

**OTHER ELIGIBILITY REQUIREMENTS
STATE RESIDENCE AND RESPONSIBILITY FOR ASSISTANCE**

DISTRICT OF FISCAL RESPONSIBILITY (DFR)

Policy: Generally, each local social services district is responsible for furnishing Medicaid to otherwise eligible A/Rs who are residents of New York State (NYS) and who reside within the district.

- References:**
- SSL Sect. 62.5
365.5

 - Dept. Reg. 311.3
311.4
360-3.5
360-3.6

 - ADMs OMM/ADM 97-1
94 ADM-20
90 ADM-9
86 ADM-40
80 ADM-4

 - INF 90 INF-45

 - GISs **02 MA/006**
02 MA/001
00 MA/018
97 MA/028

Interpretation: Where Found Rule

When a person enters New York State with the intent to remain permanently or indefinitely and has a need for medical care, before a living arrangement is established, the local district where the person is found is responsible for providing Medicaid, if the A/R is otherwise eligible.

When a person has not abandoned his/her residence in another state, but is unable to return to the home state due to illness, eligibility for benefits from the home state is explored. If the home state does not agree that the individual is a resident of that state for Medicaid purposes, the local district where s/he is found at the time that the person can no longer return to his/her home state is the district responsible for providing Medicaid, regardless of where the applicant is found at the time of application. If the A/R subsequently is moved to a medical facility in another district, the first district remains

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responsible. For example: While visiting his sister in Essex County from another state, Mr. Smith becomes ill and cannot return to his home state. He is hospitalized in Clinton County. While in Clinton County, Mr. Smith's sister applies on his behalf for Medicaid in Essex County. If the home state does not agree that the individual is a resident of that state for Medicaid purposes, Mr. Smith is authorized for Medicaid by Essex County. Subsequently Mr. Smith is moved to a nursing facility in Franklin County. Essex County remains fiscally responsible for Mr. Smith's Medicaid.

When a person applies for Medicaid while in a district other than his/her local district of residence, the local district in which the person is found contacts the local district of residence before assuming that district will accept and process an application. The district where the A/R is found assists in processing the application as a courtesy. This acknowledgment of fiscal responsibility is confirmed and noted in the record, prior to forwarding the courtesy application. Without such an agreement, the district in which the applicant is found accepts and processes the application. If otherwise eligible, Medicaid is authorized by the district where the applicant is found. The district may then request a fair hearing to determine the district of responsibility.

EXCEPTIONS TO THE “WHERE FOUND” RULE

NOTE: Unless one of the following exceptions applies, the “where found” district is fiscally responsible for the A/R. The burden of proof is on the “where found” district to establish that an exception applies.

Temporary Absence from Legal Residence

The local social services district where a person has his or her legal residence continues to be responsible for providing Medicaid when the person is temporarily absent from the district. A person's legal residence, or domicile, is the principal and permanent home to which the person, wherever temporarily located, always intends to return. Districts rely on a person's expression of intent in determining the district of legal residence, unless the person's actions are inconsistent with the expressed intent. When a person capable of indicating intent leaves his/her district of legal residence, the person will be considered to be temporarily absent from such district if:

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- (a) the person enters another district for a specific purpose (such as rehabilitation for alcohol or substance abuse, training, schooling, or vacation); and
- (b) the person intends to return to the “from” district when the specific purpose is accomplished; and
- (c) the person’s actions are not inconsistent with this purpose. In this situation, the “from” district continues to be responsible for providing Medicaid as long as the recipient continues to engage in the activity which prompted the temporary absence.

This responsibility continues only until the temporary purpose ends. At that point, the recipient:

returns to his/her district of legal residence; or

is considered to have established a new legal residence and is transitioned from the “from” district to the “where found” district; or

becomes a transient (a homeless person without a legal residence) and immediately becomes the responsibility of the “where found” district.

When an A/R chooses to receive care or treatment in a medical facility outside his/her district of residence, the district of residence retains responsibility for the cost of the A/R's care.

