

Despite clear directives from the Health Care Financing Agency, it appears that some states are illegally terminating Medicaid benefits for children who lose SSI.

Here are the rules:

- ***Ex parte redetermination.*** When a child loses SSI (or other cash assistance, such as TANF) for any reason, the state may not terminate Medicaid until it has made its own redetermination of whether the child is eligible for Medicaid under any alternative category (such as a child under the poverty level). The state may request additional information from the individual, but may not combine a request for information with a termination notice. The state also may not say that the child must reapply to retain Medicaid. Notices that say that Medicaid benefits terminate automatically because the state has been told that SSI has stopped are illegal.

- ***Continuing Medicaid benefits during SSA appeal process.*** If SSI has been lost because the child no longer meets the definition of disability, the state may not terminate benefits for sixty days --the time the child has to appeal the SSI termination. If the child appeals, Medicaid must continue throughout the appeal process, through the SSA Appeals Council.

- ***Special rules for children who were receiving SSI on August 22, 1996.*** Under the Balanced Budget Act, no child who was receiving SSI on August 22, 1996 should lose Medicaid solely because they have lost SSI under the new disability standards imposed by Congress under the welfare law. This is because these children remain eligible for Medicaid under the old SSI disability standard.

The rules on redetermination and continuing Medicaid benefits are clearly set out in the regulations at 42 C.F.R. §§ 435.916 (c) and 435.930 (b), in the HCFA State Medicaid Manual §§ 3207 (c) and 3272.2, and in two directives from the HCFA Medicaid Director to state Medicaid Directors dated February 6 and April 22, 1997. Copies are available from NSCLC or from the HCFA web site: <http://www.hcfa.gov/medicaid> .