

Implementation Guide: Medicaid State Plan Administration Organization Eligibility Determinations and Fair Hearings

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Eligibility Determinations and Fair Hearings

POLICY CITATION

Statute: 1902 (a)(3), 1902(a)(4), 1902(a)(5)

Regulation: 42 CFR 431.10, 42 CFR 431.11, 42 CFR Subpart E

BACKGROUND

Overview

This reviewable unit (RU) describes how the single state agency effectuates its responsibility for Medicaid eligibility determinations and fair hearings as required at 42 CFR 431.10(b)(3). It includes options to indicate whether the Medicaid agency conducts determinations of eligibility and fair hearings directly or through other governmental agencies or local governmental entities.

As described at 42 CFR 431.10(c)(2), eligibility determinations and fair hearings may only be delegated to a government entity that maintains personnel standards on a merit basis. In order to effectuate such a delegation, 42 CFR 431.10(d) requires that a written agreement be established between the single state agency and the agency to which eligibility determination or fair hearing authority has been delegated.

Eligibility Determinations

As described at 42 CFR 431.10(c)(1)(i), states may delegate authority to conduct eligibility determinations to the Title IV-A agency (i.e. a state's human services agency); the federal agency administering the supplemental security income program under title XVI of the Social Security Act; or to an Exchange (i.e. Marketplace). The **Eligibility Determinations and Fair Hearings** RU describes the agency or agencies that have authority to conduct Medicaid eligibility determinations and the individuals for whom such determinations are made.

If the state has an agreement in place with the Federally-Facilitated Marketplace (FFM) to conduct MAGI-based Medicaid eligibility determinations on behalf of the state Medicaid agency, then such a delegation would be described in the **Eligibility Determinations and Fair Hearings** RU. However, if the state relies on the FFM to assess MAGI-based Medicaid eligibility, and the Medicaid agency conducts the final eligibility determination, this relationship is not considered a delegation for the purposes of Medicaid eligibility determination and is not included in this RU.

In order to delegate Medicaid eligibility determinations to the Social Security Administration (SSA), a state must first establish an agreement with SSA under section 1634 of the Act. A 1634 agreement allows SSA to determine Medicaid eligibility for SSI beneficiaries. As part of this process, the state completes the **Financial Eligibility Requirements for Non-MAGI Groups** RU in MACPro, and selects the option for *SSA Eligibility Determination State (1634 State)*.

Fair Hearings

Similar to the function of determining eligibility, 42 CFR 431.10(c)(1)(ii) gives states the authority to delegate fair hearings to an Exchange, or to the HHS appeals entity (formerly known as OMEA and referred to in regulation as Exchange appeals entity).

A delegation to the HHS appeals entity is specific to denials of eligibility based on the applicable MAGI standard described in 42 CFR 435.911(b). If a state has chosen to delegate MAGI-based eligibility determinations to the FFM, then electing to delegate fair hearings as well would allow the HHS appeals entity to conduct the fair hearings process for those applicants who were denied eligibility based on the FFM's eligibility determination. When such a delegation is made, the individual must be given the option to have his or her fair hearing conducted by the Medicaid agency.

Option: Review Process. States that delegate authority to conduct fair hearings to an Exchange or the HHS appeals entity can either delegate the final decision-making authority or establish a review process of the appeals decision. Such a review process is limited to the appropriate application of federal and state Medicaid law and regulations, which would include sub-regulatory guidance and written interpretive policies. This limited review would not include a review of findings of fact.

The state Medicaid agency may also choose to delegate authority to conduct fair hearings of eligibility determinations to another state agency, but such delegations require a waiver under the Intergovernmental Cooperation Act of 1968 (ICA). The ICA waiver is a waiver of single state agency requirements, which permits delegation of state agency functions to another state agency. We note that when a state has an ICA waiver permitting delegation of fair hearings to another state agency, the state is not required to offer individuals an option to have their fair hearings conducted by the Medicaid agency. However, the state must meet all other requirements at 42 CFR 431.10(c) and (d) related to delegation of fair hearings.

REVIEWABLE UNIT DEPENDENCIES

Many RUs in MACPro are dependent upon other RUs. Each time a primary RU is changed, there could be an effect on other, secondary RUs which are dependent on the primary. For example, in the **Mandatory Eligibility Groups** RU, there is question as to whether the state covers the adult group. If **Yes** is selected, and if a box is checked to include the adult group in the submission package, then the **Adult Group** RU will be included by the system in the package and the user can navigate to it to complete it. If **No** is selected, the **Adult Group** RU will not be included in the package. In this example, the **Mandatory Eligibility Groups** RU is the **Primary RU** and the **Adult Group** RU is the **Secondary RU**. The **Adult Group** RU is considered to be dependent on selections made in the **Mandatory Eligibility Groups** RU.

Whenever a change in a primary RU may affect a secondary RU, you either need to revise the secondary RU (if it is already in the package) or add the secondary RU to the package so that it can be updated in the same submission package as the primary RU.

