

**Getting Medical Assistance for a Child (under 18) with a Severe Disability,
Mental Illness or Behavioral Disorder under the “loophole”**

Why Medical Assistance?

Medical Assistance has the broadest coverage of medical and mental health services for persons under 18 of any insurance plan. It covers services rarely covered by employer provided insurance such as mental health wraparound services, shift nursing (8 hours or more per day), in-home personal care services, diapers, nutritional supplements, prescriptions and transportation to and from medical appointments. It also covers services, like in-home nursing, physical, speech or occupational therapy, without annual or lifetime caps often imposed by other insurance plans. Medical Assistance can be a child’s only insurance or it can be a secondary to other coverage, covering those services or equipment not covered by the child’s primary insurance.

Will my child qualify?

There is a common misconception that all children with a disability or all children with an IEP (Individual Education Plan) or all children with a particular diagnosis qualify for Medical Assistance. That is not the case. The rules are just not that simple. However, many children with severe disabilities will qualify for Medical Assistance, regardless of their parent’s income. Here are some basic rules:

- ?? A child can qualify for Medical Assistance even if she or he has other health insurance (although the other insurance usually needs to be billed first)
- ?? The assets of the parent(s), guardians and the child (money in the bank, stocks bonds etc.) don’t count in determining eligibility for Medical Assistance.
- ?? The income of caregivers and guardians other than the parents don’t count.
- ?? The income of the parent(s) doesn’t count in determining eligibility if the child’s condition meets certain disability standards. However, the State is proposing to count parents’ income in determining if and how much of a premium they will have to pay for Medical Assistance coverage.

This guide will try to explain the rules that apply to children with severe disabilities, mental illness or behavioral disorders.

Note: this guide does not deal with the eligibility for Medical Assistance of children who are in foster care or otherwise in custody of a county children and youth agency.

Eligibility requirements for Category PH 95, a.k.a. “loophole”

- ?? **Age:** Under 18. Note: At age 18, parental income is no longer counted for SSI. Therefore, a child who had been on MA under the loophole must apply for SSI at age 18, even if they had been turned down previously. However, a person with severe disabilities age 18 or older may still qualify for Medical Assistance under a different category (called Healthy Horizons) if they are turned down for SSI due to having countable assets over \$2000 or due to having too much income of their own.
- ?? **Disability:** Child must meet the Social Security disability guidelines (more about that later).
- ?? **Resources (assets):** Not considered (neither the parent’s nor the child’s).
- ?? **Income:** Income of the parents or other caregivers is NOT counted. However, income which is legally considered to be the child’s IS counted. The more common types of income which is counted (because they are considered to be the child’s) are listed below. Having countable income does not disqualify a child from Medical Assistance, so long as the amount of the income does not exceed the income maximum. The maximum amount of countable income a child with severe disabilities can have and still get Medical Assistance is \$817 a month for the year 2006 (it goes up some each year).

What income is counted:

- o Interest or dividends on bank accounts, stocks, bonds, cds or other investments which are in the child’s name (reported to the IRS under the child’s Social Security number). The principal (the amount on which the interest or dividend is paid) is not counted (its considered a resource which is exempt).
- o Earnings from child’s job: If the child is working, a portion of those earnings are counted. However, a child that earns enough to be over the income limit would probably not qualify for Medical Assistance under this category anyway because they probably would not meet the disability guidelines. Call us for more information if the child is employed at 1-800-274-3258.
- o Trust funds: the rules about how trust funds affect Medical Assistance eligibility depend on how the trust is set up and are too complex to set out here.

What income is not counted:

- o Court ordered child support: Medical Assistance used to count child support payments on the grounds that child support was legally income to the child, not the parent (and only parental income is disregarded under the loophole). However, effective September 1, 2000, Medical Assistance no longer counts child support for children who meet the disability standards provided the support is court ordered (it remains counted for non-disabled children). This change is documented in Operations Memorandum 000-806 revised 09-01-00 issued 8-31-2000 effective 9-1-00.
- o Inheritances & payouts on life insurance policies: These can be counted as resources, rather than income. Medical Assistance Eligibility Handbook §319.62 (note on p. 319-11). The advantage to children in having this money considered as a resource is that there is no resource limit for anyone under 21.

