

**Title 23: Division of Medicaid**

**Part 102: Non-Financial Requirements**

**Part 102 Chapter 5: Categorical Eligibility**

*Rule 5.5: Pregnant Women.*

- A. A pregnant woman of any age is categorically eligible.
- B. A pregnant woman's eligibility includes a two (2) month post-partum period following the month of delivery, miscarriage or other termination of pregnancy.

Source: 42 CFR § 435.116 (Rev. 2012).

History: Deleted Miss. Admin. Code Part 102, Rule 5.5.C.

*Rule 5.6: Parents and Caretaker Relatives of Dependent Children*

- A. Low-income parent(s) or caretaker relatives with children under age eighteen (18) are categorically eligible for Medicaid.
- B. This group includes intact two (2) parent families and families in which the children are deprived of one or both parents.
- C. A caretaker relative is related by blood, adoption or marriage with whom the dependent child is living, who assumes primary responsibility for the child's care, as may be indicated by claiming the child as a tax dependent for federal income tax purposes and meets a specified degree of relationship.
- D. A dependent child is under the age of eighteen (18) and is deprived of parental support by reason of the death, absence from the home, physical or mental incapacity, or unemployment (or underemployment) of at least one parent.

Source: 42 CFR § 435.110 (Rev. 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

**Part 102 Chapter 6: General Eligibility Requirements**

*Rule 6.3: Eligible Individuals - FCC Programs.*

- A. Children under age nineteen (19), pregnant women of any age and parents or needy caretakers, within the specified degree of relationship, are eligible individuals for the FCC programs if they apply and meet program requirements.
- B. For family coverage , parents must live together, have a biological, adopted or step child, apply and meet all of the basic program requirements.

Source: 42 CFR §. 435.110 (Rev. 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.4: Verification of Age.*

A. The age of an individual must be verified in the following situations:

1. The applicant is an adult or child applying for benefits which are based on age;
2. There are ineligible children in an ABD deeming household;
3. A disabled or blind applicant under age twenty-one (21) applies for ABD and any of the following conditions exist:
  - a) Deeming;
  - b) Student earned income exclusion; or
  - c) Support from absent parent exclusion.
4. Age will be verified by matching with electronic data sources, as required by the ACA. If age cannot be verified by available data sources, the applicant will be required to provide acceptable verification of age.

Source: 42 CFR § 435. 522 (Rev. 1993).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.9: Marital Relationships - FCC Programs.*

A. A marital relationship is one in which members of the opposite sex are:

1. Married under State law;
2. Married under common law prior to April 1, 1956 as recognized by MS.
3. Couples in “holding out” situations are unrelated individuals for FCC purposes.

Source: 42 CFR § 435. 603 (Rev. 2012).

History: Deleted Miss. Admin. Code Part 102, Rule 6.9 A(4).

*Rule 6.10: Termination of a Martial Relationship - FCC Programs.*

A. The marital relationship no longer exists for FCC purposes as of the date that:

1. Either individual dies;
2. A final decree of divorce or annulment is issued for the marriage;
  - a) If a divorced couple resumes living together, the adults are unrelated
3. The married couple begins living in separate households.
  - a) A legally married man and woman who resume living together after having lived apart are treated as a married couple, regardless of the reason for having resumed living together.

Source: 42 CFR § 435. 603 (Rev. 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.11: Changes in Marital Relationship – Applications, FCC Programs.*

- A. Marriage or termination of marriage, including separation, is effective the month the event occurs.
- B. In application situations, individuals must be in the home at least one day of the month to be included in that month.

Source: 42 CFR § 435. 603 (Rev. 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.16: Definition of a Child - FCC Programs.*

- A. To be categorically eligible as a child in the FCC programs, the individual must be under the age of nineteen (19).
- B. Age is verified, primarily through electronic sources.
- C. An individual's status as a child ends effective the month after he turns age nineteen (19).

Source: 42 CFR § 435.603 (Rev. 2012).

