disabled or blind and the case was not presumptively approved, the application is approved, or the individual is added to the benefit group, whichever is appropriate.

If the case was presumptively approved, or the individual was already added, a recording of the final decision must be made on the ES-2 and the ES-5.

2. Client Is Not Blind Or Disabled

If the applicant is found not to be disabled or blind, the application is denied, the case closed or the individual is excluded from the benefit group after advance notice.

A copy of the ES-RT-3 must be attached to the notification letter to the client.

B. TANF, WV WORKS AND AFDC-RELATED MEDICAID

1. Parent Is Incapacitated

If the ES-RT-3 indicates the parent is incapacitated, and the case was not presumptively approved, the application is approved.

If the case was presumptively approved, a recording of the final decision is made on the ES-2 and ES-5.

2. Parent Is Not Incapacitated

If the ES-RT-3 indicates the parent is not incapacitated, eligibility for TANF, based on unemployment of a parent, or AFDCU-Related Medicaid is evaluated.

If the definition of an unemployed parent is met, action is taken to approve the case.

A copy of the ES-RT-3 is attached to the client notification letter.

3. WV WORKS

- Individual Is Incapacitated

  If the ES-RT-3 indicates the individual is incapacitated, the individual is exempt from participation in work activities for the period of time determined by MRT, not to exceed 12 months. A reevaluation must be completed at the end of the exemption period or by the end of the 12th month, whichever is earlier.

  NOTE: Even though MRT was involved in the determination of incapacity, the Worker and/or Supervisor may make the determination at the subsequent reevaluation(s). However, once a MRT decision is made, it cannot be overridden by the Worker and/or Supervisor until the MRT exemption period expires or additional medical information is received. When the Worker and/or Supervisor make the decision upon reevaluation, MRT must be notified by memorandum.

- Individual Is Not Incapacitated

  If the ES-RT-3 indicates the individual is not incapacitated, the individual is not exempt from participation in work activities. The client must be contacted immediately to begin participation.

A copy of the ES-RT-3 is attached to the client notification letter.

C. ACTION WHEN MRT DECISION CONFLICTS WITH THE SSA DECISION

When a MRT disability or blindness decision conflicts with the decision made by SSA, the following procedures apply:

1. TANF and AFDC-Related Medicaid

- The definition of incapacity varies significantly from that of disability. For this reason, a denial of a disability claim by SSA or the Railroad Retirement Board does not automatically render an individual ineligible for benefits based on incapacity. The Worker

continues with the process of establishing incapacity.

- When an individual meets the disability standards of SSA, he meets the Department's definition of incapacity.

2. SSI-Related Medicaid

Procedures outlined in 12.7 are followed.

D. ACTION WHEN THE WORKER AND SUPERVISOR DISAGREE WITH A MRT DENIAL

If the Worker and Supervisor disagree with MRT's decision to deny incapacity, disability or blindness, the case is submitted to MRT for reconsideration. An explanation of why the Worker and Supervisor disagree with the denial is entered on the ES-RT-2.

APPENDIX C

Presumptive Approval - TANF and AFDC-Related Medicaid

INCAPACITIES OF THE SKELETAL SYSTEM

The severity is based on physical examination, laboratory tests and x-rays.

- Ruptured disc requiring conservative bed rest and traction,or surgery. Diagnosis should be confirmed by an orthopedist or neurosurgeon.
- Simple fracture of the arm or leg with a physician's report and x-rays
- Amputations requiring healing time and period of adjustment, with prosthesis

DISEASES OF THE HEART

This must be diagnosed by medical examination, x-rays, EKG and other appropriate cardiac function studies.

- Myocardial infarction as confirmed by physical examination and EKG
- Acute rheumatic heart disease evaluated by a cardiologist or internist and necessitating a period of medical treatment prior to returning to work

GENERAL SURGICAL PROCEDURES

This must be recommended by a surgeon through physical examination and appropriate laboratory tests.

- Peptic, gastric, duodenal or jejunal ulcer requiring surgical intervention and recovery period
- Hernia, if surgical repair is needed, as confirmed by physical examination

- Splenectomy due to traumatic injury

- Diverticulitis or polyps of the bowel requiring surgical intervention

- Cholecystectomy due to gall bladder disease

- Hysterectomy if needed in the treatment of fibrous tumors through removal of the uterus

- Appendectomy due to inflammation of the appendix

DISEASES OF THE ENDOCRINE SYSTEM

This requires physical examination and laboratory tests.

- Hyperthyroidism or goiter resulting in the need for surgery or radioactive iodine as a part of the treatment plan

- Brittle diabetes with poor control requiring a short-term incapacity period for stabilization of insulin

NEUROLOGICAL DISORDERS

This must be confirmed by a neurologist or neurosurgeon with EEG, if indicated, and other appropriate tests.

- Epileptic seizures that have not responded to medication and require a short period of time for medical control

- Cerebral concussion with residual effects lasting 30 days or longer

- Nerve injuries due to trauma and requiring neurosurgery

MENTAL ILLNESS

Mental illness must always be diagnosed by a psychiatrist, and mental retardation must be established through psychological testing.

- Acute schizophrenic reaction that is expected to respond to psychotherapy and medication

- Mental retardation with an I.Q. of 65 or less, as documented with psychological testing

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

This must be documented by physical examination and laboratory findings.

HIV Positive and diagnosed by a physician as having AIDS based on the patient's having a disease indicative of AIDS or a T-helper/inducer lymphocyte (T-cell) count under 400

Some common indicator diseases are pneumocystis carinii, kaposi's sarcoma, bacterial infections, HIV encephalopathy, lymphoma of the brain.