

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 eligibility~~ 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~~When 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.
- (F) ~~If~~When 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~~When 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 October 1, ~~2019~~2022), which includes veterans administration 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, 2019).~~

(b) Payments to victims of Nazi persecution.

(c) Austrian social insurance payments based, in whole or in part, on wage credits received under the provisions of the Austrian General Social Insurance Act, paragraphs 500 through 506 (as in effect October 1, 2022). These payments need to be documented and identifiable separate from countable insurance.

(d) Payments from the Dutch government under the Netherlands' Benefit Act for victims of persecution from 1940-1945 (Dutch acronym, WUV) (Pub. L. No. 103-286).

~~(e) Japanese and Aleutian restitution payments, under the provisions of section 105 of Pub. L. No. 100-383 (as in effect October 1, 2019), by individuals of Japanese ancestry.~~

(e) 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, in accordance with 50 U.S.C. 4215 (as in effect October 1, 2022).

(f) Restitution payments under the Aleutian and Pribilof Island Restitution Act, in accordance with 50 U.S.C. 4236 (as in effect October 1, 2022).

~~(d)(g) Agent Orange settlement fund payments under the provisions of received on or after January 1, 1989, as a result of the Agent Orange Compensation Exclusion Act; (Pub. L. No. 101-201) (as in effect October 1, 2019); received on or after January 1, 1989.~~

~~(e)(h)~~ (h) 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 October 1, 2019) (Pub. L. No. 105-78).

- ~~(f)~~(i) Radiation exposure compensation trust fund payments, ~~under the provisions of~~ in accordance with the Radiation Exposure Compensation Act of 1990 (~~Pub. L. No. 101-426 (as in effect October 1, 2019).~~);
- ~~(g)~~(j) 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, 2019); and~~
 - (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, 2019); and~~
 - (iii) ~~Women Vietnam veterans~~ The natural children, regardless of ~~their~~ age or marital status, ~~for~~with certain birth defects ~~under provision 401 of Pub. L. No. 106-419 (38 U.S.C. 1833(e); as in effect October 1, 2019)~~ born to a woman who served in Vietnam.
- ~~(h)~~(k) Payments made to Native Americans as listed in section IV of 20 C.F.R. 416 Subpart K Appendix (as in effect October 1, ~~2019~~2022).
- ~~(i)~~(l) Residential state supplement (RSS) ~~benefits~~payments to individuals, in accordance with rule 5160:1-5-01 of the Administrative Code.
- ~~(j)~~(m) Payments ~~received under the provisions of~~ from a state "Victims of Crime Program" per 42 U.S.C 10602(e) (~~as in effect October 1, 2019~~), for a ~~period of nine months beginning with the month following the month of receipt~~ compensation fund for victims of crime.
- ~~(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, 2019).~~
- ~~(l)~~(n) 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, 2019).~~);

(o) Payments from the Ricky Ray Hemophilia Fund Act of 1998 (Pub. L. No. 105-369) or 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).

(p) Payments made to individuals under the Energy Employees Occupational Illness Compensation Program Act of 2000 (Pub. L. No. 106-398).

~~(m)(q)~~ 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, 2019)~~ (Pub. L. No. 89-73).

~~(n)(r)~~ Student financial assistance ~~from a program funded~~ received under Title IV of the Higher Education Act (HEA) of 1965 (as in effect October 1, 2022) or Bureau of Indian Affairs is excluded from income, (BIA) per the Higher Education Technical Amendments Act of 1987 (20 U.S.C. 1087uu) (as in effect October 1, 2019); regardless of use;

(i) Pell grants; and

(ii) Student services incentives; and

(iii) Academic achievement incentive scholarships; and

(iv) Federal supplemental education opportunity grants; and

(v) Federal educational loans (Stafford loans, William D. Ford federal direct and direct PLUS loans, etc.); and

(vi) Upward bound; and

(vii) Gear up (gaining early awareness and readiness for undergraduate programs); and

(viii) State educational assistance programs funded by the leveraging education assistance programs; and

(ix) Work-study programs.

