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INCOME

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A. WHAT IS INCOME

Income is anything an individual receives in cash (and is cases in-kind) that can be used to meet his/her needs for food, clothing or shelter. Medicaid is required, in accordance with 42 CFR 435.721, to use SSI financial eligibility requirements. SSI income policy applies unless a subsequently issued Medicaid statute or regulation supersedes the SSI policy. The following income rules are based on SSI income policy.

1. SSI Income Rules

- Income is counted on a monthly basis.
- An individual who has too much income in a particular month is not eligible for Medicaid for that month.
- Not all income counts in determining eligibility.
- Income may include <u>more or less than is actually received</u>. For example:
  - Expenses of obtaining income (less)
  - Garnishment (more)
  - Gross earnings, before any deductions (more).

2. Relationship of Income to Resources

In general, anything received in a month, from any source, is income to an individual, subject to SSI's definition of income.

Anything the individual owned prior to the month under consideration is subject to the resource counting rules.

An item received for the current month is income for the current month only. If held by the individual until the following month, that item is subject to resource counting rules. Any <u>exceptions</u> to this rule are noted in the discussion of the particular type of income involved.

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3. Types of Income

Income is either earned or unearned, and different rules apply to each. Each type of income is discussed in detail in this section.

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B. WHEN INCOME IS COUNTED

Generally, income is counted at the earliest of the following points:

- when it is received; or,
- when it is credited to an individual's account; or,
- when it is set aside for his or her use.

Income is evaluated on a monthly basis and counted in the month it is received.

1. Advance Dated Checks

When a payor advance dates a check because the regular payment date falls on a week-end or holiday, there is no intent to change the normal delivery date. Whenever such an advance dated check is received, consider it income in the month of normal receipt.

2. Electronic Funds Transfer

When an individual's money goes to a bank by direct deposit, the funds may be posted to the account before or after the month they are payable. Whenever this occurs, threat the electronically transferred funds as income in the month of normal receipt.

3. When a Payment Is Not Income

A payment is not income when the individual is aware that he/she is not due the money and returns the check uncashed or otherwise refunds all of the erroneously received money either in the same month or in a following month. Normally, but not always, this would mean a month or two after the month of receipt. In such situations, verify return of the payment, consider all of the relevant facts, and document the determination for the file. Some of the points to consider are:

- the reason for the payment (i.e., whether it was really erroneous)

- the reason for any delay in returning the payment

- whether he or she made repayment in full or only in part.

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C. INCOME DERIVED FROM JOINT BANK ACCOUNTS

Policy below explains how to charge income in different situations involving joint bank account(s) held by a Medicaid client and other ineligible individuals.

1. Eligible With Ineligible

Deposits made by the ineligible (regardless of the source of deposit) are income to the eligible unless:

a. The ineligible is a deemor (spouse or parent) for income and/or resource purposes in which case the deposits are income to the one actually receiving it (but the ineligible's income or resources will be deemed to the eligible).

b. The ineligible is a legal guardian or conservator of the eligible and legal documents allow deposits to be treated otherwise.

c. The deposit can be excluded under some other provision.

d. Spousal Impoverishment rules apply (see Institutionalization section).

2. Eligible With Other Eligibles

A deposit by one is not income to the other. Deposits are counted as income to the eligible actually receiving the benefit or entitled to the payment. Interest payments are allocated equally among the joint holders.

3. Rebuttal Situations

If an eligible individual or deemor has successfully rebutted ownership of a portion of the funds in a joint account, deposits by the other account holders will not be counted as income, and interest will be charged in proportion to the amount of funds in the account which are owned by the eligible individual or deemor. Refer to the Resources section for policy governing the rebuttal of a joint bank account.

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If an eligible individual or deemor has successfully rebutted ownership of all of the funds held in a joint bank account, no deposits by the other account holders nor interest credited to the account are counted as income of the eligible individual or deemor.

D. INCOME FROM TRUSTS/CONSERVATORSHIPS

Generally, if the client/beneficiary has a right to the income from the principal of a trust/conservatorship, it is income to him/her as it becomes available. If the client/beneficiary has no right to the income from the trust/conserved funds, then only the payments actually paid from the trust would be income.

The income/resource rules that apply to a trust or conservatorship depend on when the trust, guardianship or conservatorship was established. Refer to the Resource section for a complete discussion of the income/resource rules that apply to trusts/conservatorships.

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E. VERIFICATION OF INCOME

SSI policy requires income to be verified from independent or collateral sources and additional information obtained as necessary to be sure that only eligible individuals qualify for assistance. A person applying or receiving Medicaid must provide Medicaid with any requested income information and show necessary documents or other evidence to establish the amount of an individual's income. Medicaid will assist the individual in obtaining needed verification not in the individual's possession; however, the burden of proof lies with the applicant, recipient or their representative to verify income and to report all changes in income.

See the instructions for the particular type of income involved for additional verification requirements.

1. Projecting Actual Income

Develop and record the best possible estimates of anticipated income (belonging to the eligible and deemor) on a month by month basis. When income fluctuates, use each month's anticipated receipts to estimate income for that month. <u>Do not average</u> income for the purpose of determining eligibility.

Always consider the number of paydays (for earned or unearned income) in any given month. If the amount is the same each payday, multiply the amount by the number of paydays in a given month to obtain the monthly amount. If the amount varies from payday to payday, add the individual amounts to obtain a monthly amount.

Eligibility for the current month, retroactive period and for the next 12 months is based on the monthly amount derived from the above computation. When there is an anticipated change in income, meaning income will start, stop or come in at a different rate, use only that income which the individual is reasonably sure will be received. The exception to this is in the case of self-employment income which is discussed in the Earned Income subsection.

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2. Use of Tickler File

The worker will use the Tickler File, either in MEDS or manually, as appropriate, to control cases with income that will affect eligibility or Medicaid Income for a future month. A tickler must be set for the month prior to the month of receipt of the income to handle the case to either adjust Medicaid Income or issue a notice of closure.

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A. WHAT IS NOT INCOME (OR A RESOURCE)

Certain income is excluded by federal statute or excluded under SSI rules and some money received is not considered income because it does not meet the definition of income. Items that are not considered income are discussed below:

1. Medical & Social Services, Related Cash & In-Kind Items

Medical services are those services which are directed toward diagnostic, preventative, therapeutic, or palliative treatment of a medical condition and which are performed, directed or supervised by a State licensed health professional. A social service is any service, other than medical, which is intended to assist a handicapped or socially disadvantaged individual to function in society on a level comparable to that of an individual who does not have such a handicap or disadvantage.

a. Any cash provided by a governmental medical or social services program is not income.

b. Any cash from a nongovernmental medical or social services organization is not income when the cash is for medical or social services already received by the individual and approved by the organization. However, if the individual receives an amount in excess of the medical or social services expenses incurred, the excess cash is unearned income.

A cash payment restricted to the future purchase of a medical or social service is not income.

Cash from an insurance policy, which pays “loss of time” benefits for a certain period of time during the hospital confinement, is treated as a third party liability.

c. In-kind items which meet the definition of medical services, i.e., prescription drugs, eyeglasses, prosthetic devices, etc., are not income regardless of their source.

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d. Any in-kind items (including food, clothing or shelter) provided by a governmental, medical or social services program are not income.

e. In-kind items (other than food, clothing or shelter) provided by a nongovernmental medical or social services organization for medical or social services purposes are not income.

A cash payment for medical or social services that is not income is not a resource for one calendar month following the month of receipt.

2. Food & Shelter Received During a Medical Confinement

Food and shelter received during a medical confinement are not income. A medical confinement exists when an individual receives medical services in a medical treatment facility.

3. Personal Services

A personal service performed for an individual is not income. Examples of personal services for an individual which are not income are mowing the lawn, doing housecleaning, going to the grocery or babysitting.

4. Conversion or Sale of a Resource

Receipts from the sale, exchange, or replacement of a resource are not income but are resources that have changed their form. This includes any cash or in-kind item that is provided to replace or repair a resource that has been lost, damaged or stolen.

5. Rebates & Refunds

When an individual receives a rebate, refund or other return of money he or she has already paid, the money returned is not income. NOTE: The key idea in applying this policy is a return of an individual's own money. Some "rebates" may not fit this category. If a rebate is a return on an investment, for example, the rebate would be treated as a dividend.

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6. **Income Tax Refunds**

Any amount of income tax refunded to an individual is not income. Because amounts withheld or paid as income tax during the course of a taxable year are included in the definition of income, any later refund of such income taxes by a Federal, State, or local taxing authority is not again treated as income, but is treated as a resource. This is so even if the income from which the tax was withheld or paid was received in a period prior to application and therefore was not actually considered in determining eligibility.

7. **Credit Life or Credit Disability Insurance Payments**

Both credit life and credit disability insurance may be administered under group or individual policies. These policies are issued by insurance companies to or on behalf of of borrowers, to cover payments on loans, installment purchases, etc., in the event of death or disability. These payments are made directly to loan companies, mortgage companies, etc., and are not available to the individual, either directly or by sale or conversion, for the purposes of meeting his/her basic needs. Therefore, payments made on behalf of an individual under credit life or credit disability policies are not considered income.

8. Other **Insurance Payments**

Each insurance policy must be examined to determine the type of benefit it provides and the purposes for which it can be used.

Cash payments from any insurance policy made directly to the provider would not be income since the beneficiary does not receive the payment. Amounts paid to the facility for purposes other than medical care may be considered income if the facility actually pays the amount to the individual.

Cash payments from any insurance policy which are restricted for purchase or reimbursement of medical services covered under the policy are not considered income. This would be a third party resource. Policies that restrict payments to periods of hospital confinement are considered a third party source and is not considered income.

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Cash payments from any insurance policy intended for income supplementation for lost income due to a disability is considered income. This includes weekly disability policies, without regard to hospital confinement.

9. Proceeds of a Loan

Money that a person borrows or money received as the repayment of a bona fide loan is not income. However, interest received on money loaned is income. Although the proceeds of a bona fide loan are not income in the month received, if the proceeds are retained into the following month, they become a resource.

A bona fide loan is an agreement that is legally valid and made in good faith. The loan agreement must be in writing and include:

- borrower's acknowledgment of his obligation to repay

- schedule and plan for repayment; e.g., borrower plans to repay when he receives anticipated income in the future; and,

- borrower's express intent to repay by pledging either real or personal property or anticipated income.

If a loan is found not to be bona fide, then any proceeds received in connection with the transaction must be considered as unearned income to the borrower in the month received.

10. Bills Paid by a Third Party

When someone other than the eligible individual or couple makes a payment directly to a vendor, the payment is not income to the individual. This is because the individual does not receive the payment itself. However, a third party vendor payment is a means by which an individual may receive unearned in-kind income.

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11.	**Replacement of Income Already Received**	If an individual's income is lost, stolen or destroyed and the individual receives a replacement, the replacement is not income. Once a payment has been issued and treated as issued and treated as income in determining an individual's eligibility, the reissuance of that same payment is not income.
12.	**Weatherization Assistance**	Weatherization assistance (e.g., insulation, storm doors, windows, etc.) is not income.
13.	**Receipt of Certain Noncash Items**	The value of any noncash items (other than items of food, clothing or shelter) which would become partially or totally excluded nonliquid resources if retained into the month following the month of receipt is not income. Such nonincome items may include, but are not limited to, specially equipped vehicles, household goods, and property essential to self-support. Consider these nonincome items solely under the resource rules.
14.	**Fund Raising Proceeds**	Benefits received through fund raising are a potential Third Party Liability source. The beneficiary must report all sources of income from fund raising to the source of eligibility. The source of eligibility will inform the Third Party Liability unit of the availability of any source of payment for medical services. Donated funds for the purpose of payment of medical services are considered a third party source. In order for donated funds to be excluded as income, the following criteria must be met: - Prior to accepting donations, the beneficiary (or family if a child) must make arrangements to place donations in a trust fund or special account.

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- The trust fund or special account must be managed by an administrator (someone outside the family).

- The funds must never be mixed with personal or family money.

- The beneficiary should not have direct access to the trust funds or special account.

- The beneficiary or administrator must be able to produce documentation as to how the funds were spent.

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B. INCOME EXCLUSIONS FOR UNEARNED & EARNED INCOME

An exclusion is an amount of income which does not count in determining eligibility and payment amount. Exclusions never reduce income below zero. Except for the $50 general exclusion, no unused unearned income exclusion may be applied to earned income.

Prior to 07/01/99, the general exclusion was $20.00.

1. $50 Per Month General Exclusion (Effective 07/01/99)

The first $50 of unearned income received in a month is is excluded. Only one $50 exclusion can be applied to the combined income of a couple. Do <u>not</u> apply this exclusion to any income based on need.

The general income exclusion applies only to the individual applicant's or recipient's own income. The recipient's or applicant's own income includes income which has been deemed. Do not apply the $50 general income exclusion to the person's income which is to be deemed.

Apply the $50 exclusion first to unearned income. Any remainder is applied to earned income. If there is no unearned income, then apply the $50 exclusion to the earned income.

2. Earned Income Exclusion

After the $50 general exclusion is applied, $65 plus one-half of remaining earned income is excluded. Couples' earned income is combined and only one earned income exclusion is applied.

3. Income Exclusions for Certain Former SSI Recipients

Social Security Pass-a-Long clients who were former SSI SSI recipients terminated due to certain increases in Social Security benefits are allowed income disregards specific to their coverage group. These disregards are referred to as HR-1, COL, DAC, OBRA, etc. disregards. The eligibility for and amount of the disregard is determined by State Office Eligibility Staff upon Regional Office referral.

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4. Student Child Earned Income Exclusion

For a blind or disabled child who is a student regularly attending school, up to $400 per month of earned income (but not more than $1,620 in a calendar year) is excluded. The child must be under age 22 and regularly attending school (in at least 1 month of the current calendar quarter or expects to attend school in at least 1 month in the next calendar quarter). Earnings received prior to the month of eligibility do not count toward the $1,620 yearly limit.

