**STATE OF RHODE ISLAND**
**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVCES**
**PUBLIC NOTICE OF PROPOSED RULE-MAKING**

The Secretary of the Executive Office of Health & Human Services (EOHHS) has under consideration amendments to the Medicaid Code of Administrative Rules ("Regulations") Section 0370, "SSI-Related Coverage Groups." In accordance with Rhode Island General Laws (RIGL) Chapter 42-35, notice is hereby given that EOHHS proposes to amend this rule in order to reflect the cost-of-living increase (COLA) to the federal Social Security Administration benefit rates. The State is adopting these amended rules to set forth these provisions in a timely manner in order to prevent wrongful denial, discontinuance, or interruption of benefits for Medicaid applicants and beneficiaries.

These regulations are being promulgated pursuant to the authority contained in Rhode Island General Laws Chapter 40-8 (Medical Assistance) as amended; Rhode Island General Laws Chapter 40-6 ("Public Assistance"); Title XIX of the Social Security Act; Chapter 42-7.2 of the Rhode Island General Laws, as amended; and Chapter 42-35 of the Rhode Island General Laws, as amended.

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons or by an agency or association having at least twenty-five (25) members. A request for an oral hearing must be made within forty-five (45) days of this notice.

In the development of these proposed Regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small businesses in Rhode Island. No alternative approach, duplication or overlap, or impact upon small businesses was identified based upon available information.

These proposed rules are accessible on the R.I. Secretary of State's website: **http://www.sos.ri.gov/ProposedRules/** and the EOHHS website **www.eohhs.ri.gov** or available in hard copy upon request (401 462-1575 or RI Relay, dial 711). Interested persons should submit data, views, written comments, or a request for a hearing **by Monday, April 6, 2015** to: Elizabeth Shelov, Office of Policy and Innovation, RI Executive Office of Health & Human Services, Louis Pasteur Building, 57 Howard Avenue Room #142, Cranston, RI 02920 or Elizabeth.Shelov@ohhs.ri.gov.

The Executive Office of Health and Human Services does not discriminate against individuals based on race, color, national origin, sex, gender identity or expression, sexual orientation, religious belief, political belief or handicap in acceptance for or provision of services or employment in its programs or activities.

Original signed by
Elizabeth H. Roberts, Secretary
Signed this 16th day of February 2015

## 0370 SSI-Related Coverage Groups

### 0370.05 SSI-Related Recipients

REV: February 2014

This coverage group consists of aged, blind, or disabled individuals receiving SSI and/or the State Supplement. These individuals are automatically entitled to Medicaid as “Categorically Needy.”

SSI recipients under age twenty one (21) may be enrolled in RIte Care Health Plans in accordance with provisions contained in Section 1309.

#### 0370.05.05 SSI Assisted Living Applicant/Recipient

REV: 12/1998

SSI eligible individuals residing in residential care and assisted living (RC/AL) facilities receive an SSI benefit based on the community federal benefit rate (FBR) plus an increased state supplementary payment for individuals living in such facilities.

RC/AL facilities provide housing, supervision, and personal care services in a residential setting to persons who need some assistance with activities of daily living (ADLs) or instrumental activities of daily living (IADLs). Such individuals are able to remain in the community because of the supportive services provided through assisted living.

By adjusting the SSI benefit level for persons living in RC/AL facilities to more adequately reflect the cost of providing the services, increased access is available to low income persons whose needs are appropriate to the level of services provided by such facilities.

Individuals who receive this increased SSI benefit are allowed to retain a minimum personal needs allowance of fifty-five dollars ($55) per month from their SSI monthly benefit prior to payment of the RC/AL facility monthly fee.

In addition, individuals applying for SSI (either living in or who will be living in an RC/AL facility if determined eligible for SSI) are required to undergo a screening, assessment, and verification process for SSI individuals living in state-licensed residential care and assisted living facilities.

### 0370.10 Deemed SSI-Recipients Under 1619 (B)

REV: 01/2002

This coverage group ~~is~~ includes individuals considered to be SSI recipients under 1619(b) of the Social Security Act. Persons in this group are "Qualified Severely Impaired" who are employed and individuals who no longer receive SSI payments and/or the State Supplement due to excess earned income. The Social Security Act allows them to remain Medicaid eligible.

### 0370.15 Pickle Amendment Eligibles

REV: 01/2002

This coverage group originated in a 1977 amendment to the Social Security Act introduced by Representative Pickle of Texas. The objective of the amendment is to prevent SSI recipients from

losing their automatic medical coverage because of the yearly cost-of-living adjustments (COLAS) in their Social Security benefits. Since the Pickle amendment was enacted, the Federal court has extended its protection to all current RSDI recipients who, in any month after April 1977, received RSDI and SSI concurrently and who subsequently lost SSI eligibility FOR ANY REASON (NOT SOLELY THE COLA) and who would still be eligible "but for" the COLAS which they had received since they were last eligible for and received SSI.

