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2700 Aid to the Aged, Blind or Disabled (AABD) (07/01/1999, 99-9)

Effective January l, l974, the major portion of Vermont's federal-state program of Aid to the Aged, Blind or Disabled (AABD) became the federal program of Supplemental Security Income (SSI) through amendment of title XVI of the Social Security Act. SSI guarantees a minimum national standard of assistance to aged, blind or disabled persons at full federal expense. Vermont supplements the SSI payment with a state-funded AABD payment.

The Social Security Administration (SSA) determines SSI eligibility and issues SSI benefits for applicants and recipients in all living arrangements (see rules 2762–2767). For persons in federally administered living arrangements, SSA also determines eligibility for the AABD state supplement to SSI and issues a combined SSI/AABD benefit to those determined eligible for both SSI and the AABD state supplement and an AABD only benefit to those determined eligible for only the AABD state supplement. For persons in the state-administered living arrangement, SSA issues an SSI only benefit to those determined eligible for SSI benefits.

The department determines eligibility for the AABD state supplement for applicants and recipients in the state-administered living arrangement. When SSA has determined a person in the state-administered living arrangement eligible for SSI benefits, the department deems that person eligible for the maximum AABD state supplement for this living arrangement and issues a separate AABD state supplement benefit to this person. When a person in the state-administered living arrangement is ineligible for SSI benefits, the department determines the persons eligibility for an AABD state supplement and, if eligible, also determines the amount of the benefit and issues an AABD state supplement benefit to this person.

Beginning July l, l977, Vermont's AABD program was expanded to include cash assistance payments to cover the needs of an ineligible spouse or other essential person (see rules 2780-2786). Eligibility operations for this Essential Person (EP) program are carried out through the departments district offices, and benefits are issued in the form of direct deposits to recipients bank accounts or transfers to EBT cash accounts.

2701 Authorized Representative (07/01/1992, 92-1)

The parent, guardian or other caretaker responsible for a minor child acts as the child's representative in the eligibility process.

When a person cannot act for himself or herself, because of a physical or mental condition, one of the following people may act as his or her authorized representative in the eligibility process:

A. a court appointed legal guardian or legal representative; or

B. a relative, friend or other person who knows about or handles his or her affairs; or

C. a person he or she names in a letter to the Department to act for him or her because of an unexpected emergency.

2702 Case Records (07/01/1992, 92-1)

The department keeps a permanent written record of facts and actions concerning a person's AABD-EP eligibility for administrative and accountability purposes. Information about each person is kept in an individual case file in the district office responsible for the town where the person or group lives. Information necessary to assure prompt and correct payment of AABD-EP benefits is also stored in computer files.

Information which identifies a person or couple as an AABD-EP applicant or recipient is only given out when it is necessary for payment of benefits. A recipient may permit the department to give information to another agency to help him or her get services from that agency.

Information about many applicants or recipients, which does not identify persons or groups by name or other individual characteristics, may be combined in the form of statistics or general descriptions for planning, research and program administration.

Recipient Fraud

2703 Recipient Fraud (07/01/1992, 92-1)

A person who deliberately hides or omits information or gives false information to get, or to help someone to get, benefits for which he or she would not otherwise be eligible, may be prosecuted under Vermont law for recipient fraud. If convicted, the person may be fined or imprisoned or both. The department may take action to recover the value of benefits paid in error due to fraud.

When the department learns that fraud may have been committed, it will investigate the situation with respect for confidentiality and the legal rights of the recipient. If appropriate, the case will be referred to the State's Attorney or Attorney General for a decision on whether or not to prosecute.

2710 Application (07/01/1992, 92-1)

Application for Supplemental Security Income (SSI) must be filed with a Social Security district office. This SSI application is automatically an application for supplementary Aid to the Aged, Blind or Disabled (AABD) in Vermont. Social Security offices are located in Burlington, Montpelier and Rutland. A letter, telephone call or personal visit to one of these offices will start the application process. Toll-free telephone service (as listed in local directories) and periodic itinerant service to population centers within the district area are available outside the office location.

A person who wants cash assistance payments for an ineligible spouse or another essential person must file an application for AABD-EP with the department. Application forms are available from any Economic Services Division or Social Security Office.

Filing an application means taking or mailing an application form signed by the person applying for AABD-EP benefits, or his or her authorized representative (rule 2701), to a department office, preferably the district office responsible for the town where the applicant lives.

Any person who has applied for AABD-EP benefits before and is not now receiving benefits, may reapply at any time by filing a new up-to-date application form with the district office responsible for the town where he or she is now living.

The date of application is the day on which an application for SSI/AABD is filed with a Social Security office or the day on which a signed application for AABD-EP benefits is received in a department office. The application date sets the time limit for making a decision on the application and the starting date for benefits, if eligible.

2711 Initial Eligibility (07/01/1992, 92-1)

Eligibility investigation and decision on SSI/AABD applications are carried out by the Social Security office according to time limits and procedures set for the SSI Program by social security.

Eligibility investigation and decision on AABD-EP applications filed with the department are carried out according to the policies in the following sections.