The following table explains the dependent relationships for the **Eligibility Determinations and Fair Hearings** RU:

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Designation and Authority	Eligibility Determinations and Fair Hearings	Unless the Designation and Authority RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the Eligibility Determinations and Fair Hearings RU (secondary) cannot be displayed.	If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package, you need to: • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Designation and Authority	Eligibility Determinations and Fair Hearings	In section C of the Designation and Authority RU (primary), if either C.2.a or C.2.b. has been selected, indicating that the single state agency supervises administration of the state plan by another agency, in the secondary RU – Eligibility Determinations and Fair Hearings , A.1.c. and A.2.c. Local governmental entities are displayed as options.	If you indicated in the primary RU that the single state agency supervises administration of the state plan by another agency, you need to check the appropriate option at A.1.c. or A.2.c. in the secondary RU, if appropriate, to indicate whether local governmental entities conduct determinations of eligibility for families, adults and individuals under 21 or conduct determinations of eligibility for individuals based on age, blindness, and disability.
Designation and Authority	Eligibility Determinations and Fair Hearings	In section C of the Designation and Authority RU (primary), if either C.2.a or C.2.b. has been <u>de-selected</u> , indicating that the single state agency no longer supervises administration of the state plan by another agency, the secondary RU – Eligibility Determinations and Fair Hearings , must be included in the submission package.	If you have changed the primary RU to indicate that the single state agency no longer supervises administration of the state plan by another agency, you need to include the secondary RU in the submission package, as the option to use local governmental entities to conduct determinations of eligibility for families, adults and individuals under 21, or to conduct determinations for individuals based on age, blindness, and disability, will no longer be available.

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Designation and Authority <u>and</u> Intergovernmental Cooperation Act Waivers	Eligibility Determinations and Fair Hearings	In section C of the Designation and Authority RU (primary), if C.2.c. has been selected, indicating that another state agency administers a portion of the state plan through a waiver under the Intergovernmental Cooperation Act of 1968 (ICA waiver), <u>and</u> in the Intergovernmental Cooperation Act Waivers RU (primary), there is at least one waiver in “Requested” or “Active” status, in the secondary RU – Eligibility Determinations and Fair Hearings, B.1.b., State agency to which fair hearing authority is delegated under an ICA waiver is displayed as an option.	If you indicated in the primary RU that administration of the state plan is partially administered through an ICA waiver, and you have entered at least one waiver and it is either in “Requested” or “Active” status, you need to check the option at B.1.b. in the secondary RU, if appropriate, to indicate whether fair hearing authority is delegated under the ICA waiver with respect to eligibility based on MAGI.
Designation and Authority	Eligibility Determinations and Fair Hearings	In section C of the Designation and Authority RU (primary), if C.2.c. has been <u>de-selected</u> , indicating that another state agency no longer administers a portion of the state plan through a waiver under the Intergovernmental Cooperation Act of 1968 (ICA waiver), the secondary RU – Eligibility Determinations and Fair Hearings , must be included in the submission package.	If you indicated in the primary RU that administration of the state plan is no longer partially administered through an ICA waiver, you need to include the secondary RU in the submission package, as the option to indicate that fair hearing authority is delegated under an ICA waiver will no longer be available.

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Designation and Authority	Eligibility Determinations and Fair Hearings	In section C of the Designation and Authority RU (primary), if either C.2.a or C.2.b. has been selected, indicating that the single state agency supervises administration of the state plan by another agency, in the secondary RU – Eligibility Determinations and Fair Hearings , B.1.c. Local governmental entities is displayed as an option.	If you indicated in the primary RU that the single state agency supervises administration of the state plan by another agency and local governmental entities conduct fair hearings with respect to eligibility based on MAGI, you need to check the option at B.1.c. in the secondary RU.
Designation and Authority	Eligibility Determinations and Fair Hearings	In section C of the Designation and Authority RU (primary), if either C.2.a or C.2.b. has been <u>de-selected</u> , indicating that the single state agency no longer supervises administration of the state plan by another agency, the secondary RU – Eligibility Determinations and Fair Hearings , must be included in the submission package.	If you indicated in the primary RU that the single state agency no longer supervises administration of a state plan through a local governmental entity and you had previously indicated that local governmental entities conduct fair hearings, you need to include the secondary RU in the submission package, as the option to indicate that fair hearing authority is delegated to local governmental entities will no longer be available.
Eligibility Determinations and Fair Hearings	Organization and Administration	Unless the Eligibility Determinations and Fair Hearings RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the Organization and Administration RU (secondary) cannot be displayed.	If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package, you need to: • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Eligibility Determinations and Fair Hearings	Organization and Administration	In section A and B of the Eligibility Determinations and Fair Hearings RU (primary), if any option <u>other than</u> A.1.a., A.2.a., B.1.a. (Medicaid Agency), A.1.c., A.2.c., B.1.c. (Local governmental entities) and B.1.b. (State agency...ICA Waiver) has been selected, in the secondary RU - Organization and Administration , section B, Entities that Determine Eligibility or Conduct Fair Hearings Other than the Medicaid Agency is displayed for completion.	If you indicated in the primary RU that a delegated governmental agency determines eligibility or conducts fair hearings, you need to complete section B in the secondary RU to describe the functions the delegated entity performs in carrying out its responsibilities.

