

## Chapter HSS 103

## ELIGIBILITY FOR MEDICAL ASSISTANCE

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**HSS 103.001 Eligibility.** Eligibility for medical assistance shall be determined pursuant to s. 49.46 (1) (relating to eligibility standards for recipients of social security aids) and s. 49.47 (4) (relating to eligibility standards for medically indigent persons) Stats., chapter PW-PA 20 Wis. Adm. Code and these rules.

**History:** Cr. Register, December, 1979, No. 288, eff. 2-1-80.

**HSS 103.01 Residence.** Wisconsin residence is an eligibility requirement. No specific length of residence is required.

(1) **WHO IS A WISCONSIN RESIDENT.** Except as provided in an interstate agreement, a resident of Wisconsin is any individual who:

- (a) Is living in Wisconsin with the intention to remain here permanently or for an indefinite period;
- (b) Is living in Wisconsin for purposes of employment;
- (c) Meets the conditions in section HSS 103.01 (2), (3), or (4).

(2) **RULES APPLICABLE TO INDIVIDUALS UNDER AGE 21.** (a) The state of residence of any individual under age 21, except those whose medicaid eligibility is based on blindness or disability, shall be determined in accordance with the rules governing residence under the aid to families with dependent children program.

(b) The state of residence for any individual under age 21 whose medicaid eligibility is based on blindness or disability shall be the parent's state of residence, except:

1. If the parents reside in separate states, the state of residence of the parent who is applying for medicaid eligibility on behalf of the individual shall be the individual's state of residence; or

2. If the parents reside outside the United States, or cannot be located or are deceased, or if a legal guardian is appointed for the individual, the state in which the individual is physically present, not for a temporary purpose, shall be the individual's state of residence.

(3) **RULES APPLICABLE TO INDIVIDUALS OVER AGE 21 WHO ARE INCAPABLE OF INDICATING INTENT.** (a) An individual shall be considered incapable of indicating intent if:

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1. The individual's I.Q. is 49 or less or the individual has a mental age of 7 or less;

2. The individual is judged legally incompetent; or

3. Medical documentation, or other documentation acceptable to the department, supports a finding that the individual is incapable of stating intent.

(b) For an individual who became incapable of indicating intent before age 21, the state of residence shall be determined in accordance with section HSS 103.01 (2) (b).

(c) For an individual who became incapable of indicating intent at or after age 21, the state of residence shall be the state in which the individual most recently established residence before becoming incapable of indicating intent.

(4) **PLACEMENT BY STATES IN A WISCONSIN INSTITUTION.** If another state arranges for an individual to be placed in a Wisconsin institution, the state making the placement shall be the individual's state of residence, irrespective of the individual's indicated intent or ability to indicate intent.

**History:** Cr. Register, December, 1979, No. 288, eff. 2-1-80.

**HSS 103.02 Income.** The following standards shall be used to determine income levels for the purpose of eligibility determination:

(1) **DETERMINING INCOME FROM GROSS SELF-EMPLOYMENT INCOME.** Adjusted gross income as determined for income tax purposes shall be used for determining self-employment income. For this purpose, the applicant shall submit to the county agency the applicant's most recent federal income tax return.

(a) To be considered a self-employed business, at least 50% of a family's income shall be derived from the self-employed business, and a form 1040 C shall be filed for income tax purposes. If no return has been filed, the applicant shall complete a form 1040 C to determine net earnings or loss, or to anticipate net earnings, (in the case of relatively new businesses) as required by the federal internal revenue service.

(b) Federal income tax returns for the previous 3 years shall be used to determine whether or not the self-employed business operation is profitable or becoming profitable. If it is not profitable or not becoming profitable, all assets related to it shall be treated as available assets when determining eligibility.

(2) **DETERMINING INCOME FROM GROSS FARM INCOME.** Adjusted gross income as determined for income tax purposes shall be used for determining farm income. The applicant shall submit to the county agency for his purpose the applicant's most recent federal income tax return.

(a) To be considered a "farm" operation, at least 50% of a family's income shall be derived from the farm operation, and a form 1040 F shall be filed for income tax purposes. If no return has been filed, the applicant shall complete a form 1040 F to determine net earnings or loss, or to anticipate net earnings, (in case of relatively new businesses) as required by the federal internal revenue service.

(g) MA cards issued to migrants shall be marked "Not valid outside state of Wisconsin".

**History:** Cr. Register, December, 1979, No. 288, eff. 2-1-80.

**HSS 103.07 Singular enrollment.** A person may not be certified eligible in more than one medical assistance case.

**History:** Cr. Register, December, 1979, No. 288, eff. 2-1-80.

**HSS 103.08 Termination of medical assistance.** (1) Except in the case of death of the recipient, when eligibility is terminated before the end of a month, the medical assistance certification and medical assistance card shall be valid for that entire month.

(2) The county agency shall give the applicant or recipient timely advance notice of its intention to terminate medical assistance. This notice shall be in writing and mailed to the recipient at least 10 calendar days before the effective date of such proposed action and shall clearly state what action the county agency intends to take, the specific regulation supporting such an action, an explanation of the right to appeal such proposed action and the circumstances under which medical assistance is continued if a hearing is requested.

**History:** Cr. Register, December, 1979, No. 288, eff. 2-1-80.

**HSS 103.09 Expiration of eligibility.** (1) The county agency shall give the recipient timely advance notice of the eligibility redetermination date. This notice shall be in writing and mailed to the recipient at least 15 calendar days (and no more than 30 calendar days) before the redetermination date. *Exception:* The requirement for timely advance notice of eligibility redetermination does not apply to spend-down cases in which the period of certification is less than 60 days.

(2) If the recipient does not contact the county agency, the county agency shall make a follow-up contact. A home visit shall be made whenever the situation warrants it.

**History:** Cr. Register, December, 1979, No. 288, eff. 2-1-80.

**HSS 103.10 Providing correct and truthful information.** Applicants and recipients are responsible for providing to the county agency, the department or its delegated agent, full, correct and truthful information necessary for eligibility determination or redetermination. Necessary information includes but is not limited to:

(1) Information concerning eligibility for or coverage under medicare, health or accident insurance plans, governmental or private benefit plans including workmen's compensation, or any other real or potential third party coverage.

(2) Changes in income, resources or other circumstances which may affect eligibility status. Such changes must be reported to the county agency within 10 days of the change.

**History:** Cr. Register, December, 1979, No. 288, eff. 2-1-80.

**HSS 103.11 Refusal to provide information.** An application shall be denied if the applicant refuses to provide information necessary to determine eligibility. In stepparent families where the stepparent refuses to give information necessary to determine the stepparent's eligibility,

the stepparent's spouse and any child for whom the stepparent has legal responsibility are not eligible for medical assistance. Likewise, in a 3-generation family, if a member of the first generation refuses to divulge eligibility information, the member's spouse and any child for whom the member has legal responsibility are not eligible.

**History:** Cr. Register, December, 1979, No. 288, eff. 2-1-80.