Policy Memo #2r1
Original Issue Date: January 27, 1987
Reissue Date: February 20, 1991
Policy File Ref: A330

SUBJECT

Eligibility for dependent student status when a child needs less than full-time course work in his or her last term to satisfy the requirements for graduation.

BACKGROUND

An unmarried student over 19 years of age but under 25 who receives more than half of his/her support from the employee and is a full-time student in an accredited educational institution is eligible to continue coverage. However, our current policy does not address the issue of a student who needs less than full-time course work in his/her last term to satisfy the requirements for graduation.

POLICY

An otherwise eligible child is considered an eligible dependent student when the child needs less than full-time course work in his or her last term to satisfy the requirements for graduation if the following criteria are met:

1. The child must have been a full-time student in the term immediately preceding the subject semester.

 and

2. An acceptable statement from an administrator of the school or college certifying the facts of the case is received by the carrier.

If the criteria are met, the child will be eligible for dependent student status through the end of the month in which he or she completes the requirements for graduation.

It may be possible for a dependent child to be granted a second semester of part time attendance if there are unusual, extenuating circumstances which, through no fault of the student, prevent timely graduation. An example would be if a college cancels a course required for graduation because of insufficient registration, and there is no alternative course. Requests for coverage for a second semester of part time study may be considered on an exception basis for review by an Associate Director.

RATIONALE

The definition of a dependent student is given in the President's Regulations, 73.1 (i). Although a literal interpretation would preclude eligibility for less than full-time status, it is reasonable to extend eligibility to a child who is in a situation where in the last term he or she will complete graduation requirements with less than full-time course work.

UNIT RESPONSIBILITY

Client Services, Agency Services, Contract Management

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Director of Employee Benefits

Policy Memo #4
Original Issue Date: February 23, 1987
Reissue Date: March 30, 1988
Policy File Ref: A330

SUBJECT

If a dependent is granted a medical leave due to disability and subsequently returns to school in less than a full-time status, for what period of time is the dependent eligible for dependent student status while in less than full-time status.

BACKGROUND

Under current policy, a dependent student who is granted a medical leave due to disability continues to be eligible for coverage for a maximum of 12 calendar months following the month in which the child withdraws from school plus the time between that period and the beginning of the next regular semester.

With the exception of students granted a medical leave of absence and students who need less than a full-time course load in their last semester, all other students must maintain a full-time status to be eligible for coverage (e.g., no allowance is made for students who drop below full-time status for financial reasons).

POLICY

A dependent student granted a medical leave due to disability who subsequently returns to school in less than full-time status can maintain eligibility for coverage for a maximum of 12 calendar months following the month in which the child withdraws from school plus
the time between that period and the beginning of the next regular semester. The student/enrollee must submit a written request to the carrier which includes documentation that the school granted the student a leave of absence due to medical reasons and has accepted the student for continued studies on a less than full-time basis.

Example:

Child is granted a medical leave from school in October 1986. In September, 1987, the child returns to school in less than full-time status. The child's eligibility may continue until the beginning of the next regular semester in January, 1988. If the child does not resume full-time status at that time, he/she is no longer eligible as a dependent student.

RATIONALE:

While our current policy addresses the issue of eligibility for coverage for dependents who are granted a medical leave due to disability for a maximum of 12 calendar months, plus the time between that period and the beginning of the next regular semester, the policy does not include the situation where a student is on medical leave and returns to school in less than a full-time status due to a disability. This policy covers such a situation.

UNIT RESPONSIBILITY

Client Services

Underlined material denotes revision

Policy Memo #12 (Revision)
Issued: May 6, 1988
Policy File Ref: A330

ISSUE

Residency not required for stepchildren enrolled in NYSHIP.

BACKGROUND

The General Information booklets and the agency's procedures manuals indicate a stepchild can be an eligible dependent if the child permanently resides with the enrollee. This is contrary to the President's Regulations which do not require permanent residency: "An employee's or retired employee's child shall be deemed to include any legally adopted child, any stepchild who resides in the employee's or retired employee's household..." In addition, discussion of the issue with the Insurance Department indicates our current practice of requiring any residency violates an Insurance Regulation that requires family policies to provide coverage for a stepchild, dependent upon the insured, on the same basis as coverage provided for a natural child.

POLICY

"Permanent residency" for stepchildren is not required. The manuals and information booklet will be corrected when they are reissued. A regulation change has been made to eliminate the residency requirement and add a support provision. The term "support" means a level of at least 50% support provided by the employee or retiree.

RATIONALE

Since no official basis exists for a permanent residency requirement and that requirement is contrary to the President's Regulations and also in conflict with Insurance Department Regulations, it has been eliminated. The support provision has been added to conform to NYSID regulations.

UNIT RESPONSIBILITY

Agency Services, Client Services, Communications

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Director of Employee Benefits

Employee Benefits Division Policy Memorandum

Number: 23r1
Date Issued: June 30, 1989
Date Revised: 9/16/92
Policy File Ref: A330, A200
Subject: Dependent Eligibility, Effective Dates

ISSUE:

Determine the effective date of coverage for children who are in the process of being adopted.

BACKGROUND:

There have been instances when enrollees who are in the process of adopting a child want NYSHIP to cover the child before adoption becomes final, even though they may not have custody of the child. They state that the child is really theirs and that such children are entitled to coverage even if they do not meet all of the requirements for coverage as set forth in Chapter 8 of the HBA Handbook, particularly residence requirements for newborns.

PROPOSED POLICY:

In order to be covered under NYSHIP, a child must meet the definition of being either legally adopted, a stepchild, or "any other child" as defined in Chapter 8 of the HBA Handbook. In the case of a newborn child, if legal guardianship has been established as of the date of birth or a petition for adoption has been filed pursuant to Section 115(c) of the domestic relations law prior to, or within 30 days of, birth, the intent of the residence requirement in Chapter 8 will be deemed satisfied if the child will live with the enrollee when physically able. NYSHIP coverage will cease for adoptees if a notice of revocation of adoption has been filed pursuant to Section 115(b) of the domestic relations law and consent to the adoption has been revoked; coverage may continue, however, if the definition of "other child" is met.

