



State of New Jersey
DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
PO Box 712
TRENTON, NJ 08625-0712

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

SARAH ADELMAN
Acting Commissioner

JENNIFER LANGER JACOBS
Assistant Commissioner

MEDICAID COMMUNICATION NO. 21-03

DATE: March 15, 2021

TO: NJ FamilyCare Eligibility Determining Agencies

SUBJECT: Pickle Category Eligibility Determinations
Lynch vs. Rank Annual Outreach

BACKGROUND: Congress adopted the Pickle Amendment, section 503 of Public Law 94-566, in April, 1977. This amendment established a separate category of Medicaid and restores Medicaid coverage to former Supplemental Security Income (SSI) recipients who would still be eligible for SSI if not for Social Security Cost of Living Adjustment (COLA) increases in their Social Security Retirement, Survivors, and Disability Insurance (RSDI) benefits. The Pickle Amendment was expanded by the 1984 Lynch v. Rank court decision, which deals with income deemed to the individual and requires Medicaid to outreach them for two years following initial ineligibility. Therefore, any RSDI income received or deemed to an individual will have the COLA amounts disregarded from the time an individual lost eligibility for SSI if it occurred after April 1977. The COLA disregards for each year since 1977 are listed as Attachment A for your information.

The criteria for determining if a person would qualify for continued NJ FamilyCare/Medicaid benefits under the Pickle Amendment are as follows:

- The individual currently gets Social Security Title II RSDI benefits.
- The individual received or was entitled to Social Security Title II RSDI and SSI at the same time in any month after April 1977.
- SSI benefits were stopped after April 1977.
- The individual received a Social Security Title II COLA since SSI was stopped, and he or she is currently ineligible for SSI.
- The individual would be eligible for SSI if the Social Security Title II COLA received after SSI ineligibility was not counted.

The Social Security Administration (SSA) has created a report called the Lynch vs. Rank Letters Report that has identified individuals who are potentially eligible for this COLA disregard. The Division of Medical Assistance and Health Services (DMAHS) has mailed outreach letters to all such persons informing them of their potential eligibility for Medicaid (see Attachment B).

As such, the state's fiscal agent, DXC Technology, has posted two reports in the RMOD system that identify individuals who may be potentially (Lynch vs Rank Report ID KR520R01) or otherwise confirmed eligible (503 Leads Report ID KR550R01) for continued Medicaid benefits under the supervision of their local County Welfare Agency (CWA). The individuals listed on the 503 Leads Report ID KR550R01 have been added to their respective county's monthly redetermination report for December 2021 and are identified in the Worker/Supervisor field by code **PP**. Eligibility workers should process these individuals and redetermine eligibility as appropriate using available electronic resources. A Request for Information Form may be sent to the beneficiary, if necessary.

The Lynch vs Rank Report ID KR520R01, which is sorted by the individual's social security number (SSN) within each county, includes each individual's current RSDI amount, the RSDI amount received in the last month of eligibility for SSI, and the year that individual was added to this report. Therefore, to use the COLA disregard, the individual's RSDI amount (or the RSDI amount deemed from a spouse or parent) received in the last month of eligibility for SSI will remain constant from that year forward to determine Medicaid eligibility.

It should be noted that the address indicated on both reports is the address to which the RSDI check is sent. In some cases, the address will be that of the representative payee or the financial institution in which the RSDI benefit is directly deposited. The outreach letters instruct the individuals to bring the letter with them if they wish to visit the CWA but the reports can be utilized to search for this potential status as well. If an individual who is currently a resident of your county comes in to apply under these considerations without the letter and not be listed on your agency's report, please check if they are on another county's report due to a payee's address or a recent address change.

After the CWA confirms an individual's social security benefits amount using the SOLQ system or other verification system, they do not have to obtain citizenship and identity information as SSA has already verified this when the person was on their program. The COLA disregard is applicable to the Medicaid Only program. Income determinations for other NJ FamilyCare Aged, Blind, Disabled programs (i.e. New Jersey Care...Special Medicaid Programs) do not include this disregard. When evaluating an ABD couple, each person must be looked at separately. One or both persons may qualify as potentially Pickle eligible. If both persons pass the screening process, they are potentially eligible as a Pickle couple. Combine their incomes and disregard amounts when computing the needs test. If both persons pass the screening process but are ineligible after completing the needs test for a couple, recompute the needs test for each individual using only his/her income and disregard.