2712 Application Decisions (07/01/1992, 92-1)

A decision to grant or deny an application for AABD-EP payments must be made within:

- 90 days after the application date, if the application is based on the applicant's disability; or
- 30 days after the application date for any other application.

AABD-EP benefits are granted when all eligibility tests are passed. The amount of the payment is the difference between the applicable payment standard and the applicant's net countable income from other sources.

AABD-EP benefits are denied when the applicant's situation fails to pass any one or more of the eligibility tests. When an applicant fails to do his or her part in the eligibility investigation process, his or her application may be denied if a decision cannot be made within the time limit, for example:

- an applicant fails to give necessary information or proofs asked for or takes longer than expected without explaining the delay; or
- an applicant fails to have necessary medical examinations asked for.

When an applicant has done everything he or she was asked to do, his or her application will not be denied even though a decision cannot be made before the time limit.

Statement of Need

2713 Statement of Need (07/01/1992, 92-1)

An applicant's statement of need is the main source of facts used to make a decision on his or her application. It may be necessary to write or telephone the applicant for more information or explanation of the facts given in the statement.

The statement of need is the applicant's written record, on a department form, of the facts about his or her situation as related to AABD-EP eligibility tests. A relative, friend, or other interested person may help the applicant fill out the statement form. If the applicant has no one to help, he or she may ask for help at a department office.

The applicant, or his or her authorized representative (rule 2701), who signs the statement form, is held responsible for the truth of the information on the form.

Interviews

2714 Interviews (07/01/1992, 92-1)

An interview is a face-to-face meeting between the applicant, or his or her authorized representative (rule 2701), and a department employee to review the applicant's statement and resolve any problems or questions about his or her situation and the eligibility tests.

An interview is not necessary for an AABD-EP eligibility decision. The applicant's statement with necessary proofs is usually enough. An interview may be helpful, however, to work out complex eligibility test problems or to help an applicant who has trouble understanding eligibility rules or in giving written information.

Interviews are private. One representative chosen by the applicant may be present to help explain the applicant's situation. Interviews are normally held at the district office, but may be arranged at home, or some other location convenient for both, if unusual health or transportation problems make an office visit impossible for the applicant or his or her representative.

2715 Verification (07/01/1992, 92-1)

Verification means proof of an applicant's statements by written records or documents shown to a department employee, or by statements of another person who adds to or supports the applicant's statements.

Proof of the following is required:

A. a medical decision, based on professional examination and judgment, on blindness or disability; and

B. all income and resources.

Proof may also be necessary when the statement form and interview (if one is held), do not give enough clear and consistent information to make a decision on any other eligibility test.

Proof documents mailed with the statement form are returned to the applicant as soon as necessary information is recorded. Added proofs asked for after review of the applicant's statement may be sent or brought to the office.

When an applicant refuses to give necessary proofs, his or her application may be denied.

Collateral Sources

2716 Collateral Sources (07/01/1992, 92-1)

A collateral source means a person, outside the applicant's assistance group, or an organization who has records of or knows about the applicant's situation in relation to one or more eligibility tests.

When an applicant does not have, or cannot get, necessary proof documents, he or she may get a statement from a collateral source or give a department employee permission to write or talk to the collateral source.

If there is no other way to get necessary information and the applicant refuses to let the department contact a collateral source, the application may be denied.

Continuing Eligibility

2720 Continuing Eligibility (07/01/1992, 92-1)

Once granted, AABD payments continue in the same amount until changed or ended following review of the recipient's current situation.

Eligibility review and decision on continued AABD benefits paid through the federal SSI/AABD payment system are carried out by the Social Security office according to procedures set for the SSI program by social security.

Eligibility review and decision on continued AABD-EP benefits paid through the state payroll system are carried out according to the policies in the following subsections.

2721 Review Decisions (07/01/1992, 92-1)

A decision to continue, in the same or a changed amount, or end AABD-EP benefits must be made:

A. whenever a recipient reports a change in the facts of his or her situation; and

B. within 12 months after the starting date of initial AABD-EP benefits or after the date of the last full eligibility review.

AABD-EP benefits continue when the recipient continues to pass all eligibility tests. The amount of the payment may go up or down when payment levels and/or the recipient's net countable income have changed since the initial eligibility or last review decision.

AABD-EP benefits end when the recipient no longer passes any one or more of the eligibility tests. When a recipient fails to do his or her part in the eligibility review process, benefits may be ended if a decision cannot be made within the time limit. When a recipient has done everything he or she was asked to do, benefits will not be ended until a decision has been completed.

2722 Change Report (07/01/1992, 92-1)

Each AABD-EP recipient is responsible for reporting to the department any change in his or her situation that is related to AABD-EP eligibility tests, such as: income goes up or down; more resources; a different living arrangement; improvement in disability. Any change must be reported within ten days after the recipient learns of it.

Continuing eligibility and amount of payment is refigured using the changed facts in place of the facts used to figure the current benefits. When the change report shows several changes occurring at the same time, a full eligibility review may be necessary.