**0370.15.05 Eligibility Requirements**

REV: February 2014

Under the Pickle Amendment, categorical eligibility for Medicaid is protected for individuals who received SSI (Title XVI) and RSDI (Title II) concurrently (in the same month) in at least one month after April 1977 and subsequently lost SSI for any reason (not solely the COLA), provided:

- Such individuals currently receive RSDI; and
- Such individuals would currently be eligible for SSI but for the RSDI COLAS they received since the last month in which such individuals were eligible for and received SSI.

The following definitions apply to Pickle eligibility.

"Protecting" categorical eligibility means that such individuals are still eligible for Medicaid as Categorically Needy. (They are still eligible for the full scope of medical services).

"Still" eligible for Medicaid as Categorically Needy means that there is no interruption in categorical eligibility. Such individuals retain the characteristic of aged, blind or disabled and remain within the resource limit. Income only has affected their SSI eligibility.

"Individuals" means that only SSI-related individuals/couples (who are aged, blind or disabled) and who are not residents of long-term care facilities are eligible to be considered under the Pickle Amendment. AFDC-related families (where a child is deprived of parental support or care) are not eligible to be considered under the Pickle Amendment because SSI eligibility is determined on an individual and not on a family basis. There is no SSI standard of payment for a family.

"Concurrently receiving SSI and RSDI" means that some individuals receive an RSDI benefit low enough to be eligible for an SSI payment, supplementing their RSDI up to the appropriate SSI standard.

"For any reason (not solely the COLA)" means that the cause of the loss of SSI need not necessarily be a COLA.

"Currently receiving RSDI" means that to be eligible for SSI and Medicaid such individuals must be aged, blind or disabled. (Early retirement does not apply).

"Would currently be eligible for SSI" means that such individuals (a) must be either aged, blind, or disabled; (b) must have resources within the appropriate resource limit; and, (c) must have met countable income less than the SSI standard of payment, according to living arrangement.

"But for the RSDI COLAS" (the "but for" test) means that in computing the net countable income, the RSDI COLAS received since the last month in which the individual was eligible for and received SSI are disregarded. Therefore, eligibility is determined without the COLAS. If the individual is Pickle-eligible, such individual is treated as though still receiving SSI .

Both "RSDI COLAS" and SSI COLAS are usually effective every year on January 1st.

"Eligible for and received SSI" means that the receipt of an SSI check(s) is not sufficient in and of itself. The individual must have been eligible to receive the SSI check(s).

**0370.15.10 Potentially Eligible Cases**
REV: 06/1994

A potentially eligible individual is one who is receiving RSDI and was eligible to receive (and received) RSDI and SSI concurrently in at least one month after April 1977.

Once an individual has been identified as potentially eligible under the Pickle Amendment, that individual remains potentially eligible throughout his/her lifetime although actual Pickle eligibility can change as the individual's circumstances change.

**0370.15.15 SSA Protected Amount**
REV: February 2014

For individuals identified as potentially Pickle eligible, the RSDI COLAS which they and their financially responsible family member(s) received after such individuals were last eligible for and received SSI and RSDI concurrently are deducted from their countable income in determining their Categorically Needy eligibility for MA.

The Eligibility Technician will specify an SSA protected amount. This protected amount will represent the amount of benefits received prior to the increase. When the Medicaid income is computed, this protected amount will be used in place of the actual SSA amount the applicant is receiving.

0370.15.20 Identifying Potential Pickle Cases
REV: 06/1994

Every SSI-related applicant or recipient who currently receives RSDI and who received SSI cash assistance in any month after April 1977 must be considered for possible eligibility under the Pickle Amendment at each application and redetermination.

At application, APPLICATION SUPPLEMENT FOR PICKLE ELIGIBILITY (ASPIC) is included in the application packet for such individuals/couples to gather the information and supporting documents necessary to ascertain Pickle-eligibility.

At redetermination, an APPLICATION SUPPLEMENT FOR PICKLE ELIGIBILITY (ASPIC) is included in the recertification packet for such individuals/couples to determine whether there has been a change in Pickle-eligibility. A change in either the recipient's circumstances or in the SSI standards can affect Pickle status.

Many cases not originally considered eligible under the Pickle Amendment because the termination from SSI resulted from a change in living arrangement or receipt of other benefits (such as Veterans' benefits or private pensions) should have been eligible, or may still become eligible for Pickle status in the future. This is because the countable amount of Social Security benefit for these cases is fixed (frozen) at the amount received for the last month of the individual and/or spouse's eligibility, while the SSI standards are increased each year.

**0370.15.25 Determining Pickle Eligibility**
REV: 06/1994

In determining eligibility, all eligibility requirements for Categorically Needy individuals/couples must currently exist. The only difference between the Pickle cases and other cases is the special disregard of the RSDI COLAS (i.e., the frozen amount of RSDI).

Using the WORKSHEET FOR PICKLE ELIGIBILITY (WOPIC), the Eligibility Technician establishes the following requirements:

- The characteristic of aged, blind, or disabled must exist. If the individual is active as Medical Needy, the characteristic has already been established. If the individual is an applicant receiving RSDI, the technician establishes that receipt of that benefit is based on a characteristic and not on early retirement;

- Resources cannot be transferred for the purpose of attaining eligibility. Resources must be within the appropriate resource limits. If the individual is a recipient, the technician determines if there has been an increase in resources since application or the last recertification;

- The technician establishes the date that the SSI case was closed, and that RSDI and SSI were received concurrently in any month since April 1977.

