

ARKANSAS REGISTER

Transmittal Sheet



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For Office
Use Only:

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Name of Agency _____ Arkansas Department of Human Services _____

Department _____ Division of County Operations _____

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Statutory Authority for Promulgating Rules _____ AR Code Annotated 20-76-201 et Seq., AR Code Annotated 20-15-201 et Seq.; and the Tax Equity and Fiscal Responsibility Act of 1982. _____

Medical Services Policy MS 27000 - 27075, TEFRA Waiver/Home Care for Children; Appendix P, TEFRA Premium Schedule

Date

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January 1, 2003 _____ Adopted by State Agency _____ January 1, 2003 _____

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Signature

Director, Division of County Operations

Title

Date

27000 **TEFRA Waiver/Home Care for Children** **01-01-03**

TEFRA Waiver is a Section 1115(a) demonstration waiver that replaces the previous TEFRA eligibility category. This new category imposes cost sharing requirements on children age 18 and under who are otherwise eligible for Medicaid under Section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).

TEFRA, as amended by OBRA of 1987, provides for coverage of certain disabled children in the home if they would qualify for Medicaid as residents of a Title XIX Institution, such as a nursing home or ICF/MR Facility.

TEFRA Waiver is a Medicaid category that enables children to have care in their homes rather than in an institution. Children who live in institutions or receive extended care in institutions are not eligible in the TEFRA category. Recipients of TEFRA Waiver will receive the full range of Medicaid benefits and services. There will be no cap on the number of children covered by the program.

Cost sharing measures will be based on the total gross income of the custodial parent(s) as reflected on the most recently filed IRS Federal Tax Return.

Families of children eligible for TEFRA Waiver who are covered by insurance should not drop their existing coverage as it will cause the child to be ineligible for TEFRA Waiver benefits for a period of six (6) months from the date the insurance is dropped.

27005 **Eligibility Requirements** **01-01-03**

The following eligibility requirements must be met for a child to be eligible for TEFRA Waiver:

- 1) Age: The child must be 18 years of age or younger. Eligibility will end on the child's 19th birthday.
- 2) Disability: The child must be disabled according to the SSI definition of disability. If disability has not been established by SSA, it must be determined by MRT (MS 3322).
- 3) Citizenship or Alien Status: The child must be a U.S. citizen or a qualified alien (MS 3310 #3 and MS 3324).
- 4) Residency: The child must be an Arkansas resident (MS 2200).
- 5) Social Security Enumeration: The child must meet the Social Security Enumeration requirements shown at MS 1390.

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- 6) Income: The child's gross countable income must be less than the current Long Term Care (LTC) income limit. (Re: SSI Chart at Appendix S). In-Kind Support and Maintenance is not considered income in TEFRA cases. SSI exclusions are not allowed. Parental income is not considered in the eligibility determination, but is considered for the purpose of calculating the monthly premium (Re: MS 27010).
 - 7) Resources: The child's countable resources cannot exceed \$2,000.00. The parents' resources are not considered. No period of ineligibility will be imposed for transfers made without compensation.
 - 8) Medical Necessity: The child must either meet the medical necessity requirement for institutional placement in an acute care facility, a skilled nursing facility, an ICF/MR facility or Alternative Home placement, or be at risk for future institutional placement. The determination of medical necessity will also be based on services that improve, maintain or prevent regression of the child's health status and will be based on the child's medical, health and family situation.
 - 9) Appropriateness of Care: Medical services must be available to provide care to the child in the home, and it must be appropriate to provide such care outside an institution.
 - 10) Cost Effectiveness: The estimated cost of care for the child in the home cannot exceed the estimated cost of care for the child in an institution.
 - 11) Child Support Enforcement Referral: A TEFRA child is eligible for free services through OCSE. If the child's custodial parent receives Medicaid in a category other than Pregnant Women or Family Planning, cooperation with OCSE is mandatory. If the custodial parent does not receive Medicaid, referral to and cooperation with OCSE is strictly voluntary.
 - 12) Payment of Premiums: TEFRA Waiver households with annual income over \$25,000 will be required to pay monthly premiums. (Re. MS 27020).
 - 13) Dropped Health Insurance Coverage: A child can receive TEFRA Waiver services and retain health insurance coverage. For applicants, if primary comprehensive health insurance is voluntarily dropped for the Waiver child in the six months prior to application, the child will be ineligible for TEFRA benefits for a period of six (6) months from the date the insurance is dropped. Primary comprehensive health insurance is insurance that covers both physician and hospital charges. For recipients, if it is found at the yearly reevaluation that health insurance coverage was voluntarily dropped after the case was approved, the case will be closed for six (6) months beginning with the month following the month of discovery.

The six-month period of ineligibility will apply unless one of the following conditions is met:

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- ◆ The health insurance is a non-group or non-employer sponsored plan.
 - ◆ The health insurance was lost through termination of employment for any reason, including voluntarily quitting.
 - ◆ The health insurance was lost through no fault of the custodial parent(s), guardian or custodian. For example, the employer ceases to provide employer sponsored health insurance, the insurance was carried by the non-custodial parent, and the non-custodial parent dropped it, the maximum benefit limit for the child has been reached, etc.