Eligibility Review

2723 Eligibility Review (07/01/1992, 92-1)

At least once a year, the recipient's situation must be reviewed in full to be sure that all eligibility tests continue to be passed and the correct amount of benefits is being paid. Eligibility reviews are carried out under the same procedure rules as for initial eligibility (see rules 2713 – 2716).

A new up-to-date statement of need, with necessary proofs must be filed. Interviews and collateral sources may be used as needed.

The department reminds recipients when eligibility must be reviewed by sending necessary forms and directions far enough ahead to complete the review within the scheduled time limit.

Notice and Appeal

2730 Notice and Appeal (07/01/1999, 99-9)

The Social Security Administration issues notices of decision and handles appeals for the SSI and SSI/AABD eligibility determinations it makes. The department issues notices of decision and handles appeals for the AABD state supplement eligibility determinations it makes (rule 2731).

Notice and appeal of AABD-EP application and review decisions made by department offices are carried out according to the policies in the following subsections.

2731 Notice of Decision (07/01/1999, 99-9)

Each AABD-EP applicant must be given written notice of the decision on his or her application. Each AABD-EP recipient must be given written notice of the decision which results from any review of his or her AABD-EP eligibility. A group notice must include notice of the decisions about each member of the group.

A. All notice letters must explain:

1. the decision and why it was made, including a clear and concise written explanation of the basis for a decision that an applicant is not disabled or that a recipient is no longer disabled; and

2. the action to carry out the decision and when it will take place; and

3. how to appeal the decision if not satisfied.

B. When an eligibility review decision will end or reduce the amount of AABD-EP payment a person has been receiving, the notice of decision must be mailed at least ten (l0) days before the closure or change will take effect, except when:

1. a new or changed AABD-EP rule, adopted under the state Administrative Procedures Act, will affect the benefits of a large number of AABD-EP recipients; or

2. the department has facts confirming the death of an AABD-EP recipient; or

3. the department has facts confirming that the recipient has moved to another State; or

4. the recipient shows that he or she expects the change or closure to take effect immediately by signing a formal waiver of notice, or by giving written information which includes a clear statement that he or she understands that change or closure will result; or

5. the recipient has been admitted or committed to an institution where he or she no longer meets AABD-EP eligibility tests.

2732 Right to Appeal (07/01/1992, 92-1)

Any AABD-EP applicant or recipient has a right to appeal any decision of the department about his or her AABD-EP eligibility or amount of payment, and to request a fair hearing before the Human Services Board (rule 2734). A person may also appeal if he or she thinks the department is taking too long to make a decision. The right to appeal and procedures for making an appeal must be explained in department forms and publications used by AABD-EP applicants and recipients and by department employees during eligibility investigation and review contacts.

A request for a fair hearing must be made within ninety (90) days after the date the notice of the decision being appealed was mailed. Oral requests must be accepted as timely, although the request must be put in writing to start the fair hearing process. A representative or department employee may help the person to make his or her written request.

Complaints or misunderstandings about department decisions may be discussed with the employee who made the decision or his or her supervisor. If this review does not satisfy the applicant or recipient, he or she still has the right to appeal formally and request a fair hearing.

2733 Continued Benefits (07/01/1992, 92-1)

When an AABD-EP recipient appeals a decision to end or reduce his or her AABD-EP payment, he or she has a right, under certain conditions, to have his or her benefits continue without change until the appeal is decided, except when the decision does not require the minimum advance notice (rule 2731). To receive continued benefits he or she must request a hearing before the effective date of the adverse action (i.e. no later than the last day of the month). If the last day of the month is on a weekend or holiday, the recipient has until the end of the first working day in the new month to appeal the decision and receive continued benefits.

A recipient may choose to waive his or her right to continued benefits. If he or she does so and wins his or her appeal, any benefits due will be paid retroactively.

This department is allowed to recover the value of any AABD-EP benefits paid during the appeal period when:

A. The reason for the appeal is an issue of law or policy and the Department's position is confirmed by the fair hearing decision; or

B. The recipient withdraws his or her appeal before a fair hearing decision is made.

An issue of law or policy means that the person is questioning the legality of a law or rule rather than the facts used or department judgment in applying the rules to make the decision being appealed.

Fair Hearing Procedures

2734 Fair Hearing Procedures (07/01/1992, 92-1)

All Programs Procedures P-2127.

Eligibility Expenses

2740 Eligibility Expenses (07/01/1999, 99-9)

The department pays the reasonable charge for professional examination and reports required to establish blindness or disability related to determinations it makes concerning eligibility for AABD state supplements or AABD-EP benefits. To receive payment for covered charges, the examiner must submit the required report along with an itemized bill for the services necessary to complete the report.

The Social Security Administration handles professional examinations required for the decisions it makes related to eligibility for SSI and combined SSI/AABD benefits.

2741 SSI/AABD Payments (07/01/1999, 99-9)

The Social Security Administration (SSA) issues all SSI benefits. For recipients in federally administered living arrangements, SSA issues combined SSI/AABD benefits. The department issues AABD state supplement benefits to recipients in state-administered living arrangements. All SSI, SSI/AABD, and AABD state supplement benefits arrive on or about the first of the month for which the recipient has been determined eligible.

