

+-----+
 | ADMINISTRATIVE DIRECTIVE |
 +-----+

TRANSMITTAL: 95 ADM-11

TO: Commissioners of
 Social Services

DIVISION: Health and
 Long Term Care

DATE: July 21, 1995

SUBJECT: Medical Assistance Eligibility for Disabled Adult Children

SUGGESTED DISTRIBUTION:	Medical Assistance Staff Fair Hearing Staff Legal Staff Staff Development Coordinators
CONTACT PERSON:	Wendy Butz at 1-800-343-8859, extension 3-5501 MA New York City Representative at (212) 383-1519 User ID: AW7420
ATTACHMENTS:	There are no attachments to this ADM.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
89 ADM-21		360-3.3(c)	1634(c) SSA	MARG pp.	SDX Info.
89 ADM-7				8.8(a) &	Sheet #356
80 ADM-19				(b)	95 LCM-28 92 LCM-41 MBL Trans- mittal 93-4

I. PURPOSE

This Administrative Directive (ADM) provides information regarding Medical Assistance (MA) eligibility for certain blind and disabled individuals who lose Supplemental Security Income (SSI) eligibility as a result of becoming entitled to Social Security child's insurance benefits as a disabled adult child (DAC) or because of an increase in such benefits.

II. BACKGROUND

Section 6 of Public Law 99-643, the Employment Opportunity for Disabled Americans Act, amended Section 1634(c) of the Social Security Act (the Act) to provide for a new group of categorically eligible individuals under Medicaid. An individual who is eligible for MA under this group is one who:

- is at least 18 years old;
- was eligible for SSI benefits on the basis of blindness or a disability;
- became disabled or blind before he or she reached the age of 22; and
- on or after July 1, 1987 lost eligibility for SSI benefits because he or she became entitled to child's insurance benefits under Section 202(d) of the Act (also known as DAC benefits), or because of an increase in the amount of such benefits.

When the criteria are met, and the individual would be eligible for SSI were it not for either the DAC benefits or the increase in those benefits, the individual is treated as if he or she is still eligible for SSI.

Beginning in July 1987, the Social Security Administration began identifying for states individuals who lost SSI eligibility as a result of becoming entitled to, or receiving an increase in DAC benefits. The data needed to identify such individuals is included in the State Data Exchange (SDX) record transmitted to the State and social services district. For each record that meets the DAC criteria, an indicator code of "D" appears in the Medicaid Eligibility Code field. Social services districts were instructed in SDX Information Sheet #356, dated June 16, 1987, to review the Medicaid Eligibility Code field for a code "D" and process any case with a Medicaid Eligibility Code of "D" under the DAC provision of Section 1634(c) of the Act.

In 1991, a class action lawsuit, McMahon v. Dowling, Civ. 91-621C, was filed in the Federal District Court in Buffalo. The lawsuit alleged that in some cases individuals were not properly identified as categorically eligible for MA under the DAC provision. As a result, the Department found that due to identification problems in the SDX system, there were individuals who were not continued on MA in accordance with the DAC provision.

Local Commissioners Memorandums (LCM) 92 LCM-41, dated February 28, 1992 and 95 LCM-28, dated March 20, 1995 informed social services districts of the proper handling of individual cases that might not have been identified as a DAC for any period commencing on or after July 1, 1987.

In addition to processing instructions for DAC cases, on March 17, 1995, the Department of Social Services sent a notice to all individuals who may not have been identified as DACs advising them of their potential eligibility for MA benefits including possible reimbursement/payment of past medical bills and/or reimbursement of Medicare Part B premiums.

This ADM incorporates the instructions for processing DAC cases from 92 LCM-41 and 95 LCM-28 and clarifies the procedures for processing DAC cases prospectively.

