

Getting Medical Assistance for a Child with a Disability, Behavioral or Autism Spectrum Disorder under the PH-95 Category



Why Medical Assistance?

Medical Assistance (also known as Medicaid) has the broadest coverage of medical and mental/behavioral health services for kids under 18 of any insurance plan. It covers services rarely covered by employer-based insurance such as Behavioral Health Rehabilitation Services (“Wraparound”), in-home shift nursing or personal care services, diapers, nutritional supplements, prescriptions, and transportation to and from medical appointments. It also covers services like in-home nursing or personal care, physical, speech or occupational therapy without annual or lifetime caps often imposed by other insurance plans. Medical Assistance can be a child’s only insurance or it can be secondary to other coverage, covering those services or equipment not covered by the child’s primary insurance.

Will my child qualify?

There is a common misconception that all children with a disability or all children with an IEP (Individual Education Plan) or all children with a particular diagnosis qualify for Medical Assistance. That is not the case. The rules are just not that simple. However, many children with severe disabilities will qualify for Medical Assistance, regardless of their parent’s income. Here are some basic rules:

- A child can qualify for Medical Assistance even if she or he has other health insurance (although the other insurance usually needs to be billed first)

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- The assets of the parent(s), guardians and the child (money in the bank, stocks bonds etc.) DO NOT count in determining eligibility for Medical Assistance.
- The income of caregivers and guardians other than the parents DO NOT count.
- The income of the parent(s) DO NOT count if the child's condition meets certain disability standards.

This guide explains the rules that apply to children with physical disabilities or behavioral disorders. Note: This guide does not deal with the eligibility for Medical Assistance of children who are in foster care or otherwise in custody of a county children and youth agency.

Eligibility requirements for PH-95 Medical Assistance

- **Age:** Under 18.
- **Disability:** Child must meet the Social Security disability guidelines (see below).
- **Resources (assets):** Not considered (neither the parent's nor the child's).
- **Income:** Income of the parents or other caregivers is NOT counted. However, income which is legally considered to be the child's IS counted, with some exceptions noted below. The maximum amount of countable income a child with severe disabilities can have and still get Medical Assistance under PH-95 is \$1,041 per month in 2019 (it goes up some each year). However, not all income is counted, and significant deductions are taken. **Note:** even though parental/caregiver income does not count in the eligibility determination for PH-95, the County Assistance Office will still require the parents to submit proof of their income.

What income is counted:

- ❖ **Interest or dividends** on bank accounts, stocks, bonds, CDs or other investments which are in the child's name (reported to the IRS under the child's Social Security number). The principal (the amount on which the interest or dividend is paid) is not counted (it is considered a resource which is exempt).
- ❖ **Earnings from child's job:** If the child is working, a portion of those earnings are counted. However, a child that earns enough to be over the income limit would probably not qualify for Medical Assistance under this category anyway because they probably would not meet the disability guidelines. If the child is employed, call us for more information at 1-800-274-3258.

What income is not counted:

- ❖ **Social Security:** “Child’s benefits” or “survivors benefits” (not SSI) which are based on the past earnings of a deceased, disabled or retired parent will not be counted. See DPW Medical Assistance Eligibility Handbook §315.4 .
- ❖ **Court ordered child support:** Medical Assistance used to count child support payments on the grounds that child support was legally income to the child, not the parent (and only parental income is disregarded under the loophole). However, effective September 1, 2000, Medical Assistance no longer counts child support for children who meet the disability standards provided the support is court ordered (it remains counted for non-disabled children). This change is documented in Operations Memorandum 000-806 revised 09-01-00 issued 8-31-2000 effective 9-1-00.
- ❖ **Inheritances & payouts on life insurance policies:** These can be counted as resources, rather than income. Medical Assistance Eligibility Handbook §319.62 The advantage to children in having this money considered as a resource is that there is no resource limit for anyone under 21. Therefore inheritances & payouts on life insurance policies should not affect Medical Assistance eligibility for anyone under 21.
- ❖ **“Special Needs” Trusts:** Certain trusts, known as “special needs trusts” are not counted. The rules about how trust funds affect Medical Assistance eligibility depend on how the trust is set up and are too complex to set out here. Please contact the lawyer who helped establish the trust or a lawyer who specializes in trust and estate planning.