Transition Rule

When a non-institutionalized recipient moves from one district to another, the district from which the recipient moved continues to provide Medicaid or Family Health Plus to the otherwise eligible individual through the month following the month of the move, provided the individual has not become a recipient of Public Assistance, Medicaid and/or Family Health Plus in the new district. The former district sends the recipient a 10-day closing notice. The former district also informs the recipient of his/her need to apply for Medicaid/Family Health Plus in the new district of residence, if s/he wants to continue receiving Medicaid. The client must complete the full eligibility process in the new district.

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The local district of legal residence continues to be responsible for providing Medicaid to a person who has entered a medical facility in another district if the person is in need of Medicaid upon admission to the facility, or becomes in need during the inpatient stay, or upon discharge from the facility. This responsibility continues indefinitely until there is a break in the recipient's need for Medicaid.

When applying these provisions to a Title XIX facility operated or certified by OMH or OMRDD, regardless of where the facility is located, the district of legal residence ("from district") remains responsible until there is a "break in need".

A "break in need" is defined as one calendar month without financial eligibility. As long as an individual remains financially eligible for Medicaid, there is no break in need. If the individual has excess income and submits paid or incurred expenses totaling the amount of excess or pays the excess directly to the district, there is no break in need. If in any month, the individual becomes resource ineligible and is unable to spend down the excess resources or does not meet an excess income liability, there is a break in need. When a break in need occurs, the district of fiscal responsibility may close the case with adequate and timely notice.

District Placement Rule

When the A/R's district of residence arranges or participates actively in arranging for care in another local district, that district is assuming responsibility for the continuing care of that A/R, regardless of the type of facility the person enters. The A/R's district of legal residence continues to be, or becomes responsible for providing Medicaid when: a district (either the local district of legal residence or any other district) was involved in placing the eligible person into a formal residential care setting in another district. District involvement in a placement includes both direct and indirect involvement by any county agency or official governmental entity of the county including courts, mental health departments, probation departments, etc.

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Homeless Rule

When a district places a homeless individual/family in temporary housing in another district, the placing district continues to be responsible for providing Medicaid during the individual/family's stay in the temporary housing. If the homeless recipient subsequently moves into permanent housing, the placing district retains responsibility for the month of the move **and the following month**.

NOTE: When a homeless A/R relocates from one district to another and does not wish to return to the first district, s/he is treated as any other A/R moving from one district to another.

Domestic Violence

When an eligible person enters an approved Shelter for Victims of Domestic Violence located in another district following an incident of domestic violence, the district in which the person legally resided at the time of the incident is fiscally responsible for that person while s/he resides in the approved shelter. This rule applies to persons who had been receiving Medicaid prior the incident as well as to persons who become eligible due to lack of available income and resources while residing in the approved shelter.

This responsibility continues until the person leaves the approved shelter. If the recipient chooses not to return to the former district of legal residence, such district is responsible for providing Medicaid during the month the recipient leaves the shelter **and the following month**. The "where found" district is responsible thereafter.

Adult Care Facility

When an individual enters an adult care facility (Congregate Care Level II-adult home, enriched housing program or residence for adults) in another district and is or becomes in need of care, the district of fiscal responsibility from which the individual was admitted to the adult care facility is responsible for providing assistance and care. This responsibility continues until there is a "break in need".

This DFR rule does not apply to OMH, OMRDD or OASAS certified community residences, residential substance abuse treatment programs or residential care centers for adults.

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A/R under 21

The DFR for a child under 21, who is capable of indicating intent, is the district “where found”, unless one of the current DFR exceptions applies. Districts should rely on a person’s expression of intent in determining the district of legal residence, unless the person’s actions are inconsistent with the expressed intent.

The district of fiscal responsibility for a child under the age of 21, who is incapable of expressing intent, remains the district of legal residence of the parent(s) or legal guardian.

Medical Parole

The DFR for an inmate released on medical parole is the district from which the inmate was sentenced. This responsibility continues indefinitely until there is a break in need.