RATIONALE:

The eligibility requirements for children in Chapter 8 of the HBA Manual were designed to protect the plan from the costs of providing coverage for children who do not have a firm legal or dependent relationship with the insured. In the case of a potential adoptee, the adoption could be voided for any number of reasons, such as the natural

parents changing their minds or an adverse investigative report on the prospective parents, and the Empire Plan or NYSHIP-affiliated HMO would be in the position of seeking to recover large sums of money. The Adoption Unit of the Department of Social Services concurs that our approach is equitable and sound. This revised policy is the result of changes made to Sections 3216(c)(4)(C), 4304(d)(1), 4235(f)(2), 4305(c)(1) of the Insurance Law.

UNIT RESPONSIBILITY:

______Agency Services, Client Services, Contract Management, Communications

Underlined material is new.

Policy Memo #27
Issued: October 11, 1989
Policy File Ref:A330

ISSUE

Change in procedure for disabled dependents.

BACKGROUND

Currently dependents must become disabled prior to age 19 to be eligible for continued coverage in disabled dependent status. A new State law requires that group health plans replace the age 19 limitation provision with "the age at which dependent coverage would otherwise terminate." This means that when a dependent is permitted by the plan's rules to continue coverage beyond age 19 (i.e., dependent student) the age by which the dependent must become disabled is also extended through the period of continued eligibility.

POLICY

Effective January 1, 1990, the date by which a dependent must be disabled to qualify for disabled dependent status is extended to the age at which dependent coverage will terminate.

RATIONALE

This procedure is changed to conform to State law.

UNIT RESPONSIBILITY

Client Services, Agency Services, Communications

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Director of Employee Benefits

Employee Benefits Division Policy Memorandum

Number: 43r2
Date Issued: 12/10/90
Date Revised: 1/17/96, 2/5/98, 6/17/08
Policy File Ref: A330
Subject: Eligibility, COBRA

ISSUES

1. **Termination date of student coverage.**
2. **COBRA eligibility for student dependents who do not return to school.**
3. **Interim coverage between semesters.**
4. **Effective date of student coverage for students who become newly eligible for coverage.**

BACKGROUND

This policy governs the administration of full-time student dependent coverage for PA employees and retirees, New York State employees represented by Council 82, (Supervisors and ALES), NYSCOPBA, PBA, PIA and GSEU as well as unrepresented UCS employees. This policy will be in effect until such time as an administrative decision is made to adopt the recently negotiated changes for UCS unrepresented employees, until 1/1/09 for PA employees and retirees and until agreements that include a new full-time student eligibility contract provision are reached through collective bargaining or arbitrated settlement with the unions.

POLICY

- Allow student dependent coverage to continue over the summer months only when a student is enrolled in school for the fall semester and the student was enrolled in the previous spring semester as a full-time student. If a student is not enrolled full-time in a school for the fall semester, coverage will terminate on the last day of the month in which the student was a full time student. The student must apply for COBRA coverage within 60 days of the termination date.

- If a dependent is in school in the spring semester (who is not enrolled in a school for the fall semester) is seeking admission to a school over the summer, the dependent should enroll for COBRA coverage. If enrollment occurs, COBRA payments will be refunded and student dependent status will be retroactively reinstated once the student actually begins attending school full-time in the next semester.

- When we are informed that a student dependent who was enrolled in the semester before the pre-semester break (vacation) decides that he/she will not return for the following semester, coverage will be terminated on the last day of the month in which we are notified that the student will not return. If we are not informed until classes start in the following semester or later, the date of the qualifying event for COBRA coverge will be the first day of classes of the following semester; proof of the first day of classes may be requested. Proof of enrollment in the prior semester, such as a

grade transcript or tuition receipt must be provided or COBRA coverage will not be offered since if the student was not enrolled for the prior semester, the last eligibility termination date would preclude timely notice to the plan under COBRA rules.

- When an enrollee applies for student dependent coverage for a dependent who is not currently a student, student dependent coverage will begin on the first day of the month in which attendance in class starts.

- When a student dependent withdraws from school after classes have begun for the semester, coverage will end on the last day of the month in which the student dependent attended classes as a full-time student.

- If a dependent enrolled as a full-time student voluntarily drops a course and becomes a part-time student, coverage will cease on the last day of the month in which the dependent was considered a full-time student. If a dependent becomes a part-time student because the school has canceled a course and the dependent cannot register in another course to continue full-time student status, student dependent status will continue through that semester as if the dependent was a full-time student.

RATIONALE

Student dependent status over vacation periods should only continue if the dependent is continuing studies in the next semester and the dependent was enrolled in the previous semester as a full-time student. To prevent extension of coverage to ineligible dependents, it is necessary to require proof of continued eligibility.

UNIT RESPONSIBILITY

All

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Director of Employee Benefits

Employee Benefits Division Policy Memorandum

Number: 43r3
Date Issued: 6/17/08
Date Revised: Policy File Ref: A330
Subject: Eligibility, Dependent Student Age 19 and Over, COBRA

Topic – Administration of eligibility for dependents age 19 and overbased on full time student status

1. **Termination date of full-time student dependent coverage.**
2. **COBRA eligibility for student dependents who do not return to school.**
3. **Interim coverage between semesters.**
4. **Effective date of full-time student coverage for students who become newly eligible for coverage.**

BACKGROUND

Effective July 1, 2008, this policy governs the administration of full-time student dependent coverage for CSEA, PEF, DC-37, UUP, and the unrepresented cohorts (Executive Branch & Legislative Branch M/C employees, PE employees and retirees, State retirees, dependent survivor, preferred list, and vested enrollees. The more restrictive previous policy was difficult to administer for EBD, HBA's and the enrollees because of many differences in registration procedures used by schools. A revision is necessary to administer this benefit in accordance with the 2007 collective bargaining agreements and will provide for administration of student dependent coverage using documentation which is readily available from all schools while preserving the basic intent of providing coverage only to full-time students.

POLICY

- When an enrollee applies for student dependent coverage for a dependent age 19 and over who is not currently a full-time student, coverage will begin on the first day of the month in which full-time attendance in classes starts. Documentation proving full-time student status is required.

- When a full-time student dependent completes a semester at an accredited secondary or preparatory school, college or other educational institution, their eligibility for health insurance will be extended until the end of the third month following the month in which the semester is completed or until such time as eligibility would otherwise be lost under existing plan rules.