Effective January 1, 2001, the monthly maximum amount has increased to $1,290 and the yearly maximum has increased to $5,200.

Apply the exclusion consecutively to months in which there is earned income until the exclusion is exhausted or the child is no longer a student or under age 22. The exclusion applies only to the child's own earned income. This exclusion is in addition to the $65 plus ½ remainder earned income exclusion.

For example, a student child with a summer job who earns $1,600 per month (only income) beginning in June has countable income computed as follows for June, July, August:

$1,600.00	gross earnings
- 1,290.00	student child exclusion
$ 310.00	
- 50.00	general income exclusion
$ 260.00	
- 65.00	earned income exclusion
$ 195.00	
- 97.50	one-half remainder
$ 97.50	countable income

In this example, the student has used up $3,870 of his $5,200 yearly exclusion and only has $1,330 left to be excluded over the remaining calendar year should he have any other earned income through December of the same calendar year.

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5. Blind Work Expenses Exclusion

Any earned income of a blind person which is used to meet any expenses reasonably attributable to earning the income is not counted if the blind person is under age 64 or 65 or older and and received SSI or Medicaid in the month prior to attaining age 65.

The BWE exclusion applies to earned income only. The exclusion is deducted after applying the $50 general income exclusion and all other earned income exclusions. Before applying a BWE exclusion, contact the State Office Eligibility Division for clearance.

6. Plan for Achieving Self-Support (PASS)

Income, whether earned or unearned, of a blind or disabled recipient may be excluded if such income is needed to fulfill a plan for achieving self-support. Income can be excluded under an approved PASS when the income is set aside for a planned expenditure determined necessary to achieve the individual's occupational objective.

To be eligible for this income exclusion, the individual plan must be submitted to State Office for approval. The plan submitted must:

1. include the objective and time period for achieving
2. include the amount of money involved
3. be currently in use by the individual

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7. **Impairment-Related Work Expenses (IRWE)**

Any earned income of a disabled individual (not blind) which is used to meet any expenses for items or services which are directly related to enabling a person with a disability to work and which are necessarily incurred by that individual because of a physical or mental impairment is not counted if the disabled person is under age 64 or age 65 or older and received SSI or a disability payment for the month before attaining age 65.

The IRWE exclusion applies to earned income only. The exclusion is deducted <u>after</u> applying the $50 general income exclusion which has not been deducted from unearned income and the $65 earned income exclusion; and immediately <u>before</u> deducting one-half of the remaining earned income. Before applying a IRWE exclusion, contact the State Office Eligibility Bureau for clearance.

8. **Irregular & Infrequent Income Exclusion**

Apply an exclusion to income which is received either infrequently or irregularly provided the total of such income does not exceed:

- $10 per month of earned income; and/or,
- $20 per month of unearned income.

Infrequent income means the income is received no more than once in a calendar quarter from a single source. Irregular means the income cannot reasonably be expected (unpredictable).

In order to be excluded, the total amount of <u>earned</u> income received cannot exceed $10 in the month. When the exclusion is applied, verify the earned income and document the case record with the basis for the decision that the income is infrequent or irregular.

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In order to be excluded, the total unearned income received by the client cannot exceed $20 in a month. The frequency is evaluated for the calendar quarter, but the dollar amount is evaluated for the month.

In determining if unearned income can be excluded as infrequent, identify and categorize by amount, frequency, type and source. Consider each receipt of unearned income separately. Any unearned income of one type received once per quarter from one source is considered infrequent, that is, a person may receive the same type of unearned income from two different sources or two different types of unearned income from the same source if each is received only once during the quarter, and still have the amount excluded if no more than $20 is received in any given month.

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C. OTHER UNEARNED INCOME EXCLUSIONS

The following is a discussion of additional income exclusions applicable to unearned income.

1. Home Produce for Personal Consumption

Home produce is excluded from income if it is consumed by the individual or his/her household.

The proceeds from the sale of home produced may be unearned income if sold but not as a trade or business. If sold as a trade or business, the income may be earnings from self-employment.

2. Refunds of Taxes Paid on Real Property or Food

Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased is excluded from income.

3. German Reparation Payments

German reparations payments are made under the Republic of Germany's Federal Law for Compensation of Nationalist Socialist Persecution ("German Restitution Act") to certain survivors of the Holocaust. The payments may be made periodically or as a lump sum. Reparations payments received from the Federal Republic of Germany are excluded from income. **Unspent payments are excluded from resources.**

4. Austrian Social Insurance Payments

The nationwide class action lawsuit, Bondy v. Sullivan, involved Austrian social insurance payments which were based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act (GSIA). These paragraphs grant credits to individuals who suffered a loss (i.e., were imprisoned, unemployed, or forced to flee Austria) during the period from March 1933 to May 1945 for political, religious, or ethnic reasons. (The GSIA does not specify what entity, e.g., the government or an employer, must be responsible for the loss in order for the credits to be granted.) Not all Austrian social insurance payments are based on Paragraphs 500-506.

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5. **The Nazi Persecution Victims Eligibility Act**

Enacted August 1, 1994, the Nazi Persecution Victims Eligibility Act (P.L. 103-286) excludes from income any payments made to individuals because of their status as victims of Nazi persecution.

This provision supersedes previous provisions for the exclusion of certain payments made by the governments of Germany, Austria, and the Netherlands, insofar as they are made to victims of Nazi persecution.

Austrian social insurance payments based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act are not counted as income. **Unspent payments are excluded from resources.** Austrian social insurance payments not based on age credits granted under Paragraphs 500-506 are counted as income.

6. **Japanese-American & Aleutian Restitution Payments**

Restitution payments made by the U. S. Government to to individual Japanese-Americans or the spouse or parent of individual of Japanese ancestry (or, if deceased, to their survivors) and Aleuts who were interned or relocated during World War II are excluded from income and resources. Also, restitution payments from the Canadian Government to individual Japanese-Canadians who were interned or relocated during World War II are excluded from income **and resources**.

7. **Netherlands WUV Payments to Victims of Persecution**

The Dutch government, under the Netherland's Act on Benefits for Victims of Persecution 1940-1945 (Dutch acronym, WUV), makes payments to both Dutch and non-Dutch individuals who, during the German and Japanese occupation of the Netherlands and Netherlands East Indies (now the Republic of Indonesia) in World War II, were victims of persecution because of their race, religion, beliefs, or homosexuality and, as a result of that persecution are presently suffering from illnesses or disabilities. Payments under this Act began January 1, 1973 and include four categories of benefits: periodic income payments, compensation for non-definable disability expenses (Dutch acronym, NMIK), reimbursement of persecution related disability expenses, and partial compensation for persecution related disability expenses.

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WUV payments are excluded from income. **Unspent payments are excluded from resources.**

8. Agent Orange Settlement Payment

Agent Orange settlement payments made in connection with the case of **In re Agent Orange Produce Liability Litigation** come from a fund created by manufacturers of Agent Orange **w**ho agreed to pay into a settlement fund. Payments began in March 1989. Qualifying veterans will receive at least one payment a year for the life of the program. Qualifying survivors of deceased veterans will receive a single lump sum payment.

Effective January 1, 1989, payments made from the Agent Orange settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from income **and resources.**

9. Radiation Exposure Compensation Trust Fund Payments

Fallout emitted during the U. S. Government's atmospheric nuclear testing in Nevada during the 1950's and during a brief period in 1962 exposed some individuals to doses of radiation that put their health at risk. In addition, some individuals employed in uranium mines during the period January 1, 1947 to December 31, 1971 were exposed to large doses of radiation. Public Law 101-426 created the Radiation Exposure Compensation Trust Fund (RECTF) and authorizes the Department of Justice (DOJ) to make compensation payments to individuals or their survivors who were found to have contracted certain diseases after the exposure. The payments will be made as a one-time lump sum. Generally, the exposure occurred in parts of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming.

Payments from the RECTF are excluded from income. **Unspent payments are excluded from resources.**

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9. Exclusion of Income from Individual Interests in Indian Trust or Restricted Lands

Native American income derived from tribal trust lands is lands is excluded by federal statutes. Individual interests of Native Americans in trust or restricted lands are excluded from resources. The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66), enacted August 10, 1993, further provides for an exclusion of income derived from those individual interest in Indian trust or restricted lands.

This income (often called individual Indian trust or least income) generally comes from interests in lands that were allotted to individual Indians many years ago. The income generated by those interests may be quite small since many of the original interests in allotted lands have fractionated over time, e.g. due to inheritance by multiple heirs over several generations.

Effective January 1, 1994, up to $2,000 per year in payments derived from individual interest in Indian trust or restricted lands is excluded from income. Such payments include any interest which accrues on these funds before being distributed or credited to an individual's account.

This exclusion applies to the income of an ineligible spouse or ineligible parent(s) in the deeming process.

For purposes of applying the $2,000 annual exclusion, for both eligibles and deemors, only payments received in months of eligibility count toward the $2,000 annual exclusion.

If that income exceeds $2,000 per calendar year, determine the month that the $2,000 annual exclusion was exceeded, and count the excess as unearned income in the months received.

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10. HIV/ Hemophiliac Settlement Payments

Settlement payments received as a result of a class settlement in the case of Susan Walker v. Bayer Corporation, et al, are excluded as income and resources in determining Medicaid eligibility**.** (This same exclusion does not apply for SSI purposes.) This case involved hemophiliacs who contracted the HIV virus from contaminated blood products. Section 4735 of the Balanced Budget Act of 1997 mandates this income/resource exclusion for Medicaid applicants/recipients.

Interest earned on settlement payments count as unearned income unless the settlement is placed in an approved Special Needs Trust.

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D. EXCLUSIONS INVOLVING ASSISTANCE PROGRAMS

The following is a discussion of payments from certain assistance programs and the excludability of the assistance.

1. Low Income Energy Assistance

Through a block grant, the Federal Government provides funds to states for energy assistance (including weatherization) to low income households. The assistance may be provided by a variety of agencies and known by a variety of names. It is most often provided in a medium other than cash but may be in cash.

Home energy assistance payments or allowances provided under subchapter II of chapter 94, title 42 of the U. S. Code are <u>excluded from income and resources</u>.

2. Home Energy Assistance and Support Maintenance

Home energy assistance is any assistance related to meeting the costs of heating or cooling a home. It includes such items as payments for utility service or bulk fuels, assistance in kind such as portable heaters, fans, blankets, storm doors, or other items which help reduce the costs of heating and cooling such as conservation or weatherization materials and services.

Home energy or support and maintenance assistance is excluded from income **and resources** if it is certified in writing by the appropriate State agency to be both based on need and:

- provided **in kind** by a private nonprofit agency; or,

- provided in cash or in kind by a supplier or home heating oil or gas.

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3. Action Programs/ Domestic Volunteer

The Federal government through the ACTION, the Federal domestic volunteer agency, is involved in a number of volunteer service programs including:

- Volunteers in Service to America (VISTA);
- University Year for ACTION (UYA);
- Special and Demonstration Volunteer Programs;
- Retired Senior Volunteer Program (RSVP);
- Foster Grandparent Program;
- Senior Companion Program.

Payments to volunteers under chapter 66 title 42 of the U. S. Code Domestic Volunteer Services (ACTION programs) are excluded from income and resources.

4. Disaster Assistance-Presidentially Declared Disaster

At the request of a State governor, the President may declare a major disaster when the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and local governments, and Federal assistance is needed. Disasters include such things as hurricanes, tornadoes, floods, earthquakes, volcano eruptions, landslides, snowstorms, drought, etc.

Assistance provided to victims of a presidentially-declared disaster includes assistance from:

- Federal programs and agencies;
- joint Federal and State programs;
- State or local government programs;
- private organizations (e.g., the Red Cross).

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The value of support and maintenance in cash or in-kind is excluded from countable income. **If assistance is excluded from income, any unspent assistance is permanently excluded from resources.**

5. Federal Housing Assistance

The Federal Government through the Office of Housing and Urban Development (HUD) and the Farmers Home Administration (FMHA) provides many forms of housing assistance including:

- subsidized housing (e.g., public housing, reduced rent, cash towards utilities, etc.)
- loans for renovations;
- loans for construction, improvement, or replacement of farm homes and other buildings;
- mortgage or investment insurance;
- guaranteed loans and mortgages.

This assistance may be provided directly by the Federal Government or through other entities such as local housing authorities, nonprofit organizations, etc.

The value of any assistance paid with respect to a dwelling unit is excluded from income and resources if paid through HUD or FMHA.

6. Federal Food Programs

The value of food or assistance provided through the following programs is excluded from income and resources:

- Food Stamp Program
- School Lunch Programs
- Child Nutrition Programs
- Nutrition Programs for Older Americans

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7. Programs for Older Americans

The Federal Government through the Administration on Aging is involved in a variety of programs for older Americans. The programs may be operated by State of local governments or community organizations. Some types of programs are health services, nutrition services, legal assistance and community service department.

Anything provided under chapter 35 of title 42 of the U. S. Code, Programs for Older Americans, other than a wage or salary is excluded from income.

8. Relocation Assistance

Relocation assistance is provided to persons displaced by projects which acquire real property. The following types of reimbursement, allowances, and help are provided:

- moving expenses;
- reimbursement for losses of tangible property;
- expenses of looking for a business or farm;
- displacement allowances;
- amounts required to replace a dwelling which exceed the agency's acquisition cost for the prior dwelling;
- compensation for increased interest costs and other debt service costs of replacement dwelling (if it is encumbered by a mortgage);
- expenses for closing costs (but not prepaid expenses) on replacement dwelling (if it is encumbered by a mortgage);
- rental expenses for displaced tenants;

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- amounts for down payments on replacement housing for tenants who decide to buy;

- mortgage insurance through Federal programs with waiver of requirements of age, physical condition, personal characteristics, etc., which borrowers must usually meet; and

- direct provision of replacement housing (as a last resort).