*Rule 6.17: Emancipated Children - FCC Programs.*

- A. Most children are dependents of their parents or have another adult caretaker. However, some children may be emancipated. An emancipated minor is authorized to act on his own behalf. Though not a dependent child, the emancipated minor under age nineteen (19) is a categorically eligible child for FCC programs.
- B. Emancipation may occur by court-ordered emancipation, marriage or living independently; however, how an emancipated child under age 19 is treated for Medicaid or CHIP purposes depends on the living arrangement of the child, the child's tax dependent or tax filer status and/or whether the child

must be treated as an exception to tax filer rules or under non-filer rules, as described in budgeting rules.

Source: 42 CFR § 435. 603 (Rev. 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.18: Minor Parents - FCC Programs.*

- A. An unmarried parent under age nineteen (19) who resides in the home with his children and his parents (the children's grandparents) has his own eligibility determined using tax filer or exception rules applies; however, the minor's children are included in the household composition with the minor parent as children cannot be separated from their parent(s) if living together.
- B. The minor's children are dependent children of the minor parent for determining their eligibility.

Source: 42 CFR § 435. 603 (Rev. 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.35: Child Support Requirements for Parents and Caretaker Relatives*

- A. Referral to and cooperation with child support is required as a condition of the adult's eligibility if the deprivation reason for at least one child is continued absence.
- B. The parent or caretaker relative must cooperate with child support requirements and assist the state by cooperating with enforcement of existing court orders or in obtaining at least medical support from the absent parent.
- C. A referral to the IV-D agency is made whether or not there is an existing court order and regardless of whether child support is being paid by the absent parent.

Source: 45 CFR. § 233.90 (Rev. 1994). Miss. Code Ann. § 43-13-121 (Rev. 2005).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

**Part 102 Chapter 8: Non-Financial Requirements - FCC Programs**

*Rule 8.1: Deprivation.*

- A. Deprivation is an eligibility factor for dependent children under age eighteen (18). Deprivation must exist within the household in order for the parent(s) or caretaker relative to obtain eligibility. The child's eligibility is not tied to deprivation but there must be a dependent child under the age of eighteen (18) in the home in order for the adult to qualify for coverage.
- B. A condition of deprivation is not applicable in any other Medicaid programs or CHIP.

C. The deprivation factor means a dependent child is deprived of the support of one or both of their parents for one of the following reasons:

1. Death;
2. Continued absence from the home;
3. Physical or mental incapacity (two (2) parent families only); and
4. Unemployment or Underemployment (two (2) parent families only).

D. Deprivation is established for the dependent child in relation to the child's legal and/or natural parents.

1. The biological parent of a child who has been legally adopted is no longer a legally responsible parent. Deprivation is determined only in regard to the adoptive parents.
2. Deprivation due to continued absence is always met in a single parent adoption.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 8.2: Legally Responsible Parents.*

A. The following are legally responsible parents:

1. The child's biological, adoptive or step mother;
2. The child's biological, adoptive or step father;
3. The adoptive parent who has been legally granted a final decree of adoption.

Source: 42 CFR § 435.603 (Rev. 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 8.3: Legal Father.*

A. For the deprivation determination, a child's legal father is one of the following:

1. A man whose name appears on the child's birth certificate unless a court has determined otherwise;
2. A man who has been declared to be the child's father by a court order;
3. A man who has acknowledged paternity of the child in an Admission of Paternity if there is no legal father either on the birth certificate or in a court order;

4. A man who married the child's mother subsequent to the birth and publicly acknowledges that he is the father of the child when there is no legal father listed on the child's birth certificate and a paternity order has not been issued establishing a different person as the father.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993). Miss. Code Ann. 43-13-121.1 (Rev. 2005).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 8.5: Incapacity.*

- A. A child who lives with biological, legal or adoptive parents is deprived of parental support or care if one (1) or both parents receive Social Security Disability or SSI.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993).

*Rule 8.6: Under/Unemployment.*

- A. A child who lives with both of his parents is deprived of parental support or care if the combined family income is equal to or below the program gross and net income limits for the appropriate family size.