- When a full-time student dependent enrolls but does not complete a semester, and proof of the last day of attendance for the semester is provided, coverage ends on the last day of the month in which the student dependent attended classes as a full-time student or the end of the third month following the month in which the preceding semester was completed, whichever is later. The student must apply for COBRA coverage within 60 days of the termination date.

- When a full-time student dependent enrolls but does not complete a semester and no proof of attendance is provided for the incomplete semester, coverage will end on the first day of the incomplete semester or the last day of the third month following the month in which the preceding semester was completed, whichever is later. The date of the qualifying event for COBRA coverage will be the starting date of the semester or the end of the third month following the month that the last semester was completed, whichever is later. Proof of completion of the prior semester, such as a grade transcript or tuition receipt must be provided or COBRA coverage will not be offered since if the student was not a full time student in the prior semester, the last eligibility termination date would preclude timely notice to the plan under COBRA rules.

- If a dependent enrolled as a full-time student voluntarily drops a course and becomes a part-time student, coverage will cease on the last day of the month in which the dependent was considered a full-time student or the last day of the third month following the month in which the preceeding semester was completed as a full-time student, whichever is later. If a dependent becomes a part-time student because the school has canceled a course and the dependent cannot register in another course to continue full-time student status, student dependent status will continue through that semester as if the dependent was a full-time student.

RATIONALE

The 2007-2011 collective bargaining agreements with CSEA, DC-37, PEF and UUP provide for the extension of benefits for full time dependent students age 19 and over for three months following the month in which a semester of qualifying attendance at school is completed, or until such time as the dependent would otherwise lose eligibility under Plan rules, whichever is sooner. The above policy provides administrative details and interpretation of the application of the agreement's terms in various situations in which a semester is not completed, and the appropriate COBRA application guidelines.

UNIT RESPONSIBILITY

All

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Director of Employee Benefits

Employee Benefits Division Policy Memorandum

Number: 57r3
Date Issued: 2/26/92
Date revised: 4/3/96, 2/10/97, 8/10/99
Policy File Ref: A330, A340
Subject: Dependent Eligibility, Dependent Survivor Eligibility

ISSUE

Determine if dependents who lose eligibility due to marriage, loss of student or disabled dependent status should be readmitted to NYSHIP if their status later changes.

BACKGROUND

We were recently informed that a disabled dependent over age 19 who married was widowed shortly after the marriage, and the enrollee has applied to return the dependent to coverage under NYSHIP. There is no record of this situation occurring previously. It was determined in researching the disabled dependent question that no policy existed concerning the reacquisition of eligibility for dependents, although there had been consistent past practice. This led to a review of policy on other dependents who might lose, then subsequently regain, eligibility.

POLICY

Allow dependents, other than dependent survivors, who lose eligibility due to marriage or loss of student status to reenter NYSHIP should they subsequently become divorced, widowed or reenroll in school, provided they are otherwise eligible. Unmarried disabled dependents may also reenter NYSHIP should they have a relapse of the same disability which qualified them as disabled dependents while they were in NYSHIP and which again renders them incapable of self-support. Dependent survivors who lose eligibility, other than remarried former dependent survivors who have had the remarriage annulled, may not reenter NYSHIP. All applications for reenrollment must be made within 60 days of the event which requalifies the person for NYSHIP coverage.

Policy Effective Date: The 60 day enrollment deadline will become effective when published in the next Empire Plan and HMO Reports.

RATIONALE

We currently allow unmarried dependent students who lose eligibility through loss of student status to be covered again as dependent students if they subsequently reenroll in school; children who marry and then divorce are also allowed to reenroll if they are otherwise eligible. There is no written policy, however, on this issue of readmittance.

The Insurance Department has informed us that insurance law does not require us to readmit a disabled dependent who has lost coverage through marriage or other disqualifying event. Although we have no obligation to readmit them, the dependent is still a responsibility of the enrollee and our program exists to assist in paying for the medical care of the enrollee's legal dependents. Since disabled dependents have no age limit on their enrollment if the disability continues, they may reenroll after divorce or death of the spouse if they have been continuously disabled due to the original disability. Unmarried disabled dependents may also be reenrolled if they experience a relapse of the same condition that caused their disability while previously enrolled and the reoccurrence of that disability again renders them incapable of self-support (both factors to be determined by MetraHealth or the enrollee's HMO). [1] This policy is meant to provide a safety net to employees whose disabled dependents are trying to establish independence, but subsequently suffer a relapse of their original disabling condition that makes it impossible for them to do so. It will be necessary for the enrollee to complete another PS-451 form to verify that the dependent still qualifies for disabled dependent status.

Our past practice concerning dependent survivors has been consistent: dependent survivors may not regain coverage once eligibility is lost. This policy was finalized in PM-46. The Regulations in this area are clearly restrictive and intend to provide continuation of coverage only until the dependent loses coverage due to some disqualifying event; they do not specify or authorize a period of possible renewed eligibility once the continued coverage is lost. Spouses of deceased enrollees who remarry are specifically prohibited from further eligibility under Section 73.2(b)(2) of the President's Regulations. The rationale section of PM-46 provides further information.

The only exception to this rule for dependent survivors occurs when the dependent survivor has had the remarriage legally annulled. Counsel has informed us that it is a general legal rule that the annulment of a marriage means that the marriage is considered void from its inception, placing the parties in the same position as if a marriage had never been entered into. In a case against the New York City Retirement System, the court ruled that the annulment of a widow's remarriage should restore her rights to her husband's pension rights. Consequently, it is logical that we restore dependent survivor rights in cases of annulment. This is expected to be a rare occurrence, and proof of the annulment is required.

A 60 day reenrollment application period is instituted in order to bring this policy into conformance with PM-107.

UNIT RESPONSIBILITY

All

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[1] The parameters for disabled dependent coverage were extended at the EBD Senior Staff meeting of 11/12/96

EMPLOYEE BENEFITS DIVISION POLICY MEMO

Date Issued: 1/18/96 File Ref: A330 Number: 81

ISSUE

Determine if dependents may be removed from the enrollment file by HBAs if they discover that the dependent is no longer eligible. Current practice requires an enrollee's signature.