- If RSDI has been the only source of income since the loss of SSI and there has been no change in the type of benefit (such as a change from spouse to widow), the amount of the RSDI benefit received in the month prior to the RSDI COLA which was coincident with the loss of SSI is the current amount of countable income, the frozen COLA to be used in future determinations. If there is insufficient information available, the frozen COLA must be manually calculated according to the formula on the reverse of the WOPIC. (The COLAS by date and percentage of increase are shown as Section 0370.15.45);

- The unearned income disregard of $20 is applied;

- If there has been a change in RSDI other than the COLA, add the amount of the difference between the old and new RSDI at the time of the change is added;

- If non-RSDI income is currently received, it is countable income. (If such income is earned, the $65 + ½ disregard is applied);

- The current countable income (all of the subsequent COLAS have now been disregarded) is compared to the current SSI standard for the individual's current living arrangement to determine if a deficit in income exists;

- The WOPIC is signed by the Eligibility Technician and reviewed/signed by the Supervisor.

If this determination, at any point, results in Pickle-ineligibility, the Eligibility Technician determines current eligibility for Medicaid using the actual RSDI currently received; the COLAS cannot be disregarded.

**0370.15.25.05 Example of Pickle Eligibility**

REV: February 2014

Mr. Q was terminated from SSI in 1/84 when he began to receive VA benefits in addition to his RSDI. In computing net countable income, the RSDI amount Mr. Q was receiving in 12/83 must be used to determine his Pickle eligibility.

Mr. Q's Pickle eligibility is determined as follows:

| | |
|---|---|
| $ 220.00 | Current VA amount |
| + 211.00 | 12/83 RSDI amount |
| $ 431.00 | Countable unearned income |
| -20.00 | Income disregard |
| $ 411.00 | Total countable Pickle income |

This is compared to the current SSI Standard. If the figure is below the SSI Standard, Mr. Q is categorically eligible for Medicaid under the Pickle Amendment.

**0370.15.30 Verifying Pickle Eligibility**

REV: 06/1994

Verification of resources and income as well as any other verifications necessary to establish eligibility must be provided in accordance with procedures established for regular SSI-related Medicaid cases (individuals/couples). Pickle eligibility is established upon verification of:

- Date of termination of eligibility for SSI payments;
- Present receipt of Social Security Disability or Aged benefits (not early retirement);
- Amount and type of RSDI benefit for the last month in which the individual (and/or spouse) was eligible for and received an SSI payment; and
- All current income other than RSDI. Except for cases appearing on the Annual Review System, documents from the Social Security Administration (SSA) such as award letters, 1610 termination notices, confirmation on SSA letterhead, must show that receipt of SSI and RSDI were concurrent. Such documents must show dates coincident with the appropriate timeframes (e.g., an award letter for RSDI dated 1982 is outdated by COLAS accumulated since that year).

Copies of verifying documents must be retained in the case record.

**0370.15.30.05 Change in Pickle Status**
REV: 06/1994

A Pickle-eligible case can become Pickle-ineligible for any of the following reasons:

- A subsequent increase in income (other than the RSDI COLA) which negates the effect of disregarding the RSDI COLAS, causing countable income to exceed the appropriate SSI standard;

- An increase in RSDI attributable to a change in the type of RSDI entitlement (for example, going from a spouse's to a widow's benefit) causes the countable income to exceed the appropriate SSI standard;

- A change in living arrangement introduces a lower SSI standard (for example, going from "living alone" to "living in another's home") causing the countable income to exceed the lower SSI standard;

- Accumulated resources exceed the resource limit.

A Pickle-ineligible case can become Pickle-eligible for any of the following reasons:

- A subsequent decrease in income (for example, loss of rental income) which causes countable income to fall below the appropriate SSI standard;

- A return to the community from a long-term care facility which makes an otherwise ineligible or Medically Needy individual Pickle-eligible;

- A change in community living-arrangement which introduces a higher SSI standard (for example, going from "another's home" to "living alone") and causes countable income to be below the higher SSI standard;

- An annual increase in SSI standards which causes countable income which has been above the SSI standard to fall below the new standard;

- Resources decrease to within the resource limit.

It is reasonable to assume that almost any individual terminated from SSI by reason of excess income will eventually become eligible for Medicaid as a Pickle case.

**0370.15.35 Annual Review System**
REV: 06/1994

To implement the court's interpretation of the Pickle Amendment on an ongoing basis, an Annual Review System has been mandated under Federal regulations.

The Annual Review System does not preclude the requirement of a regular full redetermination because the Annual Review System is an income test at the time of the annual RSDI and SSI COLAS. The Annual Review System is conducted only for those individuals who meet the

essential criterion; that is, they were eligible for and received RSDI and SSI concurrently after April 1977.

The Annual Review System is designed to review the effect of only two income variables on Pickle eligibility. They are the

- Annual SSI COLA; and
- Annual RSDI COLA.