2742 Assistance Pending SSI (07/01/1999, 99-9)

An agreement between the Social Security Administration and the department allows the department to recover General Assistance given to an SSI/AABD applicant while he or she is waiting for a decision on his or her SSI/AABD application. The applicant must agree to this recovery from his or her first SSI/AABD check by signing an Interim Assistance Agreement (see rule 2605).

2743 AABD-EP Benefit Payments (07/01/1999, 99-9)

AABD-EP benefit payments granted by the department are issued monthly through the regular monthly payment system also used for Reach Up payments. (See Method of Payment, rule 2222.) Benefits issued for receipt on or about the first of the month cover that month.

The monthly payroll is adjusted when application decisions grant new recipients and when review decisions end or change the amount of benefits due.

Daily payments for the authorized amount will be made for the following situations:

A. Grants authorized after the regular monthly payments are made for that month or the following month.

B. Increases authorized for the current month or the following month when payroll closing precludes implementation of the change through the regular monthly payment system.

C. Other authorized situations, such as benefits issued to correct an underpayment.

Mandatory AABD Supplement

2750 Mandatory AABD Supplement (07/01/1992, 92-1)

A mandatory AABD supplement was paid through the Social Security SSI/AABD system to persons who were receiving AABD payments under the former federal-state program as of December 31, 1973. New applicants after December 1973 were not entitled to the mandatory supplement.

"Mandatory" recipients were guaranteed the protection of receiving at least the same amount of income (minimum income level) as they received, including AABD payments, in December 1973 as long as they stayed continuously eligible for SSI/AABD. Benefits were figured by social security under both the "mandatory" and "optional" criteria. The higher benefit of the two was then granted. All individuals are now covered under the (higher) optional benefit.

2760 Optional AABD Supplement (07/01/1999, 99-9)

To qualify for SSI/AABD or for the AABD state supplement in Vermont, a person must be a Vermont resident and pass all the eligibility tests for federal SSI benefits except for the SSI income test. His or her countable income, determined according to federal SSI rules, must be less than the combined SSI/AABD income test, which is the sum of the maximum payment levels for SSI and the AABD state supplement for each living arrangement.

The amount of the benefit is the difference between the combined SSI/AABD payment level for the applicable living arrangement and the recipient's countable income. (See P-2740 for the combined SSI/AABD payment levels.)

2761 Living Arrangements (07/01/1999, 99-9)

For the purposes of living arrangement definitions, individuals and couples are defined as follows:

Individual. A single person or a person living with a spouse. The spouse of such a person is not aged, blind, or disabled and does not qualify as a federal essential person.

Couple. A husband and wife who are both aged, blind, or disabled and live in the same household or facility.

Combined SSI/AABD payment levels are based on living arrangement, as defined in the following subsections. All living arrangements are federally administered except for a residential care home with limited nursing care, level III, which is state-administered (rule 2764.2).

2762 Independent Living (07/01/1992, 99-9)

A person is in an independent living arrangement when he or she:

A. lives in his or her or their own home (owned or rented),

B. pays for room and board (but not for personal care services),

C. shares expenses by paying, at a minumum, a pro-rata share of household expenses in someone elses home, or

D. resides in a publicly operated emergency shelter throughout a calendar month.

2763 Living in Another's Household (07/01/1999, 99-9)

A person is living in another's household when:

A. the person is a member of a shared household,

B. neither the person nor his or her spouse is the head of household, and

C. the person or couple pays less than a commercial rate for room and board without personal care services or less than a pro-rata share of household expenses.

2764 Residential Care Home (07/01/1999, 99-9)

A person is in one of three residential care home living arrangements when he or she receives room, board, and personal care services in a facility licensed by the Department of Disabilities, Aging, and Independent Living (DAIL) as a residential care home (rules 2764.1 – 2764.3). Such a home provides, at a minimum, room, board, and personal care to three or more residents unrelated to the operator of the home. The home may also provide nursing overview or assistive community care services.

Personal care services include:

A. assistance with meals, dressing, movement, bathing, grooming, or other personal needs, and

B. general supervision of physical or mental well-being, including management of medication.

Personal care services do not include nursing care.

A Vermont resident placed by a Vermont agency in an out-of-state residential care home may qualify for SSI/AABD or for the AABD state supplement in Vermont under certain conditions. He or she must receive room, board, and personal care services, and the residential care home must be licensed as a residential care home by the state in which it is located or otherwise meet that state's standards comparable to licensing standards for Vermont's residential care homes.

2764.1 Residential Care, Assistive Community Care (07/01/1999, 99-9)

A person is in the living arrangement, Residential Care Home with Assistive Community Care - Level III, when he or she resides in a facility that has been licensed by the Department of Disabilities, Aging, and Independent Living as a level III residential care home (RCH) and has enrolled in Medicaid as a Private Non-Medical Institution in order to provide assistive community care services to Medicaid beneficiaries living in the RCH and receive Medicaid reimbursement for the provision of these services. The person in this living arrangement pays for room and board from his or her income, which may or may not include an SSI benefit and includes at least an AABD state supplement benefit, and retains a personal needs allowance. Medicaid pays for the assistive care services, which include personal care services, nursing overview, and 24-hour on-site assistive therapy and case management services.

