MISSISSIPPI DIVISION OF

MEDICAID

Administrative Code

Title 23: Medicaid

Part 104 Income

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Rule 1.1: Income Rules.

A. Chapters 1 – 10 discuss sources and treatment of income in the Aged, Blind and Disabled (ABD) programs. Eligibility for the ABD Medicaid programs is based on the rules used to decide eligibility for Supplemental Security Income (SSI). In accordance with 42 CFR 435.601, Medicaid is required to use SSI financial eligibility requirements unless a subsequently issued Medicaid statute or regulation supersedes SSI policy. In addition, 1902(r)(2) of the Social Security Act allows states to apply income rules to certain Medicaid categories that are more liberal than the SSI program.

B. The following income rules are based on SSI income policy:

    1. Income is counted on a monthly basis.

    2. An individual who has too much income in a particular month is not eligible for Medicaid for that month.

    3. Income may include more or less than is actually received. For example:

        a) Expenses of obtaining income (less);

        b) Garnishment (more); or

        c) Gross earnings before any deductions (more).

    4. Not all income counts in determining eligibility.

C. The following rules are based on liberalized income policy:

    1. Certain liberalized income policies apply to the following categories of eligibility:

        a) Qualified Medicare Beneficiaries (QMB);

        b) Specified Low-Income Medicare Beneficiaries (SLMB);

        c) Qualifying Individuals (QI);

        d) Working Disabled (WD); and

        e) Healthier Mississippi Waiver (HMW).

2. The following income liberalizations are applicable to the five categories of eligibility listed above:

   a) The value of in-kind support and maintenance (ISM) is excluded.

   b) The $20 general exclusion is raised to a $50 general exclusion.

   c) The SSI budgeting practice that requires an individual who is married to an ineligible spouse to be eligible as both an individual and as a member of a couple is replaced with one test in which the couple's income is combined after allocating to the ineligible children from the ineligible spouse's income. The couple's countable income is then tested against the couple limit appropriate to the coverage group.

   d) Interest, dividend and royalty income that does not exceed $5 per month per individual is excluded.

   e) Couples living together are budgeted separately when one member is enrolled in a HCBS Waiver Program and evaluated for eligibility using institutional financial criteria and the other member of a couple is applying under an at-home category.

   f) Annual cost of living increases in federal benefits (such as VA, Railroad Retirement, Civil Service, etc.,) that are in addition to Title II benefits are disregarded in determining income through the month following the month in which the annual Federal Poverty Level (FPL) update is published.

   g) Annual cost of living increases in federal benefits (Title II benefits, VA, Civil Service, and Railroad Retirement) are disregarded when the Federal Poverty Level (FPL) update fails to increase at an equal or greater rate than the federal cost of Living (COL) increase during the same year. The disregard of the COL increase in federal benefits will apply to increase(s) received by the eligible individual, couple and/or ineligible spouse. The COL increase will be disregarded as income until such time as the FPL increase is greater than the previous COL increase.

   h) For the Working Disabled coverage group, unearned income between the SSI limit and 135% of the federal poverty limit is disregarded.

Source: Social Security Act §1902 (r)(2); 42 CFR § 435.601(b) (Rev 1994).

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Part 104 Chapter 11: Introduction to Income – FCC Programs

Rule 11.1: Income Rules

A. The Affordable Care Act (ACA) requires that state Medicaid programs use modified adjusted gross income or MAGI-based methodology for determining the income of an individual and the individual's household. MAGI methodology and rules are required in determining eligibility for Medicaid or CHIP or an 1115 demonstration that involve FCC covered populations of children, pregnant women and parents and needy caretaker relatives. The ABD population is exempt from MAGI rules.

B. The MAGI methodology is aligned with the process used to determine eligibility for the premium tax credits and cost sharing reductions available to certain individuals purchasing coverage through the federal health insurance marketplace. The requirement that both Medicaid and the marketplace use MAGI-based income methodologies is designed to promote coordination and avoid gaps in coverage, to the extent possible, for individuals that transfer between different types of insurance affordability programs.

C. The use of liberalized income rules under 1902(r)(2) of the Social Security Act is prohibited under MAGI based methodology. This provision is only available to certain ABD covered categories of eligibility.

Source: 42 CFR§ 435.603 (Rev. 2012)

Rule 11.2: MAGI Defined

A. MAGI and household income are defined in section 36B(d)(2)(A) and(B) of the Internal Revenue Code (IRC). The treatment of income is based on IRS tax rules, except for specified exceptions.

