Department of Human Resources 311 West Saratoga Street Baltimore MD 21201	**FIA ACTION TRANSMITTAL**
Control Number: #01-28	**Effective Date: Immediately** **Issuance Date: January 31, 2001**

TO: **DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES**
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT
FAMILY INVESTMENT SUPERVISORS AND ELIGIBILITY STAFF

FROM: **CHARLES HENRY, ACTING EXECUTIVE DIRECTOR, FIA**
JOSEPH E. DAVIS, EXECUTIVE DIRECTOR, OFFICE OF OPERATIONS AND ELIGIBILITY, DHMH

RE: **State Review Team (SRT) – Procedures**

PROGRAM AFFECTED: **Medical Assistance and Transitional Emergency Medical and Housing Assistance (TEMHA)**

ORIGINATING OFFICE: **Bureau of Administrative Services**

SUMMARY:

This action transmittal provides procedures to refer Medical Assistance applicants to the State Review Team (SRT) for a disability determination. The SRT makes disability determinations for Medical Assistance (MA) and Transitional Emergency Medical and Housing Assistance (TEMHA).

ACTION REQUIRED:

The procedures outlined in this transmittal are in effect immediately. This transmittal provides new and changed procedures in response to questions raised by local department staff, Legal Aid, and others representing medical assistance customers. The information contained in this action transmittal renders obsolete Action Transmittals 96-12 and 96-15.

INQUIRIES:

Please direct questions to Antoine Carey, Supervisor, State Review Team at (410) 767-8901.

cc: DHR Executive Staff
FIA Management Staff
Constituent Services
OIM Help Desk
DHMH Executive Staff

SRT Procedures and Referral Guide
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INTRODUCTION

The State Review Team is the unit within the Family Investment Administration responsible for making disability determinations. The State Review Team consists of physicians, including specialists (an ophthalmologist and a psychiatrist), disability specialists and clerks. The State Review Team uses the same criteria as the Social Security Administration for making disability determinations. Furthermore, the State Review Team disability specialists are trained by the Disability Determination Service (DDS) - the state agency that performs the disability determination process for the Social Security Administration.

There are two avenues to granting a customer's disability.

1. Customers can be determined medically disabled because their impairment(s) meets or is equivalent to at least one of the Social Security Disability Program listings of impairments.

2. If a customer's impairment(s) is determined to be severe by SRT, but his/her impairment does not meet or is not equivalent to one of the Social Security Disability Program listing of impairments, the customer's vocational profile and residual functional capacity are reviewed to determine if the customer can return to doing relevant past work or if he/she can perform other kinds of work activity. If it is determined that the customer can **not** return to relevant past work and can **not** perform other types of work, the customer is determined disabled.

The State Review Team receives applications from all over the state of Maryland, and has 30 days to make a disability determination. The Local Department of Social Services' caseworker should render a decision within 60 days on Aged, Blind, or Disabled (ABD) medical assistance cases. The information in this Procedures and Referral Guide is essential for the SRT to make a complete and timely decision. The State Review Team is involved in a continual process of improving the quality of the service provided. Input, ideas, or suggestions for ways to improve the process are appreciated. Please send to:

Supervisor, State Review Team
Department of Human Resources
311 W. Saratoga Street
Baltimore, Maryland 21201

I. SRT Referrals

The Local Department of Social Service (LDSS) should forward medical assistance referrals to the SRT for a disability determination whenever the customer has applied for medical assistance, may be eligible for ABD, and has not been determined ineligible due to factors other than disability.

A decision regarding disability can only be made by the SRT, therefore LDSS staff should not deny Medical Assistance or refuse to forward medical assistance referrals to SRT for any reason related to disability. In particular, LDSS staff should forward referrals to the SRT even if:

A. DHR/FIA 402B indicates a duration of less than 12 months.

B. DHR/FIA 402B indicates the customer can work.

C. DHR/FIA 402B indicates based upon the physician's evaluation that this patient is <u>not</u> impaired.

D. DHR/FIA 4204 indicates that the customer is currently working.

The one exception is the LDSS granting "presumptive disability". To meet the criteria for "presumptive disability" the DHR/FIA 402B must contain all three of the following:

- HIV or AIDS diagnosis; **and**
- Inability to Work part time or full time; **and**
- CD4 count at or below 200.