III. PROGRAM IMPLICATIONS

The amendment to Section 1634(c) of the Act extends categorical eligibility for MA to certain blind and disabled individuals who lost eligibility for SSI payments because they became entitled to DAC benefits or an increase in the amount of such benefits. Such individuals whose SSI payments are terminated due to the receipt of or an increase in DAC benefits remain eligible for MA, if they would be eligible for SSI benefits in the absence of the DAC benefits or the increase in such benefits.

IV. REQUIRED ACTION

In accordance with Stenson v. Blum, when an SSI recipient loses eligibility for SSI payments, his or her MA must be continued until a separate MA eligibility determination is made. The determination for MA must be completed by the end of the calendar month following the month in which SSI was terminated.

Upon notification on the SDX that an SSI case is closed due to DAC benefits or an increase in the amount of such benefits, social services districts must ensure that the individual meets the DAC criteria specified in Section II of this ADM. If the individual meets the DAC criteria, social services districts must determine continuing MA eligibility under the instructions contained in this ADM.

A. Determination of Financial Eligibility Under the DAC Provision

To determine MA eligibility for individuals identified as meeting the DAC criteria, social services districts must determine whether the individual lost SSI eligibility because of the initial entitlement to a DAC benefit or because of an increase in DAC benefits. DAC benefit information can be obtained from the SDX record. The SDX record will show the current DAC payment resulting in the loss of SSI and, when applicable, the DAC benefit payment in the previous month (the month the individual was last eligible for SSI).

If an individual lost SSI eligibility because of the initial entitlement to DAC benefits, then the entire amount of the DAC benefit must be disregarded in the determination of countable income. When ineligibility for SSI was due to an increase in DAC benefits, the amount of DAC benefits received in the month prior to the termination of SSI is the amount of DAC benefits that must be counted to determine eligibility. Any increase(s) in DAC benefits must be disregarded. If the individual would be eligible for SSI by disregarding the DAC benefit or increase(s) in the benefit, the individual remains eligible for MA.

The following three examples illustrate DAC budgeting:

Example 1: Entitlement To DAC Benefits

A 23 year old man is terminated from SSI in January 1995 because he starts receiving DAC benefits. He receives \$664 per month in DAC benefits and \$75 per month in wages. The SDX showed a "D" indicator code in the Medicaid Eligibility field. The eligibility worker notes this and sends out a recertification form. Pending review the individual continues receiving MA. The eligibility worker receives the completed recertification form and determines that the individual meets the DAC criteria listed in Section II of this ADM. The eligibility worker then computes the income eligibility as follows:

(1) Unearned income	\$664.00
Less DAC benefit	- <u>664.00</u>
Total countable unearned income	\$ 0.00
(2) Earned income	\$ 75.00
Less general income disregard *	- 20.00
Less SSI earned income disregards	- <u>65.00</u>
Less 1/2 remaining earned income	- <u>0.00</u>
Total countable earned income	\$ 0.00

(3) Add total countable unearned & earned income (\$0 + \$0)	\$ 0.00
---	---------

(4) SSI income level (living alone)	\$544.00
-------------------------------------	----------

* If unearned income is less than \$20 after subtracting the DAC benefit, the balance of the \$20 exclusion is deducted from any earned income.

Since the individual's income is below the applicable SSI level, and assuming that resources are below the SSI resource level for one (\$2,000), the individual continues to be financially eligible for MA under the DAC provision.

Example 2: Increase in DAC Benefits

A 45 year old woman receives \$300 per month in DAC benefits. In February 1995, Social Security terminates her SSI benefits because her DAC benefits are increased and she begins receiving \$609 per month in DAC benefits. As in the previous example, the eligibility worker sends out a recertification form. Once the eligibility worker determines that the individual meets the DAC criteria, the worker computes the income eligibility as follows:

(1) Unearned income	\$609.00
Less general disregard	- 20.00
Less increase in DAC benefit (\$609 - \$300 = \$309)	- <u>\$309.00</u>

Total countable unearned income	\$280.00
---------------------------------	----------

(2) Earned income	\$ 0.00
-------------------	---------

(3) Total countable earned & unearned income (\$0 + 280)	\$280.00
---	----------

(4) SSI income level (living alone)	\$544.00
-------------------------------------	----------

As in Example 1, the individual's total countable income is below the applicable SSI level. Assuming that the individual's resources are below the SSI resource level, the individual is financially eligible for MA under the DAC provision.