How to Apply for PH-95 Medical Assistance

1. Get the child’s birth certificate

To obtain an official copy of a birth certificate for a child born in Pennsylvania, call the Department of Health Division of Vital Records at 724-656-3100 or 844-228-3516. Or visit www.health.pa.gov/topics/certificates/Pages/Birth-Certificates.aspx.

2. Get the child’s Social Security card

If the child doesn't have one or needs a replacement, get an application for a card from the local Social Security office (Form SS-5). Call 800-772-1213 (TTY 800-325-0778) for more information or go to http://www.ssa.gov/replace_sscard.html

3. Assemble documentation of the child's disability or condition

While Social Security will do this for families applying for SSI, it is the parent/guardian's responsibility to do this when applying for Medical Assistance under PH-95. Remember that unless the child is found to meet the disability standards, the income of the parent/guardian will be counted. The people who make the disability determinations will not examine or evaluate the child. If the problem or limitation is not documented, it will not be considered and the child may not be found eligible for MA because of this.

4. The disability standard (what you need to document)

It is not enough for a child to have a disability, a specific diagnosis, or an IEP in order to qualify for Medical Assistance under PH-95. The child's disability or condition must meet the Social Security childhood disability standards. Those standards, called the "Childhood Listings of Impairments", can be found at:

www.socialsecurity.gov/disability/professionals/bluebook/ChildhoodListings.htm. The standards vary depending on the "body system" that is affected by the disability or condition. You will need to find the body system that is affected by your child's disability/condition to determine which of the standards apply.

In general, the disability standards consider the extent to which the child's disability/condition limits the child's ability to perform basic functions (appropriate for his/her age group). These basic functions include physical and neurological functioning (ability to walk, talk, feed oneself, etc.), sensory functioning (ability to see or hear), cognitive functioning (ability to learn and understand) and psychological functioning (ability to develop and maintain relationships with others, avoid violent behavior and dangerous situations, etc.)

You should **not** try to determine whether your child's condition meets the disability standard in the Listings. The usefulness of the Listings to parents is to determine what they will need to document. In other words, do not decide not to appeal simply because you don't think your child meets the standards found in the Listings.

In most cases, it is necessary to document the nature, severity, frequency and duration of the limitation(s) in addition to the medical or psychiatric condition that causes the limitation(s). Important sources of documentation include the child's doctors, therapists, teachers,

guidance counselors and school records (including the Comprehensive Evaluation Report, the Multidisciplinary Evaluation or “MDE”, report cards and attendance records). IEPs are not enough because they focus on educational issues, which are not the primary focus of the Social Security disability standards.

5. Submit an Application for Medical Assistance

You can apply for MA using any of the following methods:

1. **Online** at COMPASS: www.compass.state.pa.us
2. **By phone**: 866-550-4355 (TTY 800-451-5886)
3. **By certified mail** using the paper application (download it here: http://services.dpw.state.pa.us/oimpolicymanuals/ma/PA_600_CH.pdf)
4. **In person** at your local County Assistance Office.

6. Get an SSI eligibility determination

SSI (Supplemental Security Income) is a program administered by Social Security that provides a monthly payment plus automatic Medical Assistance coverage to persons who meet Social Security’s disability criteria and have low incomes and assets. Even if the family is not seeking SSI, the County Assistance Office may require that you get a determination from Social Security as to the child’s eligibility for SSI, as part of the PH-95 application process. See 55 Pa. Code §141.21(n)(2). Unlike Medical Assistance under PH-95, parental and stepparent income and assets DO count in determining eligibility for SSI. However, Medical Assistance under PH-95 will not be denied if parental income or assets exceed the SSI limits. Therefore, it is sufficient to get a denial for SSI from Social Security so long as the denial is on the basis of income or assets, and not because Social Security has determined the child does not meet the disability requirements. The SSI eligibility screening can be done with a simple phone call in most cases. To get a determination as to whether the child meets the income and resource requirements for SSI, you should do the following:

- Call Social Security at 1-800-772-1213. When you hear the recorded message, choose the option that allows you to get a live Social Security representative. The parent/guardian should ask the Social Security representative that they would like to have an appointment set up for an SSI financial eligibility screening over the phone. Some representatives will give you a date and time when a Social Security representative will call to take the necessary information to make a determination on financial eligibility for SSI. Unfortunately, there does not appear to be a clear policy or practice regarding phone interviews so you may need to go into your local Social Security office to make an SSI application. To find the closest Social Security Office, call 1-800-772-1213 or go to <https://secure.ssa.gov/apps6z/FOLO/fo001.jsp> on the web.