B. Modified adjust gross income, as amended by the ACA, has the literal meaning of income that is:

1. Decreased by allowable tax deductions that include trade and business deductions, losses from the sale or exchange of property, deductions attributable to rents or royalties, and deductions for alimony paid. Generally, the same adjustments to income allowable under IRS rules are allowable deductions from countable income for Medicaid and CHIP purposes.

2. Increased by the amount of interest received or accrued that is exempt from tax and foreign earned income that is excludable as taxable income.

Source: Internal Revenue Code § 36B (d)(2)(A) and (B) (Rev. 2011)

Rule 11.3: Household Income

A. MAGI based income rules require that financial eligibility is based on household income for FCC related programs.

B. Household income is the sum of the MAGI-based income of every individual included in the individual's household minus as amount equivalent to five (5) percentage points of the federal poverty level for the applicable family size, with the following exceptions.

1. The MAGI-based income of an individual who is included in the household of his or her natural, adopted or step parent and is not required to file a tax return is not included in the household income whether or not the individual files a tax return.

2. The MAGI-based income of a tax dependent other than a spouse or child and is not required to file a tax return is not included in the household income whether or not the individual files a tax return.

C. No other income disregards are permitted from gross income other than the five (5) percentage points disregard.

Source: 42 CFR § 435.603 (Rev. 2012)

Rule 11.4: Exceptions to IRS Income Rules for MAGI Based Income

A. The following are exceptions to using IRS rules for determining MAGI-based income for a household.

1. Income received in a lump sum, whether recurring or non-recurring, is counted in the month received. Recurring lump sum payments are not averaged.

2. Scholarships, awards or fellowship grants used for education purposes and not for living expenses are excluded from income. Amounts used for room and board are not excluded and count as income.

3. Certain income derived from American Indian and Alaska Native sources are excluded from income. Income that is excluded includes:

a. Distributions from Alaska Native Corporations and Settlement Trusts;

b. Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the Secretary of the Interior;

c. Distributions and payments from rents, leases, rights of way, royalties, usage rights or natural resource extraction and harvest from rights of ownership or possession in any lands described in above or federally protected rights regarding off-reservation hunting, fishing, gathering or usage of natural resources;

d. Distributions resulting from real property ownership interests related to natural resources and improvements located on or near a reservation or within the most recent boundaries of a prior federal reservation or resulting from the exercise of federally-protected rights relating to such real property ownership interests;

e. Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

f. Student financial assistance provided under the Bureau of Indian Affairs education programs.

4. Social Security benefits that are not taxable income under IRS rules are countable as income for MAGI purposes for all insurance affordability programs, including Medicaid and CHIP.

Source: 42 CFR § 435.603 (Rev. 2012) and Internal Revenue Code, § 36B (d)(2)(iii) (Rev. 2011)

Rule 11.5: When Income Counts

A. Current monthly income counts in determining eligibility for Medicaid and CHIP for new applicants and for recipients at the time of an annual review.

Source: 42 CFR § 435.603 (Rev. 2012)

Part 104 Chapter 12: Income That Does Not Count Under IRS Rules – FCC Programs

Rule 12.1: Income That Does Not Count

A. The following is not an exhaustive list of income that does not count but represents the types more commonly encountered. If not addressed herein, IRS tax rules provide the governing policy.

1. Alimony is deducted from the income of the payer and is therefore a type of non-countable income; however, alimony payments received by an individual count as income.

2. Black Lung benefits are not taxable income and are not counted as income.

3. Child Support benefits are not counted as income to the payee or the child(ren) for whom it is paid; however, Child Support is not a deduction allowable from the income of the payer.

4. VA Benefits are not counted as income. Benefits paid by the Department of Veterans Affairs are not taxable income.

5. Workers' Compensation Benefits are not taxable income and are not counted as income.

6. Life Insurance Proceeds paid due to the death of the insured person are not taxable income and are not counted as income, unless the policy was sold or reassigned for a price.

7. Accelerated Death Benefits paid under a life insurance contract prior to the insured's death are excluded from income if the insured is terminally ill.

8. Public Assistance Benefits, such as SSI, TANF, and the value of assistance from programs such as SNAP and WIC are excluded from income. IV-E Foster Care and Adoption Assistance payments are also excluded from income.

9. Disaster relief income or grants from a qualified disaster relief payment, meaning the payment is to reimburse certain necessary living expenses following a federally declared disaster, are excluded from income.

Source: 42 CFR § 435.603 (Rev. 2012)

Rule 12.2: Excluded Income from Specific Programs Providing Assistance

A. The following are payments excluded from income that originate from a specific program that provides assistance payments.