Therefore inheritances & payouts on life insurance policies should not affect Medical Assistance eligibility for anyone under 21.

- o Social Security: "child's benefits" or "survivors benefits" (not SSI) which are based on the past earnings of a deceased, disabled or retired parent had been but are no longer counted. DPW Operations Memorandum OPS041001 , (10/4/04)

The application process for Category PH 95 (loophole)

Application is made at the County Assistance Office in the county where the child resides.

1. Get an SSI eligibility determination

SSI (Supplemental Security Income) is a program administered by Social Security that provides a monthly check and Medical Assistance to persons who meet Social Security's disability criteria and have low incomes and assets. Even if the family is not seeking SSI, screening for eligibility for SSI is required by state regulations (55 Pa. Code §141.21(n)(2)) when Medical Assistance is sought for a child under the PH 95 (loophole) category if the child is potentially eligible for SSI due to disability or medical condition. Unlike Medical Assistance under the loophole, parental (and stepparent) income and assets DO count in determining eligibility for SSI. However, Medical Assistance will not be denied if parental income or assets exceed the SSI limits. Therefore, it is sufficient to get an denial for SSI from Social Security so long as the denial is on the basis of income or assets- not because Social Security has determined the child does not meet their disability requirements. The SSI eligibility screening can be done with a simple phone call in most cases. To get a determination as to whether the child meets the income and resource requirements, you should do the following:

- ?? Call Social Security at 1-800-772-1213. When you hear the recorded message, press 0 then, when the next message comes on, press 1. You will get a live Social Security representative. The parent/guardian should ask the Social Security representative that they would like to have an appointment set up for an SSI eligibility screening over the phone. The representative will give you a date and time when a representative from your local Social Security office will call to take the necessary information.
- ?? Remember that parent's and stepparent's income and assets count for SSI so be sure to have pay stubs, bank statements and other income and resource records available on the date Social Security calls back.
- ?? If the Social Security representative determines that the parent/stepparent/child's income or resources are over the SSI limits, ask the representative to send a written letter to that effect. Keep that letter to submit to the County Assistance Office as proof that the child was denied SSI.

If the child had been on SSI recently (in the last year or so) and was terminated due to parental income or resources of the parent(s) or child, the County Assistance Office will usually accept the fact that the child had been on SSI as proof the child meets the Social Security disability standards so long as the child was not terminated on grounds that he/she was no longer disabled.

Tip: If the child was terminated on the grounds that he/she no longer meets the disability standards, it is essential that the parent/guardian appeal the SSI termination (they have 65 days from the date on the SSI termination notice

to do so). Otherwise, the determination of Social Security that the child does not meet the disability standards will be binding on Medical Assistance and the child will not qualify under category PH 95.

What if I call Social Security, and find that my child qualifies for SSI?

In some cases, the parent/stepparent/child's income is within the SSI limits. In that case, the parent will have to file a full SSI application at their local Social Security office and Social Security will determine whether the child meets the disability guidelines. To find the closest Social Security Office, call 1-800-772-1213 or go to <https://s3abaca.ssa.gov/pro/fo/fo-home.html> on the web. See the section before on SSI. Note that if Social Security determines that the child does not meet the disability guidelines, the child will not be eligible for either SSI or for Medical Assistance under the PH 95 (loophole) category although the child may be eligible under a different category of Medical Assistance, like Healthy Beginnings, where disability is not a requirement but parental income is counted. Therefore, if the child is found not to meet the SSI disability guidelines and does not qualify for Medical Assistance under one of the "non-disabled" categories, it is critical that the parent/guardian appeal Social Security's decision.