II. Components of Medical Review Packages

SRT medical review packages consist of at least four forms:

A. DHR/FIA 402B: Medical Report

The casemanager will provide the customer a DHR/FIA 402B for each treating source listed in part 4 of the DHR/FIA 4204. Customers applying for MA and TEMHA must submit to the Local Department of Social Services one or more DHR/FIA 402B's completed and signed by one of the following: physician, psychiatrist, psychologist, ophthalmologist, chiropractor, or nurse practitioner. The casemanager will determine if the customer has any physical or mental impairments for which he/she does not have a treating provider (compare part 4 of the DHR/FIA 4204 to parts 3 and 5). If the customer does not have a treating provider for any impairment(s) the casemanager will refer the customer to suitable practitioner(s) (such as a local health department or community clinic).

1. SRT may accept a DHR/FIA 402B that is not signed by the customer, but **can not** accept a DHR/FIA 402B that is not signed by a physician or health practitioner. The LDSS staff should ensure that the 402B is signed by the health care practitioner, unless the practitioner refuses. In that event, the customer must be given an opportunity to secure a DHR/FIA 402B from another practitioner, and the LDSS staff will refer the customer to a suitable practitioner.

2. Casemanagers should submit only DHR/FIA 402B (revised 12/00) to SRT. DHR/IMA 402 is obsolete. This change enables SRT to comply with Notice provisions of the Maryland Administrative Procedure Act, Section 10-207 (Notice of Agency Action).

3. DHR/FIA 402A is not designed for the Medical Assistance Program. Do not submit this form to the State Review Team. Only the 402B is designed for the Medical Assistance Program. (See Appendix 1)

B. DHR/FIA 4204: Medical Assistance Vocational, Educational and Social Data

The DHR/FIA 4204 (revised 12/00) is completed and signed by the customer and the casemanager. If the customer has applied for SSI, the date and status of the SSI application must be clearly indicated on the DHR/FIA 4204 (See Appendix 1). The older version of the DHR/FIA 4204 is obsolete and no longer acceptable. It is important for the DHR/FIA 4204 to be completed entirely because information from this form is used in the disability determination process. The casemanager should review the DHR/FIA 4204 with the customer and fill in any missing information. The casemanager should indicate on the form if the information is unknown or not applicable.

C. DHR/FIA 707: State Review Disability or Blindness Determination Transmittal

1. Section 1 of this form is completed by the casemanager. Casemanagers should use the Local Department's full name and the district name or number. Abbreviations or acronyms are not acceptable. Sections 2 and 3 are reserved for SRT use only.

2. Additional medical documentation such as laboratory reports, x-ray reports, EKG readings, MRI results, treatment plans, psychological test results, physician notes, discharge summaries and other documentation that support a finding of disability are encouraged and must be included if supplied by the provider. If SRT can not make a disability determination based on the 402-B, SRT may request additional information directly from the providers.

3. Customers with the impairment of Human Immunodeficiency Virus (HIV) or Acquired Immunodeficiency Syndrome (AIDS) should submit one of the following test results: ELISA, Western blot, or complete blood count report indicating the CD/4 count and/or Viral Load count (See Appendix 1). If the customer is unable to obtain such documentation, LDSS staff will refer the customer to suitable practitioner (such as local health department or community clinic).

D. DHR/FIA 161: Signed Release Forms

The casemanager must obtain a signed release form from the customer. If the customer refuses to sign the release form, the casemanager should indicate so on the form and forward the referral.

III. Resubmission of Medical Review Packages

It is incumbent upon the casemanager to contact the customer or providers (whichever is most effective and expedient) and request the necessary information if SRT is unable to make a disability determination because of:

A. Insufficient evidence

B. Incomplete package (missing DHR/FIA 402B, 707, or DHMH 4204)

C. Missing medical bills or hospital admission letters

D. Missing/ wrong application/ reconsideration dates

E. Incomplete DHR/FIA 402B

F. Incomplete DHMH 4204

Local Departments of Social Services should not use the preceding reasons as grounds to deny a customer Medical Assistance benefits. If additional information is sought from the customer and the customer does not provide it, the casemanager is encouraged to seek the information from the provider prior to denying the application.