Therefore, there are two populations to be identified by the Annual Review System:

- Individuals who become Pickle eligible due to the SSI COLA; and
- Concurrent RSDI and SSI who lose SSI due to RSDI COLA.

**0370.15.35.05 Pickle-Eligibility Due to SSI COLA**
REV: 06/1994

These are generally "Potential Pickle" Medically Needy recipients who receive RSDI, and who may become Pickle-eligible due to the increased SSI standard resulting from the SSI COLA. These individuals had countable income (calculated using a frozen RSDI amount) which exceeded the SSI standard in effect prior to the SSI standard because the Frozen RSDI amount remained the same, while the SSI standard increased as a result of the SSI COLA. An individual, otherwise eligible for SSI, who has countable income (because of the frozen RSDI) less than the new SSI standard, becomes Categorically Needy under the Pickle Amendment.

**0370.15.35.07 Summary of Annual Review of SSI COLA Effect**
REV: 06/1994

Medically Needy Receiving RSDI
January 1985
Frozen RSDI + Other Income
Total Countable Income = Equal to or more than 1985 SSI Standard
Result = Pickle-ineligible as Categorically Needy. Redetermination Medically Needy Eligibility now using actual RSDI.

January 1986
Frozen RSDI (same as in 1/85) + Other Income
Total Countable Income = Less than 1986 SSI Standard
Result = Becomes Pickle-Eligible as Categorically Needy. Redetermination Categorically Needy Eligibility at next Recertification or Annual Review Using Frozen RSDI.

**0370.15.35.10 RSDI/SSI Who Lose SSI by COLA**
REV: 06/1994

These individuals may remain Categorically Needy under the Pickle Amendment. The RSDI amount received in the month prior to the RSDI COLA is frozen, and used in the calculation of countable income to determine Pickle eligibility. The actual RSDI benefit amount is used by SSA

to calculate the SSI payment, and such individuals have too much actual income to receive all SSI payment. However, because the amount of the RSDI COLA is disregarded in calculating countable income for Pickle eligibility, total countable income for Pickle eligibility may be less than the new SSI standard. If so, and if otherwise eligible for SSI, the individual remains Categorically Needy under the Pickle Amendment.

### 0370.15.35.15 Summary of Annual Review of RSDI COLA Effect

REV: 06/1994

CATEGORICALLY NEEDY RECEIVING RSDI AND SSI

January 1986
Frozen RSDI + Other Countable Income
Total Countable Income = Equal to or more than 1986 SSI Standard
Result = Ineligible SSI Remains Pickle-Eligible as Categorically Needy.

Note: An individual who continues to be eligible for SSI despite the RSDI COLA and is subsequently terminated from SSI for another reason is potential Pickle. The essential criterion of concurrent eligibility for and receipt of RSDI and SSI is met. The individual cannot become Pickle eligible until the next RSDI COLA at the earliest. This is because the frozen RSDI amount and the actual RSDI amount are the same. The actual RSDI benefit will not be greater than the frozen RSDI amount until the next RSDI COLA.

### 0370.15.35.17 Identifying the ARS Population

REV: 01/2002

Annual Pickle lists are generated in two different ways:

- Each year SSA sends to Central Office a list of cases terminated on SSI because of the RSDI COLA. From C.O., an AP-206, a new DHS-2 Statement of Need, and an ASPIC are mailed to the individual. When the application is filed in the District Office, eligibility is determined in accordance with the provisions of the Pickle Amendment. A notice of eligibility or ineligibility is mailed to the individual.

- Prior to the implementation of the RSDI and SSI COLAS, which have lately been effective every year on January 1st, a computer interface will identify those Pickle-eligible and potential Pickle cases. Eligibility Technicians assigned to cases affected by the update will be notified. Eligibility will need to be redetermined, in accordance with the provisions of the Pickle Amendment.

These cases are identified by a special coding entered on the Unearned Income Panel of the Statement of Need.

### 0370.15.40 Authorization

REV: 06/1994

Once an individual is identified as having been concurrently eligible for and receiving RSDI and SSI in at least one month since 4/77, s/he always carries an eligibility factor code which identifies him/her as either Pickle eligible or potential Pickle.

Pickle eligible and potential Pickle cases must always be redetermined for Pickle eligibility using the special COLA disregards. The Eligibility Technician enters the protected amount and the protected income type on the Unearned Income Panel of the InRHODES Statement of Need.

Each Pickle eligible and potential Pickle case must be coded with the special eligibility factor code to insure the individual's lifetime inclusion as a member of the special class.