NOTE: When determining MA eligibility for individuals who have been identified as a DAC, social services districts must first determine eligibility under the DAC provision, even if the individual appears to have income under the MA exemption level. If eligibility cannot be established under the DAC provision, SSI-related budgeting procedures apply.

When an MA recipient eligible under the DAC provision has an increase in either income or resources that will result in a loss of SSI eligibility even though the DAC benefit or the increase in

the DAC benefit is disregarded, the recipient will lose MA eligibility under the DAC provision. By budgeting the DAC benefit as income, the individual may be subject to a spenddown requirement. Should the income and/or resources be reduced to the point where the individual would again be entitled to SSI benefits except for the increase in or entitlement to the DAC benefit, the individual would again become eligible for MA under the DAC provision.

This situation is best illustrated by the following example:

Example 3: Loss of MA Eligibility Under the DAC Provision

A 38 year old man receives SSI at the living alone rate (\$544). In March of 1995 his mother retires and he begins receiving \$600 monthly in Social Security DAC benefits. As a result of the DAC benefits, he loses entitlement to SSI. In June his mother dies and he then becomes entitled to DAC benefits of \$700 per month. In addition to the increase in DAC benefits, he receives \$3,000 in assets from his mother's estate.

Following the termination of SSI benefits in March, the eligibility worker certified this individual as eligible for MA under the DAC provision following the steps outlined in Example 1 (entire DAC benefit of \$600 is disregarded). Following the June increase in DAC benefits, the case is budgeted as follows:

(1) Unearned income	\$700.00
Less DAC benefit	- <u>700.00</u>
Total countable unearned income	\$ 0.00
(2) Earned income	\$ 0.00
Less general income disregard	- <u>20.00</u>
Total countable earned income	\$ 0.00
(3) Add total countable unearned & earned income (\$0 + \$0)	\$ 0.00
(4) Total countable resources	\$ 3,000
Less SSI resource level for one	\$ <u>2,000</u>
(5) Excess resource amount	\$ 1,000

Since the individual's resources exceed the SSI resource level, the eligibility worker determines eligibility using regular SSI-related budgeting procedures as follows:

(1) Unearned income	\$700.00
Less income disregard	- <u>20.00</u>
Total countable unearned income	\$680.00

(2) Earned income	\$ 0.00
(3) Add total countable unearned & earned income (\$680 + \$0)	\$680.00
Subtract MA level for one	- <u>550.00</u>
(4) Monthly spenddown	\$130.00
(5) Total countable resources	\$ 3,000
MA resource level for one	- \$ <u>3,300</u>
(6) Excess resources	\$ 0

In this case, should the individual's resources later be reduced to the SSI resource level, budgeting procedures under the DAC provision would again apply.

NOTE: In determining the amount of income available for the cost of care under chronic care budgeting, DAC benefits are considered available income and must be added to all other sources of available income.

B. Notification Requirements

If an individual is determined to be eligible for full MA coverage based on sufficient SDX data, social services districts must authorize MA for up to one year and send the individual the DSS-3622: Notice of Decision on Your Medical Assistance Application.

If an individual is found to be financially ineligible for MA under the DAC provision but eligible with a spenddown requirement under regular SSI-related budgeting procedures, he or she must be given timely and adequate notice of a change in MA coverage (DSS-3623: Notice of Intent to Discontinue/Change Medical Assistance). When notifying individuals of a change in their MA eligibility, social services districts must specify both the DAC and regular SSI-related budgetary methods used to determine eligibility under the calculations section of the notice.

