

210-RICR-30-05-3

## TITLE 210 – EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

### CHAPTER 30 – MEDICAID FOR CHILDREN, FAMILIES, AND AFFORDABLE CARE ACT (ACA) ADULTS

#### SUBCHAPTER 05 – SERVICE DELIVERY OPTIONS

##### PART 3 – ~~R~~ite Share Premium Assistance Program

### 3.1 Overview / Legal Authority

~~Under the terms of Section 1906 of Title XIX of the U.S. Social Security Act, states are permitted to pay an eligible individual's share of the costs for enrolling in employer sponsored health insurance coverage if it is cost effective to do so. R.I. Gen. Laws § 40-8.4-12 authorized the Medicaid agency to establish the Rite Share Premium Assistance Program to subsidize the costs of enrolling Medicaid eligible individuals and families in employer sponsored health insurance (ESI) plans that have been approved as meeting certain cost and coverage requirements (Rite Share approved). The Executive Office of Health and Human Services (EOHHS), the Medicaid Single State Agency, uses cost effective criteria to determine whether ESI plans meet these requirements. A. This Part is promulgated pursuant to Federal authorities as follows:~~

1. ~~Federal Law: § 701(f)(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1181(f)(3); § 1115 of the Social Security Act, 42 U.S.C. § 1315; Title XIX of the Social Security Act, 42 U.S.C §§ 1396a-1396w-8; Title XXI of the Social Security Act, 42 U.S.C. §§ 1397aa-1397mm; 42 U.S.C. § 1396k~~

2. ~~The Medicaid State Plan and the Section 1115 Demonstration Wavier granted pursuant to § 1115 of the Social Security Act, 42 U.S.C. § 1315~~

B. ~~Applicable State authority is derived from R.I. Gen. Laws Chapters 40-6, 42-7.2, 40-8, 40-8.4, 40-8.12, and 42-12.3.~~

### 3.2 Scope and Purpose

A. This Part applies to individuals ~~and families~~ determined to be Medicaid-eligible under ~~RICR Title 210, Chapter 30- of this Title (Medicaid for Children, Families, and Affordable Care Act (ACA) Adults)~~. If these individuals ~~or families~~ have access to employer sponsored insurance (ESI) and the employed person works thirty (30) or more hours per week, EOHHS must conduct a review of the coverage to determine if the benefits are comparable to Medicaid benefits and if

the cost of the ESI is less expensive than Medicaid managed care (in the aggregate). When ESI is found to be cost-effective, the State will pay the employee's premium for that coverage as well as wrap-around costs such as deductibles, co-insurance, etc.

- B. The purpose of this rule is to set forth the provisions governing participation in the RIte Share Program, the ~~b~~Buy-in requirement, and the process for determining whether an ESI plan meets the cost-effectiveness criteria established by EOHHS, the Medicaid agency. The rule also identifies the respective roles and responsibilities of Medicaid-eligible individuals ~~and families~~ and the Medicaid agency.

### **3.3 Incorporated Materials**

- A. These regulations hereby adopt and incorporate 42 CFR § 447.15 (2023) by reference, not including any further editions or amendments thereof, and only to the extent that the provisions therein are not inconsistent with these regulations.

### **3.43 Definitions**

- A. For the purposes of this section, the following definitions apply:
1. "Applicant" means a person seeking Medicaid coverage under this Part, in accordance with the provisions established in Rhode Island General Laws and Public Laws.
  2. "Cost-effective" means that the portion of the ESI that the State would subsidize, as well as wrap-around costs, would, on average, cost less to the State than enrolling that same individual/family in a Medicaid managed care plan.
  3. "Cost-sharing" means the amount of money the RIte Share Buy-in recipients must pay monthly for their monthly RIte Share coverage any deductibles or co-insurance associated with ESI.
  4. "Employee premium" means the monthly amount an individual or family is required to pay to the employer to obtain and maintain ESI coverage.
  5. "Employer-~~S~~sponsored ~~h~~insurance" or "ESI" means health insurance or a group health plan offered to employees by an employer. ~~-This includes plans purchased by small employers through HealthSource RI, the State's health insurance marketplace.~~
  6. "Federal poverty level" or "FPL", as used herein, means the most recently published federal poverty level by the U.S. Department of Health and Human Services.

67. “Group health plan” means an employee benefits plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974 as qualified in R.I. Gen. Laws §§ 27-50-3(~~t~~) and 27-18.6-2(15).
78. “Health insurance coverage” or “Health benefit plan” means a policy, contract, certificate or agreement offered by a health insurance carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services as defined and qualified in R.I. Gen. Laws §§ 27-18.5-2(7), 27-18.6-2(14) and 27-50-3(~~u~~) (1).
89. “Medicaid member” means a person who has been determined to be eligible for Medicaid benefits.
910. “Modified Adjusted Gross Income” or “MAGI” means income, adjusted by any amount excluded from gross income under ~~s~~Section 911 of the IRS Code, and any interest accrued. Social Security benefits are not included in gross income. The MAGI methodology is the standard for determining income eligibility for all Medicaid affordable care coverage groups, which are described in further detail in Part 1 of this Chapter (RICR Title 210, Chapter 30 (Medicaid for Children, Families, and Affordable Care Act (ACA) Adults).
4011. “Policy holder” means the employee with access to ESI.
4412. “Rhode Island Works” or “RI Works” means the State’s Temporary Assistance for Needy Families (TANF) program that provides assistance to low income needy families on the path to full employment and financial independence. The ~~p~~Program is administered by the Rhode Island Department of Human Services, one of the four State agencies under the Executive Office of Health and Human Services (EOHHS) umbrella.
4213. “Rlte Share-approved employer-sponsored insurance” means an ESI plan that meets the coverage and cost-effectiveness criteria for Rlte Share.
4314. “Rlte Share ~~B~~buy-in” means, the requirement that applies to a household with MAGI-based income above 150% of the FPL where only the child(ren) is Medicaid eligible and the parent/caretaker has access to ESI that is Rlte Share-approved. These families are required to enroll in Rlte Share, the State will pay the premium for a family plan, and the parent/caretaker will be responsible for a small monthly cost share to the State. ~~in certain instances, individuals participating in Rlte Share are subject to a buy in requirement. This requirement applies to a family in which a Medicaid-eligible child is residing in a household with MAGI-based income above 150% of the FPL and must enroll in the Rlte Share-approved ESI plan of a parent/caretaker — “the policy holder” — who is not eligible for Medicaid.~~