**0370.15.45 Chart of RSDI COLA**

REV: ~~01/2014~~ February 2015

RSDI COST-OF-LIVING ADJUSTMENTS (COLAs)

| *Date* | *Percent of Increase* |
|---|---|
| July 1, 1977 | 5.9% |
| July 1, 1978 | 6.5% |
| July 1, 1979 | 9.9% |
| July 1, 1980 | 14.3% |
| July 1, 1981 | 11.2% |
| July 1, 1982 | 7.4% |
| * | |
| January 1, 1984 | 3.5% |
| January 1, 1985 | 3.5% |
| January 1, 1986 | 3.1% |
| January 1, 1987 | 1.3% |
| January 1, 1988 | 4.2% |
| January 1, 1989 | 4.0% |
| January 1, 1990 | 4.7% |
| January 1, 1991** | 5.4% |
| January 1, 1992 | 3.7% |
| January 1, 1993*** | 3.0% |
| January 1, 1994** | 2.6% |
| January 1, 1995** | 2.8% |
| January 1, 1996** | 2.6% |
| January 1, 1997** | 2.9% |
| January 1, 1998** | 2.1% |
| January 1, 1999** | 1.3% |
| January 1, 2000** | 2.5% |
| January 1, 2001** | 3.5% |
| January 1, 2002** | 2.6% |
| January 1, 2003**** | 1.4% |
| January 1, 2004 | 2.1% |
| January 1, 2005 | 2.7% |
| January 1, 2006 | 4.1% |
| January 1, 2007 | 3.3% |
| January 1, 2008 | 2.3% |
| January 1, 2009 | 5.8% |
| January 1, 2012 | 3.6% |
| January 1, 2013 | 1.7% |
| January 1, 2014 | 1.5% |
| January 1, 2015 | 1.7% |
| | |

* No COLA in 1983.
** Federal payment level only.
*** State share reduced to 1990 level.
**** Federal share increased; State share reduced, resulting in no change to combined SSI payment levels.

### 0370.20 Disabled Child - "Katie Beckett"

REV: January 2014

This coverage group consists of certain disabled children under the age of nineteen (19) who are living at home and who would qualify for Medicaid if in a medical institution.

"Katie Beckett" coverage requires that the child meet special eligibility conditions in addition to financial eligibility.

A child under nineteen (19) years of age who is living at home but who is in need of the level of care provided in a hospital, nursing facility, or intermediate care facility for mental retardation (ICR-MR), has his/her Medicaid financial eligibility determined as if s/he were actually institutionalized. ONLY THE CHILD'S OWN INCOME AND RESOURCES ARE USED IN THE DETERMINATION OF FINANCIAL ELIGIBILITY. THE INCOME AND RESOURCES OF THE CHILD'S PARENTS ARE NOT DEEMED TO BE AVAILABLE TO THE CHILD. A "Katie Beckett" child is deemed Categorically Needy for the full scope of medical services. The purpose of "Katie Beckett" coverage is to make Medicaid for home care available to children who might otherwise be disqualified due to the parents' income.

### 0370.20.05 Special Eligibility Conditions

REV: February 2014

To be eligible for Katie Beckett coverage, it must be determined that:

The child requires the level of care provided in a hospital, a nursing facility, or an ICF-MR. The DHS worker must assure that a completed assessment of the child's needs is sent to the Center for Child and Family Health (CCFH). This unit has the responsibility of determining the level of care and disability status for the child and the specific time frame for re-evaluation.

The level of care provided at home is appropriate for the child;

The estimated cost to Medicaid for providing the appropriate level of care at home does not exceed the cost to Medicaid for providing care in an institutional setting.

If the child meets these special eligibility conditions and is otherwise eligible, the DHS worker authorizes medical coverage.

Children eligible for Medicaid under this coverage group may be enrolled in a RIte Care health Plan in accordance with provisions contained in Section 1309, if they are not otherwise covered by a third party health insurance plan.

### 0370.20.10 Institutional, Home Cost Comparison

REV: February 2014

The estimated cost to Medicaid of providing care for the child at home cannot exceed the estimated cost to Medicaid of providing care in an institution.

To make this determination, the DHS worker compares the gross monthly cost for the required level of care (hospital, NF, or ICF-MR, as appropriate) to the total gross monthly cost for allowed home care services.

**0370.20.10.05 Allowed Home Care Services**
REV: 09/2003

Allowed home care services are:

- Certified home health agency services, including skilled nursing; physical speech and occupational therapy and home health aide services; and
- Purchase or rental of durable medical equipment;
- Home based therapeutic services; and
- Minor assistive devices, minor home modifications, and other special equipment.

Certain services may be provided by school systems for school age children, by family members and/or by volunteers and are not to be considered in estimating the cost of care at home. It should be noted, however, that for school age children these services are the legal responsibility of the school system.

**0370.20.10.10 Determining Costs of Institutional Care**
REV: February 2014

The DHS worker determines if the costs of services required to provide an appropriate level of care in the home are within the costs of care in the appropriate institution.

If eligible, there is no income applied to the cost of services.

The child is allowed to retain all income for community living expenses.

If the total estimated cost of care in the home is less than the total estimated cost of care in the appropriate institution, the child meets this special condition and, if otherwise eligible, is eligible for the full scope of Medicaid benefits.

If the total estimated cost of services required to allow the child to be cared for at home exceeds the cost of institutional care, the child is ineligible, even if the child meets all other eligibility requirements.

**0370.20.15 Financial Eligibility Requirements**
REV: February 2014

To establish financial eligibility for "Katie Beckett" coverage, the DHS worker determines if the child would be eligible for Medicaid, as either Categorically Needy or Medically Needy, if the child were institutionalized.

Only the income and resources of the child are considered. Any payment provided under Title XX or other federal, state or local government programs for in-home supportive services is excluded from income.

