

**I-200 ASSIGNMENT OF THIRD PARTY RIGHTS****I-210 REQUIREMENT**

By accepting Medicaid each applicant/enrollee shall be deemed to have made an assignment to the Medicaid Program of rights to any third party benefits including any hospitalization, accident, medical, or health benefits owed to the applicant/enrollee as well as rights to such benefits owed by any third party to the applicant/enrollee's children or any other person for whom the applicant/enrollee has legal authority to execute such an assignment.

As a condition of eligibility each applicant/enrollee must:

- assign, to the state, his individual rights to medical support and other third party payments, and such rights of any other eligible individuals for whom he has legal authority,
- cooperate in establishing paternity and obtaining medical support or payments, and
- cooperate in identifying and providing information to assist in pursuing liable third parties.

The applicant/enrollee or responsible party for a minor is ineligible for Medicaid if he/she refuse to cooperate in pursuing third party benefits, except when "good cause" exists.

If good cause does exist for not cooperating in the pursuit of third party benefits, the Medicaid Program has the right to pursue the third party benefits without the assistance of the applicant/enrollee if it does not result in harm to the applicant/enrollee, the applicant/enrollee's child(ren), or any other person for whom the applicant/enrollee has legal authority to execute such an assignment.

**Exception:**

Medicaid shall be provided to any applicant/enrollee who:

- cannot legally assign his own rights, such as a minor child, and
- would otherwise be eligible for Medicaid except that the person who has the legal authority to assign his rights has refused.

**I-211 AUTOMATIC ASSIGNMENT**

Although Louisiana state law makes the assignment automatic, the applicant/enrollee must be informed.

**I-211.1 Non-SSI Applicant/Enrollee**

The applicant/enrollee's signature on the application and/or renewal form acknowledges the automatic assignment of all third party rights.

**I-211.2 SSI Applicant/Enrollee**

Social Security Administration (SSA) determines eligibility of an applicant/enrollee for Supplemental Security Income (SSI).

SSA gives an oral explanation to all applicants of assignment of third party rights and advises that it is a condition of eligibility for Medicaid.

**I-211.2 Continued**

The explanation also advises that the applicant/enrollee must cooperate with the Medicaid Program:

- in establishing paternity,
- in obtaining medical support payments from third party payers, and
- in identifying and providing information to assist the Medicaid Program in pursuing any liable third party.

For initial determinations and renewals, SSA provides a code and date indicator via SDX to specify whether the applicant/enrollee assigned rights and whether the individual has cooperated in identifying and providing third party information.

Specific codes for non-assignment of rights and cooperation are forwarded to the Medicaid Program.

The agency representative:

- shall be notified by **SSA** if the applicant/enrollee fails to assign rights or to cooperate in identifying third party information, and

- shall send a notice of closure.

**Note:**

In denying or terminating eligibility, comply with notice and hearing requirements.

If the individual does not contact the agency representative, close the case upon expiration of advance notice.

If the individual contacts the agency representative, ascertain the reason for refusal to assign third party rights and/or cooperate.

If it is determined that the individual has good cause for refusing to cooperate or has changed his mind and agrees to assign third party rights and to cooperate:

- verify and document the good cause reason as specified in this section, or
- document the assignment of third party rights and collect health insurance information, then
- advise SSA by using BHSF Form SSI, and
- certify for Medicaid.

**Note:**

A child or other individual who cannot legally assign his own rights cannot be denied Medicaid if otherwise eligible, even if the person legally able to assign his rights refuses to cooperate.

**I-212 COOPERATION****Establishing Paternity and Obtaining Support**

Each applicant/enrollee is required to cooperate:

- in establishing paternity of a child born out of wedlock for whom the individual can legally assign rights, and
- in obtaining medical support and medical payments for applicant/enrollee as well as for any other person for whom the individual can legally assign third party rights.

**Note:**

Refer to I-2000, Support Enforcement Services.