2. Get an application form or apply online

Two application forms are available - the PA600 (long form) and PA600CH ("Application for Health Care Coverage"). It is strongly recommended that the parent/guardian use the PA 600CH form. You can obtain the form by calling 1-800-986-5437. You can also download the application form from the web at: <http://www.dpw.state.pa.us/Resources/Documents/Pdf/FillInForms/PA600.pdf>. To print out the application off the web you will need Adobe Acrobat reader. It is free. Go to <http://www.adobe.com/products/acrobat/readstep2.html> to download this extremely useful application. You can also apply online at <https://www.humanservices.state.pa.us/COMPASS/>.

3. Fill out the application form

For the PA600CH, start on page 3. The parent/guardian puts their name in Part I on page 3 (at bottom).

?? **Page 4:** On the top line of the 4th page (part II), put the parent/caregiver's name. On that same top line, check the NO box in the column "Are you Applying for this Person". On line 2 ("Person 2"), list the child's name for whom the application is being made and be sure to check the YES box in the column "Are you Applying for this Person" on the line where the child's name is. If you are applying for more than one child, list the other child(ren) on the following lines. Information about a stepparent is also requested. If the child for whom you are applying has a stepparent at home, put in the stepparent's name at the bottom of the page (after "Are you, or is anyone who lives with you a stepparent?")

?? **Page 5:** The top of Page 5 asks for income by source (part III). Under a new state law, income of the parent(s) must be listed here- even though it is NOT counted in determining the eligibility of the child (provided the child meets the disability requirements). Income of stepparents need not be reported.

?? Put in the amount of Social Security or child support, if any, received for the child for whom the application is being made in the applicable box and put the child's name in the box "Whose income is this?". Remember that court ordered child support will not effect the child's eligibility. If there are any bank accounts or other investments listed under the child's name or reported to the IRS under the child's Social Security number, report the interest or dividend that has accrued and the time period during which it has

accrued (monthly, quarterly, annually?) in the “Dividends/Interest” box. The questions about how much the parent/guardian pays for childcare and for travel to work are not relevant to eligibility under category PH 95 (loophole).

?? **Page 6:** You do need to list other insurance (part IV) under which your child is covered as well as your car insurance policy, if any. Having other coverage does not disqualify a child for Medical Assistance, but it does affect how Medical Assistance pays for services.

?? **Page 7:** Be sure to fill out “Health Insurance from Your Employer”. Under certain circumstances, a special Medical Assistance program called “HIPP” can pay the premium your employer charges to have your child covered under your health insurance at work and can even pay to have you covered as well! Special Qualifying Information- Make sure to check YES next to the question: “Do you or does anyone who lives with you have a disability or a special health care need?” then fill in the child’s name below that. If you have unpaid medical bills for services from the past 3 months and the provider to whom you owe the bill accepts Medical Assistance, you should check the “yes” box.

?? **Pages 8-9:** The questions on pages 8 & 9 are optional.

?? **Page 10:** Be sure to sign twice on page 10- 1st right above “Certification of Citizenship or Alien Status” where it says: “Signature of Applicant” and 2nd at bottom of the “Certification of Citizenship or Alien Status” block where it says: “Sign here”.

4. Get the child’s birth certificate

To obtain an official copy of a birth certificate for a child born in PA, call (724) 656-3100 or go to <http://www.health.state.pa.us/HPA/birth.htm> on the web.

5. Get the child’s Social Security card

If the child doesn’t have one or needs a replacement, get an application for a card from the local Social Security office (form SS-5). Call 1-800-772-1213 or the TTY number, 1-800-325-0778 for more information or go to http://www.ssa.gov/replace_sscard.html on the web.

6. Assemble documentation of the child’s disability or condition

While Social Security will do this for families applying for SSI, it is the parent/guardian’s responsibility to do this when applying for Medical Assistance under the disabled child (loophole) provision. Remember that unless the child is found to meet the disability standards, the income of the parent/guardian will be counted. The people who make the disability determinations will not examine or evaluate the child. If the problem or limitation is not documented, it will not be considered.