The DFR for non-medical parolees released into a non-medical residential setting such as a halfway house will follow the placement rule. The Board of Parole is considered to be acting on behalf of the court who is considered to be acting on behalf of the district. Therefore, the district where the parolee legally resided prior to incarceration will continue to be responsible for providing Medicaid to the parolee until there is a break in need.

Infants Residing with Incarcerated Mothers

The DFR for an infant residing with an incarcerated mother is the mother’s district of legal residence prior to incarceration.

Children Eligible for Continuous Medicaid Coverage

If a child moves to another district during a period of continuous coverage, the child remains the responsibility of the originating district until such time as a Medicaid application is made for the child, and the child is determined eligible in the new district. At that time, a new period of continuous eligibility begins, and the new district becomes responsible for the child’s Medicaid. If a Medicaid application is made for the child in the new district, and the child is determined ineligible for Medicaid, the child remains the responsibility of the originating district until the 12-month period of continuous eligibility ends.

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In rare situations, however, it may be necessary for the new district to assume responsibility for a child's continuous coverage, to avoid a circumstance in which household members have Medicaid coverage from different districts.

For example, a family with a two-year old child in receipt of Medicaid moves. They advise the district, which makes the necessary systems changes to give the child continuous coverage. When the family applies in the new district, their net income now exceeds **133% of the FPL**; therefore, the child cannot be determined fully eligible. A month later, the mother applies because she is pregnant, and is found eligible under 200% of the FPL. The new district adds the child to the mother's case using a "continuous coverage" categorical code for the balance of the continuous coverage period.

If a child turns age 19 during a period of continuous eligibility, the guarantee of continuous eligibility will end as of the last day of the month of the child's nineteenth birthday. However, if the child is receiving medically necessary inpatient services at that time, Medicaid coverage continues through the end of the hospitalization.

Disposition:

When the district of fiscal responsibility for the A/R has been established, that district authorizes Medicaid, if the A/R is otherwise eligible.

If a dispute based on residency occurs between local districts for an otherwise eligible A/R, either district may request a fair hearing to determine the district of fiscal responsibility. The district where the A/R is found provides Medicaid until the fair hearing decision is rendered. The district found to be responsible, if necessary, reimburses the district that assumed responsibility for the A/R prior to the fair hearing decision.

Generally, a person cannot gain residence in a district while receiving care in a Title XIX facility or a public institution.

When a pregnant woman is determined presumptively eligible for Medicaid, the district she states is her residence is fiscally responsible for care provided during the period of presumptive eligibility. Her documented district of residence may be different when a full eligibility determination is completed.

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ASSISTANCE TO PERSONS TEMPORARILY ABSENT

Policy: Medicaid may be authorized for a resident of the New York State who is temporarily absent from NYS if the A/R remains in the United States (including Puerto Rico, the Virgin Islands, Northern Mariana Islands, or Guam) or in Canada, and s/he meets one of the following conditions:

- (1) the residents of the A/R's district customarily use medical facilities in another state or Canada; or
- (2) there are limited medical services available in the A/R's local district and the local social services district gives prior approval; or
- (3) an emergency situation arises.

References:

SSL Sect.	62 365
Dept. Reg.	360-3.2(g) 360-3.5
ADM	OMM/ADM 97-1

Interpretation: An A/R is temporarily absent from the State, if before the absence s/he: was a resident of the district; has an intent to return to the State; and has not shown an intent to establish a permanent residence elsewhere.

Residents of New York State may be eligible for Medicaid coverage of medical services provided in another state if residents of the A/R's district customarily use the medical facilities in another state, or if the type of medical service required is not available in New York State and the local social services district has given prior approval. Medicaid coverage may also be authorized, if while temporarily in another state, the A/R requires emergency medical attention. The assistance of that state is sought in the application process.

NOTE: New York Medicaid will only make payment to out-of-state providers who are enrolled in New York's Medicaid program. For situations involving medical expenses incurred/paid during the three month period prior to the month of application, see page **369.1**.