1. Home Affordable Modification Program (HAMP). Pay-for-Performance Success Payments under the HAMP are not taxable income and are not countable.

2. Hardest Hit Fund and Emergency Homeowners' Loan Program payments. Payments from a State Housing Finance agency that can be used to pay mortgage interest or payments from Housing and Urban Development for an Emergency Homeowners' Loan Program (EHLP) are not countable as income.

3. Mortgage assistance payments under section 235 of the National Housing Act for mortgage assistance are not included in the homeowner's income.

4. Replacement housing payments made under the Uniform Relocation Assistance and Real Property Acquisition Policies Act for Federal and Federally Assisted Programs are not counted as income.

5. Relocation payments and home rehabilitation grants under section 105(a)(11) of the Housing and Community Development Act made by a local jurisdiction to a displaced individual moving from a flood-damaged residence to another residence is not counted as income. Home rehabilitation grants received by low-income homeowners in a defined area under the same act are also not countable as income.

6. Payments to reduce the cost of winter energy made by a state to qualified individuals to reduce their cost of winter energy are not countable as income.

7. Holocaust Victims Restitution. Payments received by a Holocaust victim or the heir of a Holocaust victim and interest earned on the payments are not taxable and are therefore not countable as income.

8. Historic preservation grants. Payments received under the National Historic Preservation Act to preserve a historically significant property are excluded from income.

Source: 42 CFR § 435.603 (Rev. 2012)

Rule 12.3: Income that is Partially Excluded

A. The following income is partially countable and partially excluded under the conditions specified for each type of payment.

1. Foster Care Provider payments received from a state, political subdivision, or qualified foster care placement agency for providing care to qualified foster individuals in an individual's home are not countable as income except in the following situations. A qualified foster individual is someone living in a foster family home who was placed there by an agency of the state or a qualified foster care placement agency.

    a) Foster care payments are income to the foster care provider if the individual received payment for more than 5 individuals age 19 or older. Count as income the payment received for foster individuals in excess of the limit.

    b) Difficulty-of-care payments are additional payments that are designated by the payer as compensation for providing additional care that is required for the physically, mentally or emotionally handicapped qualified foster individual. These payments count as income if received for more than 10 foster individuals under age 19 or 5 foster individuals age 19 or older. Count as income the payment received for foster individuals in excess of the limit.

    c) If payment is made to maintain space in the home for emergency foster care, the payment is countable as income.

2. Gulf Oil Spill payments. Payment received for lost wages or income are taxable income and are therefore countable as income. Payments received for property damage are non-taxable and not countable as income if the payment does not exceed the basis in the property. Payments received for physical injury or emotional distress is non-taxable and therefore not countable as income.

3. Dependent Care Benefits. If an employer provides dependent care benefits under a qualified plan, benefits can be excluded as follows: the amount to exclude is the lesser of the total amount of benefits received or incurred during the tax year; the individual or spouse's income; or $5,000 annually ($2,500 if married filing separately). Any benefits exceeding the limit are countable as wages.

Source: 42 CFR § 435.603 (Rev. 2012)

Part 104 Chapter 13: Income That Counts Under IRS Rules – FCC Programs

Rule 13.1 – Income That Counts

A. The following is not an exhaustive list of the types of income that counts but is meant to cover the types most commonly encountered If not addressed herein, IRS tax rules provide the governing policy.

1. Employee Compensation includes all things received in payment for personal services, such as wages, salaries, commissions, fees, bonuses, tips, severance pay, sick pay paid by an employer while out on sick leave and back pay awards. Employment income that counts is the gross income prior to any payroll deductions.

2. Volunteer Income. The treatment of income received as a volunteer is as follows:

a) Peace Corp – living allowances paid to the volunteer for housing, utilities, supplies, food and clothing are not counted as income. Countable wages includes allowances paid to a spouse and minor children while the volunteer is a volunteer leader training in the U.S.; living allowances designated as basic compensation; leave allowances and readjustment allowances.

b) VISTA (Volunteers in Service to America) – meal and lodging allowances paid to the volunteer are counted as wages.

c) AmeriCorps education awards and living allowances are countable income.

d) National Senior Service Corps programs, includes the RSVP or Retired Senior Volunteer Program, Foster Grandparent Program, and Senior Companion Program. Income received for supportive services or reimbursements for out-of-pocket expenses are not counted as income.

3. Military Pay – payments received as a member of a military service are wages. Military retirement benefits are treated as pensions. Allowances, such as a basic allowance for housing or subsistence, are generally not taxable income and do not count as income.

