

5101:1-38-01.9

Medicaid: income, exemptions, and disregards.

(A) This rule sets forth guidelines for general income, exemptions and disregards applying to all medicaid covered groups for determining eligibility. Income guidelines that apply to a specific covered group will be addressed in that specific covered group's rule.

(1) Unless otherwise stated, income and resources of a spouse are considered available to the other spouse, and income and resources of a parent are considered available to children under age twenty-one.

(2) The administrative agency shall count as income to the covered group the income, after appropriate exemptions and disregards, of a minor's own parent(s) living in the same household as the minor and the minor's dependent child.

(B) Definitions.

(1) "Deduction" means a verifiable amount the individual pays for an expense. It is subtracted, after any income disregards, from the medicaid eligibility budget.

(a) Up to a specified maximum amount, the actual amount paid, including cents, is disregarded.

(b) Garnishments or liens placed against earned or unearned income of an individual are not considered a deduction, regardless of the reason for the garnishment or lien.

(2) "Disregard" means the amount subtracted from gross non-exempt income in the medicaid eligibility budget.

(3) "Earned income" means gross income in cash or in kind, prior to any deductions received as payment for services performed as an employee or as a self-employed individual. Earned income includes but is not limited to wages, salary, commissions, or "net income from self-employment" from which state or federal income and payroll taxes are paid or withheld.

(4) "Exempt income" means income that state or federal law prohibits from consideration in determining medicaid eligibility.

(5) "Gross, non-exempt income" means any income that is not exempt income.

(6) "Gross countable income from self-employment" means the gross income from a business minus the expenses directly related to producing the goods or services, and without which the goods or services could not be produced. For self-employed home day-care providers, it is fifty per cent of the provider's gross income or the gross income minus verifiable actual operating expenses.

- (a) If the individual has filed taxes for the previous year, use all tax forms that were filed with the internal revenue service (IRS).
- (b) If 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.
- (c) Items that cannot be used as expenses for the purpose of determining medicaid eligibility include depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment and payments on the principal of loans for capital assets or durable goods.
- (7) "Home produce" means farm and garden produce grown by the individual or family.
- (8) "Income" means any benefit in cash or in-kind, received by an individual during a calendar month.
- (9) "In-kind" means any benefit received other than cash.
- (10) "Lump-sum" means a non-recurring payment made, in a single amount, as opposed to smaller payments over time. A lump-sum payment is considered unearned income, unless otherwise exempted, in the month received.
- (11) "Net countable family income" means the amount of income remaining after any appropriate exemptions, disregards, or deductions are applied.
- (12) "Non-exempt income" means income (earned and unearned) that is not exempt.
- (13) "Unearned income" means all income that is not earned income.
- (C) Calculating monthly income. The amount of gross monthly non-exempt income must be established first. Disregards and deductions, when applicable, will then be subtracted.
- (1) Determining the gross monthly income (earned and unearned). The amount shall be rounded down by dropping the cents.
- (2) To correctly calculate income that is not received on a monthly basis, use the following conversion factors:

- (a) Income received weekly shall be multiplied by 4.3.
- (b) Income received bi-weekly (every two weeks) shall be multiplied by 2.15.
- (c) Income received semi-monthly (twice a month) shall be multiplied by 2.0.
- (d) Gross annual income received shall be divided by 12.0.
- (e) For contract employees, divide the gross payment amount by the number of calendar months the contract covers. This also applies when a one-time payment is made for work that is done over a period.

(D) Exempt income. The administrative agency shall exempt the following:

- (1) Grants, loans, and/or scholarships to any undergraduate student for educational purposes made or insured under any programs administered by the secretary of education.
 - (a) Student financial assistance provided by the Perkins loan will be exempt only when the funds are used for the following attendance costs:
 - (i) Tuition, fees, book, and supplies normally assessed by the institute of higher education.
 - (ii) Costs for rental or purchase of equipment, materials or supplies required by students in the same course of study. This can also include transportation and dependent care for a student attending at least half-time as determined by the institution.
 - (b) Grants or loans to any undergraduate student for educational purposes made or insured under any programs administered by the secretary of education under section 507 of the Higher Education Amendments of 1968.
 - (c) Any student financial assistance provided under programs in title IV of the Higher Education Act of 1965, as amended, and under bureau of Indian affairs education assistance programs.
- (2) Home produce of an individual, utilized by the individual and the household for consumption.
- (3) Income tax refunds.
- (4) Small, non-recurring gifts, not to exceed thirty dollars per quarter.
- (5) SSI payments.