27010 Determining Monthly Premiums

01-01-03

All waiver recipients with annual gross family income over \$25,000 will pay a monthly premium. The amount of the premium will be determined based on the custodial parent(s) total income as reported on the applicable Federal Income Tax Return (e.g., line 22 of the 2001 version of form 1040 or line 15 of the 1040A) less the following deductions:

- ◆ Six hundred dollars (\$600) per child, biological or adopted, including the waiver child, who lives in the home of the waiver child and is listed as a dependent child on the applicable Federal Income Tax Return of the parents.
- ◆ Excess medical and dental expenses as itemized on Schedule A of the Federal Income Tax Return of the parents. (e.g., line 4 on the 2001 version of Schedule A).

Example: Family consists of 5 people - mom, dad, waiver child and 2 minor siblings, living in the home. Total Income on last year's Federal Income Tax Return showed \$65,417.48. Excess medical and dental on Schedule A showed \$9,463.25. All children in the home were included on the return. The budget is:

\$65,417.48
- 1,800.00 (\$600 X 3)
<u>- 9,463.25</u>
\$54,154.23

If the custodial parent alleges that household income has decreased significantly since filing the Federal Income Tax Return, additional verification can be submitted to determine current income.

Note: A stepparent living in the home will be considered a custodial parent and his or her income will be included when determining the premium amount.

If eligibility ends during the quarter, any premiums already paid for months after the month of closure will be reimbursed. Whether paying by monthly bank drafts or through quarterly payments, if eligibility ends in the middle of the month in which payment has been made, the premium will be prorated and the family will be reimbursed for the partial month.

Failure to provide the Payment Selection Form or make the two month initial payment will cause the child to be ineligible, and the case will be closed after proper advance notice. For ongoing cases, if the premium is not paid for three months, advance notice will be sent and the case will be closed. The TEFRA Premium Unit will notify the county office if the Payment Selection Form is not received.

Monthly aged reports will be sent to each county showing the cases with overdue premiums and the number of payments in arrears. The caseworker will send a 10-day advance notice to each case showing three months of non-payment, advising that the case will be closed if payment is not made. At the end of the notice period, if payment of the premiums has not been made, the case will be closed.

27025 Application Process

01-01-03

Applications will be available at local DHS offices or by mail, through hospitals, including Arkansas Children's Hospital, and Federally Qualified Health Centers. Information will be available through First Connections, Division of Developmental Disabilities (DDS) Services Coordinators and providers. Information will also be available on the DHS/DMS website.

Applications will be made by the adult responsible for the care of the child and will be processed in the child's county of residence.

TEFRA Waiver applicants should be screened for ARKids A eligibility and if found eligible, approved in the ARKids A category. ARKids A provides the full range of Medicaid benefits and services, has no co-payments, and can generally be approved much more quickly than TEFRA as no disability or medical necessity determination is required. If the family income is under the income limit for ARKids B, the ARKids B coverage package including co-pays should also be explained so that parents can make an informed choice between ARKids A, ARKids B and TEFRA.

In addition to the application form DCO-777 or DCO-215, sections I and II of the DMS-2602 must be completed. When the parent or guardian's signature has been obtained at the bottom of Page 1 of the DMS-2602, the Physician's Assessment Form will be given to the individual to be completed by the child's physician. If disability is to be established by MRT, forms DCO-106, DCO-107, DCO-108 and DCO-81(s), if needed, will also be completed. The TEFRA Waiver Brochure, PUB-405, should also be given to the applicant explaining the medical determination process and the premium process.

27028 Re-application When Case Closed Due to Non-Payment of Premiums

01-01-03

When the TEFRA case is closed due to non-payment of premiums, a new application must be made before eligibility can resume. Eligibility will be redetermined at the time the new application is made.

If the case has been closed less than 12 months because of failure to pay premiums, the past due premiums must be paid in full before the child can be re-approved for TEFRA Waiver services.

If a case is closed 12 months or more due to failure to pay premiums, payment of the past due premiums will not be required to reopen the case.

27030 Eligibility Determination

01-01-03

With the exception of the Appropriateness of Care and Cost Effectiveness requirements, eligibility will be determined by the caseworker in the same manner as AD Long Term Care cases.

A child who would not be eligible or potentially eligible for Medicaid in an institution cannot be considered for TEFRA. If the child's countable income is less than the current LTC income limit and the child's countable resources are less than \$2,000.00, he/she will meet the TEFRA income and resource requirements. Parental income and resources will be disregarded when determining eligibility. However, parental income will be considered when calculating the monthly premium amount.

27035 Alternating TEFRA and SSI Eligibility

01-01-03

Some children who receive SSI may intermittently lose their SSI due to fluctuating parental income and may be eligible for TEFRA in the non-SSI months. In these instances, the caseworker must redetermine TEFRA eligibility for each month in which the child is not SSI eligible. Children with alternating TEFRA and SSI eligibility will not be assessed a premium for the TEFRA months.