The DHS worker determines if the child would be financially eligible for Medicaid if institutionalized. An institutionalized child is financially eligible for Medicaid if s/he is in one of the following groups:

- If s/he would be eligible for SSI if institutionalized (i.e., has resources within the SSI limit of $2,000), and income LESS THAN $70.00 MONTHLY. These individuals receive cash SSI payments even when they are institutionalized and are therefore Categorically Needy;

- If s/he had resources within the $2,000 limit and income of at least $70.00 but NOT MORE THAN THE FEDERAL CAP set forth in Section 0386.05. These individuals lose their SSI cash payment when they are institutionalized because their gross personal income is $70 or more per month. However, because their income is less than the Federal Cap they remain eligible for Medicaid as Categorically Needy;

- If s/he has resources less than the Medically Needy resource level of $4,000 and income less than the cost of care in the institution. These individuals are eligible as Medically Needy.

The income and resources of the parents are not considered in the determination of eligibility, and are not used to reduce the cost of Medicaid services.

Under the law, a child who meets the "Katie Beckett" requirement, is for Medicaid purposes only, deemed to be receiving an SSI cash payment and, therefore, Categorically Needy.

**0370.25 Disabled Adult Children**
REV: February 2014

The Employment Opportunities for Disabled Americans Act provides a special income disregard for this group of individuals, effective July 1987. The intent of Congress in authorizing this coverage group is to protect the Categorically Needy status of certain individuals who lose SSI benefits SOLELY due to the receipt of the disabled adult child's Social Security benefits.

To become a member of this group and thus be eligible for a special income disregard, an individual must meet all of the following criteria:

- Be at least age eighteen (18); and

- Have become blind or disabled before reaching age twenty-two (22); and

- Have been receiving SSI benefits on the basis of blindness or disability; and

- Have lost SSI benefits after July 1987 as a result of entitlement to, or increase in, RSDI Child's benefits (Title II-d).

For persons in this coverage group, the amount of the increase in disability benefits or the new entitlement (whichever caused SSI ineligibility) is disregarded when determining Medicaid financial eligibility as Categorically Needy.

### 0370.25.05 Identifying the Coverage Group

REV: August 2014

Individuals who are members of this group are identified by the SDX interface at the time they are closed on SSI. They are sent an "Application for Assistance" (DHS-2) and instructed to contact the appropriate district office to make an appointment to apply.

### 0370.25.10 Determination of Eligibility

REV: February 2014

To be eligible as Categorically Needy under this coverage, it must be established that the individual would be eligible for SSI except for the RSDI benefit. The Eligibility Technician determines if the individual meets the normal eligibility requirements (residency, enumeration, resources, citizenship/alienage). Receipt of the RSDI benefit establishes the characteristic of disability for Medicaid.

Using the interface function BENDEX panel, the Eligibility Technician documents that:

- SSI benefits were terminated due to the receipt or increase in the disabled adult child's benefits under Sec. 202(d); and
- The individual currently receives such benefits; and
- The amount of benefit increase which caused SSI ineligibility, if the loss of SSI was caused by an increase.

If otherwise eligible for SSI, the individual's countable income is determined, disregarding the RSDI and any subsequent COLAs which caused eligibility. The Eligibility Technician enters a zero protected income amount and the adult disabled child type code on the InRHODES Unearned Income panel.

### 0370.25.15 Redetermination of Eligibility

REV: 06/1994

The normal redetermination process is followed. In addition, the Eligibility Technician must confirm that the applicant is still receiving RSDI benefits.

If all other eligibility criteria are met, the individual's countable income is computed by disregarding the RSDI benefit which caused SSI ineligibility and all subsequent COLAS. If the individual would be eligible for SSI, but not for the RSDI benefit, eligibility as Categorically Needy would still exist.

If Categorically Needy eligibility no longer exists, eligibility for Medically Needy coverage is determined with no special disregard for the individual's RSDI benefit.

### 0370.30 SSI-Eligibility Non Cash Recipients

REV: 01/2002

This coverage group consists of individuals who would be eligible for a cash payment under the SSI program but who have not applied yet, or who are eligible for SSI and choose not to accept cash payment.

### 0370.35 SSI-Eligibility Except For Medicaid Rules

REV: 01/2002

This coverage group consists of individuals who would be eligible for SSI or the State Supplement except for an eligibility requirement that is prohibited in Medicaid.

### 0370.40 State Supplemental Recipients, 12/73 AABD

REV: 01/2002

This coverage group consists of AABD recipients of December 1973 and their essential spouses who continue to live with and be essential to the well-being of the cash recipient. The essential spouse continues as long as his/her cash recipient spouse remains eligible under the December, 1973 eligibility requirements.

### 0370.45 SSI Ineligibility by Actuarial Changes

REV: February 2014

The Social Security Amendments of 1983 eliminated an actuarial reduction formula applied to the RSDI benefits of disabled widow(er)s who become entitled to RSDI benefits before age 60.

The resulting Title II (RSDI) benefit increase disadvantaged some SSI recipients because the RSDI increase was enough to raise their income above the SSI standard, thus causing the loss of SSI and eligibility for Categorically Needy Medicaid.