IV. Client Notification Procedure for "Not Disabled"

SRT will send the LDSS casemanager two copies of the DHR/FIA 736 (Medical, Vocational, Educational Assessment). One copy is for the customer and the other is for the case record. The casemanager uses the Disability Determination Notice DHR/FIA 739 as a cover letter to send the DHR/FIA 736 to the customer. Customers determined "not disabled" for Medical Assistance by SRT may be eligible for the following assistance programs:

A. Maryland Pharmacy Assistance Program (MPAP)

Casemanagers should assess the medical need of customers before referring them to SRT. When a customer specifies that he/she needs assistance in obtaining prescription medication, an MPAP application should be provided to the customer, including while a referral is pending with SRT.

B. Maryland Primary Care (MPC) formerly Primary Care for the Medically Indigent (PCMI)

Approved TEMHA customers who are not approved for MA by SRT may still avail themselves of medical coverage under the MPC program. Persons enrolled in the Maryland Pharmacy Assistance Program are automatically eligible for MPC. However MPC coverage is limited to outpatient services with no coverage for hospitalization.

V. Social Security Administration Precedence in the Disability Determination

A. Precedence

As stated in 42 CFR (Code of Federal Regulations) 435.541, if the SSA has made a **final** determination regarding disability, either positive or negative, that determination is binding on the state unless one or more of the exceptions to precedence has been met. If SSA changes the decision, the new decision is also binding on the state.

The local department of social services casemanager must use state on-line systems State Data Exchange (SDX), State Verification Eligibility System (SVES), or State On-Line Query (SOLQ) to determine the customer's Social Security benefits status, before sending a disability referral to the State Review Team as listed below.

A **final** SSA decision is when the customer is not appealing the disability determination of the Social Security Administration and has accepted the decision without further adjudication.

If SSA has denied SSI with a finding of no disability and that decision is **not final**, the medical assistance case is to **remain open** until the **final** SSI decision is made, assuming other eligibility factors are met.

In order to verify the finality of the SSI decision, the LDSS must determine the date of the SSI decision, whether an appeal has been filed, and whether the time for filing an appeal has lapsed. Generally, the time for filing an appeal of a SSI decision at any stage is 65 days from the date of the decision. However, the Social Security Administration (SSA) allows late appeals for good cause in many circumstances. If an appeal has been filed after 65 days, the decision is not **final** until the SSA issues a decision on the appeal.

B. Exceptions to Precedence

There are several exceptions to the SSA precedence for disability determinations. The casemanager must ask the applicant whether his/her MA application is based on the same, different, or additional impairment(s) than alleged in the SSI application.

- If the applicant alleges that it is based on a different or additional impairment(s), the applicant must provide a copy of the SSI denial letter and the LDSS should make the referral to the State Review Team.

- If the applicant alleges that the MA application is based on the same impairment(s) as that in the SSI application, then the casemanager must ask the applicant whether his/her impairment(s) have changed since the last SSA determination. If the applicant alleges that it has, the applicant must provide the SSI denial letter, and the LDSS should make the referral to the State Review Team.

- If the applicant states that he/she is unsure whether the MA application is based on the same, different, or additional impairment or is unsure whether his/her condition has changed, the applicant must provide the SSI denial letter and the LDSS should make a referral to the State Review Team.

C. Action on SSI Final Decision

If the SRT has found an applicant **disabled** and MA benefits have been issued, and subsequently there is a final SSI decision of **not disabled,** then prior to issuing a notice of adverse action, the casemanager will consider whether the customer is eligible under another MA category.

VI. Appeals Process

A customer who does not agree with a medical assistance eligibility determination involving a SRT decision has the right to request a fair hearing within 90 days after the notice of determination is received. The customer also has the right to re-apply for Medical Assistance. SRT provides a DHR/FIA 736 to the LDSS for all "not disabled" decisions. The DHR/FIA 736 explains what criteria are used to make the disability determination, what the claimant's impairments are, and why a "not disabled" decision was made.

