

**State of Rhode Island and Providence Plantations**  
**Executive Office of Health & Human Services**



**Section 1373:**  
**The Sherlock Plan**  
**Medicaid for Working People**  
**with Disabilities Program**

**December 2013**

**May 2014 (T)**

**Rhode Island Executive Office of Health and Human Services**  
**Rules and Regulations Section 1373:**  
**The Sherlock Plan – Medicaid for Working People with Disabilities Program**

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## ***Introduction***

These rules, **Section 1373 of the Medicaid Code of Administrative Rules entitled, “The Sherlock Plan – Medicaid for Working People with Disabilities Program”** are promulgated pursuant to the authority set forth in Rhode Island General Laws Chapter 40-8 (Medical Assistance), including Public Law 13-144; Chapter 40-8.7 (Health Care Assistance for Working People with Disabilities); Title XIX of the Social Security Act; Patient Protection and Affordable Care Act (ACA) of 2010 (U.S. Public Law 111-148); Health Care and Education Reconciliation Act of 2010 (U.S. Public Law 111-15); Rhode Island Executive Order 11-09; and the Code of Federal Regulations 42 CFR Parts 431, 435, 436 *et seq.*

Pursuant to the provisions of §42-35-3(a)(3) and §42-35.1-4 of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified and these regulations are promulgated in the best interest of the health, safety, and welfare of the public.

These rules shall supersede all previous regulations related to the Sherlock Plan and the Medicaid for Working People with Disabilities Program promulgated by the Executive Office of Health and Human Services and filed with the Rhode Island Secretary of State.

## **1373. The Sherlock Plan – Medicaid for Working People with Disabilities Program**

### **1373.01 Overview**

#### **Program Description**

The Sherlock Plan – Medicaid for Working People with Disabilities Program is an SSI-related categorical eligibility group comprised of working adults with disabilities pursuant to the Balanced Budget Act of 1997 (42 USC section 1396a(a)(10)(ii)(XIII)). People eligible under this category are entitled to the full scope of Medicaid benefits, home and community-based services, and services needed to facilitate and/or maintain employment. Participants may be required to pay a premium in order to remain active on the program.

### **1373.02 Program Eligibility**

To be found eligible for the program of Working People with Disabilities, a person must:

- Be at least eighteen (18) years of age; and
- Currently meet the Medicaid requirements for eligibility based on a disability. Individuals meeting this disability requirement are not required to meet the provision that a person be unable to engage in substantial, gainful employment; and
- Have proof of active, paid employment such as a pay stub or current quarterly U.S. Internal Revenue Service (IRS) tax statement (for those who are self-employed).
- Have countable earned net income no greater than 250% of the FPL. Countable income is defined as the total earned income remaining after all SSI-related disregards are applied; and
- Have countable assets no greater than \$10,000 (individual) or \$20,000 (couple). Medical savings accounts or retirement accounts are not counted as a resource; approved items that are necessary for an individual to remain employed are also not counted as a resource (i.e., wheelchair accessible van).

### **1373.03 Income Limits**

Financial eligibility is defined as countable net income equal to or less than two hundred fifty percent (250%) of the Federal Poverty Level (FPL). Countable income for purposes of establishing program eligibility excludes any unearned income and is defined as the total earned income remaining after all SSI-related disregards are applied.

The SSI-related disregards listed in EOHHS Code of Administrative Rules, Section 0364 are applied, including a \$20 per month General Income Exclusion, and including impairment related work

expenses as defined in the Code of Federal Regulations, 20 CFR, Section 416.976. Participants in this program will be defined as a family size of one (1) for financial eligibility purposes. Therefore, only the income of the individual seeking to participate in the Program will be reviewed and counted in income calculations.

#### **1373.04 Resources Limits**

The following resource limits apply to applicants for and participants in the Working People with Disabilities Program:

| <i>Resource Limits</i> |          |
|------------------------|----------|
| Individual             | \$10,000 |
| Couple                 | \$20,000 |
|                        |          |

When calculating available resource amounts for a married couple, the resources of both the individual accepted into the program and his/her spouse must be determined available and applied to the resource limit of \$20,000.

The following resources are not countable for this program:

1. IRS recognized medical savings accounts or retirement accounts.
2. Items necessary for an individual to remain employed and/or independent (such as a specially adapted vehicle).