- Remember that parent’s and stepparent’s income and assets count for SSI so be sure to have pay stubs, bank statements and other income and resource records available on the date Social Security calls back.
- If the Social Security representative determines that the parent/stepparent/child’s income or resources are over the SSI limits, ask the representative to send a written letter to that effect. Keep that letter to submit to the County Assistance Office as proof that the child was denied SSI.

If the child had been on SSI recently (in the last year or so) and was terminated due to parental income or resources of the parent(s) or child, the County Assistance Office will usually accept the fact that the child had been on SSI as proof the child meets the Social Security disability standards so long as the child was not terminated on grounds that he/she was no longer disabled.

Tip: If the child was terminated on the grounds that he/she no longer meets the disability standards, it is essential that the parent/guardian appeal the SSI termination (they have 65 days from the date on the SSI termination notice to do so). Otherwise, the determination of Social Security that the child does not meet the disability standards will be binding on Medical Assistance and the child will not qualify under category PH-95.

What if I call Social Security, and find that my child qualifies for SSI?

In some cases, the parent/stepparent/child’s income is within the SSI limits. In that case, the parent will have to file a full SSI application at their local Social Security office and Social Security will determine whether the child meets the disability guidelines. Note that if Social Security determines that the child does not meet the disability guidelines, the child will not be eligible for either SSI or for Medical Assistance under the PH-95 (loophole) category although the child may be eligible under a different category of Medical Assistance, like Healthy Beginnings, where disability is not a requirement but parental income is counted. Therefore, if the child is found not to meet the SSI disability guidelines and does not qualify for Medical Assistance under one of the “non-disabled” categories, it is critical that the parent/guardian **appeal** Social Security’s decision.

Necessary documentation

- The **child’s Social Security card** (or receipt from Social Security that an application for a card has been filed);
- The **child’s birth certificate** (original or State-certified copy—not a photocopy) or some acceptable alternative;

- For non-citizens, **proof of immigration status**;
- Some **proof of address** (usually the parent/guardian's driver's license if the address is current, or a utility bill);
- **Documentation of income in the child's name** (Social Security notices or photocopies of checks, child support orders or statements from Domestic Relations, bank statements or other statements showing interest, dividends or earnings on bank accounts or other investments);
- **Pay stubs or other documentation of parental income.** Even though parental income does not count, documentation of that income is required by state law. The CAO can deny the PH-95 application if parental income is not reported.
- **Documentation of the nature and extent of the child's disability or condition** or, for a child recently on SSI, an SSI termination notice, if the grounds for termination were excess income or resources, not lack of disability;
- If requested by the County Assistance Office, **documentation that the child does not qualify for SSI** (see above; this will be a letter from Social Security);
- **Health insurance policy numbers** (or a copy of the card) of any insurance under which the child is covered; and
- **Car insurance policy number** (if the parent(s) have a car – this is needed because car insurance often provides coverage of health care expenses related to an automobile accident);
- **Citizenship Documentation-** Parents will need to fill out the "Citizenship and Identify Information" form PA 1809 for their child. Other household members do not have to be listed on the form unless you are also applying for Medical Assistance for them. Parents will also have to fill out and sign an "Affidavit Attesting to Identity of Minor Child". The form asks for the signature of a witness but does not need to be notarized.

Authorization to Release Information - Form PA 4

Caseworkers will usually insist the parent/caregiver sign a blanket release form which allows DHS to contact employers, banks, etc. to obtain financial information relevant to the child's application for Medical Assistance. State regulations require a parent/caregiver to sign this release form in regard to "information about...the applicant or recipient...." 55 PA. Code §201.4 (1)(ii). State regulations state that "the applicant" includes "The adult with whom an unemancipated minor lives...." 55 PA. Code §123.82. *Therefore, the parent/caregiver is legally obligated to sign the PA 4 form to release information regarding both the child and the parent, even though parental income and assets are not relevant for eligibility purposes.*

What happens next for Medical Assistance?