BACKGROUND

A number of HMOs have complained that they experience problems when an enrollee fails to remove a dependent student from the enrollment file when that dependent loses student eligibility. The HMOs certify student status by requesting verification from the school. If the HMO learns that the student is no longer eligible, the HMO generally tells the enrollee to visit his HBA and remove the dependent. In such situations, EBD has advised the HMOs to pend claims on the dependent and wait for the "DEL" transaction.

Unfortunately, enrollees do not always cooperate and do not remove ineligible dependents, and current procedures require an enrollee signature to remove a dependent.

POLICY

Allow the HBA to remove a dependent student without an enrollee's signature when:

- The HMO has a response from an enrollee stating that the dependent is no longer a student, or
- The HMO has a response from the school that the student is not a full-time student, or
- The enrollee fails to respond to a written inquiry from the HMO, and the HMO has kept a record that such a letter was sent, and
- In all cases, the HBA has contacted the enrollee to inform the enrollee that the dependent will be removed unless new evidence of full-time student status is received by the HMO.

HMOs may not remove dependents from their files until they receive notice of the deletion through the enrollment system.

RATIONALE

It is important that the enrollment files are kept current. Unfortunately, some enrollees do not cooperate by removing ineligible dependents even when they know that they are supposed to. The proposed policy allows the removal of ineligible dependent students when enrollees are uncooperative, but ensures that the enrollee is aware of the pending deletion.

UNIT RESPONSIBILITY

Operations, Contract Management , Program Services

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Director of Employee Benefits

EMPLOYEE BENEFITS DIVISION POLICY MEMO		
Date Issued: 3/19/96	File Ref: A330	Number: 84

ISSUE

Determine if dependent student status can be extended to students who must take part-time course loads due to disability.

BACKGROUND

Section 73.1(i)(1) of the President's Regulations states, in pertinent part, that a dependent student must be a "full-time student at an accredited secondary or preparatory school or college." We occasionally receive requests for coverage for students who are physically or mentally incapable of handling a full time credit load, but cannot be considered disabled for disabled dependent status because they are attending school. In most cases, the school will certify the student as full-time in light of medical information; their reasoning is that because of the disability, a reduced load is full-time for that particular student. In these cases, there is no problem because we accept a school's certification of full-time status. In other cases, the school has no mechanism for accommodating a request for full-time certification due to disability, and the parents are faced with paying for COBRA coverage during this time. Our experience leads us to estimate that most students in this category will carry about nine credit hours and the disability will be temporary.

POLICY

Allow disabled students to take a reduced course load and retain coverage when there is compelling medical evidence submitted by the student's physician that the student is incapable of meeting a school's full-time credit load, and that the reduced load is maximum for their capabilities; the medical evidence will be evaluated by the carriers. This optional eligibility should only be utilized for dependent students who would qualify for disabled dependent status in the absence of school attendance and only in cases where the school has no procedure for designating a reduced schedule as full-time for a partially disabled student. This disabled part-time status will cease at the current maximum age of 25 for student status.

RATIONALE

The full-time student requirement was meant to cover students who are pursuing an education full time and are dependent upon our enrollee. Disabled students may be incapable of completing the requirements in the normal time frame, but would appear to meet the eligibility criteria of dependent on our enrollee because of full-time educational pursuit. If such students are engaged in carrying what for them is a full credit load, they are, in fact, only being accorded the same privilege as the non-disabled. It is not reasonable to penalize a dependent who would otherwise be eligible because of disability for attendance at school which will potentially enable the dependent to become independent.

UNIT RESPONSIBILITY

Program Services, Operations, Contract Management, Communications

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Director of Employee Benefits

EMPLOYEE BENEFITS DIVISON POLICY MEMO

Date Issued: 5/15/95	File Ref: A330	Number: 88

ISSUE

1. The definition of "chiefly dependent" and "permanent" for purposes of "other child" eligibility for NYSHIP.
2. Criteria for uniform processing of PS-457s, Statement of Dependence for Participation in the Health Insurance Program.

BACKGROUND

NYSHIP's eligibility requirements state that children other than natural, step or adopted (known as "other children") are eligible if they "permanently reside with the enrollee" and are "chiefly dependent" upon the enrollee. Presently, no uniform criteria are used to define these terms. This could result in inappropriate and/or inconsistent approvals or denials of requests.

POLICY

Definition of *Chiefly Dependent*:

For NYSHIP eligibility purposes, an "other child" is considered chiefly dependent upon an enrollee if the child receives greater than 50% support from the enrollee; acceptable proof would be evidence that the child is claimed as a dependent on the enrollee's income tax return. In the case of a married couple filing separately, the child may be claimed on either spouse's return. If, for some reason, the individual does not wish to claim the dependent on a tax return, we will accept a letter from a CPA or an attorney that the dependent could be claimed upon the individual’s tax return under current IRS regulations if the enrollee chose to do so.

Definition of Permanent Residence:

The dictionary defines permanent as "continuing or enduring without fundamental or marked change." For purposes of establishing a child's eligibility, "permanent" is defined as a resident state that is likely to continue until the child reaches age 19 or completes dependent student status. One proof of permanent status would be legal guardianship documents; other documents may also be acceptable upon review by Division Policy Unit staff.

Criteria for evaluation of the PS-457 have been developed by the Policy Unit and are appended to this Policy Memo.

This policy will apply to all enrollment applications received on or after January 1, 1997.

RATIONALE

We have been using the standard of greater than 50% support for years, but have not requested proof of support. It is reasonable to require proof of support with every PS-457. A copy of a tax return with the dependent in question listed would be acceptable proof. Other acceptable documentation would be proof of legal custody. In the case of a newly acquired child, a statement of intent until the next tax filing period for which the dependent can be claimed on the Federal tax form would suffice if a copy of the tax return will be used as proof in the future.

It is more difficult to define "permanent," but the implications of the word are that the benefit should be granted only to an enrollee who has established a long term responsibility for a child that includes residency. As a general rule, if the decision about how long the child will reside with the enrollee rests with someone else who has legal responsibility, such as a parent, we will not consider the residence permanent. Eligibility will be for limited periods to assure the dependent's status hasn't changed; the enrollee will be required to document that the dependent continues to permanently reside in his/her household and remains chiefly dependent upon the enrollee for support.

