

**OTHER ELIGIBILITY REQUIREMENTS****LEGALLY RESPONSIBLE RELATIVES  
PARENTS AND CHILDREN****IV-D REQUIREMENTS**

**Description:** Title IV Section D (IV-D) of the Social Security Act was established to: secure and enforce child support and medical support from absent parents; establish paternity when necessary; and to provide a parent locator service. For more detailed information regarding IV-D refer to the Public Assistance Source Book, Section VIII-T.

**Policy:** Generally, a Medicaid household including a child under the age of 21, whose parent is absent from the home, must as a condition of eligibility meet the requirements to secure medical support and establish paternity, unless good cause not to cooperate exists OR they are otherwise exempt. Not all IV-D requirements apply to the Medicaid program; pursuit of cash support is not a requirement for Medicaid A/Rs.

**NOTE:** In situations of equally (50-50) shared custody of a child(ren) a referral to the Child Support Enforcement Unit (CSEU) should be made except when good cause is established, they are otherwise exempt, or instances where medical support/health insurance is already being provided. The referral would be made for the parent that does not reside in the household in which the child receives Medicaid unless they are otherwise exempt.

Cases to refer to IV-D:

- MA cases that include a child under the age of 21 with an absent parent, and/or for whom paternity has not yet been established, provided the case does not meet the exemption criteria, shall be referred to the CSEU. At no time during a women's pregnancy shall a referral be made for the pregnant woman or her children. Referrals are made after the end of the month of the 60 day post-partum period.

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Cases exempt from referral to IV-D:

- Child-only MA cases for all children under the age of 21, including children living on their own and children in receipt of SSI;
- Parents or step-parents who already provide health insurance and/or cash medical support for the child for whom paternity has already been established regardless of living arrangements;

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- Intact households in which both parents (married or unmarried) reside together with their common children; however, a referral may be made for the establishment of paternity;
- Transitional medical assistance (TMA) recipients; deceased absence parent;
- A child released for or pending adoption;
- When good cause is claimed by the A/R at any time during the application, determination or authorization period, until the final good cause determination is completed. If good cause is found to exist, the non-referral status continues until the reason for good cause no longer exists; and
- Any case where the parents' income and resources are not used in determining eligibility for the child, such as:
  - A child participating in one of the community-based waiver programs;
  - A pregnant minor
  - A certified blind or certified disabled child 18 years of age or older, or if under age 18, expected to be living separately from the parents' household for at least 30 days;
  - A child who chooses to apply for, and/or is in receipt of family planning benefits only (coverage code 18); or
  - IV-E adoption children.

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Under the Family Court Act (FCA), support orders must require legally responsible relatives to make use of any health insurance coverage available to cover the child on whose behalf a child support petition is brought. The cost of providing such health insurance for the child is prorated between the parents.

If neither parent has health insurance available, the FCA requires the court to direct the custodial parent to apply for Medicaid or Child Health Plus for the child. If the child is eligible for one of those programs, the parents' obligation is to pay the cost of any required premium or family contribution, such as co-payments, that are the responsibility of the recipient under the Medicaid or Child Health Plus programs, which cost shall be prorated between the parents. The court also has the ability to order cash medical support when no health insurance is available by applying a formula.

A direction by the court to seek Medicaid or Child Health Plus for the child does not eliminate the parents' obligation to utilize for the child's benefit any health insurance coverage that may subsequently become available.

<b>References:</b>	SSL Sect.	111
		366.3
		366.4(h)
		367-a.2(b)
	Dept. Reg.	369.2(b)
		360-4.3(f)
		360-7.11
		441.2

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ADMs	99 ADM-5 92 ADM-40 89 ADM-47 89 ADM-23
INFs	07 OHIP/INF-1 90 INF-45
GIS	08 MA/031

**Interpretation:** The eligible parent or other caretaker/relative of a child under the age of 21 whose parent is absent from the home must meet the following IV-D requirements, for medical support only unless it is a child-only MA case:

Cooperate in good faith with the State and the local social services district to establish the paternity of a child born out of wedlock, to locate any absent parent or putative father and to establish, modify, and enforce support orders.

The term "cooperation" includes providing information for the A/R to complete the DSS-2860, Child Support Referral form and, if required, appearing at the local Child Support Enforcement Unit (CSEU) to be interviewed. A Medicaid applicant who is not pregnant or in the 60 day postpartum period or otherwise exempt must assist in completing the DSS-2860 appear at the CSEU, as necessary, and cooperate with the CSEU unless good cause not to cooperate is found to exist.