If the information on the SDX is insufficient to make an MA eligibility determination (i.e., lacking sufficient resource information), social services districts must send a recertification packet and a notice (cover letter) advising the individual that additional information is needed to determine MA eligibility, and that unless she or he contacts the agency within 30 days, the case will be closed.

If no contact has been made within 30 days, a 10-day notice of discontinuance must be sent. If the individual responds to the eligibility determination inquiry, proper notification of eligibility must be sent.

C. Buy-In Eligibility Under the DAC Provision

Individuals who are certified as DAC MA eligible and who are in receipt of Medicare Part B are eligible to have MA pay the appropriate Medicare premium on their behalf through the Buy-In system. Social services districts do not have to make a separate eligibility determination in order for Part B premiums to be paid under the Buy-In Program.

It is important to note that individuals who are financially eligible under the DAC provision are not automatically eligible to have MA pay deductibles and coinsurance for services offered under Medicare. Social services districts must determine eligibility for payment of Medicare deductibles and coinsurance for this group of eligibles in accordance with the provisions described in 89 ADM-7 "Implementation of the Medicare Catastrophic Coverage Act of 1988 (MCCA) Relating to the Medicaid Payment of Medicare Premiums, Deductibles and Coinsurance." This means that an individual must meet the criteria established for Qualified Medicare Beneficiaries (QMBs) with income at or below 100 percent of the federal poverty line and resources at or below twice the SSI resource level. When comparing income to the federal poverty level, DAC benefits are not disregarded.

Many individuals residing in Congregate Care facilities (Levels I, II and III) will not be eligible as a QMB since the SSI levels/PA Standard of Need for these living arrangements exceed 100 percent of the federal poverty line.

VII. ADDITIONAL INFORMATION

A. Reconciliation for DACs

In the past, individuals were not always properly identified as DAC eligible because of problems with SDX records. As a result, there are a number of individuals who were not continued on MA in accordance with the DAC provision. 92 LCM-41 informed social services districts of a number of individuals potentially eligible for MA under the DAC provision for 1991. 95 LCM-28 provided social services districts with cases identified by SSA as meeting the DAC criteria for the period July 1987 through October 1992. Cases for 1991 were included in the July 1987 through October 1992 listing, as there were some individuals for 1991 that had not previously been identified.

Social services districts must review these records to determine whether WMS should be changed to reflect DAC status by setting the SSI Indicator to "5" Closed SSI- Continue OASDI (see Systems Implications Section). These records will be subject to review by the Department in the future.

It should be noted that even in instances where an individual's MA case is closed, the SSI Indicator must be changed to "5." This includes cases where an individual does not request a redetermination of MA eligibility under the DAC provision or a determination of eligibility for reimbursement of past medical expenses.

B. Payment/Reimbursement of Medical Bills or Reimbursement of a Spenddown

Individuals who meet the DAC criteria who have not received full MA coverage may be entitled to reimbursement/payment of past medical bills. Some individuals may have received MA coverage with a spenddown of income requirement rather than full coverage, because DAC benefits were budgeted as income.

Redeterminations of financial eligibility for payment or reimbursement of past medical bills must be completed for those individuals who request a redetermination under the DAC provision. When determining financial eligibility for retroactive periods, current SSI levels and treatment of income and resources must be used.

Wherever possible, documentation of income and resources of the individual at the time the bill was incurred must be obtained. If, however, current income and resource information shows that the individual meets the financial eligibility requirements, it will be presumed that the individual met the income and resource criteria for any earlier time periods unless there is evidence to the contrary.

As appropriate, individuals who request a determination of eligibility for payment of past medical bills must be sent the required notices, as contained in 89 ADM-21, "Mandatory Client Notices (Public Assistance, Food Stamps, Medical Assistance)." These notices are: the DSS-3868 - Notice of Medical Assistance Review; and the DSS-3869 - Notice of Reimbursement by the Medical Assistance Program.