~~44~~15. “Rlte Share Premium Assistance Program” means the Rhode Island Medicaid premium assistance program in which the State pays the eligible Medicaid member’s share of the cost of enrolling in a Rlte Share-approved ESI plan. This allows the State to share the cost of the health insurance coverage with the employer.

~~45~~16. “Rlte Share Unit” means the entity within EOHHS responsible for assessing the cost-effectiveness of ESI, contacting employers about ESI as appropriate, initiating the Rlte Share enrollment and disenrollment processes, handling member communications, and managing the overall operations of the Rlte Share ~~p~~Program.

~~46~~17. “Third-~~p~~arty liability” or “TPL” means other health insurance coverage. This insurance is in addition to Medicaid and is usually provided through an employer. Since Medicaid is always the payer of last resort, the TPL is always the primary coverage.

~~47~~18. “Wrap-around services or coverage” means any health care services not included in the ESI plan that would have been covered had the Medicaid member been enrolled in a Medicaid managed care plan (see Part 2 of this Subchapter for details). Coverage of deductibles, ~~and~~ co-insurance and benefits covered by Medicaid but not the commercial plan are is included in the wrap- (~~C~~o-payments to providers are not covered, however, pursuant to 42 CFR § 447.15, Medicaid enrolled providers must accept Medicaid payment as payment in full and cannot charge the member a co-pay).

### **3.45 Rlte Share Populations**

- A. The income of Medicaid members affects whether and in what manner they must participate in Rlte Share. Rlte Share populations are determined pursuant to R.I. Gen. Laws § 40-8.4-12(c).
1. Rlte Share includes: children, ~~families,~~ parents and caretakers, and individuals who are pregnant, who are -eligible for Medicaid, or the Children’s Health Insurance Program (CHIP), and childless adults between the ages of nineteen (19) and sixty-four (64) who are not receiving or eligible to receive Medicare; ~~but are Medicaid-~~eligible.

### **3.65 Rlte Share Enrollment as a Condition of Eligibility**

- A. Medicaid members over the age of nineteen (19), who have access to Rlte Share-approved ESI must enroll in that ESI as a condition of continuing Medicaid eligibility. This requirement also applies to any individuals who have, or previously have had the option to waive ESI coverage to receive financial

compensation, including but not limited to, an increase in hourly wage, an increase in weekly salary, and/or a lump sum payment. (An increase in wages for waiving coverage is also known as "pay in lieu of benefits.")

1. Mandatory ESI Enrollment – Once EOHHS has determined that the ESI offered by a particular employer is Rite-Share-approved, all eligible Medicaid members with access to that ESI are required to enroll in that coverage.

a. Failure to meet the mandatory enrollment requirement results in the termination of the Medicaid eligibility of the policy holder and other Medicaid members nineteen (19) or older in the household who would have been covered under the ESI. These individuals will remain terminated until the policy holder complies with the Rite Share participation and enrollment procedures established in § 3.18 of this Part.

Formatted: Indent: Left: 0.5", Hanging: 1"

~~Exemptions – In certain circumstances, Medicaid members with access to ESI are exempt from enrolling as condition of maintaining eligibility:~~

~~ab. Children Under age nineteen (19), will not be sanctioned if the policy holder does not comply and, instead, will remain/be enrolled in Medicaid managed care. Medicaid eligible children and young adults up to age nineteen (19) are not required to enroll in a parent/caretaker relative's ESI as a condition of maintaining Medicaid eligibility.~~

~~c. Pregnant individuals in the household will not be sanctioned if the policy holder does not comply and instead will remain/be enrolled in Medicaid managed care.~~

~~db. Individuals Enrolled in RI Works (TANF) are exempt from the mandatory enrollment requirement for the first six (6) months of employment. There is a limited six (6) month exemption from the mandatory enrollment requirement for RI Works program participants. See § 3.67 of this Part below.~~

~~e. Pregnant women. Although the State encourages enrollment, pregnant women will not be sanctioned if they do not comply.~~

~~2. Mandatory ESI Enrollment – Once it has been determined by EOHHS that the ESI offered by a particular employer is Rite Share approved, all eligible Medicaid members with access to that ESI are required to participate in Rite Share.~~

~~3. Non-compliance – Failure to meet the mandatory enrollment requirement results in the termination of the Medicaid eligibility of the policy holder and other Medicaid members nineteen (19) or older in the household that~~

~~would have been covered under the ESI until the policy holder complies with the Rlte Share participation and enrollment procedures established by EOHHS in this rule. (See § 3.20 of this Part).~~

42. Reinstatement – The period of ineligibility may be shortened and Medicaid eligibility reinstated if:
- a. the policy holder complies with Rlte Share's request to enroll in ESI;
  - b. ~~if the employer's plan is no longer Rlte Share-approved; or~~
  - c. ~~if the policy holder no longer has access to that ESI (e.g., left employment, decrease in work hours, etc.).~~

### **3.67 RI Works Participants (TANF)**

- A. RI Works (TANF) participants who are Medicaid-eligible are not required to enroll in a Rlte Share plan for their first six (6) months of employment. This six-month exemption also applies to families losing eligibility for RI Works due to employment. Specifically, to be subject to enrollment in a Rlte Share approved ESI plan, the RI Works participant must be:
1. Age nineteen (19) or older; and
  2. Employed for a period of six (6) consecutive months or more by the same employer.
- B. RI Works participants who do not meet both of these criteria at the time Medicaid eligibility is renewed in accordance with § 3.156 of this Part are exempt from ~~mandatory participation participating~~ in Rlte Share.