4. Self-Employment – for IRS purposes, an individual is considered to be self-employed if the individual has a trade or business as a sole proprietor, an independent contractor, is a member of a partnership that carries on a trade or business or is otherwise in business for himself/herself, including a part-time business. Self-employment is business income less allowable business expenses that results in a net profit or loss. Net profit counts as income. Annualize the income to arrive at a monthly countable amount provided the business has been in existence for a twelve (12) month period. Annualize even if the income is received over a short period of time during the year unless the business is designed to be seasonal, such as a summer business that operates only three (3) months out of the year. Such business income would be averaged over the period of time the business covers. If a business has been in existence less than a full taxable year, average over the period of time the business has been in existence.

    a) Partnership income – each partner's distributive share of profit counts as self-employment income which is annualized.

5. Rental Income – countable income includes the net proceeds after allowing all IRS allowed deductions for rental income.

6. Farm Income – farm income that counts is the net earnings or profit that remains after allowing all IRS allowed business expenses involved in raising livestock, poultry or fish or from the growing of fruits or vegetables. Farm income is annualized or averaged over the time the farming business operates, as appropriate.

7. Royalties from copyrights, patents and oil, gas and mineral properties are taxable income and therefore countable.

8. Unemployment Compensation – all unemployment compensation benefits are countable as income.

9. Retirement, Survivors and Disability Insurance (RSDI) or benefits paid by the Social Security Administration are only partially taxable as income under certain conditions but are fully countable as income for insurance affordability programs.

10. Alimony payments received are countable as income to the divorced or separated spouse receiving the payment.

11. Annuities – payments from annuities are countable as income.

12. Pensions and Retirement benefits are countable as income, including pensions paid by any private, municipal, county, state or federal plan.

13. Estate and trust income is countable income when distributed or when it should have been distributed, regardless of whether it was actually distributed.

14. Gambling, Lotteries and Raffle Winnings – cash winnings are countable income in the month received.

15. Jury duty pay is countable as income.

16. Alternative trade adjustment assistance (ATAA) payments received from a state agency under the Demonstration Project for Alternative Trade Adjustment Assistance for Older Workers is countable as income.

17. Interest income, including tax-exempt interest, is countable under MAGI rules.

18. Disability benefits received through an accident or health insurance plan – the IRS rules for counting such benefits are as follows:

    a) If both the individual and the employer paid the premiums for the plan, only the amount received for disability that is due to the employer's payments is countable as income,

    b) If the individual paid the entire cost of the plan, the payments are not countable as income,

    c) If the premiums of a plan were paid through a cafeteria plan and the amount of the premium was not taxable income to the individual, the premiums are considered paid by the employer and the disability payments are countable as income.

Source: 42 CFR § 435.603 (Rev. 2012)

Part 104 Chapter 14: Verification of Income – FCC Programs

Rule 14.1 – Verification Requirements

A. The ACA mandates that states rely heavily on electronic data sources to verify income. Data sources include IRS tax return data for households that file taxes, the Social Security Administration (SSA) for benefits paid through SSA and state data sources such as the MS Department of Employment Security for wage and unemployment compensation verification. Other available state and federal data sources may be used as appropriate.

B. Self-attested income reported on the application form must be compared to income verified through electronic data sources to determine if the various sources are reasonably compatible and allow a decision regarding eligibility or ineligibility for Medicaid, CHIP or other insurance affordability programs.

Rule 14.2 – Reasonable Compatibility Rules

A. Income verified from electronic data sources that is reasonably compatible with self-attested income allows a Medicaid or CHIP decision regarding eligibility without requesting paper verification from the applicant.

B. The first test of reasonable compatibility for income is the comparison of income reported from the federal data services hub against income declared or self-attested on the application form. If both sources are at or below the appropriate Medicaid income limit for the household size, Medicaid approval is allowed for individuals in the household who otherwise qualify for Medicaid. If both sources are above the Medicaid limit, Medicaid is denied but CHIP eligibility for children in the household will be assessed and adults in the household will referred to the Federal Market Place as appropriate.

C. Discrepancies in income that result from comparing income from the federal hub to self-attested income will result in a hierarchy of attempts to resolve the discrepancy prior to requesting that the applicant provide paper verification. Attempts include the comparison of income to a state-established threshold that would allow a decision and/or pending the decision awaiting secondary data sources to arrive for comparison purposes. A written request for paper verification will be requested only when:

1. The applicant fails to provide a reasonable explanation for the discrepancy when contacted.
2. Efforts to contact the individual to discuss reasons for any discrepancy fail.
3. Reported income is not available for verification through an electronic data source.

Source: 42 CFR § 435.945 (rev. 2012)