Source: 42 CFR §§ 435.601 (a) and (b) (Rev. 1993).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 8.8: Relationship.*

- A. The responsible adult may be a relative or a non-relative for children eligible under a federal poverty level and CHIP.
- B. To meet the requirement of relationship as a parent or caretaker relative, a child must live in the home with a biological, adopted or step parent or one of the following relatives within the specified degree of relationship:

1. Grandfather or grandmother (extends to great, great-great and great-great- great);

- a) A grandparent-in-law is within the required degree;
- b) The relationship of grandparent-in-law occurs when one of the child's grandparents remarries;
- c) For instance, if the child's paternal grandmother dies and his paternal grandfather marries again, this second wife of the child's grandfather becomes the child's grandmother-in-law;
- d) A step-grandparent is not within the degree of relationship;

- 1) A step-grandparent is the parent of a child's stepmother or stepfather;

2. Brother or sister (including half-brother and half-sister);
  3. Uncle or aunt (extends to great and great-great);
  4. First cousin, including first cousin once removed (child of a first cousin);
  5. Nephew or niece (extends to great and great-great);
  6. Stepfather or stepmother; or
  7. Stepbrother or stepsister.
- C. Relationship extends to the legal spouse of the above listed relatives even after the marriage is terminated by death or divorce.
- D. The relationship requirement is met when the child lives with any of the above named relatives.
- E. Legal custody is not a factor in determining relationship.
- F. Legal adoption terminates all prior relationships except that the biological parent remains a qualified relative to the child for eligibility.
1. A natural or biological parent whose child has returned to the parent's home after being legally adopted by another individual is within the degree of relationship.
  2. In such instances the natural parent is not legally responsible for the child and the adoptive parents must be reported as absent parents to the Division of Child Support.
  3. Example: The maternal grandmother adopts her grandchild. The biological mother returns to live in the home. The biological mother is not within the degree of relationship because the legal mother (the grandmother) is living in the home.
  4. Example: The maternal grandmother adopts her grandchild and the child later returns to live with the biological mother. In this case, the biological mother is within the degree of relationship because the legal mother is not living in the home. The adoptive mother (grandmother) is the absent legal parent for child support purposes.
- G. Relationship as a caretaker relative must be verified.
1. While parents may provide the child's birth certificate or other legal documents to prove relationship, another relative will need to provide additional documents to show the relationship to the child's parent and to the child.

Source: 42 CFR §§ 435.601 (a) and (b) (Rev. 1993).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

## **Title 23: Division of Medicaid**

### **Part 102: Non-Financial Requirements**

#### **Part 102 Chapter 5: Categorical Eligibility**

##### *Rule 5.5: Pregnant Women.*

- A. A pregnant woman of any age is categorically eligible.
- B. A pregnant woman's eligibility includes a two (2) month post-partum period following the month of delivery, miscarriage or other termination of pregnancy.
- C. ~~Pregnancy and due date must be verified by a healthcare professional.~~

Source: ~~Social Security Act § 1902(a) (10).~~ 42 CFR § 435.116 (Rev. 2012);

History: Deleted Miss. Admin. Code Part 102, Rule 5.5.C.

##### *Rule 5.6: ~~Families with Dependent Children.~~ Parents and Caretaker Relatives of Dependent Children*

- A. Low-income ~~families~~ parent(s) or caretaker relatives with children under age eighteen (18) are categorically eligible for Medicaid.
- B. This group includes intact two (2) parent families and families in which the children are deprived of one or both parents. ~~and qualified pregnant women.~~
- C. A caretaker relative is related by blood, adoption or marriage with whom the dependent child is living, who assumes primary responsibility for the child's care, as may be indicated by claiming the child as a tax dependent for federal income tax purposes and meets a specified degree of relationship.
- D. A dependent child is under the age of eighteen (18) and is deprived of parental support by reason of the death, absence from the home, physical or mental incapacity, or unemployment (or underemployment) of at least one parent.
  - 1. ~~A qualified pregnant woman has no children in the home.~~
  - 2. ~~She is assessed for eligibility as if her unborn child were born.~~
    - a) ~~In this instance, the unborn is her "qualifying child." If there is a spouse, the spouse's eligibility for family coverage cannot be assessed until the child is born; however, his needs and income are included for his spouse's eligibility.~~