Relocation assistance provided by Federal, State or local funds to persons displaced by any Federal, State or local project is excluded from income. **Unspent payments are excluded from resources for 9 months following the month or receipt.**

9. Victims' Compensation Payments

Effective May 1, 1991, any payment received from a fund established by a State to aid victims of crime is excluded from is excluded from income. **Unspent payments are excluded from resources for 9 months following the month of receipt.**

INCOME

INCOME EXCLUSIONS

10. Job Training Partnership Act

The purpose of the Job Training Partnership Act (JTPA) is to prepare individuals for entry into the labor force. JTPA funding is much like a block grant and programs will vary among States and among areas within States. JTPA payments may be called "needs-based" for JTPA purposes but are not "income based on need" or "assistance based on need" for SSI/Medicaid purposes. JTPA payments may be in cash or in kind, and participants in JTPA may receive supportive services in cash or in kind. Usually, adult participants receive only supportive services.

JTPA payments are subject to the general rules pertaining to income and income exclusions.

- Assume that supportive services such as child care, transportation, medical care, meals, and other reasonable expenses, provided in cash or in kind, are social services and not income.

- Items such as salaries, stipends, incentive payments, etc., must be evaluated under the general rules of unearned and earned income.

11. AmeriCorps & National Civilian Community Corps

Part of AmeriCorps, the new National Civilian Community Corps (NCCC) was created in 1993 as a residential service program for young adults between the ages of 18 and 24 in which participants provide work teams for a variety of community service projects.

Participants of AmeriCorps and NCCC receive a stipend or living allowance generally based on minimum wage requirements. Participants also are eligible to receive an educational award made after the completion of a specified term of service. The educational award is for educational assistance only and must be applied to college tuition, vocational training or outstanding college loans. The educational award must be paid by AmeriCorps or NCCC directly to an educational institution or to a loan-holder for repayment of a student educational loan.

INCOME

INCOME EXCLUSIONS

Instead of an educational award, AmeriCorps and NCCC participants may, with the approval of the director of CNCS, receive an alternative benefit. The alternative payment for NCCC members is equal to one-half the amount of any educational award and is paid directly to the participant.

The treatment of payments made under AmeriCorps and NCCC is determined by the type of payment.

Stipends or living allowance payments are wages and are subject to the general rules regarding wages and earned income exclusions.

Any food or shelter received by participants is not wages, but is unearned income in the form of in-kind support and maintenance (ISM) subject to the presumed maximum value (PMV), if appropriate.

Any clothing allowance payments are unearned income and subject to the general rules regarding unearned income and exclusions.

Participants are considered to be living in their own household. Temporary absence rules do not apply for living arrangement purposes.

Educational awards are wages when credited to the educational institution or loan-holder for repayment of a student educational loan, and subject to the general rules regarding wages and earned income exclusions.

Any payments made as an alternative to educational awards are wages and are subject to the general rules regarding wages and earned income exclusions.

INCOME

INCOME EXCLUSIONS

12. Dividends, Interest Royalties

Effective 07-01-99, up to $5.00 per month is excluded from countable income. The $5.00 exclusion includes either dividends interest, royalties or a combination of the three income types. Not more than $5.00 can be excluded per person.

INCOME

UNEARNED INCOME

A. GENERAL

Unearned income is all income that is not earned income.

The monthly amount of any unearned income must be determined and verified for all applicants and recipients except in cases where ineligibility results from another factor of eligibility. Verification of unearned income will normally be by documentation from the source of the unearned income. Another means of verification may be used only if the source and the amount of unearned income can be clearly established. The case record will clearly show the method and particulars of the verification used to establish the unearned income.

B. AMOUNT OF UNEARNED INCOME

The amount of unearned income which must be counted in determining eligibility for Medicaid is the gross amount due the client. The exception to this rule is that the gross amount of unearned income may be reduced by certain expenses incurred to obtain that income. The most common expenses of this type are attorney fees; however, there are others. Fees for medical examinations, legal papers, proofs of relationship, birth and death, filing fees, etc., can be involved in securing income and diminish the amount which is countable. Proof of having incurred the expense (bills, canceled checks, money orders, etc.) is required.

Deduct excludable expenses from the first and subsequent payments until completely offset. Excludable expenses may occur in periods prior to the receipt of income. All excludable expenses can be offset against the income when it is actually or constructively received.

INCOME

UNEARNED INCOME

1. Deductions Other Than Expenses

Any income deducted from the gross amount of unearned income which are not incurred expenses in obtaining the the income as outlined above, must be counted as income in in determining eligibility, such as:

a. Overpayment Recovery

Amounts withheld by Title II and other programs to recover overpayments are counted as unearned income.

This policy applies to income received by an applicant/recipient as well as to persons whose income is subject to deeming.

b. Taxes Withheld

Taxes withheld from unearned income are counted as unearned income in determining eligibility.

c. Other Deductions

Amounts withheld for pension fund contributions, garnishments, child support or optional deductions, such as life or medical insurance premiums, savings bonds or accounts, are counted as unearned income in determining eligibility.

2. Return of Money Previously Deducted

If any of these deductions listed above are later returned to an individual by the original source or the agency or organization to which the deducted amounts are transferred (e.g., governmental tax collection unit), the refunds cannot again be income but can be available resources when received and would be counted if retained into the following month.

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UNEARNED INCOME

3. Payments In Foreign Currency

Occasionally, an individual receives income tendered to him/her in a monetary unit other than U. S. dollars. This usually will be in the form of a check or a direct deposit to a bank. The U. S. dollar value of a payment made in foreign currency, less expenses, is income.

Foreign currency payments are counted as income when received unless the individual can establish that the payment was received too late in the month for conversion prior to the following month.

Use a check or documents in the individual's possession to verify receipt of a foreign payment and the amount in foreign currency. If the payment is made directly to a bank, the bank may provide a statement of the amount received.

Verify the exchange rate for conversion of the foreign currency into U. S. dollars using a receipt for the individual's last exchange or a telephone call to a local bank or currency exchange. Use the established exchange rate until the next redetermination or until a change is reported/verified.

INCOME

UNEARNED INCOME

C. BROAD CATEGORIES OF UNEARNED INCOME

The following is a discussion of broad categories of unearned income and the treatment of that income.

1. Annuities, Pensions, Retirement or Disability

An annuity is a sum paid yearly or at other specific times in return for the payment of a fixed sum. Annuities may be purchased by an individual or by an employer.

Pensions and retirement benefits are payments to a worker following his retirement from employment. These payments may be paid directly by a former employer, by a trust fund, an insurance company, or other entity.

Disability benefits are payments made because of injury or other disability.

Annuities, pensions, retirement benefits and disability benefits are unearned income. Exception: Certain accident disability benefits paid within the first 6 months after the month an employee last worked are earned income. Refer to the Earned Income subsection.

Verify the source, type, amount and frequency of the payment by award letters or other documents in the individuals' possession or contact the organization making the payment.

2. Deemed Income

Deemed income is unearned income attributed to an applicant/recipient from an ineligible spouse or parent. Deeming only applies in household situations. For a complete discussion of deemed income, refer to "Income Computations."

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3. Income Based On Need (IBON)

Income based on need is assistance:

- provided under a program which uses income as a factor of eligibility; and,
- funded wholly or partially by the Federal government or a nongovernmental agency (e.g., Catholic Charities or the Salvation Army) for the purpose of meeting basic needs.

Income based on need received by an applicant or recipient is unearned income that is not subject to the $50 general exclusion. If received by the client, the income based on need is counted in its entirety. However, income based on need received by an ineligible spouse, parent, or child, is never deemed to the client. Refer to the discussion on "Deemed Income."

4. Assistance Based On Need (ABON)

Assistance based on need is assistance:

- provided under a program which uses income as a factor of eligibility; and
- funded wholly by a State (including the District of Columbia, Indian tribes and the Northern Mariana Islands), a political subdivision of a State, or a combination of such jurisdictions.

Assistance based on need is excluded from income.

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5. **Work Relief (Workfare) Programs**

Many governmental assistance programs require the certain recipients work in exchange for the assistance provided. provided. Most often the amount of the assistance payment is divided by the minimum wage and the recipient required to perform some service for the resulting number of hours. Usually a participant in such a work program is given money to cover any expenses incurred (e.g., carfare, special clothing, miscellaneous, etc.) Programs connected with general assistance have various locally established names. Programs connected with AFDC include the Community Work Experience Program (CWEP), and the Work Incentive Program (WIN). Programs are often run as demonstrations or pilot projects.

The fact that an individual is required to work in exchange for an income based on need or assistance based on need payment does not change the nature of the payment. For SSI/Medicaid purposes, the payment in such situations is an assistance payment and is not earned income.

6. **Federal Emergency Management Agency (FEMA) Programs**

Through a national board chaired by the Federal Emergency Management Agency (FEMA) and local boards, funds are provided to private nonprofit organizations and State and local governmental entities for the purpose of providing emergency food and shelter to needy individuals. The entity receiving these funds decides how they will be best used (e.g., to buy beds and blankets, to stock a soup kitchen or to pay an individual's rent). The Federal funds are not provided to meet ongoing basic needs.

Assistance involving FEMA funds is subject to the general rules pertaining to income and income exclusions. It is neither IBON nor ABON.

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7. Community Service Block Grants

The Department of Health and Human Services makes community service block grants to States to provide a broad range of services and activities to assist low-income individuals and alleviate the causes of poverty in a community. States may subsequently make grants or enter into contracts with private nonprofit organizations or political subdivisions.

Assistance involving community service block grants is subject to the general rules pertaining to income.

8. Refugee Cash Assistance

Refugee Cash Assistance and Cuban and Haitian Entrant Cash Assistance are federally funded programs which make on-going needs-based payments to refugees during their first 18 months in the United States. The payments are made by the State or local government basically according to AFDC standards and rules, although there need not be a child involved. The Federal government will also reimburse States and localities for any general assistance payments made to refugees during their second 19-31 months in the United States.

Refugee Cash Assistance, Cuban and Haitian Entrant Cash Assistance and federally reimbursed general assistance payments to refugees are federally funded income based on need and, unless excluded under a PASS, are counted dollar for dollar as income. The $50 general income exclusion does not apply to this income.

9. Refugee Reception & Placement Grants

Federal funds are provided to national voluntary refugee resettlement agencies such as Catholic Charities or the Hebrew Immigrant Aid Society, which provide services including food, clothing and shelter) related to initial resettlement of new refugees. Assistance involving these funds will usually be received during the first 30 days after the refugee arrives in this country.

Assistance involving a refugee reception and placement grant or a refugee matching grant is subject to the general rules pertaining to income and income exclusions.

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10. Bureau of Indian Affairs General Assistance

Bureau of Indian Affairs General Assistance (BIA GA is a federally funded program administered by the Bureau of Indian Affairs (BIA) through its local agency (usually the tribe). The program makes periodic payments to needy Indians.

BIA determines need according to the standards used by State welfare agencies for Aid to Families with Dependent Children (AFDC).

BIA GA payments are federally funded income based on need and, therefore, count as income on a dollar-for-dollar basis regardless of whether they are paid in cash or in kind. The $20 per month general income exclusion does not apply.

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UNEARNED INCOME

D. BENEFITS PAID BY THE SOCIAL SECURITY ADMINISTRATION

The following benefits are paid by the Social Security Administration (SSA) and are counted as unearned income:

1. RSDI & Prouty Benefits

RSDI (Retirement, Survivors and Disability Insurance) benefits are paid under title II of the Social Security Act.

Prouty benefits are a special monthly benefit paid to certain persons who reached age 72 before 1968 who are not insured for regular monthly benefits.

The full amount of the monthly benefit to or on behalf of the designed beneficiary is unearned income.

The amount of premiums deducted for the optional Supplemental Medical Insurance (SMI) under Medicare from RSDI benefits is included in unearned income. Do not charge refunded SMI premiums as unearned income.

Overpayments recovered from SSA benefits are included as income in determining eligibility for Medicaid. Refer to "Determining Amount of Unearned Income" for further discussion of overpayments.

Lump-sum payments made by SSA, such as retroactive Social Security benefits or death benefits paid to a surviving spouse, are treated as unearned income in the month of receipt with the exception of the following:

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Retroactive Social Security benefits paid to an individual who also received SSI for the same period will have the retroactive Social Security benefit reduced by an amount equal to the amount of SSI payments that would not have been paid if Social Security benefits had been paid when due. The balance due the beneficiary after the reduction of the retroactive payment is not income for SSI purposes. This is the only exception to the SSI rule of counting unearned income when received.

Any retroactive Social Security benefits paid for periods prior to SSI entitlement are not subject to the reduction and are considered income when received. The award letter issued to the recipient will specify the offset amount. Any payment over and above this amount is income in the month received. If the award letter is not available, contact SSA for assistance.

2. Resource Exclusion for Retroactive Payments

Retroactive SSI benefits are any SSI benefits issued in any month after the calendar month for which they are paid. Benefits for January that are issued in February are retroactive.

Retroactive RSDI benefits are those issued in any month that is more than a month after the calendar month for which they are paid. RSDI benefits for January that are issued in February are not retroactive, but RSDI benefits for January that are issued in March are retroactive.

The unspent portion of retroactive SSI and RSDI benefits is excluded from resources for the 6 calendar months following the month in which the individual receives the benefits.

3. SSA Benefits-Reductions, Deductions, Rounding & Verification

The title II benefit payable to a beneficiary is rounded at difference points in the computation process by SSA. Charge as income the amount of title II shown as the "Gross" benefit amount on the Third Party Query (TPQY) or the BENDEX which is the amount of the benefit after rounding but before the Medicare premium is deducted.

