



## State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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**MEDICAID COMMUNICATION NO. 18-03**

**DATE: March 5, 2018**

**TO:** NJ FamilyCare Eligibility Determining Agencies

**SUBJECT:** Pickle Category Eligibility Determinations  
Lynch vs Rank Annual Outreach

**BACKGROUND:** Congress adopted the Pickle Amendment, section 503 of Public Law 94-566, in April, 1977. This amendment established a separate category of Medicaid and restores Medicaid coverage to former Supplemental Security Income (SSI) recipients who would still be eligible for SSI if not for Social Security Cost of Living Adjustment (COLA) increases in their Social Security Retirement, Survivors, and Disability Insurance (RSDI) benefits. The Pickle Amendment was expanded by the 1984 Lynch v. Rank court decision, which deals with income deemed to the individual and requires Medicaid to outreach them for two years following initial ineligibility. Therefore, any RSDI income received or deemed to an individual will have the COLA amounts disregarded from the time an individual lost eligibility for SSI if it occurred after April 1977. The COLA disregards for each year since 1977 are listed as an attachment for your information.

The criteria for determining if a person would qualify for continued Medicaid benefits under the Pickle Amendment are as follows:

- The individual currently gets Social Security Title II RSDI benefits.
- The individual received or was entitled to Social Security Title II RSDI and SSI at the same time in any month after April 1977.
- SSI benefits were stopped after April 1977.
- The individual received a Social Security Title II COLA since SSI was stopped, and he or she is currently ineligible for SSI.
- The individual would be eligible for SSI if the Social Security Title II COLA received after SSI ineligibility was not counted.

The Social Security Administration (SSA) has created a report called the Lynch vs. Rank Letters Report that has identified individuals who are potentially eligible for this COLA disregard. The Division of Medical Assistance and Health Services (DMAHS) has mailed outreach letters to all such persons informing them of their potential eligibility for Medicaid.

As such, Molina has posted two reports in the RMOD system that identify individuals who may be potentially (report KR520R01) or otherwise confirmed eligible (report KR550R01) for continued Medicaid benefits under the supervision of their local County Welfare Agency. Eligibility workers should absorb the cases listed on report KR550R01 into their workload and redetermine eligibility as appropriate. The KR520R01 report, which is sorted by social security number (SSN) within each county, includes each individual's current RSDI amount, the RSDI amount received in the last month of eligibility for SSI, and the year that individual was added to this report. Therefore, to use the COLA disregard, the individual's RSDI amount (or the RSDI amount deemed from a spouse or parent) received in the last month of eligibility for SSI will remain constant from that year forward to determine Medicaid eligibility.

It should be noted that the address indicated on this report is the address to which the RSDI check is sent. In some cases, the address will be that of the representative payee or the financial institution in which the RSDI benefit is directly deposited. The outreach letters instruct the individuals to bring the letter with them should they wish to visit the CWA but the reports can be utilized to search for this potential status as well. If an individual who is currently a resident of your county comes in to apply under these considerations without the letter and not be listed on your agency's report, please check if they are on another county's report due to a payee's address or a recent address change.

The CWA shall follow normal procedures for determining eligibility by utilizing the NJ FamilyCare Aged, Blind, Disabled application. After the CWA confirms an individual's social security awards using the SOLQ system or other verification system, they do not have to obtain citizenship and identity information as SSA has already verified this when the person was on their program. This COLA disregard is applicable to the Medicaid Only program. Income determinations for other NJ FamilyCare Aged, Blind, Disabled programs (i.e. New Jersey Care...Special Medicaid Programs) do not include this disregard. When evaluating an ABD couple, each person must be looked at separately. One or both persons may qualify as potentially Pickle eligible. If both persons pass the screening process, they are potentially eligible as a Pickle couple. Combine their incomes and disregard amounts when computing the needs test. If both persons pass the screening process but are ineligible after completing the needs test for a couple, recompute the needs test for each individual using only his/her income and disregard.

Example: In 2011, Mary was receiving \$645 in monthly SSDI benefits and \$90 in SSI benefits (the 2011 FBR was \$705.25). That same year she started receiving a private pension of \$125 per month, making her combined SSDI and private pension income more than allowed by SSI (i.e., her countable income of \$750 (i.e., \$770 - \$20 general income exclusion) was now more than the 2011 SSI rate of \$705.25). Having lost SSI, Mary also lost her right to automatic Medicaid. Assume Mary's pension will remain a constant \$125 per month.

Because the Pickle Amendment allows Mary to disregard SSDI cost-of-living increases since 2011 (i.e., since she was last dually entitled to SSI and SSDI), her countable income for Pickle Amendment purposes will remain a constant \$750 in future years. This was more than the FBR of \$729.25 in 2012 and more than the FBR of \$741.25 in 2013, meaning that she remained ineligible for Medicaid under Pickle. In 2014, with the FBR

now up to \$752.25, Mary's countable income of \$750 (after ignoring SSDI cost-of-living increases) is now less than the SSI rate for her state. Since Mary would now be eligible for a small SSI check (\$2.25) if the post-2011 SSDI increases are ignored, Mary is now eligible for Medicaid under Pickle.

For those persons determined ineligible for Medicaid benefits for reasons other than the Social Security COLA increase, the CWA shall evaluate these people for eligibility under any other applicable Medicaid program.

If you have any questions regarding this Medicaid Communication, please refer them to the Division's Office of Eligibility field service staff member for your agency at 609-588-2556.

MD:jm

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Cost of Living Adjustments (COLA)  
1977-2018

<b>Year</b>	<b>COLA</b>
1977	5.9
1978	6.5
1979	9.9
1980	14.3
1981	11.2
1982	7.4
1983	7.0
1984 & 1985	3.5
1986	3.1
1987	1.3
1988	4.2
1989	4
1990	4.7
1991	5.4
1992	3.7
1993	3
1994	2.6
1995	2.8
1996	2.6
1997	2.9
1998	2.1
1999	1.3
2000	2.5
2001	3.5
2002	2.6
2003	1.4
2004	2.1
2005	2.7
2006	4.1
2007	3.3
2008	2.3
2009	5.8
2010 & 2011	0
2012	3.6
2013	1.7
2014	1.5
2015	1.7
2016	0
2017	0.3
2018	2.0

Note: The 1977-83 COLAs were effective with benefits payable for July in each of those years; thereafter, COLAs have been effective with benefits payable for January.