~~(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, 2019);~~

- (s) Matching funds that are deposited into individual development accounts (IDAs), either demonstration project or TANF-funded, in accordance with 42 U.S.C. 604 (as in effect October 1, 2022).
- (t) Accounts under the Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act of 2014 (Pub. L. No. 113-295). The following are not considered income to the account holder:
 - (i) Contributions to an ABLE account by another individual or third party.
 - (ii) Interest earned on an ABLE account.
 - (iii) Distributions from an ABLE account.
- (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, 2019).~~
- (u) Federal and state foster care payments received under title IV-B or title IV-E for a child currently living in the household.
- (v) Federal or state adoption assistance payments received under title IV-B or title IV-E.
- (w) Payments received under the kinship guardianship assistance program (KGAP), state KGAP, or kinship guardianship assistance program connections to twenty-one (KGAP C21).
- ~~(q)(x)~~ Child care assistance under the Child Care and Development Block Grant Act of 1990 (20 USC 9858q, as in effect October 1, 2019)(Pub. L. No. 113-186).
- ~~(r)(y)~~ Assistance or services received through the Domestic Volunteer Servicesdomestic volunteer service under 42 U.S.C. 66 per 42 U.S.C. 5044(f) (as in effect October 1, 20192022).
- (z) Payments made for supporting services or reimbursement of out-of-pocket expenses to volunteers participating in corporation for national and community services (CNCS, formerly ACTION) programs in accordance with 42 U.S.C. 1382a (as in effect October 1, 2022):
 - (i) AmeriCorps VISTA program; and
 - (ii) Special and demonstration volunteer programs; and

(iii) Retired senior volunteer program (RSVP); and

(iv) Foster grandparents program; and

(v) Senior companion program.

~~(s)(aa)~~ 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, 2019);~~ federal food and nutrition programs:

(i) Supplemental nutrition assistance program (SNAP); and

(ii) The value of foods donated by the U.S. department of agriculture commodity supplemental food program; and

(iii) The value of supplemental food assistance received under the Child Nutrition Act of 1966 (Pub. L. No. 89-642) and the special food service program for children under the National School Lunch Act (Pub. L. No. 90-302); and

(iv) The special supplemental nutrition program for women, infants, and children (WIC); and

(v) Nutrition program benefits provided for the elderly under Title VII of the Older Americans Act of 1965 (Pub. L. No. 89-73).

~~(t)(bb)~~ ~~Payments made~~ Assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act per 42 U.S.C. 5155(d) (as in effect October 1, 2019) (Pub. L. No. 100-707) and assistance provided under any federal statute because of a presidentially-declared disaster.

~~(u)(cc)~~ Assistance, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937 (Pub. L. No. 75-412), the National Housing Act (Pub. L. No. 73-479), section 101 of the Housing and Urban Development Act of 1965 (Pub. L. No. 89-117), title V of the Housing Act of 1949 (Pub. L. No. 81-171), or section 202(h) of the Housing Act of 1959 (Pub. L. No. 86-372) per 42 U.S.C. 1382a (as in effect October 1, 2019).

(dd) Home energy assistance provided on the basis of need, in accordance with 20 C.F.R. 416.1157 (as in effect October 1, 2022).

- ~~(v)~~(ee) 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 October 1, 2019)~~(Pub. L. No. 91-646) provided to individuals displaced by or through any federal, ~~or federally-assisted, project or state, state-assisted, or local, or locally-assisted~~ government ~~project or through a state-assisted or locally-assisted project~~ in the acquisition of real property.
- ~~(w)~~(ff) 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, ~~2019~~2022).
- (2) Compare the individual's gross countable income computed in paragraph (H)(1) of this rule to the SIL.
- (3) ~~If~~When the individual's countable income is less than or equal to the SIL then the individual is income eligible for medical assistance.

Effective: 1/1/2023
Five Year Review (FYR) Dates: 10/13/2022 and 01/01/2028

CERTIFIED ELECTRONICALLY

Certification

12/19/2022

Date

Promulgated Under: 111.15
Statutory Authority: 5163.02
Rule Amplifies: 5163.02
Prior Effective Dates: 06/01/1988 (Emer.), 08/01/1988 (Emer.), 10/30/1988,
01/01/1990 (Emer.), 03/01/1990 (Emer.), 03/30/1990
(Emer.), 04/01/1990, 06/29/1990, 07/01/1990,
10/01/1990, 01/01/1991 (Emer.), 04/01/1991,
01/01/1992 (Emer.), 03/20/1992, 05/01/1992 (Emer.),
07/01/1992, 08/14/1992 (Emer.), 11/01/1992,
05/01/1993, 09/01/1993, 07/01/1994, 01/01/1995
(Emer.), 03/20/1995, 10/01/1995, 04/01/1996,
01/01/1997 (Emer.), 02/09/1997, 12/31/1997 (Emer.),
02/01/1998, 04/01/1999, 01/01/2000, 01/01/2001,
05/12/2002, 07/01/2005, 01/25/2015, 09/01/2017,
07/08/2020 (Emer.), 12/14/2020