EXCERPTS FROM WELFARE PLAN OF

ALABAMA DEPARTMENT OF PENSIONS

AND SECURITY ON FILE WITH THE

DEPARTMENT OF HEALTH, EDUCATION

AND WELFARE

SECTION III

DETERMINATION OF PHYSICAL AND MENTAL INCAPACITY

If an examination is required to establish the disability factor for eligibility for aid, use one of the following forms:

1. PSD-79 Revised, in APTD, ADC, and TA.

2. PA-701 Revised or PSD-87 Revised, in AB.

Do not refer a person for a medical examination unless he appears to meet other eligibility requirements. Usually this is after the home visit. Before the department of pensions and security can pay for the cost of an examination as an administrative expense, a person must take advantage of free public or private diagnostic facilities. If free facilities are not available, a person has the right to select any legally licensed physician of his choice. Legally licensed physician refers to a doctor of medicine or to an osteopathic physician. In AB, he may select either an approved ophthalmologist or a legally licensed, qualified optometrist.

I. Aid to Dependent Children and Temporary Aid

In these two categories, a person's disability must be determined by one of the following methods:

A. The diagnosis of a legally licensed physician; or

B. An external handicap clearly obvious to the worker, such as paralysis or amputated limbs.

If a physician's diagnosis is necessary, previous examinations are acceptable if they clearly establish current disability. Written medical reports or copies of medical records from hospitals, clinics, VRS, VA, industrial organizations, or written statements from

legally licensed physicians are sufficient.

If disability cannot be established by one of the above methods, the applicant/recipient must have a current examination by a legally licensed physician.

In ADC, if a parent's incapacity is temporary or partial, reinvestigate the case as often as necessary to determine the parent's ability to assume financial support.

II. Aid to the Blind

A. Definition of Blindness -- A person is considered blind who has no vision, or whose vision with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential. Central visual acuity of 20/200 or less in the better eye with correcting glasses is considered as economic blindness. A person, however, may be considered blind if his central visual acuity is more than 20/200 in the better eye with correcting glasses but a rough test shows him to have a marked field defect. The marked field defect is one in which the peripheral field has contracted to such an extent that the widest diameter of the visual field subtends an angular distance no greater than 20 degrees.

B. Eye Examinations -- AB shall not be granted to any person until:

1. He has been examined by:

   a. A legally qualified ophthalmologist; or

   b. A legally licensed, qualified optometrist.

2. The county director has received the State Supervising Ophthalmologist's approval of the eye examination.

* * *

SECTION IV

DETERMINATION OF INCOME AND OTHER RESOURCES

I. General Information

Under State and Federal laws, all the income and other resources of a person must be considered in determining his need. Policies outlined later explain exemptions in AB and the allowable reserve in all categories, except TA.

Since income and other resources vary considerably, investigate them carefully in cooperation with the applicant/recipient. The policies and procedures relating to income/resources apply to applicants, recipients, and other persons included in the ADC or TA budget. They also apply to an ineligible spouse living in the home with an applicant/recipient.

PSD-113, Revised, "Statement of Income/Resources and Certain Needs, Aid to Dependent Children", must be completed at least every six months. Income/resources must be verified for both initial and continuing eligibility. It must be completed by parent(s) with whom the children live and must also contain information about the children's income. A needy grantee (and his spouse) other than parent, if in the budget, must complete PSD-113 for himself and the children. A grantee relative not included in the budget must complete the form for the children only.
(See form and instructions in Part II of the manual.)

PSD-137, Revised, "Statement of Applicant/Recipient on Eligibility Factors, Adult Categories," must be completed by every applicant/recipient and spouse living with him at least once every 12 months. For initial eligibility, all information on the form must be verified. For continuing eligibility, the information will not be verified unless there is reason to question it ~~or unless the case is included in the spot check.~~ [Rev. 23, See A.L. 2239, 2-6-67, Effective 1-1-67] (See form

and instructions in Part II of the manual.)

