

DSS-4357EL

WGIUPD

**GENERAL INFORMATION SYSTEM**

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**DIVISION:** Health & Long Term Care

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**GIS 96 MA/014**

Temporary Assistance

**TO:** Local District Commissioners, MA Directors, MA Disability Review Staff, Income Maintenance Directors, Centralized SSI Coordinators/DCAP Units

**FROM:** Richard T. Cody, Deputy Commissioner, H&LTC  
Patricia A. Stevens, Deputy Commissioner, Temporary Assistance

**SUBJECT:** Revised Federal Disability Criteria for Individuals With Substance Addiction Disorders

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** PA:

Regional Team I (518) 473-0332  
Regional Team II (518) 474-9344  
Regional Team III (518) 474-9307  
Regional Team IV (518) 474-9300  
Regional Team V (518) 473-1469  
Regional Team VI (212) 383-1658

MA:

State MA Disability Team Representative or  
Ellen Bayewitz (518) 473-0195  
David Bacheldor (518) 473-2279  
Peggy Ethier (518) 473-1076

This is to notify local districts that on Friday, March 29, President Clinton signed the "Contract With America Advancement Act of 1996" which contains provisions which change the federal disability criteria for evaluating individuals with substance abuse disorders (alcoholism or drug addiction). The Act provides that an individual shall not be considered to be disabled if alcoholism or drug addiction is a contributing factor material to the determination that the individual is disabled.

It applies to applicants who file for SSD/SSI benefits on or after the date of enactment and to individuals whose claims are finally adjudicated on or after the date of enactment. This provision applies to current beneficiaries on January 1, 1997. The Social Security Administration must take the following actions for current recipients:

- Notify current affected beneficiaries who are disabled due to their alcoholism or drug addiction (DA&A) of the new provisions within 90 days of enactment;
- Complete new medical determinations by January 1, 1997, for affected current beneficiaries who request such a determination within 120 days after the date of enactment.

**NOTE:** Certain SSI recipients who were DA&A related at the time of original determination may remain eligible based upon their medical reevaluation. These recipients, however, must request the review within the aforementioned timeframe.

In addition to the new provisions regarding eligibility, this legislation also introduces representative payee requirements to SSD or SSI beneficiaries who have a DA&A condition, as determined by the Commissioner, and who are incapable of managing benefits. These provisions would apply to applications filed after the third month following the month of enactment. The \$50 fee that representatives can collect for beneficiaries who have a DA&A condition remains in place.

### **PA Implications**

It is anticipated that those individuals who lose their SSD/SSI eligibility will apply for public assistance in their county of residence. Local districts should take the following actions:

- Whenever possible, encourage current recipients of SSD/SSI who receive notice of action as a result of the DA&A provisions to request a new medical determination. The Department is hopeful that a listing of current recipients affected can be obtained from SSA and provided to districts.
- Continue to require applicants/recipients for PA to apply for SSD/SSI benefits if there is or appears that there may be a physical or mental impairment other than substance abuse.

### **MA Implications**

The federal disability criteria will be used for determining disability status in the MA program when evaluating applicants for the SSI-related category and federal participation. The following instructions are effective May 1 and should be distributed to the appropriate staff, including all local district MA disability review teams.

- **Undercare Caseload** (including recertifications and audit cases reviewed for retroactive federal funding) - All cases previously approved (certified disabled) solely on the basis of a substance addiction disorder may be recertified using the former criteria (if no other disabling impairment is currently documented) and the normal continuing disability review evaluation process. If, however, the case is approved, the case must have a disability end date (expiration date on the DSS-639, "Disability Review Team Certificate") and MA authorization date no later than 12/31/96.
- **New MA Applicants** - Cases of individuals who claim or appear to have substance abuse disorders should be processed as follows:
  - If eligible in another category (i.e., ADC-related or HR-related), authorize in those categories but also proceed with disability activities including collection of medical evidence for later disability review under the revised criteria. Cases should be tracked for later identification.

- If not eligible in another category, proceed with disability activities including collection of medical evidence.
- When the disability file is complete and ready for medical review by the Disability Review Team (DRT):
  - o **Districts which send cases to the State DRT** - cases should be retained locally until further notice unless it is apparent from the medical evidence that there is another chronic, potentially disabling impairment other than substance abuse (i.e., cancer, heart disease).
  - o **Districts with their own DRTs** - districts have the option of having cases retained by referring local units (Temporary Assistance, D-Cap, Medical Assistance) or by the DRT itself until the revised criteria are issued. The DRT can proceed to review and approve any cases that also have disabling impairments other than substance abuse and hold remaining cases for later review.
- **SSI Recipients** - Individuals who lose SSI due to these provisions will need to be evaluated for continued MA eligibility per 80 ADM-19, Stenson et al v. Blum (see the MARG, page 8.3).

Instructions for evaluating cases will be issued to disability review teams as soon as possible.

The Department will share additional information with you as it becomes available.