

**STATE OF VERMONT
AGENCY OF HUMAN SERVICES**

DCF

Department for Children and Families

BULLETIN NO.: 04-11F

FROM: Betsy Forrest, Deputy Commissioner
Economic Services Division

DATE: November 12, 2004

SUBJECT: Savings Bond Changes to SSI-Related Medicaid
Mandated by Act 122 (2004)

CHANGES ADOPTED EFFECTIVE 12/01/04

INSTRUCTIONS

X **Maintain Manual - See instructions below.**

 **Proposed Regulation - Retain bulletin
and attachments until you receive
Manual Maintenance Bulletin: _____**

 **Information or Instructions - Retain
until _____**

MANUAL REFERENCE(S):

M232.98

M233.24

To help sustain Vermont's public health care assistance programs, section 131 of Act 122 (the budget act of 2005) mandates a rule change for SSI-related Medicaid coverage for the aged, blind and disabled, which is administered by the department. The rule change concerns the department's treatment of savings bonds in its determination of financial eligibility for this group. This bulletin contains these changes.

Background

Last year, the budget act of 2004 required several measures to reduce Vermont Medicaid program expenditures. One provision required that the department amend its SSI-related Medicaid resource rules to provide that United States Savings Bonds are considered as an available resource for Medicaid eligibility purposes beginning on the date of purchase. (Act 66, §147(k)). The department promulgated this rule with a December 1, 2003 effective date but suspended implementation when it learned that clarifying guidance on the treatment of savings bonds would be forthcoming from its federal partner, the Centers for Medicare and Medicaid Services (CMS). This year, section 131 of Act 122 amended this provision to enable the department to follow federal guidance it received from CMS.

The guidance from CMS approved valuation of United States savings bonds as a resource beginning on the date of purchase unless individuals have requested and been denied a hardship waiver from the United States Department of the Treasury, Bureau of Public Debt.

Rulemaking Process

1. The Vermont legislature authorized the Department of Prevention, Assistance, Transition, and Health Access (PATH) (now the Department for Children and Families (DCF)) to adopt these rules using an expedited rulemaking process to ensure immediate implementation. These rules were effective June 15, 2004.
2. The expedited rule remains in effect until amended by a subsequent rule adopted pursuant to the Vermont Administrative Procedures Act (3 V.S.A. chapter 25)(APA).
3. The proposed rule was filed with the Medical Care Advisory Committee (MCAC)¹ on June 15, 2004 and presented at the meeting held on July 7, 2004.
4. The proposed rule was filed with the Interagency Committee on Administrative Rules on July 23, 2004 and presented at the meeting held on August 9, 2004. It was unanimously approved for filing.
5. The proposed rule was filed with the Secretary of State's Office on August 11, 2004. The Office published public notice of the rule on August 26, 2004 and September 2, 2004, as required.
6. The final proposed rule was filed on September 30, 2004, with the Secretary of State's Office and the Legislative Committee on Administrative Rules (LCAR).
7. LCAR unanimously approved the rule on October 7, 2004.

Summary of Public Hearing and Written Comments

A public hearing was held on September 13, 2004 at 1:00 p.m., in the Planning, Policy and Regulation Unit's Blue Room, DCF, State Office Complex, Waterbury, Vermont. No one attended.

One advocacy organization, Vermont Legal Aid's Senior Citizens Law submitted written comments on behalf of itself and the Coalition of Vermont Elders (COVE).

The department responds to these comments in the following section.

¹ Section 130a(b) of Act 122 added review by the Medical Care Advisory Committee (MCAC) as a new first step for health care related rules. This provision will be codified at 33 V.S.A. §1901c. Formal rulemaking under chapter 25 of Title 3 follows this step, with the department filing the proposed rule with the Interagency Committee on Administrative Rules (ICAR).

Specific Comments and Responses to Change in Treatment of Savings Bonds

Comment: The rule does not employ the methodology of the SSI program in determining eligibility for Medicaid, as required. Pursuant to the POMS (Program Operational Manual System), the Social Security Administration does not count U.S. savings bonds as resources during the minimum retention period.