Source: 42 CFR § 435.110 (Rev. ~~1980~~ 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

#### **Part 102 Chapter 6: General Eligibility Requirements**

*Rule 6.3: Eligible Individuals - FCC Programs.*

- A. Children under age nineteen (19), pregnant women of any age and parents or needy caretakers, within the specified degree of relationship, are eligible individuals for the FCC programs if they apply and meet program requirements.
- B. For family coverage ~~in the Medical Assistance Program (85), the married couple parents~~ must live together, have a qualifying biological, adopted or step child, apply and meet all of the basic program requirements.
- C. ~~Couples in "holding-out" situations are unrelated adults for FCC purposes.~~
- D. ~~However, if the unmarried couple has a common child, the adults' eligibility is established in the same way as a married couple with a qualifying child, i.e., both legal parents must live with the child, both apply and meet all basic program requirements.~~

Source: ~~45 CFR § 206.10 (Rev. 1992).~~ 42 CFR sec. 435.110 (Rev. 2012)

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.4: Verification of Age.*

- A. The age of an individual must be verified in the following situations:
  - 1. The applicant is an adult or child applying for benefits which are based on age;
  - 2. There are ineligible children in an ABD deeming household;
  - 3. A disabled or blind applicant under age twenty-one (21) applies for ABD and any of the following conditions exist:
    - a) Deeming;
    - b) Student earned income exclusion; or
    - c) Support from absent parent exclusion.
  - 4. Examples of acceptable sources of age verification are: Age will be verified by matching with electronic data sources, as required by the ACA. If age cannot be verified by available data sources, the applicant will be required to provide acceptable verification of age.
    - a) ~~Birth certificate or other birth records;~~
      - 1) ~~Must be established during the first five (5) years of life and certified by the custodian of the record. This could include a statement signed by the midwife or physician who was in attendance at the birth and who attests to the date of the birth.~~

- ~~b) Social Security records;~~
- ~~e) BENDEX System;~~
- ~~d) SDX Listing;~~
- ~~e) Religious records;~~
  - ~~1) Family Bible or other Family Record;~~
- ~~f) Hospital, school or physician/clinic records;~~
- ~~g) State or Federal Census records established near date of birth;~~
- ~~h) Marriage record which shows age or date of birth;~~
- ~~i) Insurance policy which shows age or date of birth;~~
- ~~j) Passport;~~
- ~~k) Employment records;~~
- ~~l) Military records; and~~
- ~~m) Child's birth certificate which shows parent's age.~~

~~5. Records which might be available to those born in foreign countries include the documents listed above and the following:~~

- ~~a) Foreign passport;~~
- ~~b) Immigration record established upon arrival in the U. S.;~~
- ~~e) Naturalization papers;~~
- ~~d) Alien registration card;~~

Source: 42 CFR § 435. ~~522~~ 601 (a); ~~42 CFR § 435.601 (b)~~ (Rev. 1993)

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.9: Marital Relationships - FCC Programs.*

A. A marital relationship is one in which members of the opposite sex are:

1. Married under State law;
2. Married under common law prior to April 1, 1956 as recognized by MS.

3. Couples in “holding out” situations are unrelated individuals for FCC purposes.
4. When the couple has a child, the applicant child and both legal parents are included in the budget group. Consequently, each adult can impact the eligibility of the other when an application is filed for family coverage in the Medical Assistance program.
  - a) Example: Sally Jones and Ben Johnson are an unmarried couple. They are the legal parents of one minor child, Brittany Johnson. Sally is not pregnant, but she needs Medicaid for herself and Brittany. An application for Medical Assistance/85 is filed for the parents and the child. Based on SFU requirements, both parents and the child must be included in the application. Ben earns \$2700 per month so his income exceeds the 85 gross income limit for a family of three (3). In this example, Brittany is the only qualifying child. Based on Ben’s income, Brittany is not deprived. Ben is ineligible and Sally is also ineligible even though there is no marital relationship. Brittany will be assessed for placement in another Medicaid program or CHIP.

