

TRANSMITTAL LETTER FOR MANUAL RELEASES

**STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BENEFICIARY SERVICES ADMINISTRATION
DIVISION OF ELIGIBILITY SERVICES
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MANUAL: Medical Assistance

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APPLICABILITY: Disability determinations

Replaces pages 500-9 – 500-10c issued in MR-127

<u>Item</u>	<u>Remove Pages</u>	<u>Insert Pages</u>
<u>Chapter 5 – Non-Financial Eligibility Requirements</u>		
Disability determination procedures	500-9 – 500-10c	500-9 – 500-10f

COMMENTS

SRT/Disability Determinations

MR-127, issued in November 2005, contained replacement pages 500-9 – 500-10c of the Medicaid Manual, with revised policies and procedures for disability determinations by the State Review Team (SRT) of the Department of Human Resources. These pages were subsequently withdrawn. Use the attached pages 500-9 – 500-10f, which clarify the procedures for disability determinations.

c) The report shall be reviewed by an ophthalmologist, contracted by the Department or its designee, who determines on behalf of the local department of social services or other designated entity determining Medical Assistance (MA) eligibility:

- (i) Whether the person meets the definition of blindness; and
- (ii) The need and frequency of re-examination for periodic redetermination of blindness.

When processing applications involving determination of blindness, it is important for the eligibility caseworker to keep in mind the period under consideration. If the applicant is requesting assistance for the retroactive period under consideration and indicates the existence of the impairment during that period, the required medical and social information must be collected for the retroactive period.

The blindness medical form must be completed and used to report information to the State Review Team and the State's reviewing ophthalmologist. This form may be supplemented by any additional medical statements or reports submitted by the examining practitioner. The social summary must be completed and submitted with the medical information to the State Review Team at the Department of Human Resources. Payment may be made to the customer's ophthalmologist or optometrist, through issuance of a vendor payment, for completion of the medical form at the time of the customer's MA application and at a scheduled review.

3. Re-examinations for periodic redeterminations of blindness will be conducted according to #2 of this section.

4. The local department of social services or other entity determining MA eligibility shall accept the Social Security Administration's determination of blindness for a person receiving a Social Security benefit based on blindness.

E. Disability Determination.

All references to an MA applicant in this Section also include MA recipients who request eligibility in an ABD coverage group at the time of redetermination.

To be eligible for Medical Assistance (MA) as disabled in an Aged, Blind or Disabled (ABD) coverage group, an applicant shall meet the definition of “disabled.” “Disabled” is defined as the inability to engage in any substantial gainful activity due to any medically determinable physical or mental impairment which is expected to result in death, or which has lasted or is expected to last for a continuous period of not less than 12 months.

Applicants must also meet all other technical and financial requirements. That includes the requirement that the applicant apply for and take all other necessary steps to obtain and accept all income benefits to which he or she may be entitled. Therefore, all applicants must be referred to the Social Security Administration (SSA) to apply for income benefits. Acceptable proof that an applicant has made an SSA application(s) will be discussed later in this Section.

Procedure for Determination of Disability

The State Review Team (SRT) of the Department of Human Resources determines disability for MA applicants who are requesting eligibility in an ABD coverage group if SSA has not already determined the applicant is currently disabled.

LDSS Procedures

When an individual applies for MA in an ABD coverage group without a current SSA determination of disability, the local department of social services (LDSS) or other designated entity determining MA eligibility must obtain a medical report and a social history. The medical report and social history should be completed as explained below, and must include a diagnosis and any other information available (e.g., signs, symptoms, laboratory reports, x-rays, current medications).

1. Applicant with current SSA determination (disabled or not disabled)

If SSA has determined the applicant is currently disabled, the LDSS or other entity determining MA eligibility does not need to submit the disability determination package to SRT for an applicant requesting eligibility in an ABD category. A **final** SSA determination is binding on the State.

In order to determine whether an SSA decision is **final**, the LDSS must determine the date of the SSA decision, whether the applicant has filed an appeal, and, if not, whether the deadline to file an appeal has passed. Generally the time for filing an appeal of an SSA decision is 60 days from the date of the decision. However, the SSA allows late appeals for good cause in some circumstances. If an appeal is filed within 60 days, the decision is not final until SSA issues a decision.

A **final** SSA decision exists when the applicant has accepted the SSA decision and is not appealing SSA's disability determination. If the SSA has made a **final** determination regarding disability, either positive or negative, the determination is binding on the State. If SSA changes their decision, their new decision is also binding on the State.

The LDSS must use the State Data Exchange (SDX), State Verification Eligibility System (SVES), or State Online Query (SOLQ) to determine the applicant's Social Security benefits status before sending a disability referral to the SRT as specified below.

If the above referenced systems indicate a different status than the applicant states to the LDSS, then verification from SSA is required. A receipt from SSA will serve as proof that the applicant applied for SSA benefits. A letter from SSA that contains the SSA determination will serve as proof of SSA's determination.

If SSA has previously denied disability and the applicant alleges new information or produces new evidence *affecting the previous denial*, the LDSS or other entity determining eligibility shall refer the applicant to SSA for reconsideration or reopening of the applicant's case. The LDSS shall accept the application, but the original SSA determination of not disabled stands unless SSA changes their determination after reconsideration or reopening of the case.