#### **1373.05 Retroactive Coverage**

As an SSI-related coverage group, participants in the Working People with Disabilities Program are eligible for retroactive coverage. Eligibility for retroactive coverage will be determined in accordance with the rules established in EOHHS MCAR 0310 with the following special requirement that is unique to this coverage group:

- Premiums must be paid in full before retroactive eligibility can be instituted.

Participants may deduct premium amounts from the total amount of any unpaid medical bills in the retroactive eligibility period.

#### **1373.06 Access to Employer-Based Health Insurance**

Participants in the Program who have access to employer-based health insurance are required to enroll in the plan as a condition of participation in the Medicaid buy-in program, provided that enrollment in the employer-based health insurance plan is cost-effective and its benefits are comparable to the benefits provided by the Medicaid program. If coverage meets Medicaid

requirements, Medicaid will pay the employee's share of the monthly premium. Enrollment of the individual in the employer-based health insurance plan is without regard to any enrollment season restrictions.

### **1373.07 Premium Rate Setting**

**REV: May 2014**

#### **Premium Calculation**

01. Once a person has been found eligible to participate in the Program as a working person with a disability, a premium is calculated using the buy-in payment rates in EOHHS Medicaid Rules, Section 1312.08<sup>1</sup> pertaining to the RItE Share Premium Assistance Program. For the purposes of premium calculation, the individual's and spouse's earned income will be counted. The total earned income will be income remaining after all SSI-related disregards are applied.
02. The balance of the countable earned income, together with any unearned income, will be assigned premiums in amounts specified in EOHHS Medicaid Rules, Section 1312.08.

### **1373.08 Premium Collection Methods**

01. **Electronic Funds Transfer (EFT)**  
The participant requests that his/her bank allow the State to withdraw the monthly premium directly from the family's savings or checking account by an electronic transfer to Medicaid. The participant is given an EFT form to complete. The funds will be withdrawn by the State on the third (3rd) day of the month prior to the month of coverage. The person will be notified by letter if the EFT premium payment was not successful.
02. **Wage withholding**  
The participant may request that their employer withhold the monthly premium. The employer will then pay the monthly premium to Medicaid through an EFT. The participant is given a special form requesting wage withholding and deposit or transfer to take to his/her employer to be completed and mailed.
03. **Direct Pay**  
The participant pays the premium to Medicaid by check or money order every month. A premium payment coupon and pre-addressed envelope will be provided to the family before the premium is due. The check or money order and the premium payment coupon are mailed or delivered to the Medicaid fiscal agent.

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<sup>1</sup> Note that Section 1312 supersedes section 0348 of the Medicaid Code of Administrative Rules.

### **1373.09 Non-Payment of Premiums**

Non-payment of premiums is treated in the same manner as for RItE Share participants as detailed in the EOHHS MCAR section 1312.22.

### **1373.10 Loss of Employment or Eligibility**

A participant in the Program who loses employment may retain eligibility, under this group, for up to four (4) months by continuing to pay the previously determined premium. If the person is still unemployed at the end of the four (4) month period, he/she will no longer qualify to participate in the Program as a working adult with a disability.

A person no longer eligible to participate in the Program may retain approved medical savings accounts and retirement account assets in the amount held on the last full day of eligibility. These medical savings account and/or retirement account assets will be considered non-countable assets for purposes of Medicaid eligibility under any other coverage group. The individual is responsible for providing verification of these account balances as of the last date of eligibility as a working adult with a disability if it is to be disregarded for other forms of Medicaid coverage.

### **1373.11 Available Services**

Services include the full scope of Categorical Medical Assistance benefits, Home and Community Based services, including personal care services provided through an agency or through a self-directed program, and services needed to facilitate and/or maintain employment. The applicant/beneficiaries services are coordinated through the Medicaid Office and the Office of Rehabilitation Services (ORS). Long-term care services and supports are listed in EOHHS Code of Rules, Section 0399.

Services to maintain and support employment shall be determined and approved through an assessment of need utilizing a state approved assessment instrument. Authorized personal care services may be provided in the home, workplace or other necessary setting (i.e., physician office).

### **1373.12 Severability**

If any provisions of these regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect, and to this end the provisions of these regulations are declared to be severable.