**Section 120.314 Disabled**

MANG(D)

a) To be eligible for medical assistance as a disabled person an individual must be determined disabled as currently defined by the Social Security Administration. (See 20 CFR 416, Subpart I, April 1, 1984.)

b) If an individual is receiving Supplemental Security Income (SSI) or primary Social Security (OASDI) benefits, the Department shall accept the Social Security Administration determination of disability. The Department will make the determination when the client has been denied SSI on the basis of too much income or when the client is applying for medical assistance only and not receiving SSI or OASDI. The Department uses the same criteria for disability as is used under SSI. (See 20 CFR 416, Subpart I, April 1, 1984).

c) If a child was terminated from SSI due to the August 22, 1996, change in disability standards (Public Law 104-193), and the child was eligible for both Medicaid and SSI on August 22, 1996, the child is considered disabled unless:

1) the child becomes 18, or

2) the child has not received Medicaid for 12 months, or

3) the child no longer meets the pre-August 22, 1996, definition of disability.

d) Appeals

1) If an individual applying for or receiving medical assistance is determined currently "not disabled" by SSA under the SSI or primary OASDI programs, the Department shall accept SSA's determination of disability and deny or cancel the case, no matter which agency made the original determination of eligibility.

2) If the individual appeals the SSA determination of disability to SSA, medical assistance shall be continued for recipients through the level of a determination by an Administrative Law Judge (ALJ) subject to the time limits of subsection (d)(3) of this Section. If medical assistance has been canceled, but the client later appeals to SSA, the case shall be reinstated through the ALJ level subject to the time limits of subsection (d)(3) of this Section.

3) If the client notifies the Department of his or her appeal to SSA within ten days after the date of the Department notice, medical assistance will be continued with no break. If the client notifies the Department of his or her appeal to SSA within 11 through 65 days after the date of the Department notice, medical assistance will be reinstated back to the original date of cancellation. If the client notifies the Department of his or her appeal to SSA more than 65 days after the date of the Department notice, medical assistance will be provided prospectively only, unless the client actually appealed to SSA within 65 days after the date of the Department notice, in which case medical assistance will be reinstated back to the original date of cancellation.

4) Medical assistance shall not be provided to applicants for medical assistance through the SSA appeals process.

5) If an Administrative Law Judge finds the individual "not disabled", the Department shall accept that finding as final. The individual shall not have the right to appeal the determination of disability to the Department at any time during this process.

e) Redetermination of disability is a condition of continuing eligibility for individuals who are not applying for or receiving SSI or OASDI benefits.

f) When appropriate, the Department shall pay for a medical examination to determine disability.

(Source: Amended at 22 Ill. Reg. 19875, effective October 30, 1998)