

DSS-4357EL

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GENERAL INFORMATION SYSTEM

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DIVISION: Office of Medicaid Management

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TO: Local District Commissioner, Medicaid Directors, and
Child Support Enforcement Directors

FROM: Ann Clemency Kohler, Director
Office of Medicaid Management

SUBJECT: Perry vs. Dowling: Recovery of Pregnancy and Birth-related
Expenses

EFFECTIVE DATE:

CONTACT PERSON: Shari Niedbalec at (518) 473-5531)

On December 1, 1995 you were notified through GIS message 95 MA045 of a court decision in the case Perry vs. Dowling. You were instructed to "suspend the prosecution of all pending petitions and cease the filing of new petitions in any proceedings to recover pregnancy and birth-related Medicaid expenditures from unwed fathers, where such expenditures were made on behalf of women who qualify for Medicaid only because they were pregnant and had incomes that did not exceed 185% of the comparable federal income official poverty line". This suspension covered pregnant women whose eligibility for Medicaid was established using federal poverty levels. Districts were never prohibited from recovering Medicaid costs for care provided to pregnant women whose eligibility was established using the medically needy standards (MA levels).

The Perry vs. Dowling decision was overturned in favor of the Department. As a result, districts are permitted to resume recovery of the pregnancy related expenditures from unwed fathers for women who were eligible up to 185% of the poverty level. The recovery must not be initiated until after the 60 day postpartum period has elapsed. Districts which kept track of the affected cases may pursue retroactive recovery of such costs in those cases. If you have any questions, please call Shari Niedbalec in the Office of Medicaid Management at (518) 473-5531 or Lee Sapienza in the Office of Child Support Enforcement at 1-800-343-8859 (extension 3-0188).