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Exceptions:

a. Rounding does not apply to Prouty benefits. The gross benefit shown is the amount counted as income for all J1 or K1 beneficiaries.

b. For Medicaid applicants entitled to Medicare who are not already enrolled in State buy-in, the Gross Benefit Amount payable prior to State buy-in of the Part B premium is less than the benefit payable after State buy-in occurs. To account for this difference, the "Gross" amount shown on the TPQY must be rounded up to the nearest dollar to determine the amount of title II to count as income. For example: If the TPQY "Gross Benefit Amount" shows $487.90 at the time of application, the amount to charge as income is $488.

c. If a title II monthly benefit is reduced because of a worker's compensation offset, charge the net amount of the title II benefit received plus any SMI premium withheld as unearned income. A title II benefit is reduced dollar for dollar in the amount of any monthly worker's compensation paid.

Verify title II benefits and/or Medicare entitlement by on-line viewing of BENDEX or obtain a TPQY response. If available, examine evidence the client may possess, such as an award letter or adjustment letter and make copies for the record if appropriate.

4. Mandatory State Supplement

Aged, blind and disabled individuals converted from State Welfare roles are deemed to have filed for SSI beginning January 1, 1974. Converted recipients receive SSI and a Mandatory State Supplement (MSS) to maintain the 12/73 income levels of former assistance recipients. Certain recipients may receive MSS without an SSI payment.

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The SSA administers MSS payments in Mississippi. MSS payments are included with SSI benefits each month or paid separately if the individual does not receive SSI. A MSS payment is shown on a TPQY as a "State Amount" and is treated the same as Income Based on Need for Income purposes.

5. Black Lung Benefits

Black Lung (BL) benefits are paid to miners and their survivors under the provisions of the Federal Mine Safety and Health Act (FMSHA).

Benefits under **Part B** of the FMSHA are paid by the **Social Security Administration** (SSA) and benefits under **Part C** of the FMSHA are paid by the **Department of Labor** (DOL).

In general, Part B benefits are paid on the third of the month while Part C benefits are paid on the fifteenth of the month.

Both Part B and Part C Bl benefits are subject to offsets (e.g., workers' compensation) and can be reduced due to the recovery of an overpayment. In addition, Part C benefits may be reduced because of liens imposed by other Federal agencies (such as the Internal Revenue Service).

The amount deducted from a Part C BL benefit because of garnishment (e.g., liens imposed by other Federal agencies) is unearned income. The amount of the BL benefit to charge as income is the amount paid after application of an offset (i.e. workers compensation offset) but before the collection of any obligations of the recipient.

Verify the receipt of Part B Black Lung benefits via on-line viewing of BENDEX or TPQY response. Verify the receipt of Part C with the individual's own records, such as an award notice and check, if available. Contact the Department of Labor if information from the client is unavailable.

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E. DEPARTMENT OF VETERANS AFFAIRS PAYMENTS (VA BENEFITS)

The Department of Veterans Affairs (VA) has numerous programs which make payments to SSI/Medicaid recipients and their families. For SSI/Medicaid purposes, treatment of VA payments depends on the nature of the payments. The most common types are pensions, compensation, educational assistance, aid and attendance allowance, housebound allowance, clothing allowance, and payment adjustments for unusual medical expenses. Each type of payment is discussed in this subsection.

Explore the possibility of receipt of, or potential eligibility for, a VA payment, whenever it becomes known that an applicant or recipient is:

a. a veteran;

b. the child or spouse of a disabled or deceased service person or veteran;

c. an unmarried widow or widower of a deceased service person or veteran (be alert to previous spouses who were veterans);

d. the parent of a service person or veteran who died before January 1, 1957 from a service-connected cause.

NOTE: The Utilization of Other Benefits Provision specifies that an applicant or recipient who is potentially eligible for certain VA benefits must apply for those benefits as a condition of eligibility.

1. VA Pensions

VA pension payments are made on the basis of a combination of service and an age of 65 or over, a nonservice-connected disability or death. With a few rare exceptions noted below, VA pension payments are also based on need.

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UNEARNED INCOME

The VA may take dependents' needs into account in determining a pension. However, normally the VA will not make a pension payment directly to a dependent during the lifetime of the veteran. Instead, the amount of the veteran's basic pension is increased if the veteran has dependents. A VA pension payment that has been increased for dependents is called an augmented VA payment. A VA pension payment made directly to the dependent of a living veteran is called an apportioned payment. These types of payments are discussed later in this subsection.

VA pension payments are usually made on a monthly basis; however, when the payment due is small, the VA will pay quarterly, biannually or annually. The VA may also make an extra payment if an underpayment is due. VA payments made less frequently than monthly are income in the month received for eligibility purposes.

All VA pension payments except those listed below are federally funded income based on need. As such, the $50 general income exclusion does not apply. Pensions paid to veterans or their dependents on the basis of:

- a Medal of Honor; or

- a Special Act of Congress

are unearned income but are <u>not</u> needs based. Therefore, the $20 general exclusion applies to these payments.

The Veterans and Survivors Pension Improvement Act (referred to as VA Improved Pension) was signed into law October, 1978 with an effective date of January, 1979. The major change was in the method of determining the pension payable. The new rates of payment are not automatic: therefore, the veteran or survivor must file an application with

VA to establish entitlement. In the majority of cases, entitlement under the improved pension results in increased payments; therefore, recipients who receive benefits under old VA law <u>must</u> file for the improved pension as a factor of eligibility under the utilization of other benefits provision. If approved for the improved pension, the client <u>must</u> accept the improved pension if it results in increased payments. If accepting the improved pensions results in less money, the client is not required to accept.

2. VA Compensation Payments

Compensation payments are made by the VA to a veteran because of a service-connected disability or to a widow, widower, child or parent of a veteran because of the service-connected death of a veteran. VA compensation payments are <u>not</u> based on need except in two instances:

a. Death compensation to parents, and

b. Dependency and indemnity compensation (DIC) paid to parents.

Eligibility for death compensation and DIC is determined by the parents' income; therefore, these types of payments <u>are</u> based on need and the $50 general exclusion does not apply.

A living veteran's compensation payment may be increased (augmented) for dependents. In unusual circumstances, a VA compensation payment may be made directly to the dependent of a living veteran (apportioned). Refer to the discussion later in this subsection on augmented VA payments.

3. VA Educational Benefits

The VA provides educational assistance under a number of different programs including vocational rehabilitation. Depending on the nature of the VA program, different SSI income and resource policies apply.

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Generally, veterans have 10 years after leaving the service to complete their education and 12 years to complete a program of vocational rehabilitation. Payments are usually made on a monthly basis only for months in which the veteran is in school. However, if school attendance is less than half time, the payments may be made less frequently. Dependents and survivors of veterans may also be eligible for educational benefits.

Some programs are "contributory." That is, the money is contributed to an educational fund and the government matches the money when it is withdrawn while the veteran is pursuing an education. The veteran has the right to withdraw as a lump sum the funds he has contributed.

The following policy principles apply when educational benefits are involved:

- Payments made as part of a VA program of vocational rehabilitation are not income. Subsistence allowances received during vocational rehabilitation may be augmented but the augmentation is not income.

- Any VA educational benefit payment or portion of such a payment which is funded by the government and is not part of a program of vocational rehabilitation is unearned income.

- Any portion of a VA educational benefit payment which is a withdrawal of the veteran's own contributions is a conversion of a resource and is not income.

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- If payments are made under a contributory program or the nature of the program is in question, obtain evidence of the following:

    a. The amount of the veteran's contributions remaining in the fund that can be withdrawn as a lump sum.

    b. The portion of any VA educational benefit payment that is a withdrawal of the veteran's contributions to the fund.

4. VA Aid and Attendance and Housebound Allowances

The VA pays an allowance to veterans, spouses of disabled veterans and surviving spouses who are in regular need of the aid and attendance of another person or are housebound. This allowance will be combined with the individual's pension or compensation payment. VA Aid and Attendance (A&A) and household allowances are not income for eligibility purposes and must be excluded from the total VA payment when determining eligibility; however, A&A is a third party medical payment to be added to an institutionalized client's Medicaid Income through June 30, 1994. Effective July 1, 1994, VA A&A is no longer considered a third party medical payment.

Anyone in a nursing home who receives a VA benefit is potentially eligible for Aid and Attendance <u>except</u>:

- Individuals drawing a "child's" benefit. If an individual becomes disabled prior to age 18, he/she draws a child's benefit which continues into the adult years. A recipient of a VA child's benefit is not eligible for A & A.

- Individuals drawing only VA Insurance benefits. <u>Usually</u> someone who draws a VA Insurance benefit will also receive a DIC benefit; however, it is possible for someone to receive only the VA Insurance benefit. If an individual draws only VA Insurance benefits, that person is not eligible for A&A.

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UNEARNED INCOME

A nursing home applicant potentially eligible for VA Aid and Attendance must be advised in writing to apply for the payment. However, as specified in the "Utilization of Other Benefits" policy provision, the penalty for failure to apply for the benefit is not applicable when the only benefit involved is VA A & A.

5. VA Clothing Allowance

A lump sum clothing allowance is payable in August of each year to a veteran with a service-connected disability for which a prosthetic or orthopedic appliance (including a wheelchair) is used. The allowance is intended to help defray the increased cost of clothing due to wear and tear caused by the use of such appliances.

A VA clothing allowance related to use of a prosthetic or orthopedic appliance is not income for eligibility or Medicaid Income purposes.

6. VA Payment Adjustment for UME (Unusual Medical Expenses

VA considers unusual medical expenses (UME) when determining some needs-based pension and compensation payments. (Unusual medical expenses are expenses that exceed 5 percent of the maximum annual VA payment rate.) VA does this by deducting UME from any countable income. UME may result in a higher monthly VA payment, <u>an extra payment</u>, or an increase in an extra payment.

a. <u>Policy in effect through June 30, 1994</u>

An increase in a needs-based VA pension or compensation payment which is the result of UME is income whether included with the regular VA payment or paid as a separate payment. The increase related UME is a pension or compensation payment.

Claiming UME is part of the VA Improved Pension application process. If claiming UME will result in a higher benefit, then an applicant or recipient must claim these expenses whether the client lives at-home or in a nursing facility, as part of the Utilization of Other Benefits provision.

Note: There are instances where VA will not increase payments resulting from UME when a veteran enters a nursing home. One instance is due to Spousal Impoverishment rules that allow a Medicaid eligible Institutionalized Spouse (IS) to allocate his/her income to a Community Spouse (CS). The VA will not increase payments when a veteran will be allocating income to a CS. Form DOM-318 is used to notify the VA of any nursing home case involving a veteran IS allocating monthly income to a CS.

b. Policy effective July 1, 1994

Effective 07-01-94, SSI/Medicaid policy will no longer consider VA payments resulting from UME as income for eligibility and Medicaid Income purposes. SSI/Medicaid will consider such payments as reimbursements for medical expenses or services that are excluded from the definition of income.

Note: This change will affect the deeming process for certain individuals. The income of an ineligible spouse or parent who receives income based on need is not deemed to an eligible spouse or child in at-home cases. Needs-based pension and needs-based compensation payments are currently non-deemable income along with any other income of the ineligible. However, if an ineligible spouse or parent receives a VA payment that is only attributed to UME or A & A, then receipt of such payment will result in deeming the remaining income of the ineligible to the eligible. For example, if an ineligible spouse receives Social Security and VA and the VA is attributed solely to UME, then the ineligible's Social Security would be deemable to the eligible spouse effective 07-01-94. If the ineligible receives a VA needs-based pension or needs-based compensation payment in addition to payment for UME, then all income of the ineligible will continue to be non-deemable.

c. Income Trust Cases With Basic VA Benefits

Effective 07/01/94, count only basic VA benefits (as verified by VA) as an Income Trust client's total income available to fund the Income Trust. Any UME/A & A that is not counted as income can be retained by the client and/or spouse. The Income Trust Detail Sheet would need to specify the amount of VA that is not income.

d. IS/CS Cases With Basic VA Benefits

For IS/CS cases whereby the IS receives UME/A & A that is not countable as income, effective 0/01/94 the CS will be allowed to receive the IS payment attributable to UME and A & A along with the CS allocation amount computed in the Medicaid Income Computation. If the CS is not entitled to Medicaid, the extra income will have no impact. However, if the CS is Medicaid eligible at-home, the income that represents UME and A & A payable to the IS is income to the CS. UME and A & A is disregarded as income only to the one entitled to the payment. When it becomes income available to a CS, it is income to the CS. If the income is given to anyone else, the possibility of a transfer of resources exists.

If the CS does not receive the income attributed to UME/A & A, then the possibility of excess resources building up for the IS exists and resources must be monitored closely.

7. VA Benefit Allocated to a Spouse Receiving IBON

In cases where the spouse of an applicant or recipient receives IBON (Income Based On Need as defined in Unearned Income), the source of the IBON may count a portion of the VA benefit as income to the spouse receiving the IBON. When this is the case, a deduction will be made from the VA benefit of the Medicaid client equal to the amount counted as income by the source of the IBON.

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Verify from the source of the IBON (not VA) the amount of the VA benefit counted as income to the spouse. This amount will be deducted from the countable VA benefit verified by VA.

For example, an applicant receives a VA pension and his spouse receives SSI. If SSI counts a portion of the VA pension as income in the spouse's SSI computation, then deduct the amount of the VA benefit verified by SSI as the SSI recipient's income.

8. VA Contract Patients in Nursing Facilities

Certain veterans qualify for VA contract payments which cover nursing home care for one to six months. The contract period begins with the date of nursing home placement and covers the date of admission but <u>not</u> the date the contract expires. For example, if a veteran is placed in a nursing facility under VA contract effective January 15, the contract will expire July 15 and VA will not reimburse the facility for the day of July 15.

It is possible for a service-connected veteran to be under VA contract in a nursing facility for an indefinite length of time. These individuals are not subject to the six-month limit for a VA contract as are nonservice-connected veterans.