This coverage group consists of disabled widow(ers) who lost SSI benefits because of 1983 changes in the actuarial reduction formula and filed a written application for Medicaid prior to July 1, 1988.

The Consolidated Omnibus Budget Reconciliation (COBRA) of 1985 restored Categorically Needy eligibility for these individuals who filed a written application for Medicaid before July 1, 1988 and meet the specific requirements of this coverage.

#### 0370.45.05 Eligibility Requirements

REV: February 2014

Categorically Needy Medicaid is provided to any disabled widow(er) who:

- Was entitled to a disabled widow(er)'s benefit under Title II (RSDI) for December 1983;
- Was entitled to and received a widow(er)'s benefit based on a disability, as defined by SSA, for January 1984;

- Because of the increase in the amount of his/her disabled widow(er)'s benefit which resulted from the elimination of the reduction factor for disabled widow(er)s entitled before age 60, became ineligible for SSI in the first month in which that increase was paid to him/her (and in which a retroactive payment of that increase for prior months was not made);

- Has been continuously entitled to a disabled widow(er)'s benefit under Title II (RSDI) from the first month that an increase in his/her disabled widow(er)'s benefit was received;

- Filed an application for Medicaid prior to July 1, 1988; and

- Would be eligible for SSI if the amount of that increase and any subsequent COLAS in disabled widow(er)'s benefits were disregarded in determining countable income.

**0370.45.10 Determination of Eligibility**

REV: February 2014

An application for Medicaid must have been filed prior to July 1, 1988.

Eligibility as Categorically Needy under this coverage requires eligibility for SSI except for the RSDI benefit. The Eligibility Technician determines if the individual meets the normal eligibility requirements, including residency, enumeration, citizenship/alienage and resources within Categorically Needy limits.

Receipt of disabled widow(er)'s benefits establishes the disability factor for MA. No separate disability review need be done.

If otherwise eligible for SSI, the individual's countable income is determined disregarding the RSDI and any subsequent COLAs which caused ineligibility.

The Eligibility Technician documents, via the interface function, BENDEX panel that:

- SSI benefits were terminated due to the increase in the individual's Title II benefits;

- The individual currently receives such benefits; and

- The amount of benefit increase which caused SSI ineligibility, if the loss of SSI was caused by an increase.

**0370.45.15 Redetermination of Eligibility**

REV: 06/1994

The normal redetermination process is followed. In addition, the Eligibility Technician confirms that the applicant is still receiving RSDI benefits.

If all other eligibility criteria are met, the individual's countable income is computed by disregarding the RSDI benefit which caused SSI ineligibility and all subsequent COLAs. If the individual would be eligible for SSI, Categorically Needy eligibility continues.

If Categorically Needy eligibility no longer exists, eligibility for Medically Needy coverage is determined with no special disregard of the applicant's RSDI benefit.

**0370.50 Protected Widow(ers) Age 60-65**
REV: 01/2002

This coverage group consists of disabled widow(ers) between the ages of sixty (60) and sixty-five (65) who:

- Lost SSI benefits solely as a result of entitlement to Widow(er)'s benefits under Section 202 (e) or (f) of the Social Security Act, or a combination of widow(er)'s benefits with other RSDI benefits;
- Are currently entitled to Title II benefits; and
- Are not yet entitled to Medicare.

For persons in this coverage group, the Title II benefit is disregarded in determining countable income.

**0370.50.05 Determination of Eligibility**
REV: February 2014

To be eligible as Categorically Needy, the individual must be eligible for SSI except for the RSDI benefit. Eligibility is determined in the usual manner, except that the amount of the RSDI benefit is disregarded in counting income.

The applicant must meet the normal characteristic and resource requirements for Categorically Needy (SSI) eligibility. Certain types of widow(er)'s benefits under Section 202 (e) or (f) of Title II of the SSA do not confer disability status on the recipient.

Therefore, staff must ascertain if a disability determination must be done (See Section 0352.15). The individual's countable income, disregarding the RSDI benefit, must be within the limit for a Categorically Needy individual.

The individual's RSDI benefit is disregarded only until s/he reaches 65 or becomes entitled to Medicare. Individuals generally become entitled to Medicare benefits when they reach 65 years of age, or in the twenty-fifth (25th) month of entitlement to RSDI disability benefits. At the month of the 65th birthday, or the month of entitlement to Medicare, the individual's membership in this special class terminates, and eligibility must be redetermined using all of the individual's income.

Consequently, if the Eligibility Technician is aware that an individual will become Medicare-eligible or reach age 65 prior to the normal redetermination date, the redetermination is scheduled in that earlier month. The Eligibility Technician must verify the fact that SSI benefits were terminated solely due to the receipt of Sec. 202 (e) or (f) benefits, or a combination of Sec. 202 (e) or (f) and other RSDI benefits.

If the individual is not Categorically Needy using the above procedure, eligibility for Medically Needy coverage is determined using normal procedure. NO SPECIAL TREATMENT OF INCOME IS ALLOWED IN THE Medically Needy DETERMINATION.