### **3.78 Rlte Share Premium Assistance Payments**

- A. Under the Rlte Share Premium Assistance Program, the State pays the employee's ~~share of their ESI premium and provides wrap-around coverage under Medicaid fee-for-service premium. Medicaid members also receive wrap-around services.~~
1. ~~For the majority of those enrolled in Rlte Share, EOHHS pays the employee directly for their share of the ESI prior to the anticipated date on which the premium is deducted from the employee's paycheck. The Rlte Share Unit or its agent mails a check or electronically transfers payment to the policy holder, on a monthly basis, to cover the premium cost deducted from the policy holder's check.~~
  2. ~~For a limited number of those enrolled in Rlte Share, the State pays the employer directly for the employee's share of the premium, thereby~~

foregoing the need to deduct the premium from the employee's paycheck. This payment method is limited to employers who have been grandfathered into this option.

Premium payments—EOHHS pays for ESI premiums as follows:

a. ~~EOHHS pays the employee directly for their share of the ESI, or~~

b. ~~EOHHS pays the employer directly for the employee's share of the ESI.~~

~~2B. Cost-sharing – With the exception of the Buy-In Program (see § 3.9), Medicaid beneficiaries-members enrolled in ESI are not obligated to pay any cost-sharing that is not otherwise applicable to Medicaid. For Rite Share enrollees, EOHHS pays for any ESI co-insurance and deductibles. (Co-pays are not covered by EOHHS, but as long as the Rite Share enrollee seeks services from a participating Medicaid provider, the Rite Share enrollee cannot be billed for copayments by that provider.) Rite Share Enrollees are notified of the cost sharing policy through their initial enrollment notice.~~

~~C3. Wrap-around coverage – This includes deductibles, co-insurance and Sservices and benefits that are covered by Medicaid, but are not offered through the ESI plan, are made available through the Medicaid program. Wrap-around services/coverage ensures that Rite Share enrollees receive health coverage comparable in scope, amount and duration to Medicaid members enrolled in Medicaid managed care. Medicaid covers these services for Medicaid members participating in Rite Share when using Medicaid providers. Wrap-around coverage is only available for services provided by Medicaid enrolled providers.~~

4. Repayment and recoupment – EOHHS has the authority to recover Medicaid benefit overpayment claims and cost-share arrearages through offset of the individual State income tax refund in accordance with R.I. Gen. Laws §§ 44-30.1-1, 44-30.1-3, 44-30.1-4 and 44-30.1-8 in R.I. Gen. Laws Chapter 44-30.1 entitled 'Setoff of Refund of Personal Income Tax.'

### **3.89 Rite Share Buy-in Requirement**

A. In certain instances, Medicaid ~~beneficiaries-members~~ participating in Rite Share are subject to a ~~b~~Buy-in requirement. This requirement applies to a household with MAGI-based income above 150% of the FPL where only the child(~~ren~~) (~~children~~) is Medicaid eligible, and the parent/caretaker has access to ESI that is Rite Share-approved.

1. Buy-in amount – The parent/caretaker is required to pay a monthly ~~b~~Buy-in amount that varies with income as follows:

Formatted: Indent: Left: 0.5"

Monthly Family Income	Monthly Buy-In Amount
Over 150% and not greater than 185% FPL	\$ 61.00
Over 185% and not greater than 200% FPL	\$ 77.00
Over 200% and not greater than 250% FPL	\$ 92.00

2. Notice – EOHHS must provide the adult in the family subject to the ~~b~~Buy-in requirement with timely notice. This may be done separately or in conjunction with the notice of RItE Share participation. The notice must include the amount of the buy-in, the process for making payments, the consequences for non-payment and a statement of the right to appeal and request a hearing.
3. Payment – Buy-in amounts are not prorated. Therefore, a full monthly ~~B~~buy-in amount is due if RItE Share enrollment is effective for any portion of a coverage month.
4. Method of payment – ~~EOHHS deducts the Buy-in amount from the State's premium payment to the member. For the limited number of RItE Share members described in § 3.8(A)(2), the member receives an invoice and pays the state directly. The parent/caretaker either pays the monthly RItE Share buy-in amount to EOHHS or, if the member has direct deposit, EOHHS deducts the buy-in amount from their ESI reimbursement.~~
5. ~~Non-compliance – Individuals subject to the buy-in requirements must cooperate in making monthly ~~B~~buy-in payments in accordance with § 3.78 of this Part to remain enrolled in ESI. Failure to make a required premium payment for three consecutive months will result in ~~disenrollment~~ Medicaid termination of all adults enrolled in RItE Share. Children will be transitioned to managed care.~~

~~Non-compliance – If the parent/caretaker fails to pay the ~~b~~Buy-in amount as required, children and young adults in the family age nineteen (19) and under who are eligible for Medicaid will be enrolled in a Medicaid managed care plan.~~

Formatted: RICR Paragraph 4

### 3.109 Basis for Approving ESI Plans

- A. Only ESI or group health plans that meet the cost-effectiveness and benefits criteria specified in this Part are approved for the RItE Share Premium Assistance Program.