The PS-457 should be revised to indicate that the State reserves the right to request proof of support and/or residency that may be satisfactory to it and that the enrollee will be responsible for repayment of any claims paid on behalf of dependents who are subsequently found to have been covered based upon false statements by the enrollee.

UNIT RESPONSIBILITY

Program Services, Communications, Operations, Contract Management

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Director of Employee Benefits

Attachment

pm\margcrt2.doc/wjh/March 9, 1993/February 1, 2000

EMPLOYEE BENEFITS DIVISION POLICY MEMO

Date Issued: 5/15/96 File Ref: A330 Number: 89

ISSUE

Determine whether proof of marriage and/or dependent relationship will be required upon enrollment for family coverage, when changing from individual to family coverage or when adding dependents to existing family coverage.

BACKGROUND

Program Services and Operations staff are encountering an increasing number of cases of dubious "marriages." Audit is investigating several of these cases, and they have found cases of apparent fraud. HBAs have also told staff that they suspect that some dependents are not really eligible. In addition, we must be consistent with the documentation that we require in order to protect the plan from unauthorized coverage.

POLICY

Require that an enrollee requesting family coverage produce proof of the relationship of the dependents for whom coverage is being requested:

- For spouses: a copy of the marriage certificate.
- For domestic partners: Completed PS-425.1 and PS-452.2 and the required documentation.
- For natural children: a copy of the child's birth certificate.
- For adopted children: a copy of the adoption papers.
- For stepchildren: a completed PS-457, a copy of the child's birth certificate and proof of financial dependence as outlined in PM-88.
- For "other children": a completed PS-457 and documentation of support and residence as outlined in PM-88.

This policy will apply to all enrollment applications received for family coverage submitted on or after January 1, 1997.

RATIONALE

We do not now request documentation of all dependent situations. Health insurance costs have risen tremendously in the past decade. It is necessary now more than ever to more closely monitor enrollment in order to protect NYSHIP from fraud. Since the document necessary can be provided by the enrollee with little difficulty, the program can be protected without great inconvenience to the enrollee.

UNIT RESPONSIBILITY

Program Services, Operations, Communications

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Director of Employee Benefits

Employee Benefits Division Policy Memorandum

Number: 101r1
Date Issued: June 3, 1997
Revised: April 3, 2006
Policy File Ref: 330
Subject: Eligibility

Issue:

1. Determine if NYSHIP must enroll previously eligible children without a late enrollment waiting period when an enrollee or the agency is ordered by a family court order to enroll the dependents immediately.
2. Determine if such a change would be a qualifying event for the PTCP.

Background:

Under NYSHIP rules, if an enrollee with individual coverage wishes to change to family coverage in order to enroll previously eligible dependents, there is a late enrollment waiting period before the family coverage becomes effective. This is done to protect the plan from adverse selection. If family coverage is in effect, previously eligible dependents may be added retroactive to the start of family coverage or their date of first eligibility, whichever is later. A divorced enrollee with individual coverage was ordered by the court under Section 416 of the Family Court Act to enroll his children in his employer health insurance. Section 416 of the Family Court Act requires that the children be enrolled without regard to seasonal enrollment restrictions. Since the late enrollment waiting period is not seasonal, Counsel's Office was asked for its opinion as to whether we must comply. Counsel advised that we should.

Policy:

When a NYSHIP enrollee is subject to a court order mandating that children be enrolled in employer health insurance, the late enrollment waiting period will be waived for eligible children covered by the court order. The enrollee must provide a copy of the court order and any supporting documentation that may be required to ascertain that the persons for whom coverage is requested are covered by the order and otherwise eligible for coverage under NYSHIP eligibility rules.

Section 5241 of the New York State Civil Practice Law and Rules (CPLR) allows a court to order an employer to enroll eligible dependent children in the health insurance and ancillary health benefits programs even if the enrollee will not submit an enrollment form to add the dependents. Agencies under such orders must add the dependents and change the coverage if necessary (or even start health insurance coverage if the employee is eligible for health insurance under NYSHIP rules but has previously declined) as well as institute the proper deductions. The court may also direct the employer to send NYSHIP identification cards for the dependent, information and claim

forms to the support unit and notify the support unit if the employee's health insurance is terminated or canceled by the enrollee. *Section 5241 CPLR does not require an employer to grant health insurance coverage to an employee or dependent who is ineligible under the plan's eligibility requirements.* For instance, health insurance would not have to be granted to a person who works less than half time and for whom an agency has received an order under CPLR 5241.

If an agency is ordered under CPLR 5241 to enroll an eligible child and the enrollee refuses to sign the PS-404, the HBA should enter the appropriate transaction on EMS, sign the PS-404 with the statement "Enrolled pursuant to an execution for medical support under CPLR 5241" in the signature box and file the PS-404 with a copy of the order.

Under CPLR 5241, "'Health insurance benefits" means any medical, dental, optical and prescription drugs and health care services or other health care benefits which may be provided for dependents through an employer organization, including such employers or organizations which are self-insured. When any of these benefits are provided by a union benefit fund rather than through the State, the HBA should inform the court and provide the union benefit fund address.

We will consider dependent enrollment under a court order to be a change in family status for PTCP purposes, provided that the enrollee's application for coverage is timely and appropriate in relation to the court order, or if mandated by an execution under CPLR 5241.

Rationale:

Counsel informs us that while it may be argued that Section 416 of the Family Court Act does not apply to our late enrollment waiting period, Section 5241(b)(2) of the Civil Practice Law and Rules would allow the court to issue an execution for medical support enforcement which would force us to allow the enrollment. Since a procedure for mandating compliance exists and could be easily used by a court, it is logical for us to enroll eligible dependents whenever an enrollee receives an order for medical support. Since enrollment is not discretionary under a court order, there is no adverse selection issue.

When enrollment is mandated by an execution under CPLR 5241, the agency must comply to the extent of the law.

IRS regulations relating to §125 of IRS Code permit a change in benefit election to cover a child who is the subject of a medical support order.

A copy of Counsel's opinion and CPLR 5241 may be found in Policy File A330.

