

**CHAPTER 148. MA RESIDENCE PROVISIONS FOR
CATEGORICALLY NEEDY NMP-MA AND MNO-MA**

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Authority

The provisions of this Chapter 148 issued under section 403(b) of the Public Welfare Code (62 P. S. § 403(b)), unless otherwise noted.

Source

The provisions of this Chapter 148 adopted July 13, 1990, effective July 14, 1990, 20 Pa.B. 3844, unless otherwise noted.

Cross References

This chapter cited in 55 Pa. Code § 140.21 (relating to conditions of eligibility); and 55 Pa. Code § 140.421 (relating to conditions of eligibility); 55 Pa. Code § 140.603 (relating to conditions of MA eligibility); and 55 Pa. Code § 140.721 (relating to conditions of eligibility).

GENERAL PROVISIONS FOR MA RESIDENCE**§ 148.1. General policy.**

(a) The Department provides MA under the NMP Program or the MNO Program to residents of this Commonwealth who are otherwise eligible, regardless of whether the residence is maintained permanently or at a fixed address.

(b) The Department is prohibited from taking the following actions:

(1) Denying MA to a person because the person has not resided in this Commonwealth for a specified period.

(2) Denying MA to an institutionalized person, who satisfies the residence requirements in this chapter, on the grounds that the person did not establish residence in this Commonwealth before entering the institution.

(3) Denying or terminating a recipient's MA eligibility because of the person's temporary absence from the State if the person intends to return to this Commonwealth when the purpose of the absence, such as a trip, a visit or attending school, has been accomplished, unless another state has determined that the person is a resident there for MA purposes.

§ 148.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

County of residence—The county in which the person normally resides and maintains a permanent address, with the exception of a homeless person who may claim the county in which he is physically located at the time of application as his address.

Emancipated—A person 20 years of age or younger, whether or not he is residing in the household of his parents or legal guardians, who is no longer in the care of, or under the control of, his parents or legal guardians.

Institution—This term applies solely for purposes of a residence determination. An establishment, licensed by the State, that furnishes food, shelter and some treatment or service to four or more persons unrelated to the proprietor. The term includes hospitals, skilled or intermediate nursing home care facilities, intermediate care facilities for the mentally retarded and mental hospitals. For purposes of State placement, the term also includes foster care homes licensed by the State which provide food, shelter and supportive services to one or more persons unrelated to the proprietor.

MAID Card—Medical Assistance Identification Card.

Resident—A person who resides in this Commonwealth with the intent to remain and maintains continuous physical presence in this Commonwealth, except for a temporary absence and meets the requirements of this chapter.

§ 148.3. Residence verification requirements.

In addition to the person's statement of intent to remain a resident of this Commonwealth, proof of residence shall be provided before MA is authorized. The person is not required to have a fixed or permanent address.

(1) The applicant/recipient, or a person acting on his behalf, is responsible for providing verification of residence.

(2) Verification consists of documentation specified by the Department and includes rent receipts, an affidavit from a person other than the applicant/recipient, receipts for mortgage or utility payments, a deed or driver's license.

(3) For a homeless applicant/recipient who is unable to provide the required documentation, a collateral contact with someone who confirms, in writing, that the applicant/recipient lives in this Commonwealth is considered acceptable verification of residence.

RESIDENCE REQUIREMENTS—GENERAL

§ 148.11. Place of application.

(a) A person shall apply for MA at the CAO in the county in which the person has established residence.

(1) If inpatient hospital care is being furnished in a Pennsylvania county other than the person's county of residence, application may be made in that county and forwarded to the CAO in the applicant's/recipient's county of residence for a determination of eligibility and disposition.

(2) If inpatient hospital care is being furnished to a Pennsylvania resident outside of this Commonwealth, the application may be completed outside of this Commonwealth and forwarded to the CAO in the applicant's/recipient's county of residence for a determination of eligibility and disposition.

(b) If a resident in this Commonwealth is institutionalized for other than inpatient hospital care, his county of residence is the county in which the institution is located.

§ 148.12. Temporary absence from county of residence.

A recipient who leaves his county of residence and goes to another Pennsylvania county is considered temporarily absent if he intends to return to his county of residence when the purpose for the absence has been completed. The recipient temporarily absent from his county of residence is subject to the reapplication or partial reapplication requirements under Chapter 133 (relating to redetermining eligibility).

§ 148.13. Temporary absence from this Commonwealth.

A resident of this Commonwealth who is temporarily absent from this Commonwealth is considered a Pennsylvania resident if the person intends to return to this Commonwealth when the purpose of the absence has been accomplished, unless another state has determined that the person is a resident there for MA purposes.