A Medicaid recipient's continued cooperation with the CSEU is prerequisite to his or her ongoing eligibility to receive Medicaid. An A/R's Medicaid eligibility is not delayed or denied, however, if the A/R is complying but, through no fault of the client, the IV-D process has not been completed.

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The local district:

- (1) mails or provides all client books at application and recertification, including Client Information Book I (DSS-4148A), which addresses clients' rights and responsibilities regarding child support;
- (2) advises all Medicaid-Only A/Rs in writing via the DOH-4220 (ACCESS NY application), unless they are otherwise exempt, that, as a condition of initial and ongoing eligibility, they will be required to cooperate in:
  - (a) obtaining third party health insurance (TPHI) and medical payments for themselves and any other individuals for whom the Medicaid-Only A/R can legally assign rights;
  - (b) establishing paternity of a child born out of wedlock for whom the Medicaid-Only A/R can legally assign rights; and
  - (c) obtaining medical support for their children (unless it is a child-only MA case).

**NOTE:** Pregnant women should not be referred to the CSEU until after the 60-day post partum period. To the extent possible, prior to such referral, local districts continue to pursue the availability of TPHI. If a pregnant minor does not want her parents contacted, however, TPHI is not pursued. All other Medicaid-Only A/R's must cooperate in establishing paternity and securing medical support.

An A/Rs failure, without good cause or other exemption, to cooperate renders such person ineligible for Medicaid. Their children under age 21, however, are authorized to receive Medicaid if they are otherwise eligible;

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- (3) Medicaid worker or an appropriate designee determines whether an A/R who claims to have good cause for refusing to cooperate does have good cause that can be verified.
- (4) refers to the CSEU cases which include a non-pregnant child under age 21 whose paternity has not been established or whose parent(s) are absent from the home unless they are in a child-only MA case. Mails or provides the DSS-2860 form and informs A/Rs who are required to appear in the CSEU that they must bring the completed DSS-2860 to their CSEU interview. Applicants are referred to the CSEU prior to their eligibility determination or, if practicable, prior to their eligibility interview;
- (5) obtains necessary documentation from A/Rs;
- (6) takes appropriate action (notices and procedures) when notified by CSEU via the DSS-2859, Child Support Information Transmittal that an A/R who is not pregnant has failed to cooperate.. The A/R's children are not denied or discontinued from Medicaid for this reason;
- (7) takes appropriate action in Medicaid cases reported in the IV-D/Medicaid Interface Report and in DSS-2859 referrals from the CSEU. The weekly IV-D/IV-A Interface Report provides information to Medicaid workers about status changes in child support cases, including location of absent parents, paternity establishment, support order actions and third party health insurance coverage;

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- (8) responds to CSEU requests for Medicaid eligibility and payment information via the OHIP-0030, Medicaid Medical Support Transmittal;
- (9) at recertification and other client contacts, asks recipients for new and changed information about absent parents, forwards information to the CSEU via the OHIP-0030 form; and
- (10) budgets child support as unearned income in a Medicaid-Only case with the \$100 child support disregard.

The local district informs the A/R that s/he has a right to claim good cause as an exception to the cooperation requirement. The A/R may refuse to meet any or all of the IV-D requirements when s/he has good cause to do so. The following circumstances are considered good cause:

- (1) when cooperation may be against the best interests of the child. Cooperation in establishing paternity or seeking support is deemed to be against the best interest of the child only if the A/R's cooperation in establishing paternity or securing support is reasonably anticipated to result in:
  - physical harm to the child for whom support is sought;
  - emotional harm to the child for whom support is sought;
  - physical harm to the parent or caretaker relative with whom the child is living;
  - emotional harm to the parent or caretaker relative with whom the child is living;
- (2) the child for whom support is sought was conceived as a result of incest or forcible rape;
- (3) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

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the A/R is currently being assisted by an authorized agency (LDSS or a voluntary agency) to resolve the issue of whether to parent the child or place him/her for adoption,

- (4) and discussions have not gone on for more than three months.

If an A/R refuses to meet the IV-D requirements and s/he cannot show good cause, s/he is denied Medicaid.

**Documentation:** An A/R who claims good cause must provide corroborative evidence within 20 days from the day the claim was made. A district may extend this 20 day period when the A/R has difficulty obtaining evidence.

Statement from a medical provider that the A/R is pregnant including the EDC (due date).