2764.2 Residential Care, Limited Nursing (07/01/1999, 99-9)

A person is in the living arrangement, Residential Care Home with Limited Nursing Care – Level III, when he or she resides in a facility that has been licensed by the Department of Disabilities, Aging, and Independent Living as a level III residential care home (RCH) and the facility has not enrolled in Medicaid as a Private Non-Medical Institution to provide assistive community care services to Medicaid beneficiaries. The person in this living arrangement pays for room and board, personal care services, and nursing overview from his or her income, which includes an SSI/AABD benefit, and retains a personal needs allowance. Medicaid does not pay for any of the care services provided by the RCH.

This is the only state-administered living arrangement.

Residential Care Home

2764.3 Other Residential Care (07/01/1999, 99-9)

A person is in the living arrangement, Residential Care Home – Level IV, when he or she resides in a facility that has been licensed by the Department of Disabilities, Aging, and Independent Living as a level IV residential care home (RCH). A level IV RCH is not licensed to provide nursing overview and is not eligible to enroll in Medicaid as a Private Non-Medical Institution to provide assistive community care services to Medicaid beneficiaries. The person in this living arrangement pays for room, board, and personal care services from his or her income, which includes an SSI/AABD benefit, and retains a personal needs allowance. Medicaid does not pay for any of the care services provided by the RCH.

Custodial Care

2766 Custodial Care (07/01/1999, 99-9)

This living arrangement means receiving custodial care, as defined below, while living in a family home setting which provides such care to no more than two persons unrelated to the care provider.

This living arrangement may cover:

- a family care home serving one or two mentally retarded or mentally ill persons placed and supervised by a Vermont Community Mental Health Center or by the Vermont Department of Disabilities, Aging, and Independent Living; and
- a private home in which a person, other than a legal dependent of the care provider, receives custodial care.

Custodial care means providing basic room and board, plus personal services, such as: help with feeding, dressing, bathing, moving about under normal circumstances, occasional tray service (tray service 2-3 times a week) and/or supervision for the recipient's protection. Supervision for the recipient's protection deals primarily with protection services for retarded and emotionally disturbed individuals. A person who receives one or more of these personal services is receiving custodial care. (For room and board only, see rule 2762).

A Vermont resident placed by a Vermont agency in an out-of-state family home under comparable community care arrangements may qualify for this living arrangement.

Long-Term Care

2767 Long-Term Care (07/01/1999, 99-9)

This living arrangement means living in a Medicaid long-term care facility for at least 30 days with Medicaid paying 50 percent or more of the cost of care.

Payment Levels

2770 Payment Levels (07/01/1999, 99-9)

The maximum SSI/AABD payment an eligible individual or couple with no other income may receive is the sum of the maximum federal SSI payment and the maximum AABD state supplement for the applicable living arrangement.

A table showing the federal SSI share, the state AABD share, and combined maximum SSI/AABD payment for each individual and couple living arrangement is published in the ESD Procedures Manual (Section P-2740) as soon as possible after final federal SSI maximums are published in the Federal Register and state AABD funding has been authorized by Vermont legislative action, but prior to the effective date of the revised maximums.

2780 Essential Person (AABD-EP) (07/01/1992, 92-1)

A. State AABD-EP payments are made to any aged, blind or disabled person (or couple) who:

1. has a needy essential person (see rule 2781 for definition) living in his or her (or their) home; and

2. is not eligible for SSI/AABD; or

3. is eligible for SSI/AABD but has net income, including his or her (or their) SSI/AABD payment, below the applicable State AABD-EP payment level (see rule 2784).

B. A state AABD-EP applicant and his or her (or their) essential person must first apply for SSI/AABD through a Social Security office except when the department finds that:

1. the applicant is an aged, blind or disabled person whose net income exceeds the current SSI/AABD payment level for his or her (or their) living arrangement (rule 2770), and/or

2. the essential person is not eligible in his or her own right for SSI/AABD (i.e. is not aged, blind or disabled).

INTERPRETIVE MEMO

[X] AABD Rule Interpretation **[ ] AABD Procedure Interpretation**

This interpretive memo remains effective statewide until it is specifically supersededed–either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2780 **Date of this Memo** 04/13/1995 **Page** 1 of 1

This Memo: [X**] is New [ ] Replaces one dated** _____

QUESTION: Are the definitions of blind and disabled the same as the SSI definitions?

ANSWER: Yes. In addition, you may consider an individual (or couple) blind or disabled if a DDS decision of not blind or not disabled has been reversed by the Commissioner of the Department for Children and Families or the Human Services Board

2781 Essential Person - Definition (07/01/1996, 96-33F)

An individual may qualify as an Essential Person by meeting each of the five criteria listed below:

A. S/he is living in the applicant/recipient's household.

B. S/he is not eligible for SSI/AABD or for Reach Up in his/her own right.

C. S/he does not receive payment for providing personal services to the applicant/recipient from the Department of Disabilities, Aging and Independent Living.