1. Sources of information for determining cost-effectiveness – Determinations of ESI cost-effectiveness are based on information gathered from the following sources:
  - a. Application materials. When applying for Medicaid, applicants must indicate: current health insurance coverage status; relationship to policy holder; plan name; policy number; ~~eligibility for and type of coverage and individuals covered by the plan~~. Subchapter 00 Part 3 of this Chapter explains the process for applying for Medicaid through the State's affordable care eligibility system and the manner in which this information is collected and maintained.
  - b. The Rite Share Unit. This EOHHS ~~U~~unit collects employer data ~~from the Medicaid member, employer, broker and/or insurance carrier about the ESI plans offered by the employer for Medicaid-eligible individuals/households. I~~information ~~from employers~~ includes ~~rates and benefit summaries which are data~~ necessary to determine whether the employer's ESI ~~offerings~~ meets EOHHS's cost-effectiveness ~~and benefits~~ criteria.
2. EOHHS reserves the right to request additional information about the ESI ~~plan~~ from the Medicaid ~~beneficiary~~member, the policy holder (even if ~~the policy holder is not an eligible~~ Medicaid-eligible-member), ~~and, where appropriate and necessary,~~ the employer, ~~broker and/or insurance carrier~~.

Formatted: Not Highlight

### **3.1140 Methodology for Determining Cost-Effectiveness**

- A. The Rite Share Unit uses the information about the ESI ~~plan~~ to compare the cost of the employee's share, ~~for of~~ the ESI, ~~as well as wrap-around costs~~, to the cost of enrollment in Medicaid managed care. An ESI plan is determined to be cost-effective when, on the aggregate, the total cost of medical coverage through Rite Share is less than the cost of coverage if enrolled in a Medicaid managed care plan. Rite Share participants receive coverage comparable in scope, amount, and duration to coverage provided in a Medicaid managed care plan.
  1. Cost-effectiveness test – To be cost-effective, the policy holder's monthly ESI premium share, deductibles, co-insurance, plus any Medicaid covered services not covered by the ESI plan (such as services covered under the ~~managed care Rite Care Health Plan~~ contracts, but not under the ESI plan), must be less than the average capitation payment for ~~an average individual/family~~ a member enrolled in a Medicaid managed care plan. These average costs must be actuarially determined at such intervals as deemed appropriate by EOHHS.
  2. The analysis of cost effectiveness is dependent on the Medicaid eligibility status of each member of the household. Cost effectiveness determinations will be based on one of the following scenarios as

~~applicable: There are three cost-effectiveness determinations for each employer plan:~~

- a. ~~Family coverage where a Household in which All family members/individuals are Medicaid-eligible (income less than or equal to one hundred thirty six percent (136%) of the federal poverty guidelines (FPL));~~
- b. ~~Family coverage where a Household in which Only child(ren) and/or pregnant women in the family are Medicaid-eligible (for families, income greater than one hundred and thirty six percent (136%) and less than or equal to, two hundred and sixty one percent (261%); for pregnant women, income greater than one hundred and thirty six percent (136%), and less than or equal to two hundred fifty three percent (253%) of FPL); and~~
- c. ~~Individual coverage where a Household in which childless adult/Only the employee is Medicaid-eligible (133% FPL) (Medicaid Expansion); or~~
- d. ~~All the above listed FPL guidelines are not inclusive of the five percent (5%) income disregard to allow for minor fluctuation in income.~~

- B. The figures used as the basis for assessing cost-effectiveness shall be made available, upon request, by EOHHS.

### **3.1244 Scope and Consequence of Approving an ESI Plan**

Rlte Share-approved ESI plans ~~need to be~~ reevaluated on an annual basis, in alignment with annual renewals of employer insurance, to ensure that the ESI remains cost-effective all Medicaid beneficiaries who are enrolled receive coverage comparable in scope, amount, and duration to that provided in a Medicaid managed care plan. From the date an ESI plan is approved until the date it is reevaluated, any Medicaid ~~beneficiaries-members~~ who work for that employer, and their Medicaid-eligible dependents, must enroll in the ESI through Rlte Share.

### **3.1342 Member Enrollment Process**

- A. Medicaid ~~beneficiaries-members~~ who are required to participate in Rlte Share must enroll in the ESI plan as directed by EOHHS. Enrollment into Rlte Share may occur upon initial determination or at the time of Medicaid annual renewal, or as deemed appropriate by EOHHS. Enrollment in Rlte Share is ~~deemed~~ considered to be a “qualifying event” and may occur at any time, including outside ~~of the employer’s~~ the open enrollment period. Additionally, according to section 701(f)(3) of the Employee Retirement Income Security Act of 1974

(“ERISA”), 29 U.S.C. § 1181(f)(3), a group health plan must permit an employee (or dependent) who is:

- ~~(1)~~ eligible for but not enrolled in the ESI, and
- ~~(2)~~ determined eligible for an ESI premium assistance program under Medicaid or CHIP, to enroll in ESI coverage no later than 60 days after the date the employee (or dependent) is determined eligible for the premium assistance program.

Formatted: RICR Paragraph 2

~~43.~~ Eligibility determination and Rite Share referral – The referral for Rite Share participation is based on employment information provided by the Medicaid ~~beneficiary member, in conjunction with an initial Medicaid application or annual Medicaid renewal as well as information available about the employer’s ESI offering (i.e., and documented in the EOHHS database as to whether an the~~ employer offers Rite Share-approved coverage).

~~24.~~ Notice of Rite Share ~~requirement participation required~~—A notice must be sent by EOHHS indicating that participation in Rite Share is a condition of retaining Medicaid eligibility as follows:

- a. Upon determining that a Medicaid member is eligible for Rite Share, EOHHS sends a “Go Enroll” letter stating the employee must enroll in a Rite Share-approved ESI plan through their employer’s personnel or human resources office within fourteen (14) calendar days of the date on which the letter was generated of the letter.