7. The disability standard (what you need to document)

It is not enough for a child to have a disability, a specific diagnosis or an IEP in order to qualify for Medical Assistance under SSI or the non-SSI disabled child (loophole) provision. The child’s disability or condition must meet a set of standards. The standards used, even for children applying just for Medical Assistance under the loophole, are the Social Security childhood disability standards. Those standards are called the “Childhood Listings of Impairments”. They can be found on the web at: <http://www.ssa.gov/disability/professionals/bluebook/ChildhoodListings.htm>.

The standards vary depending on the “body system” that is affected by the disability or condition. You will need to find the body system that is affected by your child’s disability/condition to determine which of the standards apply.

However, as a general rule of thumb, the disability standards consider the extent to which the child’s disability/condition limits the child’s ability to perform basic functions (appropriate for his/her age group). These basic functions include physical and neurological functioning (ability to walk, talk, feed oneself etc.), sensory functioning (ability to see or hear), cognitive functioning (ability to learn and understand) and psychological functioning (ability to develop and maintain relationships with others, avoid violent behavior and dangerous situations etc.).

A parent/ guardian should not try to determine whether their child’s condition meets the Listings. The usefulness of the Listings to parents is to determine what they will need to document. In most cases, it is necessary to document the nature, severity, frequency and duration of the limitation(s) in addition to the medical or psychiatric condition that causes the limitation(s). Important sources of documentation include: the child’s doctors, therapists, teachers, guidance counselors and school records (including the Comprehensive Evaluation Report, the Multidisciplinary Evaluation or “MDE”, report cards and attendance records) IEPs are not enough because they focus on educational issues which are not the primary focus of the Social Security disability standards. For more information regarding the “listings of impairments” that apply to children with mental illnesses or bio-neurological conditions, ask us for the guide on that topic.

8. Filing the application

The application needs to be filed at your local County Assistance Office unless you have filed online (<https://www.humanservices.state.pa.us/COMPASS/>) You can find the location and phone number of your County Assistance Office in the blue pages of the phone directory under “Government & Other Public Services- Public Welfare” or on the web at: <http://www.dpw.state.pa.us/general/dpwcao.asp> . The application can be filed by mailing it or by taking it to the County Assistance Office in person. If mailing, send it certified or get a mailing certificate to prove when you mailed it. If you are dropping it off at the County Assistance Office, ask for a receipt.

Filing by mail- There are 2 options:

A) Send in only the application form. This will usually result in getting a call or notice from the County Assistance Office to schedule an “intake” appointment at the County Assistance Office. Sometimes a worker from the County Assistance Office will conduct a “screening interview” over the phone.

NOTE: If, during the screening interview, the worker indicates that the child is not eligible, the parent/guardian should insist that the application process be completed or else he/she may have waived their appeal rights. At the intake appointment, the parent/guardian must bring in the necessary documentation (see below).

B) Request that the intake appointment be waived. Under this option, the application is processed based on the documents submitted, without the need to go into the County Assistance Office. In order to do this, the parent/guardian needs to submit a completed and signed application form along with all necessary documentation (see below).

The application and documentation should include a cover letter with the following sentence: “I am requesting that the face-to-face interview be waived pursuant to Medical Assistance Eligibility Handbook sections 304.4 and 378.3. Please contact me at [daytime phone #] if additional information or documentation is needed.”

Filing in person at the County Assistance Office

This is usually the quickest way although the least convenient. Some County Assistance Offices take people on a first-come first-served basis so it is possible, if you can wait long enough, to have the application process completed in 1 day, provided you have all the necessary documentation.