INSTRUCTIONS

A. Eligibility Determinations (including any delegations)

- At **A.1.**, select one or more of the three options to indicate the types of entities that conduct eligibility determinations for families, adults and individuals under age 21.
 - If **A.1.b.** is selected, select one or more of the three options to indicate the type of delegated governmental agency that conducts these eligibility determinations.
 - If **A.1.b.iii. Other** is selected,
 - Click the **Add** button.
 - Enter the name of the entity in the text box provided.
 - Click the **Save** button. The name of the entity will appear in the table.
 - To enter more entities, click the **Add** button again and follow the same process.
 - To delete an entity, select the **X** in the **Delete** column next to the entity.
- At **A.2.**, select one or more of the three options to indicate the types of entities that conduct eligibility determinations based on age, blindness or disability.
 - If **A.2.b.** is selected, select one or more of the four options to indicate the type of delegated governmental agency that conducts these eligibility determinations.
 - If **A.2.b.iv. Other** is selected,
 - Click the **Add** button.
 - Enter the name of the entity in the text box provided.
 - Click the **Save** button. The name of the entity will appear in the table.
 - To enter more entities, click the **Add** button again and follow the same process.
 - To delete an entity, select the **X** in the **Delete** column next to the entity.
- At **A.3.a.**, indicate that the Medicaid agency is responsible for all Medicaid eligibility determinations. To do this, check the box next to the assurance.
 - Assurances will appear at **A.3.b.** through **A.3.d.** if you elected any of the options above indicating that entities other than the Medicaid agency conduct eligibility determinations. To complete these assurances, check the box next to the appropriate assurance(s).

B. Fair Hearings (including any delegations)

- Indicate that the Medicaid agency has a system of hearings that meets all of requirements of the cited regulation and that the Medicaid agency is responsible for all Medicaid fair hearings. To do this, check the box next to each assurance.
- At **B.1.**, select one or more of the four options to indicate the entities that conduct fair hearings with respect to eligibility based on the applicable modified adjusted gross income (MAGI) standard.

- o If **B.1.d.** is selected, choose one or both options at **B.1.d.i** and **B.1.d.ii.** to indicate the types of governmental agencies that conduct fair hearings.
 - If **B.1.d.i., *An Exchange that is a government agency*.....** is selected,
 - o At **B.1.d.i.(1)**, select, **Yes** or **No**, to indicate if the state has established a review process for appeals made by the Exchange or Exchange appeals entity.
 - If **Yes**, indicate that the Medicaid agency only reviews appeals decisions with respect to the proper application of federal or state law, regulations and policies and that the review process is conducted by an impartial official not involved in the initial determination. To do this, check the box next to the assurance.
 - If **B.1.d.ii., *An Exchange appeals entity*...** is selected,
 - o At **B.1.d.ii.(1)**, enter the name of the Exchange appeals entity.
 - o At **B.1.d.ii.(2)**, select **Yes** or **No** to indicate if the state has established a review process for appeals made by the Exchange or Exchange appeals entity.
 - If **Yes**, indicate that the Medicaid agency only reviews appeals decisions with respect to the proper application of federal or state law, regulations and policies and that the review process is conducted by an impartial official not involved in the initial determination. To do this, check the box next to the assurance.

Screen Validation: If **B.1.c. *Local governmental entities*** or **B.1.d. *Delegated governmental agency*** is selected, either **B.1.a. *Medicaid agency*** or **B.1.b. *State agency to which fair hearing authority is delegated under an Intergovernmental Cooperation Act waiver*** must also be selected

- At **B.2.**, if either **B.1.d.i.** or **B.1.d.ii.** was selected, indicate that the state complies with requirements concerning the delegations of authority to conduct fair hearings regarding eligibility based on MAGI. To do this, check the box next to each of the assurances.
- At **B.3.**, indicate that the Medicaid agency or another agency authorized under an ICA waiver conducts all fair hearings that are not related to eligibility determinations based on MAGI. To do this, check the box next to the assurance.

C. Evidentiary Hearings

Select **Yes** or **No** to indicate if the Medicaid agency uses local government entities to conduct evidentiary hearings.

D. Additional Information (optional)

Except in limited circumstances, this field remains blank. Please consult with CMS before adding any additional information concerning this RU.

REVIEW CRITERIA

If the state is designated as a “1634” state and deems individuals eligible for Medicaid based on a determination by the Social Security Administration, then the state must check the box, “The Federal agency administering the SSI program” in A.2.b.