

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Medicaid Eligibility  
Provisional Medicaid Program  
(LAC 50:III.2305)**

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:III.2305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1902(a)(10) of Title XIX of the Social Security Act and Section 435.210 of Title 42 of the *Code of Federal Regulations* (CFR) provides states with the option to cover individuals under their Medicaid State Plan who are aged or have a disability, and who meet the income and resource requirements for supplemental security income (SSI) cash assistance. These individuals must be referred to the Social Security Administration (SSA) for assistance as there currently is no eligibility category under the Medicaid Program to provide them with Medicaid benefits. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance.

Pursuant to Section 1902(a)(10) of Title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and

Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to include this optional coverage group under the Medicaid State Plan by implementing the Provisional Medicaid Program (*Louisiana Register*, Volume 40, Number 2). This Medicaid program provides ~~interim~~ Medicaid-only benefits to eligible individuals. ~~until such time that a decision has been rendered on their SSI cash assistance application pending with the Social Security Administration. This Emergency Rule is being promulgated to continue the provisions of the February 9, 2014 Emergency Rule.~~

The department has now determined that it is necessary to amend the provisions of the February 9, 2014 Emergency Rule in order to clarify these provisions. This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care.

Effective ~~February~~ March 7<sup>20</sup>, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing ~~hereby adopts~~ amends the provisions of the February 9, 2014 Emergency Rule ~~to implement~~ governing the Provisional Medicaid Program.

**Title 50**  
**PUBLIC HEALTH-MEDICAL ASSISTANCE**  
**Part III. Eligibility**  
  
**Subpart 3. Eligibility Groups and Factors**

**Chapter 23. Eligibility Groups and Medicaid Programs**

**§2305. Provisional Medicaid Program**

A. The Provisional Medicaid Program provides ~~interim~~ Medicaid-only coverage to individuals who:

1. are aged or have a disability;
2. meet income and resource requirements for

supplemental security income (SSI) cash assistance. ~~and~~

~~3. have applied for benefits through the Social Security Administration (SSA) and are awaiting a decision on the pending application.~~

~~a. Applicants shall have 90 days from the date of Medicaid application to provide proof to the department of a pending application with SSA. If proof of a pending application with SSA is not received timely, after notification by the department has been issued, interim Medicaid benefits shall be terminated.~~

~~b. Individuals who would be ineligible for SSI cash assistance due to factors other than excess income and resources or meeting the disability criteria of the program are exempt from the requirement to have a pending application for benefits with the Social Security Administration (SSA).~~

B. The Provisional Medicaid Program provides coverage to individuals with income equal to or less than the federal benefit rate (FBR), and resources that are equal to or less than the resource limits of the SSI cash assistance program.

C. A certification period for the Provisional Medicaid Program shall not exceed ~~six~~ 12 months, ~~and shall end upon the final decision being rendered on the recipient's pending application for benefits through the SSA, whether the outcome is receipt of benefits or denial of benefits due to excess income and resources or not meeting SSA's disability or age criteria.~~

D. Retroactive coverage up to three months prior to the receipt of the Medicaid application shall be available to recipients in the Provisional Medicaid Program.

1. Any retroactive coverage period shall not be prior to the implementation date of the Provisional Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert

Secretary