If fluctuating parental income causes a child's SSI eligibility status to change from month to month, and less than 10 months have passed since the last full TEFRA Waiver certification or reevaluation, only a new DCO-777 or DCO-215 and a redetermination of income and resource eligibility are required to reopen the TEFRA Waiver case. Redetermination of other eligibility factors will not be required.

27040 SSA Disability Determinations

01-01-03

To qualify for TEFRA, a child must be considered disabled according to the SSI regulations that govern children's disabilities. If a child received SSI within one year

prior to making TEFRA Waiver application, but was terminated for reasons other than lack of disability, (e.g. parental income or resources), documentation will be obtained for the case record. The child will be considered disabled based on the previous SSA disability determination.

27045 **MRT Disability Determination** **01-01-03**

A disability decision made by SSA on a specific disability is controlling for that disability, until the decision is changed by SSA. Therefore, the DCO-106 Disability Worksheet will be completed to determine if MRT will make a disability determination for a child who has not received SSI within the year prior to making TEFRA application.

The disability guidelines at MS 3322 will be followed. If MRT is to make a disability determination, the caseworker will forward the required forms to MRT.

27050 **Reexamination by MRT** **01-01-03**

A MRT disability redetermination may or may not be necessary at the time the TEFRA case is reevaluated. A reexamination by MRT is necessary when indicated on the DCO-109, or one year after the initial certification for TEFRA, when the certification was made based on a previous SSI determination of disability and there has been no SSI payment or subsequent redetermination by SSA.

Example: A child received SSI for 6 months in 2001, then lost SSI due to increased parental income. The parent applies for TEFRA in September 2001, and the case is certified in November 2001 based on the previous SSI disability determination. The child has not received SSI benefits since certified. At the annual reevaluation in 2002, a MRT and disability determination is required.

A review by MRT is also necessary if the caseworker becomes aware of significant improvement and/or employment at or near the SGA level (Re. MS 3323.2).

27055 **Determining Appropriateness of Care and Cost Effectiveness** **01-01-03**

When the completed DMS-2602 is returned to the county office by the child's physician, the DMS-2602 and DMS-2603 and any medical records that have been submitted will be sent to DMS, Attention: TEFRA Committee, Slot S-412, P.O. Box 1437, Little Rock, AR 72203. The county office will maintain copies of all records mailed. The TEFRA Committee is coordinated by the Medical Director for the Division of Medical Services.

DMS and the TEFRA Committee will determine if the applicant meets the Cost Effectiveness and Appropriateness of Care criteria. If these are met, and if the referral is otherwise appropriate, DMS will complete Parts IV and V of the DMS-2602 and Parts III and V of the DMS-2603. DMS and the TEFRA Committee will determine Medical

27070 Reevaluation

01-01-03

TEFRA Waiver cases will be reevaluated every 12 months. To insure that reevaluations are completed by the end of the twelfth month, the reevaluation process should be started in the 10th month from the date of the last approval or reevaluation.

If the child's SSI eligibility has fluctuated due to changing parental income since the last certification or reevaluation, Medical Necessity, Cost Effectiveness and Appropriateness of Care will not be determined until the case is in, or nearing, the 10th month since completion of the last TEFRA reevaluation or certification.

At reevaluation, all eligibility factors, including appropriateness of care and cost effectiveness, will be redetermined. Disability will be redetermined as specified at MS 27050. All forms completed for the initial application, including the DMS-2602 and DMS-2603, must be completed at reevaluation. In addition, the premium amount will be redetermined at reevaluation. If the premium changes, the parent will be notified of the new amount by the TEFRA Premium Unit.

27075 Changes/Closure

12-01-02

When a change occurs that affects eligibility, the caseworker will notify DMS and the TEFRA Committee advising when the closure will be made. A 10-day advance notice will be given on the DCO-700, unless advance notice is not required (Re. MS 3633) and a copy of the DCO-700 or a memorandum will be sent to DMS.

APPENDIX P

TEFRA Premium Schedule

Family Income		Monthly Premiums		
From	To	%	From	To
\$0	\$25,000	0.0%	\$0	\$0
\$25,001	\$50,000	1.00%	\$21	\$42
\$50,001	\$75,000	1.25%	\$52	\$78
\$75,001	\$100,000	1.50%	\$94	\$125
\$100,001	\$125,000	1.75%	\$146	\$182
\$125,001	\$150,000	2.00%	\$208	\$250
\$150,001	\$175,000	2.25%	\$281	\$328
\$175,001	\$200,000	2.50%	\$365	\$417
\$200,001	???	2.75%	\$458	\$458

The maximum premium is \$5,500 per year (\$458 per month) for income levels of \$200,001 and above.

The premiums listed above represent family responsibility. The premiums will not increase if a family has more than one TEFRA Waiver child.