Eligibility for Medicaid benefits other than nursing home reimbursement can begin prior to the date a VA contract expires, depending on the date application is filed and provided the applicant is eligible on all other factors. Reimbursement cannot begin until the date the VA contract expires. Do not count VA contract money paid to the nursing home as income to a MAO applicant. Although VA contract payments are a third party medical payment, it is not a payment subject to recovery by Medicaid.

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It is possible for a veteran's ongoing VA benefits to be reduced during the VA contract period and returned to the full amount the month following the expiration of the VA contract. When verifying VA income for eligibility purposes during a VA contract period, it is important to determine if reduced benefits are involved and to determine when full benefits will resume. Benefits are usually raised in the month following the month the VA contract ends.

9. Reduction in VA Pension for Veterans & Surviving Spouses in Nursing Homes

Public Law 101-508 (OBRA-90) amended 38 USC 3203 to limit paying improved pension to $90 per month for veterans having neither spouse nor child who are in a Medicaid approved nursing facility and who are covered by Medicaid. Effective October 1, 1992, the Veterans Benefit Act of 1992 (P.L. 102.568) extends the reduced pension payment to surviving spouses (widows or widowers of veterans in the same manner as the provision applies to a veteran. The $90 is a maximum payment; the payment can be less than $90. A reduced pension of $90 or less is not income for eligibility purposes. Since federal law prohibits counting the reduced pension toward the veteran's or surviving spouse's cost of care (Medicaid Income), the Personal Needs Allowance (PNA) for all client's receiving a reduced pension is equal to the pension payment. Refer to the "Personal Needs Allowance" budgeting policy for further discussion.

Single veterans and surviving spouses of veterans in nursing homes (with no dependents) who become Medicaid eligible must be referred to the VA to determine if their pension is subject to the $90 limit. The worker must set appropriate ticklers to check with VA to determine appropriate case action.

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10. Income Trust Cases & $90 VA Reduced Pension

When a client who is eligible for LTC Nursing Home coverage under an Income Trust becomes entitled to the $90 Reduced Pension and the client continues to need the Income Trust to remain eligible, do not count the $90 as income to the Income Trust client. The $90 pension is entered in MEDS as VA Reduced Pension and the remaining income of the client (which should continue to be $1 less than the Institutional Income limit) is shown as Trust Income. By doing this, the client will correctly receive the $90 PNA in the Medicaid Income computation. A new Income Trust Detail Sheet is required to show the $90 PNA.

When an Income Trust client's pension is reduced to $90 and this results in total countable income that no longer exceeds the Income limit, the Income Trust must be dissolved.

11. Payments to Vietnam Veterans' Children With Spina Bifida

Public Law 104-204 authorizes VA to provide benefits, including a monthly monetary allowance, to certain Vietnam veterans' children who suffer from spina bifida. Beginning after 10/01/97, VA will make monthly payments to or on behalf of certain Vietnam veterans' natural children, regardless of their age or marital status, for any disability resulting from spina bifida. These VA payments are excluded from income and resources for SSI Medicaid purposes. Interest earned on unspent payments is not excluded.

12. Determine Amount of VA Payment

Whether or not an entire VA payment is counted as income depends on the type of VA payment being made and the policy in effect in the month of the payment.

Overpayments recovered from VA benefits are included as income in determining eligibility and Medicaid Income. Refer to the discussion of "Amount of Unearned Income" for policy governing overpayments withheld from unearned income.

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Note: In cases where VA "suspends" VA Improved Pension benefits for failure to verify medical expenses, it is not correct to adjust the VA benefit to zero. VA benefits are only temporarily suspended and will be restored back to the date suspended when verification is received. The benefit in effect prior to the suspension date continues to count as income until VA benefits are restored because the recipient remains entitled to the VA benefit. Any lump sum retroactive VA payment to restore suspended benefits is not counted as income since the income has already been counted.

13. Augmented VA Payments

In some instances, the VA considers the number of dependents a veteran has in determining the amount of the veteran's or widow(er)'s benefit. Benefits which are increased because of dependents are termed "augmented" benefits. However, the presence of dependents in VA or SSA records does not necessarily mean a payment will be augmented. VA benefits which may be augmented are pensions, compensation and educational assistance. When a benefit is augmented, the augmentation (i.e., increase for dependent) may be included in the payment to the veteran or widow(er); or a payment may be made by apportionment (i.e., separate check to the dependent).

Augmented VA payments are income to the veteran. Apportioned VA payments are income to the dependent receiving the separate payment.

14. Verification of VA Payments

Verification of benefits paid by the VA is obtained by writing the appropriate VA Center. Written verification is obtained by use of the attached unnumbered VA form. These forms are mailed to:

Veterans' Service Division
VA Regional Office
1600 E. Woodrow Wilson Drive
Jackson, MS 39216

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This form is used to verify veterans' benefits for several veterans or surviving spouses on one form. VA will verify the "Total" benefit amount and the "Basic" amount if the total benefit includes UME and/or A & A. If there is a difference in the "Total" and the "Basic", use the amount entered by VA as the Basic payment as income. The difference in the two payments is attributable to UME or A & A, or both. VA will not provide a breakdown of A & A and UME since both are excluded from income.

If the "Type of Benefit" is pension and the "Total Benefit Amount" equals $90 and "$0" is entered as "Basic", then this indicates the client receives a $90 Reduced Pension.

Any amounts that VA enters as "Back Pay" will be basic amounts only.

To obtain written verification of VA Insurance benefits, write to:

VA Center
P. O. Box 8079
Philadelphia, MS 19101

Note: VA Insurance benefits do not change once the benefit amount has been determined. Therefore, once the benefit amount has been verified, it is not necessary to re-verify the benefit amount.

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F. OTHER MAJOR BENEFITS

The following is a discussion of other types of unearned income, in addition to Social Security and VA, considered a payment of a major benefit.

1. Railroad Retirement Benefits

There are 3 basic categories of payments made by the Railroad Retirement Board (RRB):

- Life and survivor annuities.

  Life annuities for retirement and disability are paid under the Railroad Retirement (RR) Act to the railroad employee and his/her spouse. Children of a living annuitant are not entitled to benefits.

  Survivor annuities are payable to widows, widowers, children, and dependent parents of railroad employees. A small number of widows receive two annuities, a regular widow's check and a check payable to them as designated survivors of retired railroad employees who elected to receive reduced benefits during their lifetimes.

  RR annuity payments are **similar to title II** benefits in that a check for one month is paid the next month. Also, cost of living adjustment (COLA) for RR annuities are effective the same month as title II COLA'S. However, since RRB benefits are computed on separate amounts, the COLA increase on the total may not be as high as for a title II benefit.

- Social Security benefits certified by RRB.

  SSA may authorize the payment of Social Security benefits for RR employees to RRB instead of directly to Treasury. Although RRB in these situations has responsibility for certifying title II benefits to Treasury, they remain title II benefits.

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Individuals entitled to this type of benefit receive two award notices. The first notice, from SSA, informs the beneficiary that RRB has responsibility for making Social Security payments. The final notice, from RRB, specifies the amount of the first check.

RR annuity payments and Social Security benefits certified by RRB may be paid as a single check. In these cases, RRB may issue an interim notice before the final notice which specifies the amount of the first check.

- Unemployment, sickness and strike benefits.

  Unemployment, sickness, and strike benefits are computed on a daily basis with each check covering a period of up to 2 weeks. These claims are usually filed through the railroad employer or directly with RRB in Chicago.

Payments made by the RRB are unearned income. A Medicare premium deducted from a RRB check is added to the check payment amount to determine total income.

Overpayments recovered from RRB benefits are included as income in determining eligibility for Medicaid. Refer to the discussion of "Amount of Unearned Income" for policy governing overpayments withheld from unearned income.

Contact the Railroad Retirement Board for verification of benefits. Offices and addresses are listed in the Appendix.

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2. Government Pensions and Retirement Payments

Payments made to former employees, their dependent(s) or survivor(s) by Federal, State or local governments, including foreign governments, are unearned income. Examples include Civil Service Retirement, State Retirement and Municipal Retirement.

Verify the amount of the retirement benefit by award letters or other documents in the individual's possession or contact the agency which is the source of the payment. It is not permissible to verify payment amounts by viewing the actual check because optional deductions are usually available to the recipient which are not allowable deductions for SSI/Medicaid purposes. The full amount of the benefits which the recipient is entitled to receive is counted as income as outlined in "Amount of Unearned Income."

Civil Service Retirement

Civil Service Retirement adjustment notices may show an amount under "Monthly Health Benefits" which is an addition to the gross amount of the benefit rather than a deduction. This occurs whenever the beneficiary of the benefit refuses the Federal health insurance offered. Civil Service adds an amount which is a health insurance "allowable." The recipient may use the extra amount toward the purchase of private health insurance. However, this addition to the gross amount is counted as income. This is one instance where net proceeds count rather than the gross amount, since the net is more.

To verify Federal Civil Service Retirement Benefits, a long distance Washington, D. C. number (not toll free) is available. The number is (412) 794-8442. direct written inquiries to:

Office of Personnel management
Employee Service and Records Center
Claims Correspondence Section
Boers, PA 16017

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State Retirement

Certain State retirees (including those drawing benefits from a deceased spouse's record) are eligible to receive a 13th check each year in addition to their regular monthly check which is referred to as a bonus check. The bonus check, which is usually issued each December 15, is computed on a percentage basis multiplied by the number of years retired and the annual income received.

The 13th check is counted as income each December to determine eligibility for the month of December. If a client is eligible based on receipt of the bonus check, the bonus payment may be averaged in the Medicaid Income computation as per budgeting instructions.

To ensure that each affected recipient has the bonus check counted as income in the month of December, a tickler must be set for each November 1 for each recipient of a State retirement check. The purpose of the tickler is to anticipate the bonus check based on the amount of the previous year's bonus check amount, as verified by the Public Employees' Retirement System Office.

Note: Whenever eligibility is approved for a State retirement recipient after the month of December of each year, the worker must verify the most recent bonus check amount. This is necessary so that the amount of the previous year's bonus check can be anticipated as income the following December, as outlined above.

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3. Unemployment Insurance Benefits

Unemployment insurance benefits, also known as unemployment compensation, means payments received under a State or Federal unemployment law and additional amounts paid by unions or employers as unemployment benefits. Unemployment insurance benefits are unearned income.

Workers should routinely check for unemployment benefits for applicants or recipients with recent work history.

Form DOM-334 will be used to verify Unemployment Compensation benefits. Refer to the Appendix for a listing of the addresses of local Employment Offices. The DOM-334 should be mailed to the local Employment Office which serves the county in which the applicant or recipient resides.

4. Workers' Compensation

Workers' compensation (WC) payments are awarded to an injured employee or his/her survivor(s) under Federal and State WC laws, such as the Longshoremen and Harbor Workers' Compensation Act. The payments may be made by a Federal or State agency, an insurance company, or an employer.

The WC payment less any expenses incurred in getting the payment is unearned income.

Any portion of a WC award or payment that the authorizing or paying agency designates for medical expenses or legal or other expenses attributable to obtaining the WC award is not income. The expenses may be past, current, or future. The WC payments designated for such expenses may be received in a lump sum or as a continuing payment.

Regional office staff needing information concerning an individual's WC benefits should send DOM-333 and a signed DOM-301 to the State Office giving all pertinent facts and identifying information. All inquiries must come through the State Office as the Workers' Compensation agency will not fill individual written requests.

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5. Military Pensions

The Air Force, Army, Marine Corps, and Navy pay military pensions to military retirees and survivors normally on the first day of the month.

There are three categories of beneficiaries who may be entitled to military payments:

- **RETIREE** - A person with 20 years of service who meets the requirements for entitlement;

- **ANNUITANT -** A survivor who is designated by the retiree to receive benefits upon the death of the retiree under the Retired Serviceman's Family Protection Plan (RSFPP), Survivor's Benefit Plan (SBP), or both;

- **ALLOTTEE -** Anyone other than an annuitant of the RSFPP or SBP who is designated to receive money out of the service member's or retiree's check. Entitlement as an allottee terminates upon the death of the retiree. However, an allottee can become an annuitant when the retiree dies.

The RSFPP and SBP annuitant programs pay money to surviving spouse(s) and children.

The SBP program also pays:

- "Insurable interest" persons: i.e., someone other than a surviving spouse or child that a service member designated to receive survivor benefits based on monies withheld from his or her retirement payment under the provisions of the SBP program; and,

- Minimum income level widows (MIW) who are certified by the VA as having low income and are referred by the Department of Defense (DOD).

Military pensions are unearned income. Payments to MIW's are income based on need not subject to the $20 general income exclusion.

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The following addresses and phone numbers will verify military retirement and annuity payments for all branches of service except the Coast Guard:

Defense Finance and Accounting Service
Directorate for Retired Pay (CodeRO)
P. O. Box 99191
Cleveland, Ohio 44199-1126
Phone: 1-800-321-1080
Fax: 1-800-469-6559

For verification of Military Retiree Annuity Payments, mail the DOM-301 to the following address:

De-fas-DE/FRB
6760 E Irvington Place
Denver, CO 80279-6000
Phone: 1-800-435-3396

For verification of Coast Guard Retirement call the following number:

1-800-424-7950 or 913-295-2657

When calling, state the retiree's name and Social Security Number to obtain benefit information.

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G. PAYMENTS FOR CHILDREN & SPOUSES

The following types of unearned income are made for or on behalf of children and/or spouses.

1. TANF Payments

TANF (Temporary Assistance for Needy Families), formerly AFDC (Aid to Families With Dependent Children), makes a payment to a family unit rather than an individual. The payment is frequently referred to as a "grant." An individual who meets the eligibility requirements for both TANF and SSI may choose the program under which he/she prefers to receive benefits. However, if the individual receives SSI, he/she may no longer be included in the TANF grant.