- (6) Residential state supplement (RSS) payments.
- (7) Federal, state, and local foster care payments received under title IV-E, for a child currently living in the household.
- (8) Federal, state, and local adoption assistance payments received under title IV-E.
- (9) The value of foods donated by the U.S. department of agriculture (surplus commodities).
- (10) Any relocation assistance paid by a public agency to a public assistance recipient, who has been relocated as a result of redevelopment, urban renewal, freeway construction, or any other public development involving condemnation or demolition of the existing residence.
- (11) Payments for supporting services or reimbursement of out-of-pocket expenses to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the service corps of retired executives (SCORE), active corps of executives (ACE), and any other programs under 42 U.S.C 5044 (as in effect February 1, 2010).
- (12) Payments to individuals participating in the volunteers in service to america (VISTA) program and any other program under Section 404, 42 U.S.C. 5044 (as in effect February 1, 2010) so long as the amount does not exceed the equivalent of state or federal minimum wage, whichever is higher.
- (13) The value of supplemental food assistance received under the Child Nutrition Act of 1966 described in 42 U.S.C. 1771 (as in effect February 1, 2010) and the special food service program for children under the national school lunch act described in 42 U.S.C. 1751 (as in effect February 1, 2010).
- (14) Any of the following distributions made to a household, an individual native, or a descendant of a native by a native corporation established pursuant to the Alaska Native Claims Settlement Act (ANCSA), section 3, 43 U.S.C. 1602 (as in effect February 1, 2010):

 - (a) Cash distributions (including dividends on stock from a native corporation) received by an individual up to two-thousand dollars per year.
 - (b) Stock (including stock issued or distributed by a native corporation as a dividend or distribution on stock).
 - (c) A partnership interest.
 - (d) Land or an interest in land (including that received from a native

corporation as a dividend or distribution on stock).

(e) An interest in a settlement trust.

- (15) Benefits paid to eligible households under the Low-Income Home Energy Assistance Act of 1981, section 2605, 42 U.S.C. 8624 (as in effect February 1, 2010).
- (16) Any funds and judgment funds distributed per capita or held in trust for members of the Blackfoot and Grosventre Tribes under Pub. L. 92-254 or the Grand River Band of Ottawa Indians under Pub. L. 92-540, up to two-thousand dollars per individual per year.
- (17) Pursuant to 25 U.S.C. 459e (as in effect January 7, 2011), receipts distributed to members of certain indian tribes which are referred to in 25 U.S.C. 459d (as in effect January 7, 2011).
- (18) Indian judgment funds held in trust by the secretary of the interior (including interest and investment income accrued while funds are held in trust), or distributed per capita to a household or a member of an indian tribe pursuant to a plan prepared by the secretary of the interior and not disapproved by a joint resolution of the congress, and any initial purchases made with these funds in accordance with 25 U.S.C. 1407 (as in effect January 7, 2011).
- (19) All funds held in trust by the secretary of the interior for an indian tribe (including interest and investment income accrued while funds are held in trust) and distributed per capita to a household or member of an indian tribe, and initial purchases made with the funds in accordance with Section 2, 25 U.S.C. 117b (as in effect January 7, 2011).
- (20) The exemptions in paragraph (D)(18) and (D)(19) of this rule do not apply to:
- (a) Proceeds from the sale of initial purchases.
 - (b) Subsequent purchases made with funds derived from the sale or conversion of initial purchases.
 - (c) Funds or initial purchases which are inherited or transferred.
- (21) Payments received on or after January 1, 1989, as a result of the Agent Orange Compensation Exclusion Act (Pub. L. 101-201).
- (22) Restitution payments under the Civil Liberties Act of 1988, to U.S. citizens of Japanese ancestry and permanent resident Japanese non-citizens who were interned during World War II, or their survivors, section 105, 50 U.S.C. 1989b (as in effect February 1, 2010).