**0370.50.10 Redetermination of Eligibility**
REV: 06/1994

At each redetermination of eligibility, the Eligibility Technician must, in addition to the normal requirements, ascertain that individual is not in receipt of Medicare, and has not reached age 65.

Cost of living (COLA) increases in the RSDI benefit received subsequent to the initial RSDI entitlement (which caused the ineligibility for SSI benefits) are disregarded in the determination of eligibility as long as the individual remains a member of this special class. This is because the intent of Congress is to protect these individuals from becoming ineligible for Categorically Needy coverage as a result of their RSDI benefit, until they are eligible for Medicare.

**0370.55 Disabled Widow(ers), Divorced Spouse**
REV: February 2014

This coverage group consists of disabled widow(ers) and disabled surviving divorced spouses who lose SSI or the State Supplement due to the receipt of Title II Disabled Widow(ers) Benefits (DWB). For Medicaid purposes, these individuals are deemed to be SSI recipients until they are entitled to receive Medicare.

**0370.60 Disabled Children Receiving IV-E Adopt Subsidy**
REV: February 2014

This coverage group consists of disabled children who are receiving Title IV-E Adoption Assistance. The Adoption Assistance Program provides Federal funding for continuing payments for hard to place children with special needs. The special needs adoptive children must be SSI-recipients or FIP eligible at the time of adoption. A cash payment is not a Medicaid eligibility requirement for Title IV adoption assistance children. These children continue to be eligible for Medicaid as long as a Title IV-E adoption assistance agreement is in effect. An interlocutory order or final adoption decree need not exist.

**0370.65 Refugee Medicaid**
REV: February 2014

This coverage group is refugees who have resided in the United States for eight (8) months or less, and who are ineligible for one of the categorical programs due to lack of a characteristic.

**0370.65.05 Eligibility Requirements**
REV: February 2014

To be eligible for Refugee Medicaid (RMA), a refugee must:

- Meet the refugee immigration and identification requirements or be a dependent child of such refugees;

- Meet the non-financial requirements and conditions of eligibility for Refugee Cash Assistance (RCA). (Receipt of RCA is not an RMA eligibility requirement);

- Not have been denied or terminated from RCA due to voluntary termination from a job or a refusal or employment;

- Not be full-time students except as allowed in Section 0906.20;

- Be recipients of RCA or, for certain refugees prohibited from receiving a cash payment for a limited period of time, be eligible for some form of RCA;

- Have income and resources within the Categorically Needy limits.

**0370.65.10 Treatment of Income**
REV: 06/1994

In-kind services and shelter provided by a sponsor or resettlement agency are not considered as income to the refugee when determining financial eligibility for RMA.

Direct cash payments to the refugee from a sponsor or resettlement agency are counted as unearned income.

**0370.65.15 Eight Month Limit for RMA**
REV: 06/1994

Receipt of RMA under the characteristic of "refugee" is limited to the first eight (8) months in the United States, beginning with the month the refugee initially entered the United States, or the entrant was issued documentation of eligible status by the Immigration and Naturalization Service.

**0370.65.20 Extended RMA Coverage**
REV: 06/1994

If a refugee receiving Refugee Cash Assistance becomes ineligible solely due to increased earnings from employment, the refugee's RMA is extended, at the same level of care, for four months or until the end of the eight month limitation, whichever comes first.

**0370.65.25 Termination of Eligibility for RMA**
REV: February 2014

A refugee who is terminated from RCA because of failure or refusal to participate in the employment-related requirements is also terminated from RMA. The RMA termination applies only to the sanctioned individual.

**0370.70 Low Income Aged and Disabled**
REV: February 2014

This coverage group consists of individuals and members of couples who:

- Are over the age of sixty five (65) or disabled. (An individual whose eligibility is based solely on blindness is not eligible under this coverage group. However, a blind individual who also meets the criteria for disability may be eligible).

- Have countable income which is less than or equal to one hundred percent (100%) of the federal poverty income level guidelines;

- Have countable resources within the medically needy resource limit; and

- Meet all other technical and cooperation requirements for Medicaid.

Under this coverage group:

- Income limits are rigid. There is no flexible test of income.

- Cost of living increases in Title II benefits (COLAs) effective in January each year are disregarded in determining income eligibility through the month following the month in which the annual federal poverty guidelines are published in the Federal Register.

- Eligible individuals and couples receive the full scope of categorically needy services.

- As with other SSI related coverage groups, retroactive coverage for the three (3) months prior to application is available to eligible individuals.

**0370.75 Medically Needy Coverage**
REV: 08/2000

Eligibility for Medically Needy coverage is based on the same characteristics as the Categorically Needy, but on the resource/income limits established for the Medically Needy.

**0370.75.05 Medically Needy Aged, Blind or Disabled**
REV: 08/2000

This coverage group consists of aged, blind and disabled individuals who have income and resources established for the Medically Needy.

**0370.75.10 12/73 Blind or Disabled Individuals**
REV: 08/2000

This coverage group consists of individuals who, whether or not they received cash for the month of December 1973, were eligible by reason of their having been previously determined to meet the criteria for disability or blindness, established under the state's approved plan for AABD, and who, for each month after December 1973, continue to meet the definition of disability or blindness.