~~Fourteen days’ notice. Upon determining that a Medicaid member is qualified for coverage through Rite Share, EOHHS provides a written “Notification of Eligibility for Enrollment” stating the employee must select a Rite Share approved ESI plan through their employer’s personnel or human resources office within fourteen (14) calendar days.~~

- b. If no response is received, a second letter is sent.
- c. If no response is received thirty (30) days after the initial “Go Enroll” letter was sent, a sanction notice is generated informing the adults in the household that they will lose Medicaid eligibility and their children will remain/be enrolled in managed care. ;

~~Thirty days’ notice. Written notice will be sent to the Medicaid beneficiary approximately thirty (30) days prior to the date that enrollment in Rite Share is required, but only in instances when approval of the ESI plan is the impetus for the requirement to enroll rather than a determination/renewal of Medicaid eligibility~~

3. ~~Prior agreement~~—In certain circumstances, EOHHS may have a prior agreement with the employer which permits the RItte Share Unit to enroll an eligible individual/family in the ESI plan upon receipt of an acknowledgment or written consent from the policy holder. The notification of enrollment sent from the RItte Share Unit to the Medicaid-ineligible policy holder as well as to any Medicaid recipients in such cases shall explain any such prior arrangements and any additional appeal and hearing rights that follow therefrom.

### **3.13 Access to ESI**

- A. ~~All Medicaid applicants and beneficiaries are required to provide information about access to ESI. For the purposes of RItte Share, "access" to ESI is as follows:~~
  1. ~~A Medicaid-eligible individual, age nineteen (19) or older who is, or has the option to be enrolled in an employer-sponsored health insurance or group health benefit plan;~~
  2. ~~A Medicaid-eligible individual who is, or has the option to be, enrolled in an employer-sponsored health insurance or group health benefit plan as the spouse, dependent, or family member of a Medicaid-ineligible policy holder.~~
- B. ~~Failure to provide this information as required may lead to the termination of Medicaid eligibility, unless there is good cause for non-compliance as specified in § 3.23 of this Part.~~

### **3.14 Non-custodial Parents with TPL**

- A. ~~Medicaid is always the payer of last resort. Accordingly, EOHHS considers all other health insurance or coverage provided to a Medicaid-eligible individual as third-party liability (TPL) coverage. EOHHS reserves the right to disenroll Medicaid beneficiaries with TPL from Medicaid managed care and enroll them in RItte Share. This is called RItte Share Zero Premium.~~
  1. ~~TPL coverage through the non-custodial parent~~—Children who are enrolled in both Medicaid managed care and also have access to coverage through a non-custodial parent (NCP), will be transitioned into RItte Share Zero Premium unless the custodial parent shows good cause for not making the transition. The child will retain access to all applicable Medicaid covered services the entire time that they are in RItte Share Zero Premium. Should the NCP lose their ESI, the RItte Share Unit must be notified at least ten (10) days prior to the child's disenrollment to meet established reporting requirements and assure the child is transitioned back into Medicaid managed care without coverage gaps.

- ~~2. Custodial parent non-compliance — If the custodial parent refuses to allow the child to be enrolled in the NCP's coverage, the custodial parent's Medicaid eligibility is terminated until the custodial parent complies with the RItE Share participation requirement. Good cause exemptions to RItE Share are permitted under § 3.23 of this Part.~~
- ~~3. Notice and enrollment — Medicaid beneficiaries must be provided with notice from EOHHS explaining their rights and responsibilities including:
  - ~~a. RItE Share participation. The requirement to participate in RItE Share is a condition of continuing Medicaid eligibility for adults in the household. The Medicaid member with TPL must receive the notice fourteen (14) or thirty (30) days, as appropriate (see § 3.12 of this Part), prior to the required transition from a Medicaid managed care plan.~~
  - ~~b. Grace period. Parents/caretakers are given a fourteen (14) day grace period to report any changes in the NCP's coverage and/or report any difficulties with using the NCP's coverage.~~
  - ~~c. Failure to respond. If the parent/caretaker does not respond, the Medicaid beneficiaries who are covered under the NCP's policy will be transitioned from Medicaid managed care to RItE Share, and sent appropriate documentation. Those household members who are not covered under the NCP's coverage (such as a custodial mom, children not related to the NCP, etc.) will remain in Medicaid managed care.~~
  - ~~d. Cost sharing. The notification must indicate clearly that EOHHS is not responsible for coinsurance, cost sharing obligations, or wrap-around coverage for the NCP or any other Medicaid ineligible family members~~~~

### **3.1415 Continuing Eligibility – Medicaid Renewals**

- A. For Medicaid ~~beneficiaries-members~~ renewing eligibility, EOHHS must assess as part of the redetermination process whether anyone in the household is a RItE Share participant and if there has been any change in access to ESI.
  1. Notice of renewal – Medicaid ~~beneficiaries-members~~ must be provided with a notice at the time of renewal specifying the terms for continuing eligibility. The terms for continuing coverage vary as follows:
    - a. Medicaid managed care enrollees without access to ESI continue enrollment in the Medicaid managed care plan that provided coverage in the previous period of eligibility in accordance with Part 2 of this Subchapter.

