16.1 INTRODUCTION

The West Virginia Medicaid Program provides payment for covered medical services to certified medical providers for eligible individuals who are aged, blind or disabled and to eligible members of families with dependent children.

The determination of which medical services are covered under Medicaid and which medical providers are certified to accept Medicaid patients is the responsibility of the Bureau for Medical Services and is not addressed in this Manual. Unless otherwise specified, the coverage group receives all services covered under Medicaid.

For eligibility for nursing care services and MR/DD and HCB Waiver coverage groups, refer to Chapter 17.

This Chapter provides an overview of the Medicaid Program. In addition, each coverage group has specific requirements which must be met and procedures to follow that may not apply to other Income Maintenance programs or other Medicaid coverage groups. These are contained in this Chapter.

NOTE: Children determined eligible for QC or PL Medicaid remain eligible for 12 continuous months, regardless of any changes after approval, except those specified in Section 2.8.

In addition to the coverage groups described in this Chapter which make up the Medicaid Program, the Department has special procedure in place to pay for certain necessary drugs for individuals not eligible for Medicaid. These costs are paid from State money only and cover only the costs shown in items A and B below. Procedures to obtain payment for these expenses are also described below. Workers must submit information about all persons who might qualify for payment of such services. None of the costs paid for through this process may be used to meet spenddown.

A. SPECIAL APPROVAL, IMMUNOSUPPRESSANT DRUGS FOR TRANSPLANT PATIENTS

Individuals who have received a transplanted organ and who are not eligible for Medicaid due solely to failure to meet a spenddown, may have the cost of anti-rejection drugs paid by the Department. To qualify, it must be established that the client does not have sufficient income available to pay for the medication. The individual must have been denied Medicaid for the above reason within six months of the date of the client’s request for payment. In addition, the Worker must review the previous application to determine if the client’s circumstances have changed. If he continues to be ineligible for Medicaid, due soley to failure to meet a spenddown, at the time he requests payment of the drugs, special approval is considered.

To have the client considered for this special approval, the Worker must submit a memorandum to Director, OFS. The memorandum must show "Special Drug Approval" on the top of the page and must contain the following information:

- Client's name, address, date of birth, SSN, sex, county of residence and race
- Number of people in the client's home and their relationship to the client
- Date of application
- Income of all family members
- Whether or not Medicare eligible. If eligible, date coverage began.
- Name of the prescribed drug(s)
- Average Monthly cost of the prescribed drug(s)

  NOTE: Medicare pays for 80% of the cost of immunosuppressant drugs for 3 years after a transplant. When Medicare participates in the payment of the drug(s), the Worker must indicate only the amount for which the client is responsible after Medicare pays its portion. Only this amount is used to determine eligibility and is subsequently paid by the Department.
- Name and telephone number of pharmacy
- Physician's name
- Date of transplant
- Date of last Medicaid denial for failure to meet a spenddown.

No verification of the information submitted is required unless the client does not know the information or the Worker has reason to doubt the client's statement.

Once the eligibility decision is made, the county office is notified by OFS. The Worker must then provide the client with all necessary information to obtain the drug(s).

B. SPECIAL APPROVAL, CLOZAPINE/CLOZORIL, DRUG MANAGEMENT AND TESTING

Individuals for whom Clozapine/Clozoril has been prescribed and who are not eligible for Medicaid due solely to failure to meet a spenddown may have the cost of this medication paid by the Department. To qualify, it must be established that the cost of the Clozopine/Clozoril, if paid by the client, would reduce the family income below 100% of the AFDC/U standard of need for a family of the same size. The individual must have been denied Medicaid for the above reason within six months of the date of the client's request for payment. In addition, the Worker must review the previous application to determine if the client's circumstances have changed. If he continues to be ineligible for Medicaid, due solely to failure to meet a spenddown, at the time he requests payment of the drugs, special approval is considered.
To have the client considered for this special approval, the Worker must submit a memorandum to Director, OFS. The memorandum must contain all of the information specified in item A above with the following additions:

- Average monthly cost of Clozapine/Clozoril

- Average monthly cost of lab tests

- Name of facility which will perform the lab tests.

No verification of the information submitted is required unless the client does not know the information or the Worker has reason to doubt the client's statement.

Once the eligibility decision is made, the county office is notified. The Worker must then notify the client and provide him with all necessary information to obtain the services.

C. ASSIGNMENT OF MEDICAL SUPPORT RIGHTS

Provided they are legally able to do so, all adult Medicaid applicants and recipients must assign to the department any rights to medical support and to payments for medical care from any third party. This information is entered in the medical insurance coverage screen in RAPIDS.

When the adult receives Medicaid under any coverage group, under any case number, the assignment of medical support rights is a condition of eligibility and he must cooperate in identifying and providing information to use in pursuing third parties, unless good cause is established for not cooperating. Good cause is

determined by OFS based on written information obtained by the Worker.