Unit Responsibility:
All

Employee Benefits Division Policy Memorandum

Number: 107
Date Issued: June 16, 1998
Date Revised: NA
Policy File Ref: A330
Subject: Dependent Eligibility

ISSUE:
Determine the PS-451 submission dates for disabled dependent child status eligibility.

BACKGROUND:

Disabled dependents (children) may continue in NYSHIP past standard age disqualification dates provided that the disability occurred prior to the time when coverage would normally terminate, that is, age 19 (21 in some negotiating units) or up to age 25 if a full-time student. The General Information books state that enrollees with a disabled dependent child must contact their HBAs "several months" prior to the disabled dependent 's 19th birthday, or if a full-time student, "at the time the disability occurs" so that a disabled dependent application, PS-451, can be filed prior to the standard age disqualification date. Staff have previously been authorized to routinely decline disabled dependent applications if they were not submitted within these parameters. This rule would preclude an enrollee from enrolling a disabled dependent child many years after the standard age disqualification dates. Several recent developments have caused us to review the procedures and guidelines for approving disabled dependent status:

First, the phrases "several months" or "at the time the disability occurs" are not precise expressions of the filing deadline, and have, therefore, been subject to inconsistent definition and application.

Second, we have become aware that United HealthCare has been approving applications for disabled dependent child status without regard to whether they have been timely filed, and without regard to whether the dependent in question is covered under NYSHIP at the time of application, based upon a past exception request which they believed was authorization to permanently change the guidelines. HBAs have been routinely sending such applications to United HealthCare instead of disapproving them at the agency level.

Finally, we have learned that State law has been amended to allow an enrollee to apply for disabled dependent status up to 31 days after coverage would normally end.

POLICY:

1. For a dependent child to be considered for continuation in NYSHIP as a disabled dependent child, an enrollee must submit a PS-451 no later than sixty

(60) days after the date when eligibility for the dependent would normally cease due to age under NYSHIP (i.e.; age 19 (21 for some groups) or age 25 for full time students) Enrollees with dependents who have a qualifying disability should be encouraged to submit a PS-451 as soon as possible upon enrollment, even if the child is under the age when eligibility would normally terminate through age disqualification. (Refer to PM-57r2 for complete rules on continuation and readmission of dependents) If claims for the disabled dependent are incurred within the sixty day grace period, claims will not be paid until a PS-451 is submitted and approved.

2. When an enrollee has a dependent child listed on the enrollment file but does not submit a PS-451 either prior to or within sixty days of the standard age disqualification dates, a request for coverage as a disabled dependent will not be considered, nor will disabled dependent status for a child who was never covered under NYSHIP be considered beyond the standard age disqualification dates, unless the child qualifies under these circumstances:

   a) When a disabled dependent child has been covered under the enrollee's spouse's policy and involuntarily loses that coverage due to a change in the spouse's job status (i.e. termination, involuntary reduction in work hours resulting in loss of coverage or termination of the employer's group health insurance coverage), an application for disabled dependent status under NYSHIP will be considered if the enrollee applies within sixty days of the loss of coverage under the spouse's plan; provides proof that the termination of coverage was not a voluntary cancellation of coverage, and provides proof that the disability occurred prior to the standard age disqualification dates for NYSHIP coverage.

   b) When a disabled dependent child has been covered under Medicaid or a similar comprehensive program and involuntarily loses that coverage, an enrollee may apply for disabled dependent child coverage provided the enrollee applies for coverage within sixty days of the date that coverage under Medicaid or a similar program was terminated; provides proof that disenrollment was involuntary, and provides proof that the disability occurred prior to the standard age disqualification dates.

3. A new enrollee with a disabled dependent child age 19 or over must submit a PS-451 within sixty days of the employee's initial enrollment in NYSHIP in order to qualify the disabled child for NYSHIP coverage, unless the dependent is covered under a spouse's group health insurance or a government medical program. In such cases, enrollment may be considered under the Rule 2 exceptions.

4. Dependent children who become disabled during COBRA status are not eligible to continue as disabled dependents.

5. Effective Dates: Coverage for enrolled disabled dependents who are continuing coverage will be continuous. Coverage for those who are applying due to

involuntary loss of other coverage will be effective the day after the other coverage ceases.

RATIONALE:

NYSHIP must be assured that disabled dependent child status is only granted to individuals who were disabled prior to standard age disqualification dates. We have been receiving PS-451s up to a decade after the disability was reportedly incurred . In some cases these applications have been incorrectly approved by the insurer or by EBD because of lack of precision about when the deadlines for applying for such coverage expire. Consistent administration requires that NYSHIP have clear policy on the eligibility of these individuals and precisely stated time frames for timely application based on that policy.

UNIT RESPONSIBILITY:

All

N.B.: Change published in September 1998 Empire Plan Report.

Employee Benefits Division Policy Memorandum

Number: 111
Date Issued: December 27, 2000
Policy File Ref: A330
Subject: Dependent Eligibility

ISSUE:
Determine if State agencies must accept Qualified Medical Child Support Orders (QMCSO) issued pursuant to ERISA.

BACKGROUND:

We occasionally receive QMCSOs based upon the ERISA statutes which mandate that employers add children to the health insurance of covered parents. ERISA, however, does not apply to governmental plans. Counsel was asked if NYSHIP should obey such orders since ERISA does not apply to NYSHIP.

POLICY:

Comply with ERISA QMCSOs issued by New York State judges. (See PM-101 for guidance on complying with New York State orders) Other states may have similar laws, so all new QMCSOs from other states will be reviewed. If staff receives a QMCSO from another state, forward the QMCSO to the Policy Unit which will ask for the opinion of Counsel. If other states are qualified to be covered by this policy, this policy will be revised to include them. Once a state has been listed in this policy, it will not be necessary to forward the QMCSO to the Policy Unit for review unless there are other compliance issues.

RATIONALE:

Since judges in New York State have the power under State law to mandate the enrollment of children under parents' health insurance, we should obey the ERISA orders since they serve as a parallel mandate to orders that may be lawfully imposed by judges in New York State requiring NYSHIP to enroll children under their parents' health insurance plans.

UNIT RESPONSIBILITY:
All

States from which EBD will accept ERISA QMCSOs

New York

Employee Benefits Division Policy Memorandum

Number: 126
Date Issued: September 25, 2004
Policy File Ref: A330, A420
Subject: Dependent Eligibility, Instructions to Carriers

ISSUE:

Determine the frequency of case review for NYSHIP disabled dependents.