If SSA has previously denied disability but one of the following occurs, the LDSS must forward the case to the SRT:

- a. If, at any time, the applicant alleges an *entirely different medical condition or additional impairment(s)* other than the allegations on which SSA based its decision denying disability, and SSA has not yet determined disability based on the new allegations; or
- b. More than 12 months after SSA's most recent denial of disability, an applicant alleges a more severe impairment or an entirely new disability, and the applicant has not applied to SSA based on the new allegation; or
- c. Less than 12 months after SSA's most recent denial of disability, an applicant alleges a change or deterioration in the disability evaluated by SSA or alleges a new disability for which SSA has not determined disability, and the applicant asked SSA to reconsider or reopen the last determination but:
 - SSA declined to consider the new allegations concerning disability; or
 - It is clear to the LDSS or other entity determining MA eligibility that the applicant no longer meets SSI non-medical requirements (e.g. income), but may meet MA eligibility requirements.

2. Applicant without an SSA disability determination

If SSA has not determined that the applicant is currently disabled and the applicant is requesting eligibility in an ABD category, the LDSS must provide the applicant with one or more DHR/FIA 402-B form(s) and assist the applicant in completing the DHR/FIA 4204 Form. The LDSS must forward those forms, the DHR/FIA 707 Form, one or more DHR/FIA 161 Releases, and additional evidence, if available, to the SRT. The LDSS must not hold any part of the disability determination package, but must forward additional information as it becomes available. All forms must be completed.

DHR/FIA 402-B

In order to establish physical or mental impairment(s), the applicant must provide at least one DHR/FIA 402-B (Medical Report Form) that is completed and signed by one of the following acceptable sources:

- licensed physician;
- licensed or certified psychologists;
- licensed optometrists;
- licensed podiatrists; or
- qualified speech-language pathologists.

A separate 402-B Form must be completed for each examining or treating source. An examining source is a physician, psychologist, or other acceptable medical source that has examined the applicant but does not have, or did not have, an ongoing treatment relationship with the applicant. A treating source is the applicant's own physician, psychologist, or other acceptable medical source who provides or has provided medical treatment or evaluation to the applicant and who has, or has had, an ongoing treatment relationship with the applicant.

The LDSS shall provide the applicant with a 402-B Form for each source. Additional 402-B Forms may be submitted to support the applicant's allegation of impairment(s). If the applicant has a physical or mental impairment for which he or she does not have an examining or treating source, the LDSS will refer the applicant to an acceptable source as listed above.

The 402-B Form should be supplemented by additional medical statements or reports (e.g., laboratory reports, x-rays, examination or treating notes, list of current medications). The applicant's examining or treating source(s) may be paid, through issuance of a vendor payment, for completion of the 402-B Form at the time of initial application and at a scheduled review.

The LDSS should ensure that the 402-B Form is signed by the examining or treating source, unless the source refuses. In that case, the applicant must be given an opportunity to secure a 402-B Form from another source, and the LDSS shall refer the applicant to another acceptable source as listed above.

DHR/FIA 4204

The LDSS and the applicant shall complete the DHR/FIA 4204 (Vocational, Educational and Social Data Form) together at the initial interview. If the applicant has applied for SSA benefits, the date and status of SSA application(s) must be clearly indicated on the 4204 Form. The 4204 Form shall be completed in its entirety and signed by the applicant for SRT to make a disability determination. The LDSS shall indicate in red ink on the Form if missing information is unknown or not available.

DHR/FIA 161

The LDSS shall obtain a signed DHR/FIA 161 (Authorization to Release Information Form) for each source listed on the 402-B and 4204 Forms. If the applicant refuses to sign the 161 Form, the LDSS shall indicate that on the 161 Form and forward it to SRT without the applicant's signature.

DHR/FIA 707

The DHR/FIA 707 (State Review Disability or Blindness Determination Transmittal Form) shall be completed and submitted to the SRT. Section 1 of the Form shall be completed by the LDSS and include the full name of the LDSS office and the district name or number. Abbreviations and acronyms are not acceptable.

Retroactive Consideration

If the applicant indicates the existence of one or more impairments during the three months prior to application (retroactive period), the LDSS shall collect all available medical reports and social history for the retroactive period and forward that information to SRT.

SRT Procedures

The SRT shall review the medical report, social history, and other evidence to make a disability determination. The SRT will make every effort to obtain additional information when necessary.

Notification to applicant of “Not Disabled” Determinations (736 and 739 Forms)

If the SRT determines the applicant is not disabled, the SRT will send the LDSS two (2) copies of the DHR/FIA 736 (Medical, Vocational, and Educational Assessment). The LDSS uses the DHR/FIA 739 (Disability Determination Notice of Action) as a cover letter to send one copy of the DHR/FIA 736 to the applicant or an authorized representative. The other copy remains in the case record.

F. Caretaker Relative.

In order to be eligible for a MA Families and Children (FAC) coverage group as a caretaker relative, an individual must meet the definition of “caretaker relative” as being the parent or other adult who is:

- Related to a child by blood, marriage, or adoption; and
- Living with and caring for the child.

For this purpose, a child is defined as unmarried and less than twenty-one (21) years old. The required verification of an applicant or recipient’s status as a caretaker relative is addressed under Chapter 6 of this Manual.

G. Inmate of a Public Institution.

In order to be eligible for Medical Assistance, a person may not be an inmate of a public institution. An “inmate of a public institution” is defined as an individual who is incarcerated and serving a sentence imposed by the Court for a criminal offense or an individual who is otherwise confined involuntarily in a public correctional facility, including a State-owned and operated juvenile services facility.