D. Except for spouses aged 55 or over, he furnishes specific care listed at rule 2781.1 or services listed at rule 2781.2 that:

1. the applicant/recipient cannot perform and

2. would have to be provided even if s/he were not living in the applicant/recipient's household.

E. S/he meets one of the following three criteria:

1. S/he is the applicant/recipient's spouse and is at least 55 years old.

2. S/he is the applicant/recipient's spouse, is younger than 55 years old, and meets one of these two criteria:

a. S/he provides at least one medically necessary personal care service listed at rule 2781.1 (A). An individual's ability to work outside the home is not considered when one of these services is medically necessary and provided by the essential person.

b. S/he provides at least one of the medically necessary personal care services listed at rule 2781.1 (B) and is unable to work outside the home.

An applicant/recipient spouse who meets either of the criteria below shall be determined unable to work:

i. S/he has a physical or mental condition(s) that precludes work and that has been documented in accordance with department standards. The department will consider an individual to be unable to work if currently unable to work in any type of employment due to physical or emotional problems that have lasted or presumably will last at least 30 days. The condition must be verified by a signed statement from a physician or licensed practitioner whose services would be covered under Medicaid were the AABD-EP applicant a Medicaid recipient. The department shall pay the reasonable expense of required medical examinations but may require, and pay for, a second opinion.

ii. S/he has one of the following barriers to employment:

(A) S/he has an eighth-grade education or less -or- is unable to read or write. Eighth-grade education means completion of eighth grade, but not completion of ninth grade.

(B) S/he has been employed or self-employed fewer than six months in the last five years and has been a full-time student fewer than six months in the last five years.

(C) S/he has been released from a mental health institution or mental health hospital unit within the last six months.

INTERPRETIVE MEMO

[X] AABD Rule Interpretation **[ ] AABD Procedure Interpretation**

This interpretive memo remains effective statewide until it is specifically supersededed–either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2781 **Date of this Memo** 12/29/1988 **Page** 1 of 1

This Memo: [X**] is New [ ] Replaces one dated** _____

QUESTION: The essential person has applied for SSI/AABD and Medicaid on the basis of disability. He (or she) was found not disabled by DDS and appealed the Medicaid denial to the Human Services Board. The Human Services Board has reversed the DDS decision and found the person eligible for Medicaid on the basis of disability. He (or she) also appealed the SSI/AABD denial to the Federal Administrative Law Judge but that decision is still pending.
Am I required to terminate the Essential Person grant as a result of his (or her) having been found disabled via the Human Services Board decision?

ANSWER: No. We always use the SSI/AABD decision. The reason for the requirement that an EP must not be disabled is to avoid spending 100 percent State program money when the recipient would be eligible under the SSI/AABD program. However, until he (or she) is found disabled for SSI/AABD, he (or she) is not eligible under that program and remains eligible as an EP.

An essential person who wins an appeal of the Medicaid disability determination should appeal the SSI/AABD decision, if he (or she) hasn't already, or even reapply for SSI/AABD if the appeal period has expired. The decision by the Human Services Board that the applicant is considered disabled for purposes of Medicaid eligibility strongly suggests that the SSI/AABD decision may also be reversed, but until it actually is, the needs of the EP continue in the grant.

(D) S/he is participating in a state or federally funded drug or alcohol treatment program. Participating means following an established treatment plan measured by the individual making progress toward the treatment goals as established by the treatment provider.

(E) S/he lives five or more miles from a town of 2500 or more and has no available transportation.

c. S/he is not the spouse of the applicant but provides at least one personal care service or homemaker service listed at rules 2781.1 or 2781.2.

2781.1 Personal Care Services (07/01/1996, 96-33)

When an applicant/recipient requests assistance on the basis of an individual's provision of personal care services, the department determines whether the personal care services provided are medically necessary to enable the applicant/recipient to remain in the home. The commissioner or his or her designee makes this determination based on a case-by-case assessment of the documented medical conditions (physical or mental) present and the relationship of the personal care services provided to these medical conditions.

The applicant/recipient is responsible for obtaining documentation of medical conditions and the need for personal care services from his or her treating physician, nurse, or other qualified medical professional (as determined by the commissioner or his or her designee), using a form provided by the department. When the department concludes that additional medical data are necessary, the commissioner or his or her designee shall obtain such data from the treating physician, nurse, or other qualified medical professional, or on a consultative basis. The following may be considered medically necessary personal care services:

A.

1. physical assistance with getting around the home;
2. physical assistance getting in and out of a chair or bed;
3. physical assistance using the toilet;
4. physical assistance eating;
5. physical assistance taking medication(s) if needed more than twice a day;
6. physical assistance with medical treatments, such as the management of feeding tubes, suctioning, and oxygen;
7. general supervision of physical and/or mental well-being where a physician states such care is required due to a specific diagnosis, such as Alzheimer's disease or dementia or like debilitating diseases or injuries.

B.