- (23) Restitution payments for Aleutian and Pribilof Island Restitution Act under section 206, 50 U.S.C. 1989c (as in effect February 1, 2010).
- (24) Payments under the Radiation Exposure Compensation Act, 42 U.S.C. 2210 (as in effect February 1, 2010)
- (25) Earned income tax credit payments in the form of a refund of federal income tax or in the form of an advance payment by an employer.
- (26) Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al, 96-C-5024 (N.D. 111).
- (27) Payments to victims of Nazi persecution.
- (28) Principal of a bona-fide loan.
- (29) Exemptions of income from paragraphs (D)(16) to (D)(28) of this rule do not apply to interest earned on these funds. Any interest earned is counted as unearned income in the month received and a resource thereafter.
- (30) Any federal major disaster and emergency assistance described in 42 U.S.C. 5170 (as in effect on February 1, 2010), including comparable disaster assistance provided by states, local governments and disaster assistance organizations.
- (31) Nutrition program benefits provided for the elderly under Title VII of the Older Americans Act of 1965, as amended.
- (32) Housing and urban development (HUD) payments covering rent and utility bills which do not exceed the twenty-five per cent payment limitations stipulated by the Brooke Amendment of 1987.
- (33) Retroactive payments paid to the individual as the result of a state hearing.
- (34) Retroactive payments paid as a result of reconsideration of SSI benefits.
- (35) Experimental housing allowance program payments made under annual contributions contracts entered into prior to January 1975, as described in 42 U.S.C. 1437 (as in effect February 1, 2010).
- (36) Payments to crime victims from a federal or federally funded state or local program including Washington state crime victims compensation program under title XXIII of the Violent Crime Control and Law Enforcement Act of 1994.
- (37) Effective March 1, 1995, basic health insurance, child care or child care

allowances, auxiliary aid and services for disabled individuals and the national service educational award provided for individuals participating in a national service program established under the National and Community Services Trust Act of 1993. Payments received as a living allowance are considered income.

(E) Income disregards. The administrative agency shall disregard the following:

- (1) Fifty per cent of a home daycare provider's gross earned income.
- (2) Income received for temporary employment with the census bureau, related to the ten-year census. Interest received from these funds is not disregarded.

Replaces: 5101:1-39-15, 5101:1-39-15.3, 5101:1-39-16,
5101:1-39-20, 5101:1-39-20.1, 5101:1-39-20.2,
5101:1-40-20, 5101:1-40-20.1, 5101:1-40-20.2,
5101:1-40-20.3, 5101:1-40-20.4, 5101:1-40-20.5

Effective: 01/09/2012

R.C. 119.032 review dates: 01/01/2017

CERTIFIED ELECTRONICALLY

Certification

12/30/2011

Date

Promulgated Under: 111.15
 Statutory Authority: 5111.01, 5111.011
 Rule Amplifies: 5111.01, 5111.011, 5111.012, 5111.013
 Prior Effective Dates: 8/1/75, 7/1/76, 11/1/76, 5/14/77, 9/3/77, 12/31/77,
 10/26/78, 3/1/79, 4/5/1979, 10/1/79, 12/1/79, 12/7/79,
 1/3/80, 2/3/80, 5/29/1980, 9/7/1981, 10/1/81, 5/1/82,
 12/1/82, 12/10/82, 12/29/82, 1/13/83, 3/1/84, 6/1/84,
 7/1/84(Temp.), 9/1/1984, 9/10/1984, 10/1/1984
 (Emer.), 12/27/1984, 1/1/1985 (Emer.), 4/1/1985,
 1/1/1986 (Emer.), 1/2/1986, 2/23/86, 4/1/86, 8/1/86
 (Emer.), 10/3/86, 10/1/87, 10/1/87 (Emer.), 12/24/87,
 4/1/88 (Emer.), 6/30/88, 10/1/88 (Emer.), 12/20/88,
 1/1/89 (Emer.), 3/6/89, 4-1-89, 4/1/89 (Emer.), 5/1/89
 (Emer.), 6/18/89, 7/1/89 (Emer.), 7/8/89, 9/23/89,
 10/1/89 (Emer.), 11/1/89 (Emer.), 12/16/89, 1/1/90,
 1/1/1990 (Emer.), 1/21/90, 3/2/90, 3/22/1990, 4/1/90,
 4/2/90 (Emer.), 4/23/90, 6/1/90, 6/22/90, 9/1/90
 (Emer.), 10/1/1990, 4/1/91 (Emer.), 5/1/91, 5/1/91
 (Emer.), 6/17/91, 7/12/91 (Emer.), 7/17/91, 9/12/91,
 9/22/91, 10/1/1991 (Emer.), 12/20/1991, 4/1/1992,
 10/1/1992 (Emer.), 6/30/92, 12/21/1992, 1/1/93
 (Emer.), 3/18/93, 5/1/1993, 3/01/94 (Emer.), 4/18/94,

6/20/94, 9/1/94, 11/1/94, 3/1/95, 10/30/95, 10/31/97
(Emer.), 1/26/98, 2/1/99, 10/1/99, 11/19/99, 1/1/00,
5/1/00 (Emer.), 7/1/00, 8/6/00, 6/01/02 (Emer.),
8/30/02, 10/1/02, 1/1/03, 6/1/03 (Emer.), 9/20/03,
1/1/06, 1/1/08, 3/1/08