Response: The CMS guidance amply supports Vermont conditioning an individual's SSI-related Medicaid eligibility on requesting a hardship waiver of the U.S. savings bond mandatory retention period to enable that individual to have access to an available resource. This furthers the federal statutory objective of maximizing the available resources that can reduce Medicaid's responsibility to pay for services when other resources are available to do so.

Comment: Act 122 requires the savings bonds rule to be amended based upon guidance received from CMS. The proposed rule conflicts with the CMS guidance because it counts the savings bond as a resource during the minimum retention period, while the request for hardship waiver is still pending. The CMS letter clearly implies that an individual may receive Medicaid during the time period after a waiver has been requested but before it has been acted upon. We suggest that the proposed rules be amended to allow Medicaid eligibility to go into effect once a request for a waiver of the minimum retention period has been filed.

Response: It is consistent with the guidance from CMS to require applicants who seek exclusion of savings bonds to submit a timely request for a hardship waiver and to wait until the decision on the hardship waiver is made before completing the eligibility determination.

The proposed rule does not count the savings bond as a resource while the hardship waiver request is still pending. If all other eligibility criteria are met and the decision on the hardship waiver remains outstanding, the department will wait until the hardship waiver has been decided so it has sufficient information to determine eligibility.

If the hardship waiver is denied, the department will grant Medicaid eligibility back to the date of application, provided all other eligibility criteria are met. If the hardship waiver is granted, the bonds revenue can be applied to the cost of care and the department will preserve Medicaid funds for its neediest individuals.

Comment: The regulations should provide information to applicants about how to request a waiver of the minimum retention period.

Response: The department will offer applicants support with the process of requesting a waiver. The department has prepared a form letter to assist applicants who need to request a hardship exemption from the U.S. Treasury. Use of this letter is optional; applicants are free to file the request in their own way too. The manner in which an applicant requests a waiver need not be further prescribed by the regulations.

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Vertical lines in the left margin indicate significant changes.

Manual Holders: Please maintain manuals assigned to you as follows.

Manual Maintenance

<u>Remove</u>		<u>Medicaid Rules</u>		<u>Insert</u>
M232.98		04-10	M232.98	04-11
M233.24		04-10	M233.24	04-11

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M232.98

M232 Excluded Resources (Continued)M232.98 Stocks, Bonds, Mutual Funds, and Money Market Funds

(a) Definition

Legal instruments authenticating an investment, such as stocks, bonds, mutual funds, and money market funds pay interest at specified intervals, sometimes pay dividends, and are convertible into cash either on demand or at maturity.

(b) Exclusion

Savings bonds are excluded during their minimum retention period if individuals have requested a hardship waiver based on financial need due to medical expenses and received a denial from the United States Department of the Treasury, Bureau of Public Debt, Accrual Services Division in Parkersburg, P.O. Box 1328, Parkersburg, West Virginia 26106-1328.

Upon verification of a denial of a hardship waiver, as described above, the department considers United States savings bonds owned by one or more individuals an available resource following the expiration of the minimum retention period. Once the minimum retention period expires, the denial of a hardship waiver is not a basis for exclusion of new bond purchases with the proceeds.

Savings bonds purchased before June 15, 2004 that have their minimum retention period expire after that date, continue to be an excluded resource if they are not redeemed, exchanged, surrendered, reissued or otherwise become available.

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M233 Value of Resources Counted Toward the Medicaid Resource Limit (Continued)M233.24 United States Savings Bonds

Savings bonds are counted as a resource beginning on the date of purchase unless:

- (a) individuals have requested and been denied a hardship waiver pursuant to the provisions of Rule M232.98; or
- (b) individuals owned savings bonds that were in their minimum retention period on June 15, 2004 and the bonds have not been redeemed, exchanged, surrendered, reissued or otherwise become available.

To establish the value of the bonds, the department uses the Savings Bond Calculator or the Comprehensive Savings Bond Value Table on the U.S. Bureau of Public Debt's Internet web site at: www.publicdebt.treas.gov/sav/savcalc.htm. Alternatively, the department obtains the value by telephone from a local bank. The following general rules apply to valuation.

- (a) Series E and EE bonds are valued at their purchase price.
- (b) Series I bonds are valued at their face value.
- (c) Series HH bonds are valued at face value.