BACKGROUND:

Disabled dependents of NYSHIP enrollees are entitled to keep dependents covered under their family coverage beyond the normal age-out limits if those dependents are incapable of self support. For the Empire Plan, the medical component carrier determines disability for those with physical disabilities and the mental health carrier determines disabled status for mental health cases. All of these cases are subject to review by the carriers on a periodic basis. UHC, the current medical component carrier has been granting permanent disabilities, but Value Options, the mental health carrier has not been able to do so since the inception of the mental health program due to requirements for periodic reviews instituted at that time. We have been asked to determine if a standard schedule of disability status reviews should be instituted for the Empire Plan.

POLICY:

The Empire Plan carriers will use the following guidelines for all disabled dependent reviews:

If improvement of the dependent's condition is

- "Expected," the case will be normally reviewed within six to eight months, unless the carrier determines a need for a more frequent review.

- "Possible," the case will be normally reviewed no sooner than three years, unless the carrier determines a need for a more frequent review.

- "Not expected," the case will normally be reviewed no sooner than seven years, unless the carrier determines a need for a more frequent review.

RATIONALE:

NYSHIP has the right to be certain that persons receiving extended coverage due to disability are truly disabled to the extent that they may continue receiving those benefits. While some may object to providing the information, NYSHIP must protect the interests

of all enrollees. The above schedule is similar to that used by the Social SecurityAdministration to evaluate those receiving Social Security disability benefits. We believe it is a rational schedule for NYSHIP disability reviews also.

UNIT RESPONSIBILITY:
All

Policy Memo #3
Issued: February 6, 1987
Policy File Ref: A1130-A340

SUBJECT

Eligibility to continue Health Insurance in retirement and dependent survivor coverage for employees who do not meet the usual eligibility requirements for enrollment.

BACKGROUND

As a result of negotiated agreements between the State and employee unions, effective 1/3/83, State employees must work at least halftime to be eligible to participate in the New York State Health Insurance Program. A Division of Employee Benefits memo dated 1/3/83 advised part-time employees of the new requirement and gave them the opportunity to remain in the State Health Insurance Program by paying full cost for their coverage. No one has been added to this category since 1983.

The UUP negotiated an agreement in the current contract to permit part-time employees who perform less than half a professional obligation to participate on a full premium cost basis. While the agreement permits these persons to purchase coverage under the Program during their employment by paying full cost, Nelson Carpenter's letter of 10/23/86 advised Charlie Barnes that the negotiated intent was to only provide coverage to such individuals while they were actively employed. These enrollees cannot accrue qualifying service time toward retirement or otherwise enroll for the purpose of establishing eligibility for retirement or dependent survivor coverage.

POLICY

Employees who do not meet the usual eligibility requirements but are enrolled through a special plan provision are ineligible to continue health insurance in retirement or for dependent survivor coverage. The exception would be the enrollee who had met the necessary service requirement, except for age, during a previous employment period and had continuously maintained coverage either as a vestee or under such special plan provision.

RATIONALE

Employees should not be disadvantaged if they have previously met the needed requirements, except for age, for a retirement benefit. Such employees could be eligible for vested status, but might, instead, maintain continuous coverage through either of these special plan provisions.

UNIT RESPONSIBILITY
Fiscal Management

Policy Memo #21
Issued: June 30, 1989
Policy File Ref: A340

ISSUE:

Application of the dual annuitant sick leave credit when the enrollee dies before the effective date of the RET transaction.

BACKGROUND:

CSEA, PBA and M/C employees who retire on or after January 1, 1989, can choose to use up to 70% of their sick leave credit for the remainder of their lives and, in the event of their deaths, the sick leave credit would be used to reduce their survivors' premiums.

A Health Benefits Administrator questioned the validity of a deceased employee's election when the employee died after the actual retirement date but before the RET transaction was effective on the Central File(28 days following the end of the last pay period worked).

PROPOSED POLICY:

If an enrollee eligible for the dual annuitant sick leave has elected this option and dies after the actual retirement date but before the effective date of the RET, that enrollee's survivor will be allowed the use of the designated amount of sick leave credit toward the cost of survivor coverage.

RATIONALE:

If it is the intent of the deceased to provide this benefit for the survivor, we should permit its application. The 28 day delay in health insurance for retirement is an administrative device used to facilitate transition of the individual's payment status and should not impede the implementation of the retiree's selected sick leave option.

UNIT RESPONSIBILITY:

Agency Services

Policy Memo #46
Issued: 1/2/91
Policy File Ref: A340

ISSUE:

Determine whether a dependent survivor is eligible to add dependents to NYSHIP coverage.

BACKGROUND:

An individual covered under a dependent survivor contract gave birth to a child and wished to add the child to the survivor coverage.

POLICY:

Only individuals who were enrolled dependents of a deceased employee or retiree at the time of the employee's or retiree's death are eligible for dependent survivor coverage under NYSHIP. New dependents cannot be added to survivor coverage except that a deceased enrollee's as yet unborn child would be eligible for coverage at birth.

RATIONALE AND COMMENTS:

Section 73.2(b)(1) of the President's Regulations states that "in the event of the death of an employee or retired employee...the coverage hereunder of his dependents shall continue [emphasis ours]..." according to certain payment rules.

Section 73.2(b)(2) goes on to say: "Coverage of dependents of a deceased employee under this paragraph may be continued only for so long as such dependents would otherwise be eligible for coverage if the employee had lived and continued to be covered in the health insurance plan, and the surviving spouse for only so long as he or she remains unmarried." The survivors must file for coverage within 90 days of the death of the employee.

The intent of the Regulations, therefore, is clearly to restrict continuation of coverage only to dependents covered by the employee's contract at the time of the employee's death.

UNIT RESPONSIBILITY:

Agency Services, Client Services

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Director of Employee Benefits

Policy Memo #48
Issued: 1/14/91
Policy File Ref: A340; A1320

ISSUE

Dependent Survivor eligibility for survivors of deceased COBRA enrollees.

BACKGROUND

Survivors of both active employees and retirees are eligible to continue health insurance coverage in Dependent Survivor status if the deceased enrollee had at least ten years of service. A policy to determine the eligibility of COBRA survivors for Dependent Survivor status has not been established.