LDSS staff should not discourage appeals or state or imply that re-application is a better alternative. Customers expressing dissatisfaction with a denial must be advised that they may both appeal and re-apply.

The information contained in the DHR/FIA 736 should be used as a tool to defend SRT decisions that are being appealed. The LDSS appeals representative must submit to the Office of Administrative Hearings before the scheduled hearing date a package of documents. In order to support the SRT decision that package must include at least the following documents:

A. DHR/FIA 707 - State Review Disability or Blindness Determination Transmittal

B. DHR/FIA 402B - Medical Report

C. DHR/FIA 4204 - Medical Assistance Vocational, Educational, Social Data

D. DHR/FIA 736 - Customer Notice

E. DHR/FIA 739 - Disability Determination Notice

F. A written summary of the case

G. A letter of ineligibility, and all documents reviewed by the SRT in making a disability determination.

H. Any other medical documentation

If the LDSS staff requests further clarification or assistance, the SRT will attend the fair hearings to offer testimony, strategy, etc. The SRT requires at least one week's advance notice for this service.

VII. Medical Documentation for Retroactive Coverage.

A customer may be entitled to three months (prior to the application date) of retroactive medical assistance coverage. However, the customer must submit justification of disability during the retroactive

period. Any one of the following would qualify as medical justification if they occurred during the retroactive period.

A. Date of examination on DHR/FIA 402B

B. Date of first visit on DHR/FIA 402B

C. Estimated date of onset on DHR/FIA 402B

D. Duration period on DHR/FIA 402B

E. Additional medical documentation such as: hospital bills, hospital admission or discharge summary, physician's notes, etc.

VIII. Redeterminations

When the customer is determined disabled by the SRT, a date indicating the current certification period and retroactive period, if any, is stated on the DHR/FIA 707. The DHR/FIA 707 will also state whether the disability is permanent and no re-examination is required, or if the certification period is for only 12 months.

There is no additional medical re-examination required as long as the customer is appealing a SSA decision of not disabled or is determined disabled permanently by SRT. In those circumstances, the customer is not required to submit DHR/FIA 402B and should not be referred to the SRT. An eligibility determination, for all factors of eligibility other than disability, is all that is required in these situations.

When the customer is determined disabled for a period of 12 months and is not appealing a SSA decision, that customer is due for a disability redetermination at the end of the certification period, and a medical re-examination is required. The documents needed for redeterminations are DHR/FIA 707, 402B, DHMH 4204, and any other medical documentation that would help support the customer's disability. Customers determined disabled by the SRT remain disabled until determined not disabled, by the SRT or the SSA.

IX. Deceased Customers

When an applicant for Medical Assistance is deceased, the LDSS should request a copy of the death certificate. The LDSS forwards the death certificate, DHR/FIA 402B, and DHR/FIA 707 to the SRT for a disability determination. If the diagnosis(es) on the DHR/FIA 402B agrees with the cause of death on the death certificate, disability is granted. The certification period must not exceed the actual date of death indicated on the death certificate.

X. Medical Emergencies

When the impairments listed on the 402-B constitute a medical emergency the case manager should call to alert the SRT that a medical emergency application is forth coming at (410) 767-7752, then fax the referral to SRT at (410) 333-0676. SRT can expedite medical emergency cases and have a disability determination within two business days. Referrals that are faxed but do not represent a medical emergency will not be given any preferential treatment.

Medical emergencies are any conditions that require urgent medical treatment such as (but not limited to) the following:

A. Myocardial infarction (heart attack)

B. Cerebrovascular accident (stroke)

C. Intracerebral hemorrhage (bleeding within the brain)

D. Subarachnoid hemorrhage (bleeding around the brain)

E. Carcinoma or sarcoma (if immediate surgery is needed)

F. Chronic asthmatic bronchitis (requiring intravenous drug administration)

G. Burns (second or third degree burns affecting more than 10 percent of body surface)

H. Head injuries (if immediate surgery is needed)

I. End stage renal disease (when kidney transplant surgery is needed)

J. Any impairments that need immediate surgery.

XI. Customers in Nursing Homes

If the customer is in a nursing home, and is under 65 years of age, the LDSS must refer the case to the SRT for a disability determination.