1. physical assistance with bathing;
2. physical assistance with dressing;
3. physical assistance taking medications fewer than three times a day.

The department may determine that personal care services other than those identified above are medically necessary to enable the applicant/recipient to remain in the home. When such a determination is made, the department shall determine the category, either (A) or (B), to which the personal care service provided belongs.

2781.2 Homemaker Services (07/01/1996, 96-33F)

When an applicant/recipient requests assistance on the basis of an individual's provision of homemaker services, the department determines whether the homemaker services provided are medically necessary to enable the applicant/recipient to remain in the home. The commissioner or his or her designee makes this determination based on a case-by-case assessment of the documented medical conditions (physical or mental) present and the relationship of the homemaker services provided to these medical conditions.

The applicant/recipient is responsible for obtaining documentation of medical conditions and the need for homemaker services from his or her treating physician, nurse, or other qualified medical professional (as determined by the commissioner or his or her designee), using a form provided by the department. When the department concludes that additional medical data are necessary, the commissioner or his or her designee shall obtain such data from the treating physician, nurse, or other qualified medical professional, or on a consultative basis. The following may be considered medically necessary homemaker services:

- managing money,
- doing laundry,
- shopping,
- preparing meals,
- performing heavy household chores,
- doing ordinary housework,
- taking out the garbage.

The department may determine that homemaker services other than those identified above are medically necessary to enable the applicant/recipient to remain in the home.

2782 AABD-EP Assistance Group (07/01/1996, 96-33)

The AABD (essential person) assistance group, whose resources and income must be counted together for the eligibility tests, includes any of the following persons living in the same household:

- an aged, blind or disabled person; and
- an aged, blind or disabled spouse; and/or
- an ineligible (not eligible for SSI/AABD or Reach Up) spouse of the aged, blind or disabled person; and/or
- a non-spouse essential person.

2783 Living Arrangements, AABD-EP (07/01/1992, 92-1)

AABD-EP payment levels are based on the assistance group's living arrangement as defined in the following subsections.

2783.1 Independent Living with EP (07/01/1992, 92-1)

Outside Chittenden County

Chittenden County Only

Independent living, classified separately by geographic location of residence only, means:

living in own home (owned or rented) with an essential person living in the same household; or

shared household with others outside the assistance group and paying at least the assistance group's pro-rata share of household expenses.

An individual in the living arrangement is an aged, blind or disabled person with either an ineligible spouse or non-spouse essential person living in the same household. A couple is a husband and wife (both aged, blind or disabled) with a non-spouse essential person living in the same household.

2783.2 EP Living in Another's Household (07/01/1992, 92-1)

Living in another's household means:

- living in a shared household of which the person or spouse is not the head; and
- paying less than the assistance group's pro-rata share of household expenses.

Non-spouse essential persons are not included in this living arrangement for either eligible individuals or eligible couples.

2784 AABD-EP Payment Levels (07/01/1996, 96-33F)

A. Payment levels are based on the following schedule, before consideration of countable income:

1. The payment level is 100 percent of the maximum AABD-EP payment when the essential person meets one of these three criteria:

a. S/he is the applicant/recipient's spouse and at least 55 years old.

b. S/he is the applicant/recipient's spouse, younger than 55 years old, and provides at least one medically necessary personal care service included in the list at rule 2781.1 (A).

c. S/he is not the spouse of the applicant/recipient but provides at least:

- one medically necessary personal care service listed at rule 2781.1 (A) or
- seven of the medically necessary services listed at rule 2781.1 (B) or 2781.2.

2. The payment level is the maximum SSI/AABD payment in addition to 67 percent of the difference between the maximum AABD-EP payment and the maximum SSI/AABD payment when the essential person meets one of these two criteria:

a. S/he is the applicant/recipient's spouse, under age 55, unable to work outside the home, and providing one of the services listed at rule 2781.1 (B) and provides no services under (A).

b. S/he is not the spouse of the applicant/recipient but provides four to six of the services listed at rule 2781.1 (B) or 2781.2.

3. The payment level is the maximum SSI/AABD payment in addition to 34 percent of the difference between the maximum AABD-EP payment and the maximum SSI/AABD payment when the essential person is not the spouse of the applicant/recipient and provides one to three of the services listed at rule 2781.1 (B) or 2781.2.

B. The maximum AABD-EP payment an eligible individual, with no other income, may receive, to meet his or her needs plus those of an ineligible spouse or other essential person living with him or her is established as follows:

1. For an individual living independently outside Chittenden County, the maximum AABD-EP payment is equal to the current maximum combined SSI/AABD payment for a couple living outside Chittenden County (see rule 2770).

2. For an individual living independently in Chittenden County, the maximum AABD-EP payment is equal to the current maximum combined SSI/AABD payment for a couple living in Chittenden County (see rule 2770).

3. For an individual living in another's household (limited to ineligible spouse only), the maximum AABD-EP payment is equal to the current maximum combined SSI/AABD payment for an individual living independently (see rule 2770).

