

## Document Retrieval Result

**62 P.S. § 442.1**

§ 442.1. The medically needy; determination of eligibility

62 P.S. § 442.1

Purdon's Pennsylvania Statutes and Consolidated Statutes [Currentness](#)

Title 62 P.S. Poor Persons and Public Welfare

Chapter 1. Public Welfare Code

▣ [Article IV](#). Public Assistance

▣ (f) Medical Assistance

➔ **§ 442.1. The medically needy; determination of eligibility**

(a) A person shall be considered medically needy if that person meets the requirements of clauses (1), (2) and (3):

(1) Resides in Pennsylvania continuously for ninety days immediately preceding the effective date of eligibility, except for persons eligible for federally funded categories of medical assistance.

(2) Meets the standards of financial and nonfinancial eligibility established by the department with the approval of the Governor. In establishing these standards the department shall take into account:

(i) the funds certified by the Budget Secretary as available for medical assistance for the medically needy;

(ii) pertinent Federal legislation and regulations; and

(iii) the cost of living.

(3) Complies with subclause (ii):

(i) Deleted by 2012, June 30, P.L. 668, No. 80, § 6, effective July 1, 2012.

(ii) Is not eligible for cash assistance but is:

(A) a child under twenty-one years of age;

(B) a custodial parent of a dependent child under twenty-one years of age who verifies employment of at least one hundred hours per month earning at least the minimum wage;

(C) a person fifty-nine years of age or older;

(D) a refugee for whom Federal financial participation is available;

(E) a pregnant woman;

(F) a person with a disability who is receiving Social Security disability benefits, who has been referred to the Social Security Administration for a determination of eligibility for Supplemental Security Income or who is under review for a disability by the department based upon Social Security disability criteria; or

(G) a person who verifies employment of at least one hundred hours per month earning at least the minimum wage.

(b) Deleted.

(c) Medical assistance benefits can be authorized retroactively for an eligible person who requests coverage for an unpaid medical expense, which was incurred during a period up to three months prior to the month of application. In determining eligibility, all income received or expected to be received in a six-month period shall be counted, even if the person requests medical assistance coverage for less than six months. If retroactive medical assistance coverage is requested, the six-month period can combine both retroactive and prospective periods. Medical assistance coverage can continue as long as the need exists, but no longer than the six-month period from which income is counted.

CREDIT(S)

1967, June 13, P.L. 31, No. 21, art. 4, § 442.1, added 1968, July 31, P.L. 904, No. 273, § 5. Amended 1982, April 8, P.L.

231, No. 75, § 17, effective in 60 days; 1994, June 16, P.L. 319, No. 49, § 6, effective in 60 days; 1995, June 30, P.L. 129, No. 20, § 7, imd. effective; 1996, May 16, P.L. 175, No. 35, § 15, imd. effective; 2012, June 30, P.L. 668, No. 80, § 6, effective July 1, 2012.

#### VALIDITY

*The Pennsylvania Attorney General, in Official Opinion No. 96-1, 26 Pa.B. 6231, Dec. 28, 1996, concluded that the 90-day residency requirement for Medical Assistance added by Act 1996-35, § 15, was unconstitutional and directed the Dept. of Public Welfare to administer 62 P.S. § 442.1 as if the unenforceable durational residency requirement of Act 1996-35 was not enacted.*

#### HISTORICAL AND STATUTORY NOTES

##### Act 1982-75 legislation

For effect of 1982 amendment, see note following 62 P.S. § 432.

##### Act 1994-49 legislation

Section 20 of 1994, June 16, P.L. 319, No. 49, provides:

"Regulations promulgated by the Department of Public Welfare prior to December 31, 1995, for the purpose of implementing the amendment or addition of sections 432(3) and (8), 432.4, 442.1 and 442.2 of the act shall not be subject to the act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act. Such regulations shall be subject, however, to review for form and legality by the Attorney General and the General Counsel under sections 204(b) and 301(10) of the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act."

##### Act 1996-35 legislation

The 1996 amendment rewrote the section, which formerly read:

"(a) A person shall be considered medically needy if he:

"(1) Resides in Pennsylvania, regardless of the duration of his residence or his absence therefrom;

"(2) Meets the standards of financial eligibility established by the department with the approval of the Governor. In establishing these standards the department shall take into account (i) the funds certified by the Budget Secretary as available for medical assistance for the medically needy; (ii) pertinent Federal legislation and regulations; and (iii) the cost of living; and

"(3) Is twenty-one years of age or older and receives or is eligible to receive general assistance benefits.

"(b) Persons who are not eligible for cash assistance by reason of section 432(3)(i) shall be considered medically needy."

Based upon Pennsylvania Attorney General Opinion No. 96-1, 26 Pa.B. 6231, Dec. 28, 1996, finding unconstitutional the 90-day residency requirement for Medical Assistance added by Act 1996-35, § 15, the Dept. of Public Welfare is not implementing said durational residency requirement and has not promulgated regulations to implement this provision. See 30 Pa.B. 3779, July 29, 2000.

##### Act 2012-80 legislation

Act 2012-80, § 6, in subsec. (a)(3), in the introductory paragraph, substituted "subclause (ii)" for "either subclause (i) or (ii)"; deleted subsec. (a)(3)(i), which read:

"(i) Receives general assistance in the form of cash."

; and in subsec. (a)(3)(ii)(B), inserted "who verifies employment of at least one hundred hours per month earning at least the minimum wage".

Sections 13 and 14 of 2012, June 30, P.L. 668, No. 80, effective July 1, 2012, provide:

"§ 13. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

"§ 14. All regulations inconsistent with this act are abrogated."

62 P.S. § 442.1, PA ST 62 P.S. § 442.1

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