APPENDIX ONE

APPENDIX TWO

GLOSSARY

1. AIDS – Acquired Immunodeficiency Syndrome, transmissible retroviral disease due to infection with human immunodeficiency virus (HIV).

2. Disability – disability is a legal term and is different from impairment, which is a medical term. SRT uses the Social Security definition which is the *inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.*

3. EKG – electrocardiogram, a graphic tracing of the variations in electrical potential caused by the excitation of the heart muscle and detected at the body surface.

4. ELISA – enzyme linked immunosorbent assay, a laboratory test where blood is examined for the presence of HIV antibodies. The test sometimes produces false-positive results and is usually used in conjunction with the Western Blot test, which is more definitive.

5. HIV – human immunodeficiency virus, belongs to the class of retroviruses and is the cause of AIDS and AIDS-related complex (ARC).

6. Impairment – the adverse disruption of physical or mental function which results from anatomical, physiological, or psychological abnormalities and which can be demonstrated by medically accepted clinical and laboratory techniques. It is only a part of the broader concept of "disability."

7. MRI – magnetic resonance imaging, a diagnostic technique that provides high quality cross-sectional images of organs and structures within the body without X-rays or other radiation.

8. Nurse practitioner – a registered nurse (R.N.) who has a well-developed competencies in utilizing a broad range of cues. These cues are used for prescribing and implementing a broad range of both direct and indirect nursing care and for articulating nursing therapies with other planned therapies. Nurse practitioners demonstrate expertise in nursing practice

and experience through clinical experience and continuing education. Generally, minimal preparation for this role is the baccalaureate degree.

9. Ophthalmologist – a physician who specializes in the diagnosis and medical and surgical treatment of diseases and defects of the eye and related structures.

10. Physician – an authorized practitioner of medicine, as one who has graduated from a college of medicine or osteopathy and licensed by the appropriate board.

11. Psychiatrist – a physician who specializes in the treatment of mental, emotional, or behavioral impairments. A psychiatrist conducts physical examinations, performs laboratory test, and traces the patient's personal and family history to seek the cause of the impairment.

12. Psychologist – a nonmedical specialist in the diagnosis and treatment of mental and emotional impairments. Because psychologists are not physicians they can not prescribe drugs. Their role with patients generally involves testing, counseling, or psychotherapy.

13. SSI – Supplemental Security Income, a program that provides payments for disability, blindness, and old age for needy individuals (adults and children) who are not insured for SSA disability benefits. SSI is administered by SSA through general revenues, and not through the Social Security Trust Fund.

14. Western Blot – is a diagnostic test used to determine if an individual has been infected with HIV. It is a more definitive test than the ELISA is because it produces few false-positive results but it is also more expensive to administer.

15. X-ray – a form of invisible electromagnetic energy of short wavelength that is produced when high-speed electrons strike a heavy metal. X-rays are variably able to penetrate all substances.

APPENDIX THREE

State Review Team Staff and Telephone Numbers

Renee Weddington	Clerk/Typist	(410) 767-7752
Vacant	Clerk/Typist	(410) 767-7092
Vacant	Clerk/Typist	(410) 767-8371
Nina Bevans	Disability Specialist	(410) 767-4655
Deborah Bryant	Disability Specialist	(410) 767-7979
Kimberley Carter	Disability Specialist	(410) 767-8909
Vacant	Disability Specialist	(410) 767-7221
Stephanie Forehand	Disability Specialist	(410) 767-7624
Angel Hammond	Disability Specialist	(410) 767-7689
Joyce Yates-Jones	Disability Specialist	(410) 767-7749
Valerie Johnson	Disability Specialist Lead Worker	(410) 767-8905
Antoine Carey	Disability Specialist Supervisor	(410) 767-8901

For additional information, inquiries, or medical emergencies contact the State Review Team, at (410) 767-7752.