Source: 42 CFR § 435. 603 601 (a); 42 CFR § 435.601 (b) (Rev. 1993 2012)

History: Deleted Miss. Admin. Code Part 102, Rule 6.9 A(4).

*Rule 6.10: Termination of a Martial Relationship - FCC Programs.*

A. The marital relationship no longer exists for FCC purposes as of the date that:

1. Either individual dies;
2. A final decree of divorce or annulment is issued for the marriage;
  - a) If a divorced couple resumes living together, the adults are unrelated.; however, if they are the legal parents of the applicant children, both adults are included in the Assistance Unit (AU) or Standard Filing Unit (SFU) together.
3. The married couple begins living in separate households.
  - a) A legally married man and woman who resume living together after having lived apart are treated as a married couple, regardless of the reason for having resumed living together.
4. Legal parents must be included in the AU or SFU with their children whether married or not.

Source: 42 CFR § 435. 603 601 (a); 42 CFR § 435.601 (b) (Rev. 1993 2012)

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.11: Changes in Marital Relationship – Applications, FCC Programs.*

A. Marriage or termination of marriage, including separation, is effective the month the event occurs.

B. In application situations, individuals must be in the home at least one day of the month to be included in that month.

1. ~~Example: A household applies May 27. At the interview on June 5, the head of household reports her spouse and the father of the children returned to the home on May 30. The spouse is considered part of the household effective May 1. If the spouse had moved back in the home on June 3, he would be included in the household effective June 1. However, when a head of household reports prior to the eligibility determination that a person moved out, that person is not considered part of the household in the month the change occurred.~~

2. ~~Example: A household applies on July 30th and is interviewed August 8th. During the interview, the head of household reports that her husband and the father of the children abandoned the family on August 3rd and she does not expect him to return. The spouse would not be included in the household effective August 1.~~

Source: 42 CFR § 435. ~~603~~ 601 (a); 42 CFR § 435.601 (b) (Rev. ~~1993~~ 2012)

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.16: Definition of a Child - FCC Programs.*

A. To be categorically eligible as a child in the FCC programs, the individual must be under the age of nineteen (19).

B. Age ~~must be~~ is verified, primarily through electronic sources.

C. An individual's status as a child ends effective the month after he turns age nineteen (19).

Source: 42 CFR § 435. ~~603~~ 601 (a); 42 CFR § 435.601 (b) (Rev. ~~1993~~ 2012)

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 6.17: Emancipated Children - FCC Programs.*

A. Most children are dependents of their parents or have another adult caretaker. However, some children may be emancipated. An emancipated minor is authorized to act on his own behalf. Though not a dependent child, the emancipated minor under age nineteen (19) is a categorically eligible child for FCC programs.

B. Emancipation may occur ~~the following ways:~~ by court-ordered emancipation, marriage or living independently; however, how an emancipated child under age 19 is treated for Medicaid or CHIP purposes depends on the living arrangement of the child, the child's tax dependent or tax filer status and/or whether the child must be treated as an exception to tax filer rules or under non-filer rules, as described in budgeting rules.

1. ~~Court Ordered Emancipation;~~

a) ~~In certain situations, a court may grant an order of emancipation or relief of minority to remove a minor child from the parent's supervision and financial responsibility and allow the minor child to live independently and act on his own behalf.~~

## ~~2. Marriage;~~

a) ~~When a minor child marries, he in effect emancipates himself. If the minor lives with a spouse, he is not considered a dependent of his parents. However, if the minor lives with his parents apart from the spouse, he returns to dependent child status for FCC purposes.~~

## ~~3. Living Independently.~~

a) ~~There may be instances in which parents relinquish supervision and financial responsibility for a child. When a child is living independently, he is an emancipated minor.~~

Source: 42 CFR § 435. ~~603 601 (a); 42 CFR § 435.601 (b)~~ (Rev. 1993 2012)

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

### *Rule 6.18: Minor Parents - FCC Programs.*

A. ~~An unmarried parent under age nineteen (19) who resides in the home with his children and his parents (the children's grandparents) is a dependent child of his parents for purposes of determining the minor's own eligibility~~ has his own eligibility determined using tax filer or exception rules applies; however, the minor's children are included in the household composition with the minor parent as children cannot be separated from their parent(s) if living together.