It is the duty of a public assistance applicant/recipient to conserve his resources and to utilize his assets to meet his own needs insofar as possible. He should cooperate reasonably in carrying out agency policies. After being informed of ways to use his resources and ways to cooperate, if he still does not comply and eligibility cannot be established, aid will be denied or discontinued on the basis of his failure to comply. The case can be reconsidered if the person later complies with agency policy.

II. Real Property

According to State laws, real property includes land or city or village lots and all buildings or other attachments which would pass to a buyer if the land or lots were sold. By policy, however, a boat, trailer, etc., used as a home is considered real property.

Establish whether each applicant, recipient, spouse (and other persons in an ADC or TA budget) owns real property. If a person owns property in more than one county or state, make necessary verifications outside the county of residence. This may be done by the applicant/recipient or by the worker through a public agency.

Joint ownership will be treated as if it were outright ownership. That is, consider the net value of the applicant's/recipient's share of jointly owned property.

A life interest, despite its value, will not be a bar. The person, couple, or family will be expected to utilize the property to the maximum extent consistent with legal rights to income from the property and the agency's utilization policies. A person with a life interest is entitled to all income from the property. He cannot sell timber on the property but he may

utilize a reasonable amount of it for his own use, such as for stove wood or repairs to the buildings. He is entitled to cultivate the land and sell the crops or to receive rent from the land. (refer to "Other Real Property" later.)

The above policy of not barring a person with a life interest only is based on the fact that he cannot sell the property without the consent of those who can exercise ownership rights upon his death. Should a person sell his life interest in property, his equity will be considered a resource. Submit to the Bureau of Field Service the age of the individual and the total net proceeds received from the property for computation of the value of the life estate.

* * *

SECTION XI

MEDICAL CARE PROGRAMS

In Alabama the four types of medical services for which vendor payments are made from State and Federal funds are: (1) medical assistance for the aged not eligible for old age pensions; (2) medical care for old age pension recipients; (3) care in a licensed nursing home (or cerebral palsy treatment center) in all categories; and (4) medical care in the ADC-FFC program. In this section are given the services provided and the policies and procedures for carrying them out.

I. Medical Assistance for the Aged Program

A. Legal Base

Authority to establish a program to provide medical assistance to Alabama residents 65 years or older who are not receiving old age pensions is contained in Title 49, Sections 51(7)--51(15), Code of Alabama, 1940, as amended. This law gives the State Department of Pensions and Security broad powers in setting up and administering the medical assistance to the aged (MAA) program. The Federal Government permits a State public assistance agency to contract with another agency to handle the medical aspects of the program. The State Department of Pensions and Security has accordingly entered into an agreement with the State Health Department to assume specified responsibilities with reference to medical aspects of the program.

B. Summary of Medical Services Provided

Hospitalization and physicians' fees are the services provided under this program. The hospital program is designed to pay only that part of the hospital per diem cost not covered by insurance

and/or third party payments.

C. Application Process

1. When and How Applications Are Made -- Application for MAA should be made to the county department of pensions and security in the county in which the person is residing. It should be made at the time hospitalization is needed, or when it appears that hospitalization will be needed within the next 30 days. However, if a person wishes to apply for MAA, even though hospitalization is not anticipated within the next 30 days, his application will be accepted. It will be denied unless the applicant presents evidence that hospitalization is needed or will be needed within the next 30 days.

Application may be made by the applicant or by someone in his behalf. It may be made in the office, in the hospital, in the patient's home, or by telephone or mail. Whenever possible, the applicant will be interviewed. If he is too ill to be interviewed or lives in a remote area where travel is impossible at the time of processing the application, it may be necessary to arrange for an interview by telephone with him, or for a personal or telephone interview with a person representing him, such as a relative, neighbor, doctor, or nurse. Also, if there is a proper signature on PSD-126, this is acceptable as an application should the patient die before PSD-125 is completed.

Applications for MAA and OAP cannot be approved concurrently unless the MAA application is for services rendered the previous month.

A reapplication will be taken at any time a person wishes to reapply and will be handled

in the same way as a new application. Another PSD-125 MAA, "Application and Statement on Factors of Eligibility," must be completed at time of re-application, even though the applicant's circumstances may be the same.