- b. Medicaid managed care enrollees who have gained access to a Rlte Share-approved ESI plan continue to be enrolled in the Medicaid managed care plan that provided coverage in the previous period of eligibility pending review by the Rlte Share Unit. ~~In such cases, EOHHS sends a notice stating that eligibility is continued and that coverage in a Medicaid managed care plan continues pending action on the ESI plan by the Rlte Share Unit. A referral to the Rlte Share Unit is made accordingly.~~
  - c. Rlte Share participants who retain access to the Rlte Share-approved ESI plan that provided coverage during the during the previous period of eligibility, continue to be enrolled in the ESI plan pending review by the Rlte Share Unit of any changes that might result in withdrawal of approval of the ESI plan, disenrollment, and subsequent enrollment in a Medicaid managed care plan.
2. Loss of ESI – Rlte Share participants who involuntarily lose access to an approved ESI plan that provided coverage during the previous period of eligibility for any of the reasons stated in § 3.1924 of this Part receive coverage as follows:
    - a. Any Medicaid-eligible individuals in the family will receive coverage through fee-for-service pending either enrollment in a Medicaid managed care plan, or if the Medicaid members **have** gained access to another ESI plan, approval of that plan by the Rlte Share Unit.
  3. Notice of renewal – In all such cases, the notice of renewal for continuing eligibility sent by EOHHS to the Medicaid ~~beneficiaries~~ members shall include a statement of the applicable terms for continuing eligibility including any Buy-in requirement, the reason(s) for establishing the terms, and the right to appeal and request a hearing with respect to either (See Part 10-05-2 of this Title), as well as all other information required in this section. The enrollment referral transmitted to the Rlte Share Unit shall also indicate which terms apply and shall be sent at the time the redetermination is made.

### **3.1546** **Renewal of RI Works Participants (TANF)**

- A. At the time eligibility renewals are completed, EOHHS is responsible for assessing whether RI Works participants are subject to enroll in a Rlte Share-approved plan as a condition of continuing Medicaid eligibility.
  1. Employed under six (6) months – Only those RI Works participants, age nineteen (19) or older, who have access to ESI and have been steadily employed for a period of six (6) consecutive months or more, shall be subject to enrollment in Rlte Share. All other RI Works participants

continue enrollment in the Medicaid managed care plan which provided coverage until the next scheduled redetermination of eligibility.

2. Employed six (6) months or over – If the RI Works participant has been employed for over six (6) months, the notice of renewal sent by EOHHS must state that enrollment in the Medicaid managed care plan that provided coverage during the previous period of eligibility is continued, pending review of the ESI plan by the Rlte Share Unit. If enrollment in an approved ESI plan is a condition of retaining continuing eligibility, Medicaid ~~beneficiaries-members~~ shall receive notice from the Rlte Share Unit at least fourteen (14) days prior to enrollment in an ESI plan.

### ~~3.17 Rlte Share Premium Assistance Payment~~

~~A. It is the responsibility of EOHHS to establish the appropriate mechanism for transferring payment for the Rlte Share approved ESI plan premiums.~~

~~1. The payment options include:~~

~~a. Enrollment costs are paid directly by the employer without any wage withholding from the policy holder. The Rlte Share Unit or its agent either mails a check or electronically transfers payment to the employer's bank or account, on a monthly basis, to cover the enrollment costs for any individuals/families on the ESI as a result of Rlte Share enrollment. These are called "participating" employers.~~

~~b. Enrollment costs are paid by the employer after wage withholding from the policy holder. The Rlte Share Unit or its agent mails a check or electronically transfers payment to the policy holder, on a monthly basis, to cover the enrollment costs for any individuals/families on ESI as a result of Rlte Share enrollment.~~

~~2. Notice of payment method—The notification of Rlte Share participation sent to the beneficiaries shall clearly specify the method for paying enrollment costs.~~

### ~~3.16-18~~ **Role of Rlte Share Unit**

A. The Rlte Share Unit is responsible for overseeing the operations of the program as follows:

1. ~~Eliciting~~Gathering information from employers and employees about the health plans they offer to workers on an ongoing basis;
2. Evaluating health plans for Rlte Share approval;

3. ~~Entering cost-effective information into the RI Bridges system~~Maintaining a database of Rlte Share approved ESI plans; and
  4. Contacting employers and employees to make Rlte Share enrollment decisions.
- B. Upon receipt of beneficiary-member referral information, the Rlte Share Unit verifies employment and access to a Rlte Share-approved ESI plan. Based on this review, the Rlte Share Unit determines:
1. Whether the Medicaid beneficiary-member is approved for Rlte Share; and
  2. The date that individual or family must enroll in the ESI in order to maintain Medicaid eligibility.
- C. The specific procedures for making such determinations vary depending on the enrollment status of the Medicaid beneficiary-member and the employer's customary enrollment process.

### **3.1719 ESI Enrollment Verification**

- A. Verification of enrollment in a Rlte Share-approved ESI plan is required.
1. ~~Participating employer~~—For Medicaid beneficiaries-members working for an employer who offers Rlte Share approved coverage~~Rlte Share approved employer~~, the employer is required to submit verification to the Rlte Share Unit that initial enrollment in the ESI has been made in the manner prescribed by EOHHS.
  2. ~~Approved plan~~—~~For individuals working for a Rlte Share approved employer,~~ The individual or employer must provide-submit verification of enrollment by completing the Employer Verification form~~appropriate form~~, which requires the signature of both a representative of the employer and the member, ~~or by submitting a copy of the official ESI enrollment receipt. Once this verification has been received, EOHHS will initiate premium payment.~~

### **3.2018 Failure to Enroll**

- A. Failure to enroll in the ESI plan is grounds for termination of Medicaid eligibility for the non-pregnant parent(s) or caretaker over the age of nineteen (19) in the household who would have been enrolled in Rlte Share (see § 3.6 of this Part for details).
1. Discontinuation – EOHHS sends an “Ineligible for Medicaid Notice” “Notice of Discontinuation”, ~~stating that Medicaid eligibility has been terminated for adults in the household~~ (that would have been enrolled in the ESI) due to the failure to enroll in the Rlte Share-

approved plan. Anyone in the household subject to the notice may reapply (for inactive cases) or request reinstatement (for active Medicaid cases) if:

a. ~~if they choose to comply with Rlte Share;~~

b. ~~if an exemption from participation is granted;~~ or

c. ~~if the individual no longer has access to the ESI. Please refer to § 3.5 of this Part.~~