NOTE: All other adults who have the legal ability to do so, but who are not Medicaid recipients, must assign medicaid support rights as well.

When an otherwise eligible individual cannot legally assign his own rights, and the person legally able to do so does not cooperate, the individual remains eligible.

EXAMPLE: A mother refuses to assign benefits for herself and her children, for whom she can legally make an assignment. The mother is ineligible and the children remain eligible for Medicaid.

NOTE: Poverty-Level Pregnant Women may not be penalized for failure to cooperate with this requirement until the expiration of the postpartum period.

An applicant for SSI is required to assign third-party rights to the Department as part of his application for SSI. If he refuses to assign these rights, he is ineligible for Medicaid

D. CERTIFICATE OF COVERAGE WHEN MEDICAID COVERAGE ENDS

All Medicaid recipients who so request, must be issued a Certificate of Coverage (OFS-HIP-1), when Medicaid benefits stop.

This applies to all individuals whose Medicaid benefits stopped on or after July 1, 1996. See Section 2.1,B.

E. CHILD SUPPORT REQUIREMENTS AND PROCEDURES

Federal law mandates that efforts be made to locate absent parents, establish paternity and obtain medical support for dependent children who receive Medicaid. The responsible adult included in an AFDC Medicaid or AFDC-Related Medicaid A must cooperate with child support activities and provide the Department with appropriate information.

EXCEPTION: Recipients of TM cannot lose eligibility for failure to cooperate with BCSE. However, BCSE services must be explained and a voluntary referral made when appropriate.

When the responsible adult is not a Medicaid recipient under any coverage group, he must be informed of the availability o BCSE services and encouraged to accept a voluntary referral. Voluntary BCSE referrals do not sign an OFS-AP-1. There is n penalty when a voluntary referral subsequently fails to cooperate with BCSE.

The major responsibility for this effort rests with the Bureau for Child Support Enforcement (BCSE) through its staff of Legal Assistants.

In addition, the Worker has the following responsibilities:

- To explain the requirements and benefits of BCSE services, including the right to claim good cause for refusal to cooperate

- To refer appropriate cases to the Legal Assistant. Referral is accomplished by data system exchange or DHS-1.

- To evaluate evidence presented if the client claims good cause

- To determine if good cause for failure to cooperate with BCSE exists

- For adult caretakers included in an AFDC Medicaid or AFDC-Related Medicaid AG, to apply the penalty for refusal without good cause to cooperate or provide information about medical support.

The following information provides details about the responsibilities of the Worker, the Legal Assistant, and the client in the child support process.

1. OFS-AP-1, Acknowledgement of Automatic Assignment of Support Rights and of Cooperation Requirements

   The purpose of the OFS-AP-1 is to assure that affected clients understand the benefits, requirements and rights associated with BCSE. It also advises them of the requirement to redirect child support, should the child become a cash assistance recipient.

   NOTE: Referrals are not made for unborn children.

   a. The OFS-AP-1 must be completed for:

      (1) Applicants

         (a) AFDC Medicaid, AFDC-Related Medicaid

            The OFS-AP-1 must be completed when at least one of the children who receives Medicaid has a parent(s) who is absent due to death, desertion, divorce or paternity not established.

(b) SSI and SSI-Related Medicaid

NOTE: Newborns are referred at birth, even though the parent may not be required to comply until the postpartum period ends. See item 5 below.

The OFS-AP-1 must be completed when there is at least one child included in the AG who has a parent who is absent due to death, desertion, divorce or paternity not established. This includes children who receive SSI and SSI-Related Medicaid.

(2) Recipients

The OFS-AP-1 must be completed for active cases as follows:

(a) AFDC Medicaid and AFDC-Related Medicaid

The OFS-AP-1 must be completed when a 2-parent family becomes a 1-parent family.

(b) CEN and SSI-Related Medicaid

NOTE: Newborns are referred at birth, even though the parent may not be required to comply until the postpartum period ends. See item 5 below.

- When at least one parent of a child(ren)who is included in the AG is absent due to death, desertion, divorce or paternity not established. This includes children who receive SSI and SSI-Related Medicaid.

- When a child with a parent who is absent for one of the above reasons is added to the AG. This includes children who receive SSI and SSI-Related Medicaid.

b. Instructions for completion:

- Complete in triplicate.

- Worker and client must sign all copies

- Enter the case name and case number in the indicated spaces on the form.

- Enter a check mark in the block beside each paragraph number to indicate that the client understands the information.

- The responsible adult must sign the form. If the parent is in the home, the parent must sign the form.