TANF payments are federally funded income based on need and are counted dollar for dollar as income. The $20 general income exclusion does not apply to this income.

2. Foster Care

An individual is considered to be in foster care when:

a. a public or private nonprofit agency (i.e., one which is tax exempt under section 501(a) of the Internal Revenue Code) places the individual under a specific placement program; and

b. the placement is in a home or facility which is licensed or otherwise approved by the State to provide care; and

c. the placing agency retains responsibility for continuing supervision of the need for such placement and the care provided.

A foster care payment is a payment made to the provider for the purpose of meeting the needs of the individual in foster care. Foster care payments made to a provider of foster care are <u>not</u> income to the provider.

Foster care payments made under title IV-E are federally funded income based on need to the child in care. This income is not subject to the $50 general exclusion.

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Foster care payments involving funds provided under title IV-B or title XX of the Social Security Act are Social Services and are not income.

3. Adoption Assistance

Adoption assistance programs provide payments and/or services for children for whom unassisted adoption is unlikely because of age, ethnic background, physical, mental or emotional disability, etc. The income of either the adopting parent, the adopted child, or both may have been considered in determining the payment. Usually, adoption assistance will be formalized in a written agreement between the adopting parents and the agency involved. Adoption assistance may be provided by public or private agencies and may be based on financial need.

Adoption assistance provided by States under title IV-E of the Social Security Act involved Federal Funds and is needs-based. Under IV-E, there is no income test for the adopting parents but the children must be those who are, or could be, eligible for AFDC or SSI prior to adoption. Therefore, there is an income test for children who receive IV-E adoption assistance. Concurrent receipt of IV-E adoption assistance and SSI is permissible.

Adoption assistance cash payments made to adoptive parents under title IV-E are federally funded income based on need to the adopted child. This income is not subject to the $50 general exclusion. Therefore, the total payment is considered cash income to the individual and is counted dollar for dollar.

NOTE: In addition to a cash payment to the adoptive parents, social services may be provide under title IV-E. Social services are not income.

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4. Support Payments (Child Support Alimony

Alimony and support payments are cash or in-kind to meet some or all of a person's needs for food, clothing, or shelter. Support payments may be made voluntarily or because of a court order. Alimony (sometimes called **"**maintenance" is an allowance made by a court from the funds of one spouse to the other spouse in connection with a suit for separation or divorce.

Alimony, spousal, and other adult support payments are unearned income.

Child support payments are unearned income; however, exclude one-third of the amount of a payment made to or for an eligible child by an absent parent.

A parent is considered absent if the parent and the child do not reside in the same household.

a. If the periods of living together are brief and the child remains independent or under the care and control of another person, agency, institution, or is living in the home of another, the parent is usually considered absent unless he/she retains **parental responsibility and control.**

b. A parent is not considered absent if he is away due to **employment**, intends to resume living with the child, and retains parental control and responsibility.

c. A child (or parent) who is a **boarding student** in an educational facility is not considered absent.

Verify the amount and frequency of support payments by using:

- court records;

- records of an agency through which the payments are made;

- documents in the individual's possession or contact with the source of the payment.

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In the case of one payment for two or more individuals:

a. To determine one individual's share of a support payment made for more than one person, **look first to the legal document** setting the payments.

b. **If the legal document** addresses each person's share, divide the payment according to the terms of the document. If the payment does not equal the established support amount, contact the source of the payment to establish intent and divide the payment according to that intent. If this is unsuccessful, divide the payment proportionately.

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H. RENTAL INCOME

Rent is a payment which an individual receives for the use of real or personal property, such as land, housing or machinery.

Net rental income is gross rent less the ordinary and necessary expenses paid in the same taxable year.

Ordinary and necessary expenses are those necessary for the production or collection of rental income. In general, these expenses include:

- interest on debts;
- State and local taxes on real and personal property and on motor fuel;
- general sales taxes; and
- expenses of managing or maintaining property.

See below for a more specific list.

To determine if rental property can be excluded as a resource, refer to the Resources section for a discussion of Income-Producing Property.

1. Policy Principles

The following policy principles apply to rental income:

- Depreciation or depletion of property is not a deductible expense.
- Deduct expenses when paid, not when incurred.
- Net rental income is unearned income unless it is earned income from self-employment (e.g., someone who is the business of renting properties).
- Rental deposits are not income to the landlord while subject to return to the tenant. Rental deposits used to pay rental expenses become income to the landlord at the point of use.

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- In determining net rental income, do not consider rents received or expenses paid in months prior to Medicaid eligibility.

- In determining net rental income, consider rents received or expenses paid in a month in which the case is ineligible as if the case had been eligible (interim months of ineligibility).

2. Deductible Expenses

Examples of deductible expenses:

- interest and escrow portions of a mortgage payment (at the point the payment is made to the mortgage holder);
- real estate insurance;
- repairs (i.e., minor correction to an existing structure);
- property taxes;
- lawn care;
- snow removal; and
- advertising for tenants.

3. Nondeductible Expenses

Examples of nondeductible expenses:

- principal portion of a mortgage payment; and
- capital expenditures (i.e., an expense for an addition or increase in the value of property which is subject to depreciation for income tax purposes).

If uncertain whether an expense is allowable (e.g., whether it is an incidental repair or a capital expenditure), contact the local Internal Revenue Service (IRS) or refer to IRS Publication 527. Document the file with the information obtained from IRS.

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4. Multiple Family Residence

In multiple family residences:

- If the units in the building are of approximately **equal size**, prorate allowable expenses based on the number of units designated for rent compared to the total number of units.
- If the units are **not** of approximately **equal size**, prorate allowable expenses based on the number of rooms in the rental units compared to the total number of rooms in the building. (The rooms do not have to be occupied.)

5. Rooms in Single Residence

For rooms in a single residence:

a. Prorate allowable expenses based on the **number of rooms** designated for rent compared to the number of rooms in the house.

b. Do not count **bathrooms** as rooms in the house.

c. Count **basements** and **attics** only if they have been converted to living spaces (e.g., recreation rooms).

6. Land

We prorate expenses based on the percentage of total acres that is for rent.

7. Determining Net Rental Income

a. **Determine** gross rent received and deductible expenses month-by-month.

b. **Subtract** deductible expenses paid in a month from gross rent received in the same month.

c. If deductible expenses exceed gross rent in a month, subtract the **excess expenses** from the next month's gross rent and continue doing this as necessary until the end of the tax year in which the expenses is paid.

d. If there are **still excess expenses** after applying b. above, subtract them from the gross rent received in the month prior to the month the expenses were paid and continue doing this as necessary to the beginning of the tax year involved.

NOTE: Do not carry excess expenses over to other tax years nor use them to offset other income.

Example:

An individual receives $100 gross rental income monthly. He pays allowable expenses of $200 in July and $400 in November. His taxable year is January
1 through December 31. The allocation is as follows:

The $200 allowable expenses paid in July reduce the net rental income to zero in July (the month the expenses were paid) and August (the subsequent month). The $400 allowable expenses paid in November reduce the net rental income to zero in November (the month paid); December (the subsequent month); October (the month preceding the month the expenses were paid); and September (the next preceding month).

Note: Allowable expenses must be timely submitted in order for the expense to be considered as a deduction from rental income. This is true since policy specifies to begin the deduction in the month in which the expense is paid. For each month the expense is not submitted after payment of the expense, the deduction for that month is lost (although any excess may be allowed in a subsequent month or a month prior to payment if an excess exists at the end of the tax year).

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8. Verification of Rental Income

To verify rental income, request the individual's Federal income tax return (including Schedule E) for the most recent closed tax year, and retain a copy for the file. This will be helpful in identifying the most usual expenses deducted from rental income in the past, and as an aid in estimating rental income for the future. Regardless of whether the most recent tax return is available, also request other records (bills, receipts, etc.) to establish actual gross rental income and allowable expenses for the period involved.

Verification of the amount of rental income and dates received, and of the amount of allowable expenses and dates paid, must be documented in the file. Therefore, place in the file copies of all records (bills, receipts, etc.) use in computing the amount of net rental income. If the individual has no tax return or other records, obtain the individual's signed statement explaining why no records are available and providing his/her allegation of the amount of gross rental income and allowable expenses for the period involved.

Use an individuals' **amortization schedule** to determine interest expense. If a **schedule** is **not available**, divide the yearly interest by twelve to determine monthly interest.

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9. Joint Ownership Rental Income

If an eligible individual and eligible spouse (couple) jointly own rental property, it is not necessary to compute each person's share of the rental income in cases where income must be combined for the couple. In all other joint ownership cases, including those where a third person owns rental property with an eligible couple, it is necessary to determine what share of the rental income (after deduction of allowable expenses, if any) is charged to the eligible. Absent evidence to the contrary, apportion the net rental income equally among the owners. However, if the joint ownership agreement or other evidence (e.g., tax return, statements of joint owners) shows some other distribution, consider that evidence in determining the eligible's share of net rental income. In situations where there is evidence of other than equal apportioning, document the file with a copy of any evidence obtained, the decision reached, and the reason for the decision as to how income is apportioned.

10. Estimating Future Rental Income

When projecting future rental income, use the documentation obtained from the prior tax year, as outlined in "Verification of Rental Income," to estimate anticipated income and expenses for the current tax year. For future periods, deduct only those expenses which are predictable; i.e, those which recur regularly and the amount of which can be estimated with a reasonable degree of accuracy. Examples of such predictable expenses include interest payments, property taxes, insurance premiums and utilities. Do not project variable (unpredictable) expenses. Consider variable expenses after they have been paid, when the payment can be documented. Examples of variable expenses include repairs and advertising costs.

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I. MISCELLANEOUS UNEARNED INCOME

The following lists various different types of unearned income categorized as "miscellaneous."

1. Tuition, Fees & Other Expenses of Grants, Scholarships & Fellowships

Grants, scholarships, and fellowships are amounts paid by private nonprofit agencies, the U.S. Government, instrumentalities or agencies of the U.S., State and local governments, foreign governments, and private concerns to enable qualified individuals to further their education and training by scholastic or research work, etc.

a. Any amount provided by an individual to aid a relative, friend, or other individual in pursuing his studies where the grantor is motivated by family or philanthropic considerations is a **gift** and is not a grant, scholarship, or fellowship for purposes of this section.

b. Any amount which is **earned income** is not a grant, scholarship, or fellowship.

c. Any portion of a grant, scholarship, or fellowship used for paying tuition, fees, or other necessary educational expenses is excluded from income. This exclusion does not apply to any portion set aside or actually used for food, clothing or shelter.

d. It is expected that **expenses will include** carfare, stationery supplies, and impairment-related expenses necessary to attend school or perform schoolwork (e.g., special transportation to and from classes, special prosthetic devices necessary to operate school machines or equipment, etc).

Verify the nature of the assistance by using documents in the individual's possession or contact with the institution or provider.

Use receipts, bills with canceled checks, contact with the provided, etc., to verify expenses paid. If an expense is verified as incurred but not paid, assume the individual will pay the expense unless you have reason to question the situation. No follow up is required if the assumption is applied.

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2. Dividends & Interest

Dividends and interest are returns on capital investments such as stocks, bonds, or savings accounts. Dividends and interest are unearned income at the earlier of the following:

- the month they are credited to an individual's account and are available for use;
- the month they are set aside for the individual's use; or
- the month they are received by the individual.

NOTE: Account service fees or penalties for early withdrawal do not reduce the amount of interest or dividend income.

The following describes when dividends or interest are considered unearned income.

Financial Institution

- interest is income when credited to the customer's ccount

Series E/EE U.S. Savings Bonds

- if the bonds were purchased by the owner or was a gift to the owner prior to the expiration of the minimum retention period, the interest is not income. It is an increase in the value of a resource.
- if the bonds were a gift to the owner after expiration of the minimum retention period, the purchase price of the bond plus accrued interest is income in the month received.

Series H/HH U.S. Savings Bonds

- if the bonds make semi-annual interest payments, the interest is income when available to the individual.

- if the bonds were a gift to the owner after the expiration of the minimum retention period, the purchase price of the bond plus accrued interest is income in the month received.

Life Insurance Policy

- if the policy pays dividends, the dividends are not income. If the policy pays interest on dividends, the interest is income. This is true even when the policy is not a countable resource.

Promissory Note or Loan Agreement

- SSI Policy - if the note or loan pays interest, or pays principal and interest in same payment, the interest only is income.

- Liberalized Policy - interest and principal count as income in order to determine if the 6% rule applies so that the note or loan can be excludable as a resource. Although interest is income, the note or loan can be excluded if the 6% rule (and life expectancy rule, if appropriate) is met. This is more liberal than SSI since SSI would count the note or loan as a resource that could be sold.

Verify and document the amount and frequency of interest or dividend payments by using a check or notice issued by the source. If dividends are received in a form other than cash, to determine the amount of the dividend, establish the value of the item, e.g., share of stock, stock options, etc.

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3. Royalties

Royalties are payments to the holder of a patent or copyright, owner of a mine, etc., for the duplication of a writing, use of an invention, extraction of a product, etc. Royalties are unearned income unless they represent self-employment earnings from a royalty-related trade or business.

Verify these payments by examining any receipts or royalty agreements the individual may have which reflect the amount of the royalty payment and the frequency of payment. If the individual has no such evidence in his possession, contact the company or source of the royalty.

Some documents that indicate royalty payments will provide a gross figure and a net figure. When the difference between the gross and the net figure is due to income taxes withheld, the gross figure is to be used when determining income. However, when the difference between the gross and net figures represents a production of severance tax (e.g., most oil royalties will be reduced by this tax), the next figure should be used when determining income. The production or severance tax is a cost of producing the income and, therefore, is deducted from the gross income.

Effective 10-01-91, royalties earned by an individual in connection with any publication of his/her work and any honoraria received for services rendered is earned income.

4. Awards

An award is usually something received as the result of a decision by a court, board of arbitration, or the like.