Formatted: Indent: Left: 0.5", Hanging: 1"

~~2. Disqualification – Procedures for handling cases in which the policy holder is not eligible for Medicaid are the same as for an eligible policy holder, with one exception: The Medicaid agency sends a “Notice of Disqualification” to the policy holder indicating that ESI costs will not be paid by EOHHS. Please refer to § 3.5 of this Part.~~

- B. ~~Both the “Notice of Discontinuation” and the “Notice of Disqualification”~~ The “Ineligible for Medicaid Notice” shall include a statement indicating that any affected Medicaid-eligible individuals in the household have the right to appeal and to request a hearing to contest the change in eligibility and the enrollment decision.

### **3.2119 Disenrollment from Rlte Share-Approved Plan**

- A. Pursuant to Part 30-00-3 of this Title, Rlte Share ~~beneficiaries~~ members who are voluntarily or involuntarily disenrolled from an approved ESI plan must report the change in enrollment status to EOHHS in no more than ten (10) days from the date the disenrollment action occurs. The type of disenrollment will determine EOHHS’s ~~action response~~ as follows:

1. Voluntary disenrollment – Medicaid-eligible Rlte Share ~~beneficiaries~~ members age nineteen (19) or older who voluntarily disenroll from an approved ESI will be terminated for coverage based on the failure to meet the non-financial cooperation requirements set forth in this Part. Voluntary disenrollment includes, but is not limited to, instances in which a Rlte Share ~~beneficiary~~ member:
  - a. Requests that the employer drop coverage or cease enrollment for the entire family or a Medicaid-eligible individual in the family;
  - b. Fails to meet the requirements established by the employer to maintain enrollment in the approved plan such as, submit required documentation or forms.
  - c. Engages in unlawful or fraudulent acts, such as submitting false claims that violate the terms for continuing enrollment in the ESI plan. Please refer to § 3.56 of this Part.

2. Involuntary disenrollment – Involuntary disenrollment includes the loss of access to ESI as a result of change in employment, termination of coverage by the employer for an entire class of workers, death, separation, divorce, disability of the policy holder, or any other factors that could be reasonably construed as involuntary disenrollment as defined in this Part.
3. Rlte Share Unit responsibilities – Upon receiving a report from the employer, ~~broker and/or~~ the ~~ESI plan~~-insurance provider, or Medicaid ~~beneficiary member~~ indicating that disenrollment has occurred, the Rlte Share Unit verifies the accuracy of the report and assesses whether it is voluntary or involuntary in nature.
  - a. Voluntary Disenrollment – ~~Notice of Discontinuance~~. Once the report has been verified and it is determined to be voluntary disenrollment, EOHHS sends a “~~Ineligible for Medicaid Notice of Discontinuance~~” noting termination of the Medicaid eligibility of the policy holder, parent(s) or caretaker relative in the applicant’s household until the individual demonstrates compliance with enrollment procedures established by EOHHS. The “~~Ineligible for Medicaid Notice of Discontinuance~~” must also include any remedies for shortening the period of ineligibility as well as the right to request a hearing and appeal the decision:
    - (1) ~~Medicaid ineligible individuals are provided with a notice from EOHHS stating they are disqualified from Rlte Share.~~
    - ~~(2)~~—All Medicaid-eligible pregnant women and children must be automatically enrolled in a Medicaid managed care plan.
    - (3) This period of Medicaid ineligibility may be shortened and Medicaid eligibility established if such individual complies, becomes exempt from Rlte Share enrollment, or no longer has access to ESI for reasons such as a change in employment. (See § 3.1824 of this Part).
  - b. Involuntary disenrollment – There is no adverse action taken against Medicaid ~~beneficiaries members~~ required to participate in Rlte Share if disenrollment from an approved ESI plan is involuntary.

### **3.2220 Cooperation Requirements**

- A. All Medicaid applicants and ~~beneficiaries members~~ must cooperate with the non-financial requirements for eligibility as follows:

1. ~~Requirement to provide information~~ – All ~~individuals and families applicants/members~~ are required to provide information about other health coverage ~~they may have (TPL – Third Party Liability); and/or access to ESI when applying for initial or continuing eligibility. The required information relating specifically to access to ESI includes, but is not limited to, including:~~

- a. The names of any family members in the household currently covered by, ~~or with access to, ESI; other insurance;~~
- b. The name of the policy holder and the employer offering the ~~ESI; insurance coverage;~~ and
- c. ~~When requested, v~~Verification of monthly enrollment costs via a paycheck stub if the policy holder is currently enrolled or, if available, enrollment information provided by the employer indicating the policy holder's monthly premium for the appropriate family composition.

2. ~~Requirement to enroll in ESI/Rite Share participation~~ – Medicaid ~~beneficiaries members~~ required to enroll in the ESI must cooperate as follows:

- a. Enroll in the ESI in the manner, and within the timelines, established by EOHHS. Failure to do so will result in the termination of Medicaid for any eligible parents/caretaker age nineteen (19) and older in the family ~~who would otherwise have been enrolled in Rite Share. Children and/or individuals who are pregnant will~~ ~~The eligibility of any other Medicaid beneficiaries members in a family must~~ not be terminated ~~from Medicaid, as the result of the refusal of an otherwise ineligible policy holder to enroll in the ESI.~~ See § 3.1820 of this Part.
- b. Submit verification of enrollment in accordance with § 3.179 of this Part when the employer does not participate in Rite Share.
- c. Provide reports to EOHHS indicating any changes in enrollment status of Medicaid-eligible family members, enrollment costs, household composition, employment, income, residence, and access to ESI within ten (10) days from the date the change occurs.