Example: In 2017, Mary was receiving \$706.00 in monthly SSDI benefits and \$90 in SSI benefits (the 2017 FBR was \$766.25). That same year she started receiving a private pension of \$125 per month, making her combined SSDI and private pension income more than allowed by SSI (i.e., her countable income of \$811 (i.e., \$831- \$20 general income exclusion) was now more than the 2017 SSI rate of \$766.25). Having lost SSI, Mary also lost her right to automatic Medicaid. Assume Mary's pension will remain a constant \$125 per month.

Because the Pickle Amendment allows Mary to disregard SSDI cost-of-living increases since 2017 (i.e., since she was last dually entitled to SSI and SSDI), her countable income for Pickle Amendment purposes will remain a constant \$811 in future years. This was more than the FBR of \$781.25 in 2018 and more than the FBR of \$802.25 in 2019, meaning that she remained ineligible for Medicaid under Pickle. In 2020, with the FBR now up to \$814.25, Mary's countable income of \$811 (after ignoring SSDI cost-of-living increases) is now less than the SSI rate for her state. Since Mary would now be eligible for a small SSI check (\$3.25) if the post 2017 SSDI increases are ignored, Mary is now eligible for Medicaid under Pickle.

For those persons determined ineligible for Medicaid benefits for reasons other than the Social Security COLA increase, the CWA shall evaluate these people for eligibility under any other applicable Medicaid program.

If you have any questions regarding this Medicaid Communication, please refer them to the Division's Office of Eligibility field service staff member for your agency at 609-588-2556.

JLJ:mt

c: Sarah Adelman, Acting Commissioner
Department of Human Services

Elisa Neira, Deputy Commissioner
Department of Human Services

Natasha Johnson, Assistant Commissioner
Division of Family Development

Valerie Mielke, Assistant Commissioner
Division of Mental Health and Addiction Services

Jonathan Seifried, Assistant Commissioner
Division of Developmental Disabilities

Peri Nearon, Director
Division of Disability Services

Louise Rush, Director
Division of Aging Services

Christine Norbut Beyer, Commissioner
Department of Children and Families

Judith M. Persichilli, RN, BSN, MA, Commissioner
Department of Health

Joshua Lichtblau, Director, Medicaid Fraud Division
Office of the State Comptroller

Cost of Living Adjustments (COLA)
 1977-2021

| Year | COLA | Year | COLA |
|-------------|-------------|-------------|-------------|
| 1977 | 5.9 | 1999 | 1.3 |
| 1978 | 6.5 | 2000 | 2.5 |
| 1979 | 9.9 | 2001 | 3.5 |
| 1980 | 14.3 | 2002 | 2.6 |
| 1981 | 11.2 | 2003 | 1.4 |
| 1982 | 7.4 | 2004 | 2.1 |
| 1983 | 7.0 | 2005 | 2.7 |
| 1984 | 3.5 | 2006 | 4.1 |
| 1985 | 3.5 | 2007 | 3.3 |
| 1986 | 3.1 | 2008 | 2.3 |
| 1987 | 1.3 | 2009 | 5.8 |
| 1988 | 4.2 | 2010 | 50 |
| 1989 | 4 | 2011 | 0 |
| 1990 | 4.7 | 2012 | 3.6 |
| 1991 | 5.4 | 2013 | 1.7 |
| 1992 | 3.7 | 2014 | 1.5 |
| 1993 | 3 | 2015 | 1.7 |
| 1994 | 2.6 | 2016 | 0 |
| 1995 | 2.8 | 2017 | 0.3 |
| 1996 | 2.6 | 2018 | 2.0 |
| 1997 | 2.9 | 2019 | 2.8 |
| 1998 | 2.1 | 2020 | 1.6 |
| | | 2021 | 1.3 |

Note: The 1977-83 COLAs were effective with benefits payable for July in each of those years; thereafter, COLAs have been effective with benefits payable for January.



**State of New Jersey
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**IMPORTANT MEDICAID NOTICE
KEEP THIS IMPORTANT LETTER**

IF YOU ONCE RECEIVED SSI (SUPPLEMENTAL SECURITY INCOME) BENEFITS, YOU SHOULD READ THIS IMPORTANT NOTICE ABOUT YOUR ELIGIBILITY FOR MEDICAID BENEFITS. You do not need to read this notice if you never received SSI, or if you now receive SSI or NJ FamilyCare. If you live in a nursing facility, this notice will not apply to you.

A federal law called the "Pickle Amendment", regarding possible Medicaid eligibility, applies to people who meet the following three tests: (1) they now receive Social Security benefits; and (2) they used to receive SSI benefits but do not receive them now; and (3) they received both a Social Security check and an SSI check in the same month, in at least one month since April 1977.