(1) MA is provided to a recipient while he is in another state if:

(i) The recipient requires emergency medical care while temporarily away from his home.

(ii) The recipient's health would be at risk if the service was postponed until his return home.

(iii) The recipient's health would be endangered if he were required to travel back to this Commonwealth.

(iv) It is the general practice for recipients in a particular locality to use medical resources in a neighboring state.

(v) The CAO determines, on the basis of medical advice, that the recipient has better access to the type of care needed in another state.

(2) MA is discontinued to the person temporarily absent, following advance notification, effective for the next MAID Card issuance which deadlines can be met if:

(i) The CAO determines that the purpose of the temporary absence has been accomplished and the recipient has not returned to this Commonwealth.

(ii) Another state has determined that the person is a resident there for MA purposes.

(3) A recipient temporarily absent from this Commonwealth is subject to the reapplication or partial reapplication requirements under Chapter 133 (relating to redetermining eligibility).

§ 148.14. Permanent move to another Pennsylvania county.

If a recipient makes a permanent move to another Pennsylvania county and continues to be eligible for MA, MA is continued to the recipient at the new

address by the county of origin for 2 semi-monthly periods if the MAID card is issued semi-monthly. If the MAID Card is issued quarterly, MA is discontinued, following proper notification, effective for the next quarterly MAID Card issuance which deadline can be met.

§ 148.15. Permanent move from this Commonwealth.

If a recipient reports a permanent move to another state or country, MA is discontinued, following proper notification, effective for the first MAID Card issuance after the permanent move occurs. If the person is placed by the Commonwealth in an out-of-State institution, the requirements in § 148.81 (relating to placement by a state in an out-of-State institution) shall be followed.

§ 148.16. Recipients absent from the United States.

If a recipient is absent from the United States, which includes the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands, the following requirements apply:

(1) The absence of a recipient from the United States for a period of 30-calendar days or longer is considered prima facie evidence of the intent of the recipient to have changed his residence to a place outside the United States unless:

(i) The recipient is prevented by illness or other good cause from returning to this Commonwealth at the end of the 30-calendar days.

(ii) The recipient has not acted to establish residence outside the United States. If the recipient is claiming that he is prevented from returning to this Commonwealth at the end of 30-calendar days, the recipient or a person acting on the recipient's behalf shall provide written evidence of the circumstances which prevent the return.

(A) The CAO reviews the case at the end of 30-calendar days to determine if the evidence submitted by the recipient supports the need for his extended absence from the United States.

(B) If the CAO concludes that the recipient has not returned and has not demonstrated a continued residence in this Commonwealth, MA is discontinued following proper notification effective for the first regular MAID Card issuance which deadline can be met.

(2) A recipient temporarily absent from the United States is subject to the reapplication and partial reapplication requirements under Chapter 133 (relating to redetermining eligibility).

§ 148.17. Persons covered by interstate residency agreement.

Certain persons who would normally be considered residents of a state other than this Commonwealth may be covered as residents based on the terms of an Interstate Residency Agreement with another state. If a dispute occurs, § 148.21 (relating to disputed residence) takes precedence.

§ 148.18. Persons receiving an SSI payment.

For persons of any age who receive State supplementary payment, the state of residence is the state paying the supplementary payment. In this Commonwealth, State supplementary payment is made to recipients of this State supplementary.

§ 148.19. Persons receiving Title IV-E payment.

For children who are receiving Federal payments for foster care and adoption assistance under Title IV-E of the Social Security Act (42 U.S.C.A. §§ 670—679a) the state of residence for MA purposes is the state where the child lives, even if another state is making the Title IV-E payment.

§ 148.20. County of residence for children in placement.

Children in court determined placement are considered residents of the county in which the placing agency is located.

§ 148.21. Disputed residence.

When two or more states cannot resolve which state is the state of residence, the state where the person is physically located is the state of residence.

Cross References

This section cited in 55 Pa. Code § 148.17 (relating to persons covered by interstate residency agreement).

**RESIDENCE REQUIREMENTS FOR
NONINSTITUTIONALIZED PERSONS****§ 148.31. Noninstitutionalized persons 21 years of age or older.**

A person who is 21 years of age or older is considered a resident of this Commonwealth if the person meets one of the following requirements:

- (1) Lives in this Commonwealth with the intent to remain permanently, or for an indefinite period.
- (2) Lives in this Commonwealth as a result of moving here with a job commitment or to seek employment, whether or not currently employed.
- (3) Lives in this Commonwealth and is incapable of indicating intent under § 148.71 (relating to determination of a person's incapability to indicate intent).

§ 148.32. Noninstitutionalized persons 20 years of age or younger.

