

## TO BE RESCINDED

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

(A) This rule defines how income is treated for the purpose of determining eligibility for medical assistance for aged, blind, or disabled individuals.

(B) Definitions:

- (1) "Community spouse" means an individual who is not in a medical institution or nursing facility and has an institutionalized spouse. If both spouses request or receive services under a home and community-based services (HCBS) waiver program or program of all inclusive care for the elderly (PACE), neither spouse meets this definition.
- (2) "Income" means cash, income in-kind, or something of value which is received, available, and attributable to an individual. Income may be in the form of cash, including checks and money orders for in-kind items. In-kind income is not cash, but is food, shelter, or something which can be used to get food or shelter. Income is divided into two categories: earned income and unearned income. Earned income consists of wages and net earnings from employment or self-employment. Unearned income includes all other income.
- (3) "Institutionalized" describes an individual who receives long term care (LTC) services in a medical institution, a long term care facility, under a home and community based services (HCBS) waiver program, or under program of all inclusive care for the elderly (PACE) for at least thirty consecutive days.

(C) Administrative agency responsibilities.

- (1) Eligibility for medical assistance is dependent in part upon the amount of income available to or received by the individual.
- (2) All income must be considered in determining the need of an individual.
- (3) 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:
  - (a) Retirement, survivors, disability insurance (RSDI);

- (b) Prouty benefits;
  - (c) Railroad retirement;
  - (d) Veterans benefits;
  - (e) Other public/private retirement benefits;
  - (f) Supplemental security income (SSI).
- (4) When an eligible individual resides with an ineligible spouse or parent(s), a portion of the ineligible spouse's or parent's income must be deemed as attributable income to an eligible individual. Attributable income is assumed to be available to an eligible individual. The deeming of income is subject to conditions and limitations. Reference rule 5160:1-3-03.9 of the Administrative Code for the medical assistance deeming of income provisions.

(D) Income is counted on a monthly basis.

- (1) Gross income, prior to any deductions, exemptions 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. 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 are performed in a prior month. If the time of receipt of the income is at the employee's discretion, the employee must avail himself of such wages. If the payment of wages are deferred at the employee's request, the administrative agency must determine when the wages would normally have been paid and allocate them accordingly. The administrative agency must assume the wages were payable in equal segments throughout the applicable period and determine eligibility accordingly. Self-employment earnings are to be treated in accordance with rule 5160:1-2-01.9 of the Administrative Code.
- (2) Allocated income is considered available in calculating countable income for a month. Allocated income is income that is/was received and is intended to cover a period greater than one month. Income which cannot be anticipated is not included in advance of its receipt but is counted when it becomes available.

(E) Under certain circumstances, the amount of income which must be determined as available to an individual may be greater than an individual will receive or have for his own use.

(1) When an individual has been court-ordered to pay child support and/or spousal support to a former spouse, these payments must not be deducted from countable income to the individual. When the child support/spousal support is paid directly to the former spouse or child's guardian by the employer or benefit payer, the income continues to be determined available income to the medical assistance applicant/recipient.

(2) Court ordered income deductions must be considered available income to the medical assistance individual. A division of marital property in a divorce settlement is not considered a court ordered income deduction in the context of this paragraph.

(3) Deductions due to a repayment of an overpayment, loan, or other debt must be considered as available income 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.

(4) Garnishments and liens placed against earned or unearned income of an individual must not be deducted from countable income, regardless of the purpose for the garnishment or lien.

(F) Income exclusions in the determination of medical assistance eligibility are identified in rule 5160:1-3-03.11 of the Administrative Code. Income exclusions in the determination of patient liability are identified in rules 5160:1-3-04.3 and 5160:1-3-04.4 of the Administrative Code.

(G) Verification of income.

(1) The individual's statements of source and amount of income are subject to verification. At the time of application/reapplication, the individual and household member(s) whose income affects the individual, must be required to submit documents which verify all sources of income. If necessary, the administrative agency must obtain a signed release of information and contact other sources to verify income.

(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.
  - (4) When an individual claims to have no income at the time of application/reapplication, the administrative agency must review the application/reapplication for inconsistencies requiring resolution. It is the individual's responsibility to support the claim of no income. However, if 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 5160:1-1-50.1 of the Administrative Code for additional information on acceptable verification.
- (H) When income in-kind is received, the administrative agency must determine whether in-kind support and maintenance is being received in accordance with rule 5160:1-3-03.8 of the Administrative Code.
- (I) Receipt of cash, income in-kind, or something of value in a particular month is 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.
- (J) The following items are not income. This list is not all inclusive:
- (1) An individual may derive non-cash benefits from personal services which are not income. 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., are not considered income.
  - (3) Money an individual borrows or money received as the repayment of the principal of a bona fide loan is not considered income. 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 unless payment is for food or shelter.

- (5) The amount of a premium payment for supplementary medical insurance paid by a third party on behalf of the individual.
- (6) The amount of money a third party pays to a long-term care facility to supplement the medical assistance per diem in order to maintain a private room for the individual in accordance with the provisions outlined in rule 5160-3-16.3 of the Administrative Code.
- (7) 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.

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Certification

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