Necessary documentation

- ?? the child's Social Security card (or receipt from Social Security that an application for a card has been filed);
- ?? the child's birth certificate (original or State-certified copy—not a photocopy) or some acceptable alternative;
- ?? for non-citizens, proof of immigration status;
- ?? some proof of address (usually the parent/guardian's drivers license if the address is current);
- ?? Documentation of income in the child's name (Social Security notices or photocopies of checks, child support orders or statements from Domestic Relations, bank statements or other statements showing interest, dividends or other earnings on bank accounts or other investments in the child's name);
- ?? Documentation of the nature and extent of the child's disability or condition or, for a child recently on SSI, an SSI termination notice, if the grounds for termination were excess income or resources, not lack of disability;
- ?? Documentation that the child does not qualify for SSI (letter from Social Security); and
- ?? Health insurance policy numbers (or a copy of the card if available) of any insurance under which the child is covered.
- ?? Car insurance policy number (if the parent(s) have a car- this is needed because car insurance often provides coverage of health care expenses related to an automobile accident).

Documentation that is NOT necessary

- ?? Documentation of resources (real estate, cars, life insurance policies, bank accounts or other investments not in the child's name)

What to do if the caseworker at the County Assistance Office asks about assets (parents' or child's)

1. As to requests for information about parent's assets (cars, real estate, bank accounts, stocks, bonds, life insurance), refer the caseworker to section 340.1 of the Medical Assistance Eligibility Manual which states: "There is no resource determination for individuals in an applicant/recipient group if: the individual is a child under age 21...". A copy of this section is attached. Since "there is no resource determination", there is no need to provide information about the parent's resources or assets.
2. As to requests for information about assets in the child's name, remember that the parent or guardian must provide documentation about any interest, dividends or other earnings on bank accounts, stocks, bonds, cds or other investments which are in the child's name (reported to the IRS under the child's Social Security number). These are considered income and are counted in determining the child's eligibility. However, it is only the interest, dividends or other earnings that can be counted. Therefore, even though the parent or guardian must provide documentation about the account or investment to document the amount of income earned in the child's name, the market value of the bank account, stocks bonds or other investments does not affect the child's eligibility. If the caseworker says otherwise, refer her/him to section 340.1 of the Medical Assistance Eligibility Handbook,

What to do if the caseworker tries to deny Medical Assistance for a child with severe disabilities based on parental income.

1. Tell him/her parental income does not count for Medical Assistance under Category PH 95 and refer him to the description of "program status code 95" in the MA Eligibility Handbook section 305 Appendix C-6 which says: "A child under age 18 who is disabled and whose parental income is not considered in the financial determination of MA eligibility". A copy is attached.
2. Also refer the caseworker to section 355.4 of the MA Eligibility Handbook which states: "There are no provisions to deem income from a parent to a child who is receiving PJ or TJ." ["PJ" and "TJ" are categories of Medical Assistance based on disability] A copy of this section is also attached.
3. Also refer the caseworker to Medical Assistance Eligibility Handbook section 319.3 which states: "There are no provisions to require consideration of income from a parent to a child receiving Healthy Horizons." [the category of Medical Assistance for persons determined disabled who do not qualify for SSI]

Authorization to Release Information- Form PA 4

Caseworkers will usually insist the parent/caregiver sign a blanket release form which allows DPW to contact employers, banks, etc. to obtain financial information relevant to the child's application for Medical Assistance. State regulations require a parent/caregiver to sign this release form in regards to "information about...the applicant or recipient...." 55 PA. Code §201.4 (1)(ii). State regulations state that "the applicant" includes "The adult with whom an unemancipated minor lives...." 55 PA. Code §123.82. Therefore, the parent/caregiver is legally obligated to sign the PA 4 form to release information regarding both the child and the parent, even though parental income and assets are not relevant. Of course this is a conflict in the law since the Medical Assistance Eligibility Handbook says parental income and resources don't count. Unfortunately the requirements to sign the PA 4 are in regulations while the "loophole" provisions are only in the Handbook and the regulations take precedence over the Handbook.

What happens next for Medical Assistance?