The county in which the hospital is located will accept the application for MAA. The application will then be forwarded to the county of the applicant's residence. An applicant should always be asked if he has lived in another county and if PSD has paid for hospitalization in his behalf. If he is an active case in another county, that county will authorize his hospitalization. The county where an application is approved will keep the case open until the period of eligibility expires. Then the person can apply in his new county of residence if he again needs hospitalization.

(See "E", "Eligibility," for eligibility requirements and form to be completed.)

* * *

G. Services Provided

Within a fiscal year (October 1 through September 30), each eligible person may receive 30 days hospitalization and the maximum in physicians' services as determined by the State Department of Pensions and Security. Hospital days not used in one fiscal year cannot be carried over to the next year.

1. Hospitalization -- Hospitalization will be provided for treatment of acute illnesses or major injuries which cannot be treated adequately outside a hospital. Acute illnesses or acute medical conditions shall include acute

exacerbations or acute complications of chronic diseases, surgical conditions requiring emergency hospitalization, contagious diseases which may respond to short-term remedial care, and acute emergencies of any nature which are a threat to the life and health of the patient.

Hospitalization will not be provided for illnesses or injuries which can be treated adequately on an out-patient basis or which require only domiciliary care, or for which treatment is available from the State, Federal, or local governments or private organizations under another program. In an emergency situation when a patient is eligible for admission to a VA Hospital, etc., PSD can pay for hospitalization in a participating hospital. Transfer should be made to the public facility as soon as it is medically feasible.

Hospitalization can be provided for elective cataract surgery if the county department establishes that treatment is not available from some other source and for diagnosed cancer cases if the State Health Department establishes that treatment is not available from some other source.

A "participating hospital" means a hospital of 15 or more beds licensed by the State Health Department and which has entered into a written agreement with the State Health Department to participate in the medical assistance for the aged program. The physician will make the decision as to the type accommodation which the patient requires. If a patient's condition is such that he can receive adequate medical care only in a private room, his physician will arrange for this type room. If, however, some other type accommodation is consistent with adequate medical treatment, this is acceptable.

The patient's physician will certify that hospitalization is needed for acute illness or injury. (The patient shall have freedom to choose his own physician.) It shall be the sole responsibility of the patient's physician in consultation with the patient, his guardian, spouse, adult child, or other person representing the patient to determine the participating hospital to which the patient is to be admitted. (The decision to accept the patient rests with the hospital.)

* * *

2. Physician's Fees -- The State Department of Pensions and Security will pay the patient's private physician (legally licensed doctor of medicine or an osteopathic physician) fees in the amounts given below for services rendered within 30 days following the patient's discharge from the hospital. The services must be related to the hospitalization or to conditions which develop and are directly or indirectly related to the hospitalization.

   a. A maximum total payment of $15 for seeing the patient at home (including a nursing home) or at his office and a maximum of $5 for each of these visits.

   b. Maximums for the services given below (these are in addition to fees for the routine visits in (1) above).

Electrocardiogram	$ 7.50
Blood examinations for progress evaluation	$ 5.00
X-ray evaluation of conditions for which hospitalization was provided	$15.00

Physician's visits not used after one period of hospitalization cannot be added to those to which the patient is entitled following a second period of hospitalization.

The physician who wishes to receive payment through the MAA program must agree not to make an additional charge to the patient or third party for any visit for which he presents a claim to the department of pensions and security. If he has received or is to receive any payments for these particular visits, in presenting his claim to this department, he must list any payments actually received or to be received from the patient, insurance, or third party funds. (PSD cannot pay anything on any visit or for any other service for which insurance pays the maximum fee allowed by PSD.) The physician is not prohibited from charging the patient for services rendered in other office or home visits before, during, or following hospitalization.

When a hospital claim has been filed with the State Health Department, payments to physicians for post-hospital care may be made not only when per diem costs are paid by the State Department of Pensions and Security but also if the per diem costs have been met by insurance, by the recipient, or by third party funds. No payment of physician's fees shall be made following hospitalization which is not approved by the State Health Department.