**Identifying and Providing Third Party Information**

Each applicant/enrollee is required to cooperate in identifying and providing information to assist in pursuing any third party which may be liable to pay for care and services available under the Medicaid Program.

Applicants/enrollees are not required to pursue collections themselves. Pursuit is the responsibility of the provider or the Medicaid Program.

Cooperation may require the applicant/enrollee to:

- appear at a designated office to provide information or evidence relevant to the case,
- appear as a witness at a court or other proceeding,
- identify liable third parties and provide information, or attest to lack of information, under penalty of perjury,
- pay to the Medicaid Program any medical support or any other funds received/covered by the assignment of third party rights, and
- take any other reasonable steps to assist in establishing paternity and securing medical support and payments.

**I-212.1 Good Cause for Non-Cooperation**

The cooperation requirement may be waived. "Good Cause" exists if it is found that cooperation is not in the best interest of the applicant/enrollee, child, or any other person. Accept as "good cause" a statement or expression by the individual that there is a real or perceived risk or fear of physical or emotional harm if she/he cooperates. Any indication that cooperation with Support Enforcement Services (SES) will have a negative effect on the applicant's/enrollee's or the children's relationship with the absent parent should be accepted as "good cause" for not cooperating.

For C-related cases, determine whether or not "good cause" for non-

cooperation with SES exists based on Medicaid Policy I-2000,.

**Exception:**

Pregnancy is always considered “Good Cause” for a pregnant woman to cooperate with SES. Refer to I-2010.1

A determination of “good cause” is made by the eligibility agency representative with approval by the supervisor.

Separate determinations of “good cause” may be required in the same case (e.g., cases involving several children with different parents).

### **I-212.2 Informing the Applicant/Enrollee of Good Cause Provisions**

Applicants/Enrollees are informed at application and renewal of the right to claim “good cause” and that an investigation is required to determine whether “good cause” exists.

### **I-212.3 Establishing Good Cause**

Good cause may be established if one or more of the following criteria are met:

- ***pregnancy,***
- There is an existing claim of family violence in the Louisiana Automated Support Enforcement Service (LASES) system,
- the person for whom support is sought was conceived as the result of incest or rape,
- legal proceedings for adoption are pending, or
- cooperation can be reasonably anticipated to result in:
  - ✓ physical or emotional harm to the applicant/enrollee or other person for whom the applicant/enrollee has authority to assign rights for third party liability (TPL), or
  - ✓ physical or emotional harm to the person who has responsibility for cooperating.

**Example:**

A husband in another state carries medical insurance on his wife who is certified for the Medicaid Program. It has been documented

that he is dangerous and abusive, and the applicant/enrollee does not want him to locate her. If claims are filed on his insurance, he may learn her whereabouts. Therefore, she has good cause for non-cooperation in pursuing third party benefits from her husband. She must still assign third party rights to all third party benefits, including his.

## **I-220 VERIFICATION**

The applicant/enrollee's signature on the application form acknowledges the automatic assignment of all third party rights. The application informs the applicant/enrollee that it is a requirement to cooperate with the agency that collects medical support from an absent parent but it should be reported to Medicaid if cooperating to collect medical support could cause harm to the applicant/enrollee or the children and it may not be required to cooperate.

Accept as "good cause" a statement or expression by the applicant/enrollee that there is a real or perceived risk or fear of physical or emotional harm if the applicant/enrollee cooperate. Any indication that cooperation with SES will have a negative effect on his/her or the children's relationship with the absent parent should be accepted as "good cause" for not cooperating.

A "good cause" claim based on pending legal proceedings for the adoption of the child shall be verified by court documents or other records.

In addition to the specific evidence listed above, the agency representative may accept statements from persons other than the applicant/enrollee who have knowledge of the circumstances which are the basis for the good cause claim.

## **I-230 DOCUMENTATION**

The applicant/enrollee's signature on the application form serves as documentation of assignment of rights.

Document "good cause" for non-cooperation in the Electronic Case Record.