~~B. The minor's children are dependent children of the minor parent for determining their eligibility.~~

Source: 42 CFR § 435. ~~603 601 (a); 42 CFR § 435.601 (b)~~ (Rev. 1993 2012)

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

### *Rule 6.35: Child Support Requirements for Medical Assistance Program. Parents and Caretaker Relatives*

A. Referral to and cooperation with child support is required as a condition of the 85 adult's eligibility if the deprivation reason for at least one child ~~included in the Standard Filing Unit~~ is continued absence.

B. ~~The 85~~ parent or caretaker relative must cooperate with child support requirements and assist the state by cooperating with enforcement of existing court orders or in obtaining at least medical support from the absent parent.

C. A referral to the IV-D agency is made whether or not there is an existing court order and regardless of whether child support is being paid by the absent parent.

Source: 45 CFR. § 233.90 (Rev. 1994). Miss. Code Ann. § 43-13-121 (Rev. 2005)

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

**Title 23: Division of Medicaid**

**Part 102: Non-Financial Requirements**

**Part 102 Chapter 8: Non-Financial Requirements - FCC Programs**

*Rule 8.1: Deprivation.*

- A. Deprivation is an eligibility factor for dependent children under age eighteen (18), eligible in the Medical Assistance (85) program. Deprivation must exist within the household in order for the parent(s) or caretaker relative to obtain eligibility. The child's eligibility is not tied to deprivation but there must be a dependent child under the age of 18 in the home in order for the adult to qualify for coverage.
- B. A condition of deprivation is not applicable ~~to children who qualify in any other~~ on financial need for the FPL Medicaid programs (87, 88, and 91) or CHIP.
- C. ~~Children subject to~~ The deprivation factor ~~must be~~ means a dependent child is deprived of the support of one or both of their parents for one of the following reasons:
1. Death;
  2. Continued absence from the home;
  3. Physical or mental incapacity (two (2) parent families only); and
  4. Unemployment or Underemployment (two (2) parent families only).
- D. Deprivation is established for the ~~85~~ dependent child in relation to the child's legal and/or natural parents.
1. The biological parent of a child who has been legally adopted is no longer a legally responsible parent. Deprivation is determined only in regard to the adoptive parents.
  2. Deprivation due to continued absence is always met in a single parent adoption.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 8.2: Legally Responsible Parents.*

- A. The following are legally responsible parents:
1. The child's biological, adoptive or step mother ;
  2. The child's biological, adoptive or step father;

3. The adoptive parent who has been legally granted a final decree of adoption.

Source: 42 CFR § 435.603 601 (a); ~~42 CFR § 435.601 (b)~~ (Rev. 1993 2012).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 8.3: Legal Father.*

A. For the deprivation determination ~~in the 85 program and for budgeting in all FCC programs~~, a child's legal father is one of the following:

1. A man whose name appears on the child's birth certificate unless a court has determined otherwise;
2. A man who has been declared to be the child's father by a court order;
3. A man who has acknowledged paternity of the child in an Admission of Paternity if there is no legal father either on the birth certificate or in a court order;
4. A man who married the child's mother subsequent to the birth and publicly acknowledges that he is the father of the child when there is no legal father listed on the child's birth certificate and a paternity order has not been issued establishing a different person as the father.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993). Miss. Code Ann. 43-13-121.1 (Rev. 2005).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 8.5: Incapacity.*

A. A child who lives with biological, legal or adoptive parents is deprived of parental support or care if one (1) or both parents receive Social Security Disability or SSI.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993).

*Rule 8.6: Under/Unemployment.*

A. A child who lives with both of his ~~biological, legal or adoptive~~ parents is deprived of parental support or care if the combined family income is equal to or below the program gross and net income limits for the appropriate family size.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.

