

5160:1-6-03.1

**Medicaid: determining financial eligibility for medical assistance using the special income level.**

- (A) This rule describes how to determine financial eligibility for medical assistance using the special income level (SIL). This rule does not describe how to determine non-financial eligibility criteria for medical assistance or for medicaid payment of long-term care services.
- (B) An individual, regardless of age, who is ineligible under base medicaid due to excess income may be income eligible for medical assistance if his or her income is less than or equal to the SIL. The SIL is equal to three hundred per cent of the current supplemental security income (SSI) benefit payment rate for an individual.
- (C) An individual who is income eligible under the SIL must also meet the resource requirements in rules 5160:1-3-05.1 and 5160:1-6-04 of the Administrative Code, as applicable, before his or her application for medical assistance can be approved.
- (D) Only an individual who has been institutionalized for a continuous period of institutionalization, as defined in rule 5160:1-6-01.1 of the Administrative Code, may have his or her income eligibility determined using the SIL.
- (E) If the individual is eligible under the SIL, eligibility for medical assistance will begin the first day of the month in which the continuous period of institutionalization began; ~~and last, assuming all other eligibility criteria are met, until the individual is no longer institutionalized or receiving home and community-based services (HCBS) or program of the all-inclusive care for the elderly (PACE) services.~~
- (F) If the individual is eligible under the SIL, the administrative agency shall calculate a patient liability in accordance with rules 5160:1-6-07 and 5160:1-6-07.1 of the Administrative Code, as applicable. The individual must pay the calculated patient liability to the long-term care (LTC) provider as applicable.
- (G) If an individual's countable income is greater than the SIL, the individual may establish a qualified income trust (QIT) in accordance with rule 5160:1-6-03.2 of the Administrative Code to reduce his or her countable income to or below the SIL.
- (H) Determine whether an individual's income is at or below the SIL as follows:
- (1) Total only the individual's gross income, earned and unearned as defined in rule 5160:1-1-01 of the Administrative Code (do not include parental or spousal income), then exclude the following income types:

- (a) Payments not considered income, in accordance with 20 C.F.R. 416.1103 (as in effect on October 1, 2016), which includes veterans administrative aid and attendance.
- (b) German reparation payments, Austrian social insurance payments, and Netherlands reparation payments, in accordance with the Nazi Persecution Victims Eligibility Act, Pub. L. No. 103-286 or provisions of the Austrian General Social Insurance Act, paragraphs 500 through 506 (as in effect October 1, 2016).
- (c) Japanese and Aleutian restitution payments, under the provisions of section 105 of Pub. L. No. 100-383 (as in effect October 1, 2016), by individuals of Japanese ancestry.
- (d) Agent Orange settlement payments under the provisions of the Agent Orange Compensation Exclusion Act, Pub. L. No. 101-201 (as in effect October 1, 2016), received on or after January 1, 1989.
- (e) Department of defense payments to certain persons captured and interned in North Vietnam, in accordance with the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1998, under provision 606 of Pub. L. 105-78 and provision 657 of Pub. L. No. 104-201 (as in effect on October 1, 2016).
- (f) Radiation exposure compensation payments under the provisions of the Radiation Exposure Compensation Act, Pub. L. No. 101-426 (as in effect October 1, 2016).
- (g) Veterans affairs payments made to or on behalf of:
  - (i) Certain Vietnam veterans' natural children regardless of their age or marital status, for any disability resulting from spina bifida suffered by such children under provision 421 of Pub. L. No. 104-204 (38 U.S.C. 1805(d); as in effect October 1, 2016);
  - (ii) Certain Korea service veterans' natural children regardless of their age or marital status, for any disability resulting from spina bifida suffered by such children under provision 102 of the Veterans Benefits Act of 2003, P.L. 108-183 (as in effect October 1, 2016);
  - (iii) Women Vietnam veterans natural children regardless of their age or marital status, for certain birth defects under provision 401 of Pub. L. No. 106-419 (38 U.S.C. 1833(c); as in effect October 1, 2016).

- (h) Payments made to Native Americans as listed in section IV of 20 C.F.R. 416 Subpart K Appendix (as in effect on October 1, 2016).
- (i) Residential state supplement (RSS) benefits to individuals, in accordance with rule 5160:1-5-01 of the Administrative Code.
- (j) Payments received under the provisions of a state "Victims of Crime Program" per 42 U.S.C 10602(c) (as in effect October 1, 2016), for a period of nine months beginning with the month following the month of receipt.
- (k) Payments made from any fund established pursuant to a class settlement in the case of *Susan Walker v. Bayer Corporation*, 96-C-5024 (N.D. Ill), per section 4735 of the Balanced Budget Act of 1997, Pub. L. No. 105-33 (as in effect October 1, 2016).
- (l) Payments made from any fund established pursuant to a class action settlement in the case of "Factor VIII or IX concentrate blood products litigation," MDL986, no. 93-C-7452 (N.D. Ill), per section 4735 of the Balanced Budget Act of 1997, Pub. L. No. 105-33 (as in effect October 1, 2016).
- (m) Assistance (other than wages or salaries) under the Older Americans Act of 1965 under 92 Stat. 1515, 42 U.S.C. 3020a (as in effect October 1, 2016).
- (n) Student financial assistance from a program funded under Title IV of the Higher Education Act (HEA) of 1965 or Bureau of Indian Affairs (BIA) per the Higher Education Technical Amendments Act of 1987 (20 U.S.C. 1087uu) (as in effect October 1, 2016).
- (o) Monies in an individual development account (IDA) as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. No. 107-110, 42 U.S.C. 604(h)(4)), listed as exclusion (xxiv) (as in effect October 1, 2016).
- (p) Foster care subsidies under title IV-B or title-XX and adoption assistance subsidies under title IV-E per 42 U.S.C. 673(b) (as in effect October 1, 2016).
- (q) Assistance under the Child Care and Development Block Grant Act of 1990 (20 USC 9858q; as in effect October 1, 2016).
- (r) Assistance or services received through the Domestic Volunteer Services under 42 U.S.C. 66 per 42 U.S.C. 5044(f) (as in effect October 1, 2016).

- (s) Assistance or services received through the Supplemental Nutrition Act Program per 7 U.S.C. 2017(b); the School Lunch Program per 42 U.S.C. 1760(e); the Child Nutrition Act per 42 U.S.C. 1780(b); and the Nutrition Program for Elderly (Title VII) per 42 U.S.C. 3020a(a) (as in effect October 1, 2016).
  - (t) Payments made under the Disaster Relief and Emergency Assistance Act per 42 U.S.C. 5155(d) (as in effect October 1, 2016).
  - (u) Assistance, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title V of the Housing Act of 1949, or section 202(h) of the Housing Act of 1959 per 42 U.S.C. 1382a (as in effect October 1, 2016).
  - (v) Relocation assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 in accordance with 42 U.S.C. 4636 (as in effect on October 1, 2016) provided to individuals displaced by any federal or federally-assisted project or state or local government or through a state-assisted or locally-assisted project in the acquisition of real property.
  - (w) The first two thousand dollars per calendar year received as compensation for participation in clinical trials that meet the criteria detailed in section 1612(b) of the Social Security Act (Pub. L. 111-255) (as in effect October 1, 2016).
- (2) Compare the individual's gross countable income computed in paragraph (H)(1) of this rule to the SIL.
- (3) If the individual's countable income is less than or equal to the SIL then the individual is income eligible for medical assistance.

(I) 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

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Certification

07/08/2020

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Date

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