Determining disability

Once the application and necessary documentation has been submitted, the caseworker at the County Assistance Office has authority to immediately find that the child meets the disability standards, pending a final decision by the Medical Review Team (which takes months), if, based on the documentation provided by the parent/guardian, the child "appears to be disabled". This is authorized by Medical Assistance Eligibility Handbook §305.26. This is known as "presumptive eligibility" and is very common if good documentation is provided. If the caseworker doesn't feel comfortable making the "presumptive eligibility" disability determination him/herself, ask the caseworker to transfer the case to the "DAP Unit" (Disability Advocacy Program Unit) at the County Assistance Office. The DAP Unit is comprised of workers specially trained in the disability standards. They will usually review the medical or psychiatric documentation, and may request that the parent/guardian get additional documentation or come in for an interview.

If the caseworker or the worker from the "DAP Unit" finds the child "presumptively eligible", the caseworker can authorize Medical Assistance immediately. A Medical Assistance ID card (a.k.a. "Access Card") should arrive in 1 to 2 weeks. If the child needs services under Medical Assistance before that, the parent/caregiver should ask the caseworker for the child's Medical Assistance ID#, card issue #, category and program status code. With those numbers, most providers are willing to start serving the child under Medical Assistance without waiting for the official ID card ("known as the Access card). If the provider insists on an official card, the parent/caretaker can request an "Interim Medical Card" from the caseworker at the CAO. An Interim Medical Card can be done in a day. The caseworker cannot require documentation of a medical appointment. The statement of the parent/caregiver that there is an immediate need for the card is sufficient. Medical Assistance Eligibility Handbook §380.4.

Once the case has been authorized, the caseworker is supposed to transfer the case to the DAP Unit to review the medical or psychiatric documentation if they have not already done so. After that, the DAP Unit is supposed to send the documentation to an agency under contract with Medical Assistance, know as the Medical Review Team ("MRT") which makes the final decision as to whether the documentation shows that the child meets the disability standards. If the MRT decides that the child's documented condition does not meet the disability standards, the County Assistance Office will terminate the child's Medical Assistance unless the child is eligible under another category. However, the parent/caregiver can appeal the MRT's decision and if their appeal is received by the County Assistance Office within 10 days of the termination notice being mailed, the termination cannot go through until after the family has had a hearing and gets a hearing decision. (Of course, if the parent/caretaker wins, the termination won't go through at all.) The termination notice explains how to appeal.

Enrollment in an HMO

Children living in the following counties will be required to enroll in an HMO that has a contract with Medical Assistance: Allegheny, Armstrong, Beaver, Bucks, Butler, Chester, Delaware, Fayette, Greene, Indiana, Lawrence, Montgomery, Philadelphia, Washington, Westmoreland, Adams, Berks, Cumberland, Dauphin, Lancaster, Lebanon, Lehigh, Northampton, Perry and York. This is required even if the child has other health coverage, including another HMO. The services the child needs (other than behavioral health services) are then obtained through the HMO, rather than through Medical Assistance itself, although the HMO must cover all the services regular Medical Assistance covers. The requirement that a child living in one of the counties listed above be enrolled in one of the Medical Assistance HMOs applies even if the parent/caregiver is only seeking coverage for behavioral health services, even though the Medical Assistance HMO does not directly provide that coverage. Children who can be covered by an employer-sponsored health insurance plan if the parent pays (or has deducted from their pay) a monthly premium, may be eligible for "HIPP program" (the health insurance premium payment program) under which Medical Assistance pays the premium to have the child covered under the employer sponsored health plan. In that situation, the child would be disenrolled from the Medical Assistance HMO.

For children living in the counties above, coverage for behavioral health services comes through a separate entity called a "Behavioral Health Managed Care Organization" which has a contract with the county MH/MR agency.

Medical Assistance HMOs are also in operation in several other counties besides the ones mentioned above. However, in those other counties enrollment in one of these Medical Assistance HMOs is voluntary.

3/20/06