

5160:1-3-03.1 **Medicaid: income.**

(A) This rule describes how income, as defined in rule 5160:1-1-01 of the Administrative Code, is treated for the purpose of determining eligibility for medical assistance for aged, blind, or disabled individuals.

(B) Treatment of income.

(1) Eligibility for medical assistance is dependent in part upon the amount of monthly income available to or received by the individual.

(a) Gross income, prior to any deductions or exclusions, that can be reliably anticipated is considered available in calculating countable income for a month. Thus, when an individual is receiving a pension or is regularly employed or self-employed, the expected amount of income is counted.

(i) Wages are counted as earned income in the calendar month in which they are paid even if all of the work which produced the wages is performed in a prior month.

(ii) When the time of receipt of the income is at the employee's discretion, the employee shall avail himself/herself of such wages.

(iii) When the payment of wages is deferred at the employee's request, the administrative agency shall determine when the wages would normally have been paid and allocate them as income for the month in which the wages would have normally been paid. The administrative agency shall assume the wages were payable in equal segments throughout the applicable period and determine eligibility accordingly. When the payment of wages is deferred due to circumstances beyond the control of the employee, the administrative agency shall consider the wages as income when the income is actually received.

(b) Receipt of cash, income in-kind, or something of value in a particular month is considered income to the individual for that month. Any portion of the income which is retained by an individual into the next month becomes a resource.

(2) All income, except income excluded in rule 5160:1-3-03.2 of the Administrative Code, shall be considered in determining the amount of income that is available to an individual.

- (3) When an eligible individual resides with an ineligible spouse or parent(s), a portion of the ineligible spouse's or parent's income shall be deemed as available income to the eligible individual. This deeming of income is subject to conditions and limitations as described in rule 5160:1-3-03.3 of the Administrative Code.
 - (4) Net-earnings from self-employment are the gross income from any trade or business minus allowable deductions for that trade or business.
 - (a) When the individual has filed taxes for the previous year, use all tax forms that were filed with the internal revenue service (IRS).
 - (b) When the individual has not filed taxes for the previous year, the following may be used:
 - (i) Business records including receipts for the costs of doing business, or
 - (ii) Estimated net income.
 - (5) The monthly income allowance (MIA) from an institutionalized individual to a community spouse as described in rules 5160:1-6-07 and 5160:1-6-07.1 of the Administrative Code, shall be treated as unearned income to the community spouse in the determination of the community spouse's eligibility for medical assistance.
- (C) Under certain circumstances, the amount of income determined available to an individual may be greater than the amount of income that the individual actually receives for his or her own use. The following types of income deductions are not subtracted from the individual's countable income for purposes of determining eligibility for medical assistance. This list is not all-inclusive.
- (1) Court-ordered income deductions.
 - (a) This includes child and/or spousal support, even if such support is paid directly to the former spouse or child's guardian by the employer or benefit payer.
 - (b) A division of marital property in a divorce settlement, which may include a retirement pension, is not considered a court ordered income deduction.
 - (2) Deductions due to a repayment of an overpayment, loan, or other debt, unless the amount being withheld to reduce a previous overpayment was included when determining the amount of unearned income for a previous month in the determination of medical assistance eligibility.

- (3) Garnishments and liens placed against earned or unearned income of the individual, regardless of the purpose for the garnishment or lien.
- (D) Potential income must be explored prior to approving medical assistance. An individual who does not avail himself/herself of potential income is presumed to fail to do so in order to make himself/herself eligible for medical assistance. Such non-utilization of income constitutes ineligibility unless good cause can be shown. Such income includes but is not limited to:
 - (1) Retirement, survivors, disability insurance (RSDI);
 - (2) Prouty benefits;
 - (3) Railroad retirement;
 - (4) Veterans benefits;
 - (5) Other public/private retirement benefits;
- (E) The following items are not considered income, in accordance with 20 C.F.R. 416.1103 (as in effect on October 1, 2016). This list is not all inclusive:
 - (1) A personal service performed for an individual is not income to the individual where the service is not convertible to cash.
 - (2) Payments made on behalf of an individual under credit life or credit disability policies directly to loan companies, mortgage companies, etc.
 - (3) Money an individual borrows or money received as the repayment of the principal of a bona fide loan. Any interest received on the money loaned is unearned income. If the proceeds of the loan are retained in the month following the month of receipt, they are counted as a resource.
 - (4) A bill paid directly to a creditor or vendor by a third party on behalf of the individual, unless payment is for food or shelter to include:
 - (a) A premium payment for supplementary medical insurance.
 - (b) Medical insurance premiums.
 - (5) An arrearage of child support which is payable to an individual on behalf of an adult child unless the individual retains the income and does not give it to the adult child.

- (6) Receipts from the sale, exchange or replacement of a resource are not income but remain resources.
- (7) A rebate, refund, or other return of money an individual has already paid. The money returned is not income.
- (8) Any amount refunded on income taxes already paid.
- (9) The replacement of an individual's income that was lost, stolen, or destroyed and was previously used in determining eligibility.
- (10) A return of erroneously received payments.
- (11) Cash or in-kind assistance from a governmental or nongovernmental program for medical or social services that are not food or shelter.

(F) Verification of income.

- (1) The individual's statements of source and amount of income are subject to verification. At the time of application/renewal, the individual and household member(s) whose income affects the individual, shall be verified electronically or documents shall be required to be submitted which verifies all sources of income. When necessary, the administrative agency shall obtain a signed release of information and contact other sources to verify income.
 - (a) When the administrative agency is unable to verify the income through electronic sources, the administrative agency will contact the individual to collect the information needed. If the individual declares the verifications cannot be accessed or submitted, the individual's statement is to be accepted.
 - (b) If the administrative agency is unable to make contact with the individual, a written (electronic or paper) request for the necessary information or verification documents is to be sent as set forth in rule 5160:1-2-01 of the Administrative Code.
- (2) An individual's report of income is subject to verification when a review is conducted by the ODM quality assurance review section.
- (3) The individual has the burden of verifying the sources and amounts of income, and has the responsibility of reporting income changes to the administrative agency in accordance with rule 5160:1-2-08 of the Administrative Code.

- (4) When an individual claims to have no income at the time of application/renewal, the administrative agency shall review the application/renewal for inconsistencies requiring resolution. It is the individual's responsibility to support the claim of no income. However, when verification is not available and the individual has cooperated in trying to obtain it, the administrative agency may process the case based on the individual's statement as long as there is no evidence to cast doubt on the income allegations. Reference rule 5160:1-2-10 of the Administrative Code for additional information on acceptable verification.
- (5) When income in-kind is received, the administrative agency shall determine whether in-kind support and maintenance is being received in accordance with rule 5160:1-3-03.8 of the Administrative Code.

(G) This rule is being filed as an emergency rule for the immediate preservation of the public health in order to provide greater flexibility to ensure medicaid eligible individuals are able to quickly and efficiently obtain and maintain medicaid services during the COVID-19 state of emergency.

Effective:

7/8/2020

CERTIFIED ELECTRONICALLY

Certification

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Date

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