~~d. Pay buy in amounts— Individuals subject to the buy in requirements must cooperate in making monthly buy in payments in accordance with § 3.7 of this Part to remain enrolled in ESI. Failure to make a required premium payment, without good cause, as specified in § 3.203 of this Part, results in disenrollment from the Rite Share Premium Assistance Program and loss of ESI premium coverage.~~

Formatted: RICR Paragraph 1

3. ~~Requirement to notify both DHS and EOHHS of loss of employment – Pursuant to Part 30-00-3 of this Title, Medicaid members must notify the State that they are no longer employed or no longer have access to ESI so that payment can be stopped. Payments are NOT transferrable from one employer to another (i.e., payment is employer-specific). if a member changes employers, i.e., payment is specific to the employer for whom the member worked when approved for Rite Share. If a member receives payment for coverage for which they are no longer eligible, they will be responsible for paying those premiums back to EOHHS. Pursuant to Part 10-00-6 of this Title, if a member does not pay back those overpayments, the State has a right to recoup those dollars from the member's RI tax refund (see § 3.8).~~

### **3.2123 Good Cause**

- A. EOHHS is responsible for determining whether good cause exists for an exception to the non-financial cooperation requirements for Medicaid eligibility contained in Subchapter 00 Part 1 of this Chapter and, more specifically, for participation in Rite Share, except as noted below:
1. Extraordinary circumstances – EOHHS must exempt a Medicaid ~~beneficiary member~~ from Rite Share participation only when there are extraordinary circumstances which preclude the individual from receiving medically necessary care through the Rite Share-approved plan. For purposes of this exemption, "extraordinary circumstances" may include but not be limited to:
    - a. The existence of an unusual and life-threatening medical condition which requires medical treatment that cannot be provided or arranged by the ~~ESI plan Rite Share plan whether it is provided through the custodial or non-custodial parent;~~
    - b. The existence of a chronic, severe medical condition for which the Medicaid ~~beneficiary member~~ has a long-standing treatment relationship for that condition with a provider who does not participate in the ~~ESI Rite Share~~ plan and/or refuses to enroll as a Medicaid participating provider.
  2. ~~Non-Custodial Parent (NCP) –~~
    - a. ~~EOHHS must exempt a Medicaid beneficiary from Rite Share participation if enrollment in the health plan of the non-custodial parent could result in reasonably anticipated physical and/or emotional harm to the child, custodial parent, or other relative with whom the child is living. Claims of physical and/or emotional harm must be determined by EOHHS to be of a genuine and serious nature. The emotional harm to the custodial parent or other relative~~

~~with whom the child lives must be of such a serious nature that the capacity to care for the child adequately would be reduced.~~

~~b. EOHHS may exempt a Medicaid beneficiary from RItE Share participation if the NCP's coverage has a limited Rhode Island provider network which would negatively impact access to care for the child.~~

~~e. Corroborative evidence — Such evidence supporting a determination of good cause must be supplied to EOHHS. Corroborative evidence may include: court, medical, criminal, child protective services, Family Violence Option Program, social services, psychological, or law enforcement records which indicate that the non-custodial parent might inflict physical and or emotional harm on the child, custodial parent, or other relative with whom the child lives.~~

3. Other programs – If good cause has been granted for any other benefit program administered by EOHHS or DHS, the good cause exemption will be honored by the RItE Share Program.
4. Nature of request – Enrollment exemptions requested due to extraordinary circumstances must be in writing, with appropriate documentation (letter from physician, medical records, restraining orders, or others as indicated), and signed by the Medicaid ~~beneficiary~~member, parent/caretaker or person designated to make the request on their behalf.
5. Basis of the determination – EOHHS makes RItE Share participation exemption determinations on a ~~case-by-case~~ case-by-case basis after considering all required documentation and any other relevant information pertaining to the request. An exemption may be granted for any length of time during the period in which the extraordinary circumstances exist. When an exemption is granted, Medicaid ~~beneficiaries~~member areis enrolled in the appropriate Medicaid managed care plan in accordance with Part 2 of this Subchapter.
6. Limits – An individual's preference to continue a treatment relationship with a doctor or other health care provider who does not participate in the RItE Share plan or Medicaid program does not in and of itself constitute an "extraordinary circumstance."

### **3.2224 Notice and Appeal Rights**

Medicaid applicants and recipients shall receive timely notification of eligibility and enrollment determinations and the right to appeal. EOHHS shall also provide timely notification, including appeal rights, of any adverse decisions that reduce

or terminate benefits. See Part 10-05-2 of this Title for full statement of these rights.

### **3.25 Information**

#### **A. ~~For Further Information or to Obtain Assistance~~**

- ~~1. Applications for affordable coverage are available online on the following websites:
  - ~~a. <http://www.eohhs.ri.gov>~~
  - ~~b. [www.dhs.ri.gov](http://www.dhs.ri.gov)~~
  - ~~c. [www.HealthSourceRI.com](http://www.HealthSourceRI.com)~~~~
- ~~2. Applicants may also apply in person at one of the Department of Human Services offices or by U.S. Mail. Request an application by calling 1-855-609-3304 and TTY 1-888-657-3173.~~
- ~~3. For assistance finding a place to apply or for assistance completing the application, please call: 1-401-462-0311, 1-855-609-3304 or 1-855-840-HSRI (4774).~~

### **3.2326 Severability**

If any provisions of these regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect, and to this end the provisions of these regulations are declared to be severable.