Determining disability

Once the application and necessary documentation has been submitted, the caseworker at the County Assistance Office has authority to immediately find that the child meets the disability standards, pending a final decision by the Medical Review Team (which takes months), if, based on the documentation provided by the parent/guardian, the child "appears to be disabled". This is authorized by Medical Assistance Eligibility Handbook §305.26. This is known as "presumptive eligibility" and is very common if good documentation is provided. If the caseworker doesn't feel comfortable making the "presumptive eligibility" disability determination him/herself, ask the caseworker to transfer the case to the "DAP Unit" (Disability Advocacy Program Unit) at the County Assistance Office. The DAP Unit is comprised of workers specially trained in the disability standards. They will usually review the medical or psychiatric documentation, and may request that the parent/guardian get additional documentation or come in for an interview.

If the caseworker or the worker from the "DAP Unit" finds the child "presumptively eligible", the caseworker can authorize Medical Assistance immediately. A Medical Assistance ID card (a.k.a. "Access Card") should arrive in 1 to 2 weeks. If the child needs services under Medical Assistance before that, the parent/caregiver should ask the caseworker for the child's Medical Assistance ID#, card issue #, category and program status code. With those numbers, most providers are willing to start serving the child under Medical Assistance without waiting for the official ID card ("known as the Access card). If the provider insists on an official card, the parent/caretaker can request a Temporary ACCESS Card (TAC) from the caseworker at the CAO. An Interim Medical Card can be done in a day. The caseworker cannot require documentation of a medical appointment. The statement of the parent/caregiver that there is an immediate need for the card is sufficient. Medical Assistance Eligibility Handbook §380.4.

Once the case has been authorized, the caseworker is supposed to transfer the case to the DAP Unit to review the medical or psychiatric documentation if they have not already done so. After that, the DAP Unit is supposed to send the documentation to an agency under contract with Medical Assistance, known as the Medical Review Team (“MRT”) which makes the final decision as to whether the documentation shows that the child meets the disability standards. If the MRT decides that the child’s documented condition does not meet the disability standards, the County Assistance Office will terminate the child’s Medical Assistance unless the child is eligible under another category. However, the parent/caregiver can appeal the MRT’s decision and if the County Assistance Office receives their appeal within 10 days of the termination notice being mailed, the termination cannot go through until after the family has had a hearing and gets a hearing decision. (Of course, if the parent/caretaker wins, the termination won’t go through at all.) The termination notice explains how to appeal.

Enrolling in a Managed Care Organization (MCO)

With a limited exception for kids in a program called “HIPPA”, all children are required to enroll into a Managed Care Organization (MCO) that has a contract with Medical Assistance. All health care services the child needs (other than behavioral health services) are obtained through the MCO.

If a child is placed in the HIPPA program, it means Medical Assistance has agreed to pay the premium to add the child to the parent’s health insurance. Children in HIPPA are exempt from MCO enrollment and instead receive their health care benefits and services through regular Medical Assistance (ACCESS).

The parent can choose from one of 3-5 MCOs operating in the family’s area. If the parent does not choose, Medical Assistance will pick the MCO for them. The parent is also asked to choose a primary care physician for their child. If the parent does not choose, the MCO will assign the child to one. For more information about MCOs in each area of the state, go to <http://www.healthchoices.pa.gov/info/about/physical/index.htm>.

Coverage for behavioral health services for all children comes through a separate entity called a “Behavioral Health Managed Care Organization (BH-MCO)” which has a contract with the county MH/ID agency. Each county has a designated BH-MCO. To view a listing of BH-MCOs by county, go to <http://www.healthchoices.pa.gov/providers/about/behavioral>.

What if I need more help?

If you have questions about Medical Assistance, or if your child’s application is denied, call the Pennsylvania Health Law Project’s Helpline at 1-800-274-3258 for free legal help.



www.phlp.org

This publication is intended to provide general legal information, not legal advice. Each person's situation is different. If you have questions about how the law applies to your particular situation, please consult a lawyer or call the Helpline at 1-800-274-3258.