Social services districts should consult the New York State Fiscal Reference Manual for Local Departments of Social Services for procedures for reimbursing MA recipients for paid medical costs (Volume I, Chapter 7, pages 29-33; and Volume II, Chapter 5, pages 16-21), as modified by the provisions of the May 19, 1994 electronic mailing to local district commissioners concerning the court order in Greenstein et al. v. Dowling et al. An individual who was participating in a Pay-In Program who was required to pay a spenddown to the social services department, must be reimbursed the amount of that spenddown.

Individuals who have been paying their Medicare Part B premiums are entitled to reimbursement if they are determined to be retroactively eligible for MA under the DAC provision. The same procedures for reimbursement of past medical bills may be applied when reimbursing individuals for Medicare premiums.

Reimbursement payments are to be considered exempt as income in the month received and exempt as a resource in the following month. Thereafter, any funds remaining are to be counted as a resource.

C. Allegation of DAC Eligibility

If an individual indicates he or she is a DAC eligible individual, but the SDX does not reflect the DAC code, the individual or representative should be advised to contact the local SSA office to obtain written verification documenting DAC status. Social services districts must assist individuals with obtaining verification of DAC status when needed.

VII. SYSTEMS IMPLICATIONS

MBL

Effective October 25, 1993, MBL is programed to calculate DAC eligibility. The following enhancements have been made to MBL to generate a budget which reflects DAC eligibility.

- A new expanded eligibility code "E" - Calculate budget for DAC.
- A new unearned income source code "47" - Social Security Benefit DAC.
- A new unearned income exemption code "15" - Receipt/Increase in SSICB resulting in SSI ineligibility.

When these codes are entered on the input screen, the logic will calculate the net income based on SSI disregards and exemptions including the exemption of DAC benefits but excluding the Medicare Part B premium and/or insurance premiums. This net income is then compared to the appropriate SSI benefit level for an individual or a couple. The resources are compared to the appropriate SSI resource level for an individual (\$2,000) or a couple (\$3,000).

This new DAC eligibility data will be generated on the Expanded Eligibility screen on the line labeled Disabled Adult Child. The SSI budget will also be available by using SF-8. For Budget Types 05 and 06 the ADC or HR budget is also available. Full details and calculation changes are contained in MBL Transmittal 93-4.

WMS

For upstate districts, the ASWI process will post DAC records with a "D" in SDX field 50, Medicaid Eligibility Code, with the literal "STATE DETERMINATION DISABLED ADULT CHILD D." The Payment Status Code on SDX will be "NONPAY." On WMS, the Case Type will be set to "20"-MA Only, and the SSI Indicator will be set to "5"- Closed SSI-Continue OASDI.

NOTE: If a district finds that an individual who appears on the SDX with an indicator code of "D" does not meet the DAC criteria listed under Section II of this ADM, the district should contact the local SSA office for follow-up in correcting the record. In addition, the SSI Indicator Code on WMS must be changed from a "5" to the appropriate code.

For New York City, Auto SDX will process DAC cases with the Payment Status Code of "N01" or "E01", and "D" in field "Type Coverage." These cases will appear on the monthly Stenson lists and must be processed in the same manner as those with Payment Status Code "MMM." Staff must check the SDX inquiry screen on WMS to see if these codes appear on the SDX record. In addition, when cases are converted from MSSSI to MA, a "5"- Closed SSI - Continue OASDI, must be placed in the SSI Indicator field (WMS Item #320).

For upstate districts and downstate it is essential that all information necessary for case maintenance be taken from the SDX and transferred to the individual MA-Only record, as these cases will not continue to appear on the SDX.

For all individuals who meet the DAC criteria (regardless of financial eligibility) the SSI Indicator must be "5"- Closed SSI - Continue OASDI.

VII. EFFECTIVE DATE

The effective date of this ADM is July 28, 1995, retroactive to July 1, 1987.

Richard T. Cody
Deputy Commissioner
Division of Health & Long Term Care