POLICY

Survivors of deceased COBRA enrollees are not eligible for NYSHIP Dependent Survivor status. Since the enrollee's death is a qualifying event by federal standards, such survivors are entitled to a maximum of 36 months of COBRA coverage, less the number of months covered by the first COBRA period.

RATIONALE

Although benefits made available to active employees must usually be provided to COBRA enrollees, granting Dependent Survivor status to COBRA survivors could permit the survivors to continue in the NYSHIP for their lifetime. Such a benefit would far exceed the 36 month maximum COBRA period and was clearly not intended by the federal legislation. Jack Helitzer, Metropolitan's benefit attorney, confirms that such survivors may be deemed ineligible for NYSHIP Dependent Survivor status.

UNIT RESPONSIBILITY

Client Services, Agency Services

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Director of Employee Benefits

Employee Benefits Division Policy Memorandum

Number: 66
Date Issued: 12/14/92
File Ref: A340
Subject: Dependent Survivors

ISSUE
Determine if a dependent survivor who is employed, or becomes employed, by the State can enroll in NYSHIP as an employee and begin or resume dependent survivor coverage at a later date, provided he or she is otherwise eligible.

BACKGROUND

A dependent survivor has become employed by the State and wishes to know whether she can enroll in NYSHIP as an active enrollee and resume dependent survivor coverage at a later date if she is unable to complete ten year's service necessary to qualify for health insurance as a retiree. There is consensus that this has been allowed before, but there is no written guidance.

POLICY

Permit a dependent survivor who begins employment with the State and enrolls in NYSHIP as an employee to resume dependent survivor coverage following separation or loss of employee coverage, provided the survivor is otherwise eligible and has not attained continuation eligibility in his/her own right (e.g. retiree). In addition, permit an employee/survivor whose State employee's spouse dies while the employee/survivor works for the State to begin dependent survivor coverage upon termination of employment or loss of eligibility for employee coverage, provided the employee/survivor is otherwise eligible. In either case, survivor coverage must be applied for within 90 days of the termination of employment or loss of eligibility for health insurance.

RATIONALE

Since an individual can have only one enrollment in NYSHIP, a dependent survivor under these circumstances is faced with a dilemma: If the individual selects survivor coverage, the opportunity for possibly lower employee share premiums is lost; if the individual chooses employee coverage, the right to lifetime health insurance is lost unless an additional service requirement is fulfilled. It was not the intent of the regulations to impose this dilemma upon survivors; the intent was to provide continuous coverage until a disqualifying event occurs. In the case of a surviving spouse, the only disqualifying events specified are remarriage or a break in continuation of coverage.

In order to accomplish the regulation’s intent, the Division has traditionally allowed State employee/dependent survivors to regain dependent survivor coverage. As long as the survivor maintains health insurance during employment, the continuity of coverage is not broken and the intent of the Regulations is fulfilled. The survivor,

therefore, should be able to resume or begin dependent survivor coverage upon termination of employee health insurance.

The Regulations require the survivor to apply for dependent survivor coverage within 90 days of the employee's death. As the regulations provide only for "continued" coverage of survivors, once coverage is lost by a disqualifying event, such as cancellation or remarriage, it cannot be regained.

UNIT RESPONSIBILITY

Agency Services, Client Services, Communications

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Director of Employee Benefits

PAR 79
File Ref: A330

TO: Senior Staff
FROM: Mary McGinty
SUBJECT: Clarification of Qualified Trade Schools
DATE: December 19, 2007

The purpose of this memo is to further clarify what types of programs are considered to be "Qualified Trade Schools" underwhen PAR 79. was originally issued. This memo will be attached to PAR 79 as further clarification.

ToIn order to become a journey level craftsman in certain trades, including, but not limited to,: plumbing, carpentry, and electrical work there is a formal apprenticeship mustto be completed. As part of the apprenticeship there is a training component. We have received an inquiry regarding the granting of dependent student status to a dependent enrolled in such an apprenticeship, sponsored jointly by the NYS Department of Labor and the Empire State Carpenters Apprenticeship Program.

The statutory authority for such apprenticeship programs, Labor Law Article 23, Section 816(1) clearly establishes an the employer/employee relationship between the apprentice and the entity sponsoring the apprenticeship program. This concept of an employee/employer relationship is further expanded under Department of Labor (DOL) Regulations Part 601 where the apprenticeship agreement is defined as "a written agreement between an apprentice and either his employer, or an apprenticeship committee acting as an agent for employers, which agreement contains the terms and conditions of the employment and training of the apprentice."

Based upon the statute and the regulations, apprenticeship programs that operate under the statutory authority of Labor Law Article 23, Section 816(1) do not meet the intent of extending dependent student eligibility to dependents enrolled in a trade school. The intent of offering dependent student eligibility to dependents attending trade schools was to allow coverage of dependents who are full time students at such schools, to which they pay tuition, in order to prepare for a specific occupation. An example of such a school would be a cosmetology school where students train for the licensing examination to become a barber or hairdresser.

For future reference, attached is a copy of the DOL Apprenticeship Agreement/Documentation Form.

TO: Senior Staff
FROM: Christine Williams
SUBJECT: Trade Schools and Student Dependent Status
DATE: December 4, 2001
This memorandum is to advise you that the definition of "full-time study" to qualify for NYSHIP coverage as a full-time student over the age of 19 is being modified. Previous

policy recognizes attendance at high school, college, or any school which is accredited by the State and prepares a student for an occupation which is licensed by the State or which issues a certificate recognized by the State as the equivalent of a diploma, and which qualifies the holder to engage in the occupation or take a licensing exam. NYSHIP policy will now also recognize attendance at trade schools that are State-certified and grant a certificate or diploma upon satisfactory completion of the course of study, even if that certificate or diploma is not necessary to legally practice the trade being prepared for or to take a State licensing exam. The student still must meet the full-time student, employee support (if applicable), and ineligibility for other coverage provisions. For example, a full-time BOCES course of study leading to a certificate of completion in carpentry would now be acceptable.

EBD staff questions concerning this change should be addressed to the Policy Unit.

cc: R. DuBois
Policy Staff
bcc: Chrono
File

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