An award is unearned income subject to the general rules pertaining to income and income exclusions.

Use documents in the individual's possession or contact with the court, board, source, etc; to verify:

- the amount of the award;

- the payment date; and,

- if needed, the purpose(s) of the payment (e.g., part of the payment is reimbursement for medical expenses).

Determine the nature of the award and apply the appropriate rules pertaining to income and income exclusions.

5. Gifts

A gift is something a person receives which is **not repayment** for goods or services the person provided and is **not** given because of a **legal obligation** on the givers' part.

To be a gift, something must be given **irrevocably** (i.e., the donor relinquishes all control).

"Donation" and "contributions" may meet the definition of a gift.

NOTE: A gift received as the result of a death is a **death benefit.**

A gift is unearned income subject to the general rules pertaining to income and income exclusions.

A gift of a house which is used as a shelter is valued under the presumed maximum value (PMV) rule. A gift of a house which is not shelter is valued at its current market value (CMV).

Accept an individual's signed estimate of the value of the gift (or actual value if cash) unless you have reason to doubt the estimate. If you doubt the estimate, determine the item's current market value with an independent source.

Determine the nature of the gift and apply the appropriate operating instructions pertaining to income and income exclusions.

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6. Prizes

A **prize** is generally something won in a contest, lottery or game of chance.

A prize is unearned income subject to the general rules pertaining to income and income exclusions.

NOTE: Do not subtract gambling losses from gambling winnings in determining an individual's countable income.

If an individual is offered a choice between an in-kind prize and cash, the cash offered is counted as unearned income. This is true even if the individual chooses the in-kind item and regardless of the value, if any, of the in-kind item.

When an individual reports receipt of a prize, obtain the individual's signed statement of the following:

- date the prize was received;
- type of prize received;
- individual's estimate of the value of the prize if not cash;
- amount of income tax withheld, if any and
- source of prize.

Accept an individual's signed estimate of the value of the prize (or actual value if cash or cash offer) unless you have reason to doubt the estimate. If you doubt the estimate, determine the item's current market value with an independent source.

7. Death Benefits

A death benefit is something received as a result of another's death. Benefits Examples of death benefits include:

- proceeds of life insurance policies received due to the death of the insured;

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- lump sum death benefits from SSA;
- Railroad Retirement burial benefits;
- VA Burial benefits;
- inheritance in cash or in-kind;
- cash or in-kind gifts given by relatives, friends, or a community group to "help-out" with expenses related to the death.

NOTE: Recurring survivor benefits such as those received under Title II, private pension programs, etc., are not death benefits.

Effective April 1, 1988, death benefits provided to an individual are income to that individual to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the individual. Last illness and burial expenses include:

- related hospital and medical expenses;
- funeral, burial plot and interment expenses;
- other related expenses such as clothing to wear to the funeral, food for visiting relatives, taxi fare to and from the hospital and funeral home, etc.

Verify all last illness and burial expenses. If verification (bills, receipts, etc.) cannot be obtained, accept the individual's signed allegation. If an expense has been incurred but not paid, assume that the individual will pay the expense unless there is reason to question the situation. No follow-up is required if the assumption is applied.

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To determine the income derived from death benefits, subtract the total expenses from the total death benefits. Charge the income in the month the death benefit(s) is received. If death benefits are received in more than one month, assume that the funds first received are the first spent. For example, if the death benefits are $1000 received in January and $1500 in February and allowable expenses are $2000, charge the remaining $500 as income in February.

Death benefits that are not income are also not a <u>resource</u> for one calendar month following the month of receipt. This allows time for the death benefit to be used for illness/burial expenses. If death benefits are retained into the second calendar month following receipt, they are resources.

8. Inheritances

Inheritance means cash, other liquid assets and non-cash items, or any right in real or personal property of the deceased to which one succeeds in ownership as a result of the death of another. Inheritance is not counted until actually received, i.e., available for support. An inheritance is a <u>death benefit</u>.

If an individual has been charged with a resource as a result of deeming and later inherits the same resource, there is no income to the individual due to the inheritance. Note: The proceeds of a life insurance policy were not a resource before the death.

9. Work-Related Unearned Income

The following work-related payments are unearned income.

Certain in-kind items provided as remuneration for employment (food/shelter).

Money paid to a resident of a public institution when no employer employee relationship exists.

Tips under $20 per month.

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Jury fees (i.e., fees paid for services, not expense money).

Food, clothing, and shelter provided to members of the Uniformed Services and their families; cash allowances for these items; and all types of special and incentive pay.

10. Military Allowances

Military personnel rarely apply for Medicaid; however, spouses and children may make application and the military pay would be subject to deeming. For Medicaid purposes only, the base pay is earned income; cost allowances for quarters, rations, and clothing are unearned income.

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A. GENERAL

Earned income may be received in cash or in kind and consists of:

- Wages
- Net earnings from self-employment (NESE)
- Payments for services performed in a sheltered workshop or work activities center
- Earned income tax credit (EITC) payments; excluded effective January 1, 1991
- Royalties earned by an individual in connection with any publication of his/her work and any honoraria received for services rendered, effective December 1, 1991.

B. SICK PAY

Sick pay is a payment made to or on behalf of an employee by an employer or a private third party for sickness or accident disability.

Sick pay is either wages or unearned income. (Payments to an employee under a workers' compensation law are neither wages nor sick pay.)

The following chart shows how to treat sick pay received since January 1, 1982.

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WHEN RECEIVED	ATTRIBUTABLE TO EMPLOYEE'S OWN CONTRIBUTION ?	TYPE OF INCOME
More than 6 months after stopping work	N/A	Unearned Income
	No	Wages
Within 6 months after stopping work	Yes	Unearned Income

To determine the 6-month period after stopping work:

- Begin with the first day of nonwork.
- Include the remainder of the calendar month in which work stops.
- Include the next 6 full calendar months.

For example, if an individual stops work on May 5, the 6-month period begins on May 6 and runs through November 30.

Verify sick pay which is wages by using the wage verification procedure.

Verify the last day (or month) worked with the employer or knowledgeable third party.

Document the file with the employer/third party's statement or report of contact showing the last day (or month) worked.

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C. WAGES

Wages are what an individual receives (before deductions) for working as someone else's employee.

NOTE: Under certain conditions, services performed as an employee are deemed to be self-employment rather than wages (e.g., ministers, real estate agents, share farmers, insurance salesman, etc.).

1. Types of Wages

Wages may take the form of:

a. **Salaries -** These are payments (fixed or hourly rate) received for work performed for an employer.

b. **Commissions -** These are fees paid to an employee for performing a service (e.g., a percentage of sales).

c. **Bonuses -** These are amounts paid by employers as extra pay for past employment (e.g., for outstanding work, length of service, holidays, etc.)

d. **Severance pay -** This is payment made by an employer to an employee whose employment is terminated independently of his wishes.

e. **Military basic pay -** This is the service member's wage, which is based solely on the member's pay grade and length of service.

Absent evidence to the contrary, if FICA taxes have been deducted from an item, assume it meets the definition of wages.

2. When To Count Wages

Wages for each month count at the earliest of the following points:

- when they are received, or
- when they are credited to the individual's account, or
- when they are set aside for the individual's use.

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3. Wage Advances

Advances are payments by an employer to an individual for work to be done in the future.

An advance is wages in the month received.

4. Deferred Wages

Wages are considered "deferred" if they are received later than their normal payment date. Types of wage payments which may be deferred include vacation pay, dismissal and severance pay, back pay, bonuses, etc.

Wages that are deferred **due to circumstances beyond the control of the employee** are considered earned income when actually received.

Wages that are deferred **at the employee's request or by mutual agreement with the employer** are considered earned income when they would have been received had they not been deferred.

5. Verification of Wages & Termination Wages

Earned income must be verified. The burden of proof is on the client, however, assistance will be provided by the worker if the client is unable to secure evidence of wages.

Acceptable evidence of wages include:

1. Pay Slips - for pay slips to be acceptable, it is necessary that they contain the wage earner's name or Social Security Number, gross wages and the period of time covered by the earnings. Pay slips which do not contain all the required information may be used in conjunction with other evidence; however, any discrepancies must be resolved.

2. A written statement of wages from the employer, such as DOM-335, Request for Verification of Wages.

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3. W-2 forms may be used to estimate income when pay slips are not available and the individual alleges that earnings will be about the same. Use of W-2's should be restricted to situations where employment is sporadic or there are multiple or a long succession of employers.

4. Verbal statement of wages from the employer. Record the statement on a Record of Contact.

6. Determining Amount of Earned Income

Gross wages are used to determine the amount of wages rather than the net amount received by the wage earner. Do not allow for deductions from gross wages such as taxes, garnishments, insurance premiums, savings deductions, etc. Wages are counted as earned income when paid rather than when earned.

7. Converting Week/Biweekly Wages

When wages are paid on a weekly or biweekly basis, convert wages to monthly amounts:

1. Establish the day of the week wages are received.

2. Compute the number of paydays in each month.

3. If the gross wage amount is the same each payday, multiply it by the number of paydays in each month. If the gross wage amount is different each payday, add the individual amounts for each payday in each month.

8. Estimating Future Wages

In estimating future wages, consider any recent past work

work history, unless inappropriate to the current situation (e.g.,individual has stopped working because of retirement or disability). Carefully question the applicant, recipient or representative to obtain accurate monthly estimates of future wages. Try to establish a logical wage pattern by reviewing with the individual the rate of pay, hours worked per week, number of pay periods each month, etc. Be alert to individuals who perform seasonal work (e.g., school bus drivers), in deriving an estimate.

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If an estimate cannot be established, contact the employer for information. Use this information along with worker judgment to arrive at an estimate. Do not average. Document the case record to support the estimate.

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D. SELF-EMPLOYMENT

Net Earnings from Self-employment (NESE) is the gross income from any trade or business less allowable deductions for that trade or business. NESE also includes any profit or loss in a partnership.

1. Determining Monthly NESE

Divide the entire taxable year's NESE equally among the number of months in the taxable year, even if the business:

- is seasonal;
- starts during the year;
- ceases operation before the end of the taxable year; or
- ceases operation prior to initial application for SSI.

2. Offsetting Net Loss

Divide any **verified** net loss for a taxable year evenly over the months in the taxable year. Subtract each resulting monthly amount from the individual's or couple's other earnings in the same month. Apply this procedure whether a couple filed a joint income tax return or separate returns, and regardless of which member of the couples listed below incurred the loss:

- an eligible couple;
- an eligible individual with an ineligible spouse;
- two parents;
- a sponsor and his/her spouse

3. Work Expenses

If an individual is self-employed (whether or not he/she is also a wage earner), reduce his/her earned income by any allowable work expenses which have not already been used to compute NESE.

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4. Deduction for Taxable Years After 1989

For taxable years beginning after 1989, a 7.65 percent deduction is applied to net profit in determining NESE. Therefore, net profit is multiplied by .9235 to determine NESE. Refer to "How to Verify NESE" to find the correct NESE amount on the Federal income tax forms.

NOTE: This deduction recognizes, as a business expense, part of the Social Security taxes paid. If Social Security tax is not paid (e.g., in situations involving less than $400 per year in NESE, net losses, and when no tax return is filed), the deduction does not apply.

5. Withdrawals for Personal Use

When an individual alleges (or the worker discovers) cash or in-kind items are withdrawn from a business for personal use, proceed as follows:

Ask the individual whether the withdrawals were **properly accounted for** in determining NESE. That is, were they either deducted on the individual's Federal income tax return in determining the cost of goods sold or the cost of expenses incurred, or deducted on his business record.

IF THE WITHDRAWALS ARE...	THEN...
Properly accounted for	Do not charge them again as income.

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IF THE WITHDRAWALS ARE...	THEN...	
Not properly accounted for	-	Ask the individual to estimate the value of the cash or in-kind withdrawals. Deduct that amount from the cost of goods sold or the cost of expenses incurred on the profit and loss statement to arrive at the proper NESE.
Not properly accounted for		If the individual cannot or will not provide the profit and loss statement, but alleges an amount of NESE, add the value of the withdrawals to the individuals allegation of NESE.

6. How to Verify NESE

Verify NESE whenever an individual is self-employed or has been self-employed during the current taxable year. Verify NESE by obtaining the most recent federal income tax return filed with IRS. If the business is new, use the individual's business records or the best estimate available.

The Federal income tax return contains evidence of NESE in the following schedules:

a. Schedule SE

- Net earnings - Section A, line 4 or Section B, line 4.C. **NOTE:** If line 4 or 4C shows a positive amount of less than $400, then line 3 is used, even if the amount on line 3 is greater than $400. For example, line 3 shows $410 and line 4/4C shows $378. Line 3 should be used because no tax was due.

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- Net loss - Section A, line 3 or Section B, line 4.C.

b. Schedule C - Line entitled "Net Profit or Loss."

c. Schedule F - Line entitled "Net Profit or Loss."

7. How To Estimate NESE for Current Taxable Year

Use the first of the following procedures which is applicable. Document the file so that it supports the estimate made by the worker.

WHEN TO USE	**METHOD**
When an individual:	Current Year's Estimate Based on Prior Year's Profit
- has been conducting the same trade or business for several years;	Use the NESE from the prior year as an estimate for the current taxable year.
- has had NESE which has been fairly constant from year-to-year; and	
- anticipates no change or gives no satisfactory explanation of why current NESE would be substantially lower than past NESE	

When an individual:	Gross-Net Ratio
- is engaged in the same business that he/she had **only** in the preceding taxable year; and	- Calculate from the individual's tax return or business records the ratio between net profit and gross receipts for the last year. **EXAMPLE:** Net profit of $1,200 for $6,000 gross income or 20 percent.