*Rule 8.7: Temporary Absence from the Home.*

- A. The temporary absence of the parent, other adult caretaker or the child from the home does not affect the eligibility determination, provided the absent member does not establish a home elsewhere and the reasons for the absence is temporary.
- B. In addition, the adult must retain legal responsibility for the child during the absence. The case must be documented with the reason for separation, the approximate duration and plan for the child or adult to return to the home.
- C. The following situations are considered temporary absences:
  - 1. Either the adult or child is temporarily out of the home receiving care or treatment in a medical facility, such as a hospital, a maternity home or drug treatment facility;
  - 2. Either the adult or child is out of the home for a visit;
    - a) Example: A child spending a summer vacation with his non-custodial parent, who lives in MS or out-of-state;
  - 3. Either the adult or child is out of the home to attend school or training;
    - a) Example: The child is in Job Corps or the parent is attending college;
  - 4. The adult works away from home and retains responsibility for the child, even though day-to-day care is delegated to someone else;
  - 5. The child is in a juvenile facility that is not a state institution and the qualified relative retains legal responsibility for the child even though the facility has physical custody;
  - 6. The child is in a Psychiatric Residential Treatment Facility (PRTF);
  - 7. Absence of parent(s) due to fulfilling a military obligation;
    - a) A legal parent who is away from home on military duty is considered part of the budget group unless there is abandonment of the family. Benefits will not be authorized for the person away on military duty.
- D. Any family member who is residing elsewhere permanently cannot be considered temporarily absent.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993).

*Rule 8.8: Relationship.*

- A. The responsible adult may be a relative or a non-relative for children eligible under a federal poverty level and CHIP.
- B. To meet the requirement of relationship ~~for the Medical Assistance program as a parent or caretaker~~ relative, a child must live in the home with a legal or biological, adopted or step parent or one of the following relatives within the specified degree of relationship:

1. Grandfather or grandmother (extends to great, great-great and great-great- great);
    - a) A grandparent-in-law is within the required degree;
    - b) The relationship of grandparent-in-law occurs when one of the child's grandparents remarries;
    - c) For instance, if the child's paternal grandmother dies and his paternal grandfather marries again, this second wife of the child's grandfather becomes the child's grandmother-in-law;
    - d) A step-grandparent is not within the degree of relationship;
      - 1) A step-grandparent is the parent of a child's stepmother or stepfather;
  2. Brother or sister (including half-brother and half-sister);
  3. Uncle or aunt (extends to great and great-great);
  4. First cousin, including first cousin once removed (child of a first cousin);
  5. Nephew or niece (extends to great and great-great);
  6. Stepfather or stepmother; or
  7. Stepbrother or stepsister.
- C. Relationship extends to the legal spouse of the above listed relatives even after the marriage is terminated by death or divorce.
- D. The relationship requirement is met when the child lives with any of the above named relatives.
- E. Legal custody is not a factor in determining relationship.
- F. Legal adoption terminates all prior relationships except that the biological parent remains a qualified relative to the child for eligibility ~~in the Medical Assistance (85) program.~~
1. A natural or biological parent whose child has returned to the parent's home after being legally adopted by another individual is within the degree of relationship.
  2. In such instances the natural parent is not legally responsible for the child and the adoptive parents must be reported as absent parents to the Division of Child Support.
  3. Example: The maternal grandmother adopts her grandchild. The biological mother returns to live in the home. The biological mother is not within the degree of relationship because the legal mother (the grandmother) is living in the home.
  4. Example: The maternal grandmother adopts her grandchild and the child later returns to live with the biological mother. In this case, the biological mother is within the degree of relationship because the

legal mother is not living in the home. The adoptive mother (grandmother) is the absent legal parent for child support purposes.

G. Relationship for the ~~Medical Assistance program~~ as a caretaker relative must be verified ~~by documents~~.

1. While parents may provide the child's birth certificate or other legal documents to prove relationship, another relative will need to provide additional documents to show the relationship to the child's parent and to the child.

Source: 42 CFR § 435.601 (a); 42 CFR § 435.601 (b) (Rev. 1993).

History: Revised to correspond with the ACA (eff. 01/01/2014) eff. 04/01/2014.