- Distribute copies to the client and Legal Assistant, and file one in the case record. If no referral is made, the extra copy is filed in the case record.

c. Procedure When the Client Refuses to Sign the OFS-AP-1

When the client refuses to sign the OFS-AP-1, the action taken depends upon the reason for the refusal. When the client indicates that he will not sign the OFS-AP-1 and, in doing so, indicates he will not cooperate with BCSE, the Worker must determine if good cause exists for the refusal. If good cause does exist, no BCSE action is required or taken and no penalty is applied to the client. If good cause does not exist, the Medicaid case is referred to BCSE and the penalty described in item 5 below is applied. The Worker must record in RAPIDS the circumstances involved in the determination of good cause.

When the client indicates that he will not sign the OFS-AP-1, but indicates that he will cooperate with BCSE after referral, the Medicaid case is referred to BCSE and no penalty is applied. The Worker must record in RAPIDS that the content and purpose of the form were explained to the client, that he refused to sign, the reason given for the refusal, that the client has indicated that he will cooperate with BCSE after the referral. The Worker must provide the client with an unsigned copy of the OFS-AP-1 and this must also be recorded in RAPIDS.

2. BCSE Referrals

NOTE: Referrals are not made for unborn children.

The referral to BCSE is automated in RAPIDS. See the RAPIDS User Guide.

All adult caretakers who are included in a Medicaid AG and who have a child with at least one absent parent must be referred. When the caretaker is not in a Medicaid AG, he must be informed of BCSE services and encouraged to accept a voluntary referral.

Clients who claim and establish good cause are not required to cooperate and no BCSE action is taken. APNC in RAPIDS indicates good cause.

3. Good Cause

When the adult responsible for the dependent Medicaid child is also a Medicaid recipient, he is required to cooperate in securing medical support, unless good cause is established.

If the adult who refuses to cooperate asserts that one or more of the factors listed below is the reason for doing so, a good cause claim has been made. A client, who refuses to cooperate and who gives as the reason some factor other than one of those listed below, is considered to have refused to cooperate without claiming good cause.

a. Definition of Good Cause

The client has good cause for refusal to cooperate with BCSE if one of the following conditions exists:

- The child was conceived as the result of incest or forcible rape.

- Legal proceedings for the adoption of the child are pending.

- The client is currently being assisted by the Department or by a licensed private social agency to resolve the issue of whether to keep the child or to relinquish him for adoption and the discussions have not gone on for more than three months.

- The client's cooperation in establishing paternity or securing medical support is reasonably anticipated to result in:

" Physical or emotional harm to the child for whom medical support is being sought; or

" Physical or emotional harm to the parent or other responsible adult with whom the child lives, which would reduce such person's capacity to care for the child adequately. A finding of good cause for emotional harm may only be based upon evidence of an emotional impairment that substantially affects the parent or other relative's functioning.

In determining good cause based in whole or in part upon the anticipation of emotional harm, the Worker must consider the following:

N The present emotional state of the individual;

N The emotional health history of the individual;

N The intensity and probable duration of the emotional impairment; and

N The extent of involvement of the child in the paternity establishment or medical support activity to be undertaken.

b. When the Client Refuses to Cooperate Prior to BCSE Referral

If the client indicates to the Worker, prior to BCSE referral, that he does not intend to cooperate in BCSE activities, the Worker must determine if good cause exists for the refusal.

If good cause does exist, no BCSE action is required or taken and no penalty is applied to the client. If good cause does not exist, the Medicaid case is referred to BCSE and the penalty described in item 5 below is applied. The Worker must record in RAPIDS the circumstances involved in the determination of good cause.

c. When the Client Claims Good Cause for Refusal to Cooperate After BCSE Referral

A client may claim good cause for refusal to cooperate prior to or after referral to BCSE.

When the client claims good cause after the referral, the Legal Assistant refers the case back to the Worker for a determination of good cause. The Worker enforces the cooperation requirement; however, the Legal Assistant must participate in the good cause determination in an advisory capacity. The Worker must give the Legal Assistant an opportunity to review and comment on the good cause investigation and the decision. The Worker must consider the recommendation of the Legal Assistant in making the final decision.

The procedure to determine good cause is as follows:

- Form OFS-AP-1a, Notice to Individual Who Has Claimed Good Cause for Refusal to Cooperate in Child Support Activities, must be completed by the Worker during a face-to-face contact with the client who signed or was interviewed about the OFS-AP-1.

  The Worker must be sure the client understands the information on Form OFS-AP-1a. Two original forms must be completed and signed by the Worker and the client. One original is given to the client and the other filed in the case record.

- The client has the primary responsibility for obtaining the verification needed to establish good cause. Refer to Chapter 4. The client must provide the verification within 20 days of the date good cause is claimed.