IF YOU MEET THESE THREE TESTS, YOU MAY BE ELIGIBLE TO RECEIVE MEDICAID BENEFITS. To find out if you are eligible, you (or someone on your behalf) should contact your County Welfare Agency. For your convenience, the location and telephone number of your County Welfare Agency is included in the listing on the reverse side. More information and the option to apply online is available at:

www.NJFamilyCare.org/abd.htm

PLEASE NOTE THAT IF YOU APPLY FOR MEDICAID UNDER THE PICKLE AMENDMENT, YOU OR YOUR REPRESENTATIVE SHOULD INFORM YOUR COUNTY WELFARE AGENCY. PLEASE SUBMIT THIS LETTER WITH YOUR APPLICATION PACKET OR NOTIFY THE COUNTY WELFARE AGENCY THAT YOU RECEIVED THIS NOTICE.

| COUNTY WELFARE AGENCIES | | COUNTY WELFARE AGENCIES continued | |
|--|--------------|---|--|
| Atlantic County Department of Family & Community Development 101 South Shore Road Northfield, NJ 08225 | 609-645-7700 | Ocean County Board of Social Services 1027 Hooper Avenue, P.O. Box 547 Toms River, NJ 08754-0574 | 732-349-1500 |
| Bergen County Board of Social Services 218 Route 17 North Rochelle Park, NJ 07662 | 201-368-4200 | Passaic County Board of Social Services 80 Hamilton Street Paterson, NJ 07505-2057 | 973-881-0100 |
| Burlington County Board of Social Services Human Services Facility 795 Woodlane Road Mount Holly, NJ 08060-3316 | 609-261-1000 | Salem County Board of Social Services 147 South Virginia Avenue Penns Grove, NJ 08069-1797 | 856-299-7200 |
| Camden County Board of Social Services Althea R. Wright Administration Building 600 Market Street Camden, NJ 08102-1255 | 856-225-8800 | Somerset County Board of Social Services 73 East High Street, P.O. Box 936 Somerville, NJ 08876-0936 | 908-526-8800 |
| Cape May County Board of Social Services Social Service Building 4005 Route 9 South Rio Grande, NJ 08242-1911 | 609-886-6200 | Sussex County Division of Social Services 83 Spring Street, Ste 203, P.O. Box 218 Newton, NJ 07860-0218 | 973-383-3600 |
| Cumberland County Board of Social Services 275 North Delsea Drive Vineland, NJ 08360-3607 | 856-691-4600 | Union County Division of Social Services 342 Westminster Avenue Elizabeth, NJ 07208-3290 | 908-965-2700 |
| Essex County Department of Citizen Services Division of Welfare 321 University Avenue, 2 nd Floor Newark, NJ 07102 | 973-733-3000 | Warren County Division of Temporary Assistance and Social Services 1 Shotwell Drive Belvidere, NJ 07823 | 908-475-6301 |
| Gloucester County Division of Social Services 400 Hollydell Drive Sewell, NJ 08080-9318 | 856-582-9200 | MEDICAL ASSISTANCE CUSTOMER CENTERS | |
| Hudson County Department of Family Services Division of Welfare 257 Cornelison Avenue Jersey City, NJ 07302 | 201-420-3000 | Atlantic Burlington Camden Cape May Cumberland Gloucester Mercer Salem | One Port Center 2 Riverside Drive, Suite 300 Camden, NJ 08103-1018 Phone 856-614-2870 Fax 856-614-2575 |
| Hunterdon County Department of Human Services Division of Social Services 6 Gauntt Place, P.O. Box 2900 Flemington, NJ 08822-2900 | 908-788-1300 | Essex Hudson | 153 Halsey Street 4 th Floor Newark, NJ 07102-2828 Phone 973-648-3700 Fax 973-642-6468 |
| Mercer County Board of Social Services 200 Woolverton Street, P.O. Box 1450 Trenton, NJ 08650-2099 | 609-989-4320 | Hunterdon Middlesex Monmouth Ocean Somerset Union | 100 Daniels Way 1 st Floor Freehold, NJ 07728-2668 Phone 732-863-4400 Fax 732-863-4450 |
| Morris County Office of Temporary Assistance 340 W. Hanover, P.O. Box 900 Morristown, NJ 07963-0900 | 973-326-7800 | Bergen Morris Passaic Sussex Warren | 100 Hamilton Plaza 5 th Floor Paterson, NJ 07505-2109 Phone 973-977-4077 Fax 973-684-8182 |