The State Health Department will verify and approve claims for a physician's services based on its determination that: (a) the claimant is a physician; (b) the amount of claim does not exceed the fee schedule which is in effect at the time the service is given;

(c) the appropriate certification by the physician is on the claim; and (d) the services have been provided within the specified period.

* * *

III. Care for Adults in a Licensed Nursing Home

This item includes care in a nursing, rest, or convalescent home, or in a cerebral palsy treatment center. Before considering such institutional care, help the person try to make suitable arrangements in his home, in the home of relatives or non-related persons, or in a personal care home. Do not pay for the care of any recipient who enters a licensed nursing home unless the county department participates in the plan, with the following exception. Exception: In case of emergency, upon the recommendation of a physician, plans may have to be made before other arrangements can be explored.

A. Persons for Whom the Item May Be Budgeted

When other plans cannot be made, budget nursing home care for the following persons:

1. Those who are bedfast or chairfast.

2. Those who are so physically ill or so disabled that they cannot live alone on a continuing basis without attendant or nursing service from another person.

3. Those who have a mental impairment (but not psychosis) which makes regular supervision and care from another person necessary.

In ADC, nursing home care can be granted for an adult in the budget for a temporary period only, usually not to exceed three months.

B. Procedures When Nursing Home Care Is Indicated

1. A legally licensed physician, preferably the one most familiar with the person's medical needs, must recommend the care.

* * *

Money Payments from State and Federal Funds

All regular public aid payments must be made by checks payable on demand, at par, drawn by the State Department through its appointed bonded disbursing official.

Regular money payments are made in the name of the recipient (includes parent or brother or sister of mentally handicapped minor in AB and AFTD and grantee-relative in ADC) and mailed to him or to his legal guardian. The money payment principle recognizes that a recipient of aid does not, because he is in need, lose his capacity to manage his own affairs. These payments must not be restricted as to their use. The examples below illustrate restricted money payments and are to be used as a guide by county departments.

1. Directing that all or part of the payment must be applied to specific bills or for the purchase of specific goods or services. (Statements to recipients explaining the basis on which the amount of the payment is determined are not in themselves restrictive.)

2. Requiring that the recipient submit receipts for the purpose of showing how he has spent all or any part of his payment.

3. Requiring the return to the agency, or deposit with the agency, of all or part of the payment for use in a manner designated by the agency.

4. Providing services to recipient's creditors, such as assisting them in the collection of the recipient's debts.

OAP may be paid to an individual within the month he reaches his 65th birthday, if all points of eligibility have been established. ADC may be paid to a family for the month in which a child reaches his 18th birthday, unless

NO. 24468
NO. 24561

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 24468

JOHN W. GARDNER, SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH, EDUCATION AND WELFARE,

APPELLANT-RESPONDENT

v.

THE STATE OF ALABAMA, FOR AND IN BEHALF OF AND AS TRUSTEE FOR THE DEPARTMENT OF PENSIONS AND SECURITY OF THE STATE OF ALABAMA, ET AL.,

APPELLEE-PETITIONER

NO. 24561

PETITION OF THE STATE OF ALABAMA TO REVIEW THE DECISION, DIRECTIVE OR ORDER OF HONORABLE JOHN W. GARDNER, SECRETARY OF THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE OF THE UNITED STATES, DATED JANUARY 12, 1967

SECOND APPENDIX
TO BRIEF OF
APPELLEE-PETITIONER

his birthday occurs on the first day of the month. In the latter case, he cannot receive aid because he is not eligible for any day of the month. A control must be set up to assure that no child receives a payment when he is ineligible because of age.

Regular checks to recipients representing money payments for the calendar month shall be issued and mailed directly from the State Department to the payee (or his legally appointed guardian) by category - OAP - 23rd of each month; AB, ADC, and APTD - 28th of each month; ACFC, ADC-FFC, and TA - the last day of each month. County departments will be notified when the individual payments in each of the categories have been released for the month. Checks from the supplemental payroll will be released to the individual recipients as soon after the beginning of the next month as possible.