  In certain situations, it is acceptable to make a determination of good cause without verification. These situations are:

  " The claim of good cause is based on the anticipation that cooperation will result in physical harm; and

  " The Worker believes, from the information provided by the client, that:

- **N** The claim is credible without corroborative evidence; or

- **N** Corroborative evidence is not available; and

- **N** The Worker and Supervisor agree that good cause exists.

- The Worker must determine if good cause exists within 45 days of the date good cause is claimed.

- If good cause is established, the case is not acted on by BCSE. However, at each redetermination, the Worker must determine if good cause still exists. If good cause no longer exists the Worker must notify the client and take appropriate action to notify BCSE.

- If good cause is not established, the Worker initiates the penalty and sends appropriate client notification. RAPIDS notifies BCSE that good cause was claimed, but not established, and that the penalty for refusal to cooperate has been applied.

4. Redirection of Support and Income Withholding

NOTE: While there is no penalty for Medicaid recipients who refuse to redirect support payments, they must be instructed that being referred to BCSE automatically triggers income withholding, whenever there is an existing court order for support and an identifiable source of income.

When a Medicaid referral is made to BCSE, the Legal Assistant immediately implements income withholding for any child support the child may be receiving, whenever possible. This action may not be declined or terminated by the Medicaid client. Collection of support must, thereafter, be made through BCSE and distributed as non-public assistance (NPA) payments.

If the client refuses to cooperate in the establishment of paternity and in obtaining medical support, the Legal Assistant notifies the Worker. If the client has not claimed good cause, or if a claim is made and good cause is not determined, the penalty in item 5 below is applied.

5. Penalties For Failure To Cooperate

NOTE: A Poverty-Level pregnant woman, who fails to cooperate in securing medical support for children other than the unborn child, is not penalized until after the expiration of the 60-day postpartum period.

The penalty is as follows:

The parent, other caretaker or responsible adult who failed to cooperate with BCSE is ineligible for Medicaid. The penalty is applied whether or not the adult and child receive Medicaid under the same coverage group.

In general, when a minor parent (mp) receives Medicaid as an adult, the Major Parent(s) (MP) is not required to cooperate in securing medical support for the minor parent. However, when the mp receives Medicaid as a dependent child and the MP fails to cooperate without good cause, the MP is excluded. See Chapter 9 to determine when the minor parent is included as an adult and as a dependent child.

An mp who receives Medicaid must always cooperate for the mp's child(ren) who receives Medicaid or be ineligible, unless good cause exists. This applies whether the mp is included as a child or an adult. An MP, or other caretaker who receives Medicaid, must cooperate as follows, based on the status of the mp, or be ineligible, unless good cause exists. It is possible for both the MP and the mp to become ineligible for Medicaid.

BCSE COOPERATION REQUIREMENTS INVOLVING MINOR PARENTS

When Medicaid status is:	**p** mp, non-Medicaid **p** mp's Child Receives Medicaid	**p** mp receives as Dependent Child **p** mp's Child Receives Medicaid	**p** mp Receives as Dependent Child **p** mp's Child non-Medicaid	**p** mp Is Non-Caretaker Parent
The cooperation requirements are:	MP, other caretaker or responsible adult, must cooperate for absent parent of mp's child, as required by BCSE. **EXAMPLE:** MP knows the whereabouts of child's father and refuses to reveal it.	MP, other caretaker or responsible adult, must cooperate for absent parent of mp and mp's siblings, if any; and MP and mp must cooperate for absent parent of mp's child, as required by BCSE.	MP, other caretaker or responsible adult, must cooperate for absent parent of mp and mp's siblings, if any.	MP, other caretaker or responsible adult, must cooperate for absent parent of mp's child, as required by BCSE. Minor parent must also cooperate

The penalties continue until appropriate corrective action is taken.

6. Communication Between The Worker and the Legal Assistant

Communication between the Worker and the Legal Assistant continues until the case is closed, the child whose parent(s) is absent is removed from the benefit group, or, if applicable, the deprivation factor changes to unemployment, incapacity or death.

The Worker must notify the Legal Assistant, in writing, of the following:

- A good cause determination is being made and the Legal Assistant's comments and recommendations are being requested prior to a final decision.

- The client has requested a Fair Hearing as the result of the Department's finding that good cause for non-cooperation is not established.

- Should the Worker become aware of information which could help the Legal Assistant in establishing paternity and/or obtaining medical support, this information must be shared.

The Legal Assistant must notify the Worker, in writing, of the following:

- The client refuses to cooperate in BCSE activities related to establishing paternity and/or obtaining medical support and the reason for the refusal.

- Information which affects eligibility or the amount of the payment.

- Change of address.

- Paternity is established.

- Information regarding a change in the deprivation factor or cause of absence, if applicable, is secured.

Changes in case circumstances are automatically referred to BCSE through RAPIDS.