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In the past we have discussed the issue of the Virginia Medicaid Waiver income cap preventing disabled Virginians from working in the same capacity as their non-disabled co-workers. Currently, disabled Virginians who receive a Medicaid Waiver must count their gross earnings plus any social security insurance income (SSDI or DAC-Disabled Adult Child Program) towards a Medicaid Waiver income cap. This precludes some disabled Virginians from working at all and prevents others from working the same hours and at the same rate of pay as their non-disabled co-workers.

Recently The Washington Group Special Care Planning Team (https://www.ssa.gov/OP_Home/ssact/title16b/1634.htm) posted an article by Jennifer Rossetini about this issue:

What Happens to Medicaid Benefits When a Disabled Child Shifts from SSI to SSDI Income?

By: JENNIFER S. ROSSETTINI

Navigating the intricate landscape of government assistance programs can be daunting, particularly when it concerns the welfare of a disabled child. For many families, Medicaid plays a crucial role in ensuring their child receives essential medical care and support. However, when a disabled child's income transitions from Supplemental Security Income (SSI) to Social Security Disability Insurance (SSDI), it may trigger alterations in their Medicaid coverage.

Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) are federal programs providing financial assistance to individuals with disabilities. SSI is a needs-based program available to disabled children, adults, and elderly individuals with limited income and resources. In contrast, SSDI is an insurance program offering benefits to disabled individuals who have accumulated sufficient work credits. While SSI automatically qualifies individuals for Medicaid benefits in most states, SSDI eligibility for Medicaid is contingent on factors such as income and resources.

SSDI is tailored for those who become disabled after an extended period of work. To receive SSDI benefits, a beneficiary must have contributed to the Social Security system for at least ten years before their disability onset. However, for adults disabled since childhood, meeting this criterion can be challenging. Some disabled adults may qualify for SSDI based on their parent's work record through the Disabled Adult Child Program (DAC).

To qualify for DAC, the adult child must:

- (1) have a qualifying disability,*
- (2) be single and not legally married,*
- (3) have a disability that manifested before turning 22,*
- (4) have a parent with sufficient work credits for retirement benefits, and*
- (5) have a parent who is deceased, permanently disabled, or receiving retirement benefits. If the parent retires or becomes disabled, the disabled child receives 50% of the parent's benefit, and in the event of the parent's death, the child receives 75%.*

*Now, what transpires regarding Medicaid eligibility when a disabled adult child transitions from SSI to SSDI benefits? To safeguard Medicaid coverage for specific groups losing SSI payments, **Congress established special Medicaid continuation provisions. These provisions mandate state Medicaid agencies to regard certain former SSI beneficiaries as still qualifying for Medicaid, under sections 1634(c) and 1935(a)(2)(D) of the Social Security Act. Those eligible for the DAC program can thus maintain their Medicaid coverage, ensuring continuity as long as they meet the specified criteria.***

From The Hook Law Center

Section 1634 (c) states:

(c) If any individual who has attained the age of 18 and is receiving benefits under this title on the basis of blindness or a disability which began before he or she attained the age of 22—

(1) becomes entitled, on or after the effective date of this subsection, to child's insurance benefits which are payable under section 202(d) on the basis of such disability or to an increase in the amount of the child's insurance benefits which are so payable, and

(2) ceases to be eligible for benefits under this title because of such child's insurance benefits or because of the increase in such child's insurance benefits,

such individual shall be treated for purposes of title XIX as receiving benefits under this title so long as he or she would be eligible for benefits under this title in the absence of such child's insurance benefits or such increase.[121]. https://www.ssa.gov/OP_Home/ssact/title16b/1634.ht

The language appears to indicate that someone like our son, Andrew, who has been disabled *'before he attained the age of 22'*, should not have his SSDI counted towards the Medicaid Waiver income cap because he *'would be eligible for benefits under this title in the absence of (his) insurance benefits.'*

He should not be in danger of losing his Medicaid Waiver because he receives SSDI and is trying to work full-time like his non-disabled co-workers.

Andrew is 33 years old. He receives SSDI based on his established work history with Social Security. He works in competitive employment. He must limit his hours and rate of pay so that his gross pay and SSDI stay below the monthly Waiver income cap.

In essence, his Virginia Medicaid Waiver 'supports' prevent him from working full time. This has caused him great hardship. He had to leave two jobs, after working 5 years at each with glowing reviews, because co-workers and managers refused to accept the need to adjust his hours and rate of pay to stay under the income cap to maintain the waiver needed for supports so that he could live a life like yours.

The Virginia Medicaid Waiver income cap is a barrier for disabled Virginians to receive equitable treatment in employment and should be removed. Consideration should be made regarding the Congressional provision listed above stipulating the removal of Social Security insurance in the computation of funds considered income for those disabled Virginians receiving the Medicaid Waiver.

We thank you for your support for our loved ones and look forward to the resolution of this important issue.

Sincerely,
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