C. The maximum AABD-EP payment an eligible couple, with no other income, may receive to meet their needs plus those of an essential person living with them is established by adding an increment for the essential person's needs to the applicable current maximum combined SSI/AABD payment for a couple (within or outside Chittenden County - see rule 2770). The

increment is adjusted periodically at the same time and by the same methods as the State (AABD) share of maximum combined SSI/AABD payments.

The table of current maximums is published in the procedures manual (section P-2740).

The AABD-EP payment is prorated in the month of application unless the application was filed the first working day of the month.

2785 Resources, AABD-EP (07/01/1992, 92-1)

Combined resources of the assistance group may not exceed the resource maximums in the Medicaid Program (see Medicaid Procedures Manual)

An individual (or couple) receiving SSI/AABD automatically passes the resources test.

Use the Reach Up resource rules to determine what resources should be included or excluded with the following exception: life insurance of a non-spouse essential person is not counted.

INTERPRETIVE MEMO

[X] AABD Rule Interpretation **[ ] AABD Procedure Interpretation**

This interpretive memo remains effective statewide until it is specifically supersededed–either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2785 **Date of this Memo 04/13/1995** **Page 1 of 1**

This Memo: [X] is New [ ] Replaces one dated _____

QUESTION: How do we calculate the income and resources of an EP when there are other individuals in the household who are dependent on the EP's income?

ANSWER: Prorate the income and resources of the EP according to the number of individuals dependent on the EP's income and resources.

Example: Mary, age 77 can no longer care for herself and has moved to her daughter's home. She applies for an EP grant with her daughter as the EP. The daughter has a husband and two children. Count all of Mary's income and resources and 1/4 of the daughter's income and resources in determining Mary's financial eligibility for an EP grant. In determining the daughter's income and resources, count a prorata share of her husband's income.

QUESTION: If a disabled child applies for an EP grant, whose income and resources would we count in determining the child's financial eligibility for an EP grant?

ANSWER: Count the income and resources of the disabled child and the EP, and a prorata share of the income and resources of the child's parent(s) if living in the same household. If additional individuals are dependent on the EP's income and resources, calculate the EP's prorata share.

2786 Income, AABD-EP (07/01/1992, 92-1)

All income to all assistance group members must be counted together according to income rules for the Reach Up program (see rules 2250–2259) with the following exceptions:

- Reach Up earned income exemptions (rule 2254) are not allowed; and
- SSI/AABD benefits, if received, are counted as unearned income.

The following income exemptions are allowed:

- $20 of total monthly income received by all assistance group members as:
  - unearned income only (other than VA pension or SSI/AABD benefits); or
  - earned income only (including self-employment after business expense deductions); or
  - any combination of above unearned and earned income; and
- $65 plus one-half of the balance of any remaining earned income received by the aged, blind or disabled member(s) only.

INTERPRETIVE MEMO

[X] AABD Rule Interpretation **[ ] AABD Procedure Interpretation**

This interpretive memo remains effective statewide until it is specifically supersededed–either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2786 **Date of this Memo** 05/08/1992 **Page** 1 of 1

This Memo: [X**] is New [ ] Replaces one dated** _____

QUESTION: The Social Security Administration gives the same income exemptions from earned and unearned income as the ones listed at 2786 when it determines eligibility for SSI/AABD. Does this mean there are situations where we can avoid doing these (same) calculations ourselves in determining an EP grant.

ANSWER: Yes. If the EP is the spouse of a recipient of SSI/AABD, the EP grant is equal to the difference between the AABD-EP payment maximum to an individual and the SSI/AABD payment maximum to an individual. As of 1/1/92, the EP grant would be $264.00 as follows:

$ 751.24	EP payment maximum
— 486.99	SSI/AABD payment maximum
$ 264.25	(Drop cents to $264.00)

The only exception to this is an additional $90 (each) employment expense deduction if the individual and/or the EP is working.

INTERPRETIVE MEMO

[X] AABD Rule Interpretation **[ ] AABD Procedure Interpretation**

This interpretive memo remains effective statewide until it is specifically supersededed–either by a subsequent interpretive memo or by a contradictory rule with a later date.

Reference 2786 **Date of this Memo** 04/13/1995 **Page** 1 of 1

This Memo: [X**] is New [ ] Replaces one dated** _____

QUESTION: How do we calculate the income and resources of an EP when there are other individuals in the household who are dependent on the EP's income?

ANSWER: Prorate the income and resources of the EP according to the number of individuals dependent on the EP's income and resources.

Example: Mary, age 77 can no longer care for herself and has moved to her daughter's home. She applies for an EP grant with her daughter as the EP. The daughter has a husband and two children. Count all of Mary's income and resources and 1/4 of the daughter's income and resources in determining Mary's financial eligibility for an EP grant. In determining the daughter's income and resources, count a prorata share of her husband's income.

QUESTION: If a disabled child applies for an EP grant, whose income and resources would we count in determining the child's financial eligibility for an EP grant?

ANSWER: Count the income and resources of the disabled child and the EP, and a prorata share of the income and resources of the child's parent(s) if living in the same household. If additional individuals are dependent on the EP's income and resources, calculate the EP's prorata share.