A person 20 years of age or younger is considered a resident of this Commonwealth if the person meets one of the following requirements:

- (1) Is emancipated from his parents or married and capable of indicating intent, and living in this Commonwealth with the intent to remain permanently, or for an indefinite period.

(2) Is unemancipated and residing in this Commonwealth, and the caretaker also resides in this Commonwealth.

(3) Is living in this Commonwealth and his eligibility for MA is based on blindness or disability.

RESIDENCE REQUIREMENTS FOR INSTITUTIONALIZED PERSONS

§ 148.51. Institutionalized persons 21 years old or older.

Residence is determined as follows:

(1) For an institutionalized person 21 years of age or older, who became incapable of indicating intent under § 148.71 (relating to determination of a person's incapability to indicate intent) before age 21, the state of residence is:

(i) That of the parent applying for MA on the person's behalf if the other parent resides in a different state. If a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used.

(ii) That of the parent or the legal guardian at the time of placement. If a legal guardian has been appointed and the parental rights are terminated, the state of residence of the guardian is used.

(iii) The current state of residence of the parent or the legal guardian who files the application if the person is institutionalized in the same state. If a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used.

(iv) The state of residence of the person or party who files the application is used if the person has been abandoned by his parents, does not have a legal guardian and is institutionalized in the same state. Abandonment also includes deceased parents, as well as parents who desert their children.

(2) For an institutionalized person 21 years of age or older who became incapable of indicating intent under § 148.71 at or after age 21, the state of residence is the state in which the person is physically present, except if another state makes the placement under § 148.81 (relating to placement by a state in an out-of-State institution).

(3) For other institutionalized persons 21 years of age or older, the state of residence is the state where the person is living with the intent to remain permanently, or for an indefinite period.

§ 148.52. Institutionalized persons 20 years of age and younger.

For an institutionalized person 20 years of age and younger, who is neither married nor emancipated, the state of residence is:

(1) That of the parent or the legal guardian at the time of placement. If a legal guardian has been appointed and parental rights are terminated, the state of residence of the guardian is used.

(2) The current state of residence of the parent or the legal guardian who files the application if the person is institutionalized in the same state. If a legal guardian has been appointed and the parental rights are terminated, the state of residence of the guardian is used.

(3) The state of residence of the person or party who files the application, if the person has been abandoned by his parents, does not have a legal guardian and is institutionalized in the same state. Abandonment also includes deceased parents, as well as parents who desert their children.

REQUIREMENTS FOR DETERMINATION OF A PERSON'S INCAPABILITY TO INDICATE INTENT

§ 148.71. Determination of a person's incapability to indicate intent.

A person is determined incapable of indicating intent if the person:

(1) Has an I. Q. of 49 or less, or has a mental age of 7 or less, based on tests acceptable to the Office of Mental Retardation.

(2) Is judged legally incompetent by a court of law.

(3) Is found incapable of indicating intent based on medical documents obtained from a physician, psychologist or a person licensed by the State in the field of mental retardation.

Cross References

This section cited in 55 Pa. Code § 148.31 (relating to noninstitutionalized persons 21 years of age or older); and 55 Pa. Code § 148.51 (relating to institutionalized persons 21 years old or older).

PLACEMENT BY A STATE IN AN OUT-OF-STATE INSTITUTION

§ 148.81. Placement by a state in an out-of-State institution.

For a person placed by a state in an out-of-State institution, the state of residence is determined as follows:

(1) An agency of the state, including an entity recognized under state statute as being under contract with the state for these purposes, that arranges for a person to be placed in an institution located in another state, is recognized as acting on behalf of the state making a placement. The state arranging or actually making the placement is considered the person's state of residence irrespective of the person's intent or ability to indicate intent. The placing state also retains responsibility for a person when placement is initiated by it because the state lacks a sufficient number of appropriate facilities to provide services to its residence.

(2) An action beyond providing information to the person and the person's family constitutes arranging, or making, a state placement. The following actions do not constitute state placement:

(i) Providing basic information to a person about another state's MA Program and information about the availability of health care services and facilities in another state.

(ii) Assisting a person in locating an institution in another state, if the person is capable of indicating intent and independently decides to move.

(3) When a competent person leaves the institution in which the person was placed by a state, the person's state of residence for MA purposes is the state in which the person is physically located.

(4) A person placed in an out-of-State institution by the state is subject to the reapplication or partial reapplication requirements under Chapter 133 (relating to redetermining eligibility).

Cross References

This section cited in 55 Pa. Code § 148.15 (relating to permanent move from this Commonwealth); and 55 Pa. Code § 148.51 (relating to institutionalized persons 21 years old or older).

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