When an individual:	Gross-Net Ratio
- anticipates no change or gives no satisfactory explanation of why current NESE would be substantially different from what it has been in the past	- Calculate from his/her records the actual gross receipts for the current taxable year and project it for the remainder of the year. **EXAMPLE: $4,000** in current year's receipts for the first 6 months gives an assumed gross of $8,000 for the entire year. - Apply the previously calculated gross-net ratio to the current year's assumed gross to arrive at the estimated NESE. **EXAMPLE:** 20 percent of $8,000 is $1,600.

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EXCEPTION: Do not use this method for businesses which are seasonal or have unusual income peaks at certain times of the year; go to next applicable procedure.

When an individual is engaged in a new business

Projecting Partial Year's Profit for Whole Year

- Obtain the individual's profit and loss statement or other business records for his/her taxable year to date.

When an individual is engaged in a new business

Projecting Partial Year's Profit for Whole Year

- Ascertain his/her net profit to date.

- Project that net profit for the entire taxable year.

EXCEPTION: Do not use this method for businesses which are seasonal, or have unusual income peaks at certain times of the year; go to next applicable procedure.

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When:	Individual's Estimate
- an individual is engaged in a new business and records are not yet available; or - the business has been going on for some time but no records were kept	Use a signed allegation of the individual's best estimate.
When an individual:	**Current Year's Estimate Varies from Past Records**
- alleges his/her NESE for the current year will vary from for past years; and	- Obtain a written statement from the individual explaining the basis for the NESE variation.
- gives a satisfactory explanation for the variation	- If the individual's estimate of NESE for the current year is higher than that of the prior years, and the individual satisfactorily explains why, accept the individual's estimate of NESE. **EXAMPLE:** Individual recently added new products to his mail order sales catalog and sales have picked up dramatically.

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- If the individual's estimate of NESE for the current year is lower than that of prior years, and the individual satisfactorily explains why, request any relevant documentation for the file and accept the lower estimate.

EXAMPLES:

- Satisfactory Explanation - the business has suffered a heavy loss or damage due to fire, flood, burglary, serious illness or disability of the owner, or other catastrophic event.

- Relevant Documentation - copies of newspaper accounts of the event, police reports, etc.

NOTE: In some cases (e.g., downturns in the economy) there may not be any documentation of the event. In such cases, the individual's written statement explaining the basis for the variation is sufficient documentation.

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E. EARNED INCOME TAX CREDITS

The earned income tax credit (EITC) is a special tax credit which reduces the Federal tax liability of certain low income working taxpayers. This tax credit may or may not result in a payment to the taxpayer. EITC payments can be received as an advance from an employer or as a refund from IRS.

Exclude from income any EITC payments received January 1, 1991 or later, either as an advance or as a refund, regardless of the tax year involved.

F. ROYALTIES/ HONORARIUM

Royalties are payments to the holder of a copyright or patent. Royalties may also be paid to the owner of a mine, oil well, timber tract, or other resource, for extraction of a product, including proceeds from the direct sale of the product.

An honorarium is an honorary payment, reward, or donation usually received in consideration of services rendered (e.g., guest speaker), for which no payment can be enforced by law. However, the amount also may include payment for items other than services rendered (e.g., travel expenses and lodging).

Effective December 1991 or later, royalties earned by an individual in connection with any publication of his/her work are earned income (e.g., publication of a manuscript, magazine article, artwork, etc.).

Effective December 1991 or later, the portion of any honorarium **which is received in consideration of services rendered** is earned income. An honorarium which is **not** in consideration of services rendered (e.g., for travel expenses) is unearned income to the extent that it exceeds expenses.

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a. Verify these payments by examining documents in the individual's possession which reflect:

- the amount of the payment,
- the date(s) received, and
- the frequency of payment, if appropriate.

b. If the individual has no such evidence in his possession, contact the source of the payment.

Assume that any honoraria received is **in consideration of services rendered,** absent evidence to the contrary. Evidence to the contrary would include a statement or document indicating that part or all of the honoraria is for something other than services rendered (e.g., travel expenses or lodging).

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A. COUNTABLE INCOME

Countable income is the amount of income subtracted from from the appropriate need standard to determine if an individual or couple is eligible for Medicaid.

Countable income is what remains after:

- eliminating all amounts that are not income; and

- applying all appropriate exclusions.

Countable income is the sum of a month's countable earned and unearned income.

1. Need Standards

The appropriate need standard used to test income for eligibility depends on the coverage group for which the client is applying. Medicaid need standards are based on the following:

a. SSI Federal Benefit Rates (FBR) set by SSI policy and subject to increase in January of each year. SSI FBR's are used for SSI-related cases, i.e., SSI retro determinations and former SSI recipient cases. Countable income cannot be equal to or exceed the appropriate FBR in order to be eligible for Medicaid.

b. Federal Poverty Levels (FPL) set by the federal government and subject to change each year, usually in February for March implementation.

FPL's are used at varying rates (100% FPL, 110% FPL, 200% FPL) depending on the coverage group, i.e., PLAD, QMB, QWDI, SLMB. Countable income can be equal to but cannot exceed the appropriate FPL in order to be eligible for Medicaid.

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c. 300% of the SSI FBR is the formula required by federal regulation (42 CFR 435.1005) to set the institutional need standard used for all long term care coverage groups. This limit is subject to increase in January of each year when SSI FBR's increase. Countable income cannot be equal to or exceed the institutional limit in order to be eligible for Medicaid.

2. Income Break-Even Points

An income break-even point is the earned or unearned income amount an individual can have so that countable income equals the appropriate FBR or FPL.

a. For SSI FBR cases:

- 2 x FBR + $85 = monthly earned income break-even point
- FBR + $20 = monthly unearned income break-even point.

b. For FPL cases:

- 2 x FPL + $85 = monthly earned income break-even point prior to 07-01-99
- Effective 07-01-99, 2 x FPL + $115 = monthly earned income break-even point.
- FPL + $20 = monthly unearned income break-even point prior to 07-01-99
- Effective 07-01-99, FPL + $50 = monthly unearned income break-even point.

c. For institutional cases, total income, whether earned or unearned, cannot exceed the institutional limit.

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INCOME COMPUTATIONS

B. DEEMED INCOME

The term <u>deeming</u> identifies the process of considering another person's income and resources to be available for meeting a Medicaid client's basic needs. Deemed income and resources are attributed to an eligible individual whether or not they are actually available to him/her with the following restrictions:

- deeming only applies in household situations
- income is only deemed from an ineligible spouse to an eligible spouse or from ineligible parent(s) to an eligible child.

Deeming is based on the concept that a husband and wife (including "holding-out" couples) and/or parents and children who live together have a responsibility for each other and share income and resources. Both SSI and Medicaid regulations require deeming in household situations.

A portion of an ineligible parent's or spouse's income is used to provide for the ineligible's own living expenses and those of any ineligible children living in the household. Based on this consideration, allocations are applied for:

- ineligible parent(s); and
- ineligible children in the household.

Application of these allocations reduces the amount of income available for deeming.

1. Definition of Eligible/ Ineligible Child for Deeming Purposes

A child is someone who is neither married nor the head of a household, and:

- under age 18; or
- under age 22 and a student

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An eligible child, for deeming purposes, is a natural or adopted child under age 18 who lives in a household with one or both parents, and is eligible for or applying for Medicaid. A child is eligible if the child receives Medicaid from any source (SSI, AFDC, etc.).

Deeming to such an eligible child no longer applies beginning the month following the month the child attains age 18.

An individual attains a particular age on the day preceding the anniversary of his/her birth. Deeming applies in the month of attainment of age 18 regardless of whether an application filed that month is filed before or after the day of attainment.

An ineligible child, for deeming purposes, is a natural or adopted child of an eligible individual, or the natural or adopted child of a parent, who lives in the same household with the eligible individual, and is:

- under age 18; or
- under age 21 and a student

2. Definition of Parent for Deeming Purposes

A parent whose income and resources are subject to deeming is one who lives in the same household with an eligible child and is:

- a natural parent of the child
- an adoptive parent

Deem a parent's income and resources to an eligible child beginning the month:

- after the month the child comes home to live with the parent(s) (e.g., the month following the month the child comes home from the hospital); or
- of birth when a child is born in the parent's home; or
- after the month of adoption (the month of adoption is the month the adoption becomes final); or

Deeming applies from a parent to a child when they live together in the same household. However, if a natural or adoptive parent is deceased or is divorced from the stepparent, and the child is living with the stepparent, the stepparent is not considered a parent or spouse of a parent of the eligible child for deeming purposes. Also, a relative or other adult who has legal custody of a child but is not also the natural or adoptive parent of the child is not a parent for deeming purposes. Also, a relative or other adult who has legal custody of a child but is not also the natural or adoptive parent of the child is not a parent for deeming purposes.

3. Waiver of Parental Deeming Rules

Effective July 1, 1989, a child who is eligible under the coverage group "Disabled Child Living At-Home" is exempt from deeming of parental income and resources. The eligible child's own income and resources affect Medicaid eligibility in the usual manner.

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4. Income Excluded From Deeming

Any item which is not income to an eligible individual is also not income to an ineligible spouse or parent.

In addition, the following types of income are excluded:

- Exclude income used by an ineligible spouse, ineligible parent (or ineligible child) to make court-ordered support payments. Exception: If an ineligible child receives child support payments, do not disregard one-third of the payment as is done for an eligible child.

- A stepparent's income is excluded from deeming. Work the case as a one-parent household, deeming the legal parent's income to the eligible child.

- In-Home Supportive Services Payments provided under title XX or other Federal, State or local governmental programs to an eligible individual and paid by the individual to his/her ineligible spouse, parent or child living in the same household in return for in-home supportive services (chore, attendant, homemaker), are excluded from income for deeming purposes. Such payments made directly to the ineligible spouse, parent or child to provide the services to the eligible are also excluded for deeming purposes.

  Retroactive IHSS payments are not a resource for one calendar month following the month of receipt. Any unspent portion becomes a resource if retained into the second calendar month following receipt.

5. Public Income Maintenance Payments Received By a Deemor (Income Based on Need)

Any Public Income Maintenance (PIM) payments received by an ineligible spouse or parent and any income counted in determining the payment is excluded from income in the deeming computation. RESOURCES CONTINUE TO BE DEEMED (OR COMBINED) FROM THE SPOUSE OR PARENT RECEIVING INCOME BASED ON NEED.

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Note: If the spouse or parent who receives the PIM payments wishes to apply for Medicaid, the PIM payment is counted according to the income rules regarding the specific payment.

PIM payments are payments made under:

- TANF
- SSI
- The Refugee Act of 1980
- The Disaster Relief Act of 1974
- General Assistance programs of the Bureau of Indian Affairs
- State or local government assistance programs based on need, and
- VA benefits based on need.

No allocation is given for a parent or child in a household who receives a PIM payment.

As a result of the exclusions from the deeming process, there may be situations advantageous to a couple if the potentially eligible spouse who has nondeemable income does not file. For example, if one spouse has a VA pension of $500, the pension is not deemable and the other spouse who has no income would be treated as an individual with $0 income. If the spouse who has the pension also files, the $500 would result in a dollar-for-dollar reduction in the couple FBR or FPL since income based on need is considered income to an eligible individual.

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6. Events Affecting Deeming-Couples

There are several events which can change deeming status:

Ineligible Spouse Becomes Eligible

The individual and spouse are treated as an eligible couple effective with the month the spouse becomes eligible (and applies).

Spouses Separate or Divorce

The ineligible spouse's income is no longer deemed to the eligible the month after the month of separation or divorce.

Eligible Begins Living with Ineligible Spouse

Deeming of the ineligible's income begins with the month after the month they begin living together.

Ineligible Spouse Dies

Deeming stops the month after the month of death.

Eligible Becomes Institutionalized

Deeming stops in the month of entry into the facility.

7. Events Affecting Deeming-Parents/ Children

Ineligible Parent Becomes Eligible

Deeming from the parent stops beginning with the month the parent becomes eligible.

Eligible Parent Becomes Ineligible

Deeming of the parent's income begins with the first month of the parent's ineligibility to determine if the child is eligible.

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Ineligible Parent Dies

Deeming stops the month after the month of death.

Ineligible Parent and Eligible Child No Longer Live in Same Household

Deeming of the parent's income stops effective the month after the month the parent (or child) leaves the household.

Ineligible Parent & Eligible Child Begin Living in Same Household

The parent's income is deemed to the child beginning the month after the month they begin living together.

An example is that of a newborn child. No income of the parent(s) is deemed until the month after the month the child is home.

Eligible Child Becomes Institutionalized

Deeming stops in the month of entry into the facility.

Eligible Child Attains Age 18

Deeming stops the month following the month an individual attains age 18.

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C. IN-KIND INCOME

In-kind income is any income other than cash income. To To meet the definition of income, the in-kind item received by an individual must be:

1. Food, clothing, or shelter

2. Something the individual can sell or convert to obtain food, clothing, or shelter.

If the in-kind item is neither food, clothing, nor shelter and it cannot be sold or converted to cash, it is not income.

In-kind Support and Maintenance (ISM) is an SSI policy principal that applies only to SSI-related cases such as SSI retro cases and former SSI recipient cases. Cases that use the Federal Poverty Level or Institutional income limit as the need standard for eligibility purposes do not require placing a value on any ISM received by an eligible individual or couple.

1. Value of ISM

For purposes of treating in-kind support and maintenance as income, three types of values are used:

- Current Market Value (CMV) - This is the amount for which something can be purchased locally on the open market. Depending on the type of support and maintenance received, the determination of the CMV may be based on various factors such as the assessed value from a knowledgeable source, property owner's statement, and the individual's payment.

- Actual Value (AV) is the CMV divided by the number of people receiving support and maintenance minus any payment made out of an individual's own funds. If he makes no payment, AV and CMV may be the same amount.

INCOME

INCOME COMPUTATIONS

- Presumed Maximum Value (PMV) is an amount equivalent to one-third of the applicable FBR plus $20. The PMV rules apply to in-kind support and maintenance which is countable as unearned income. The PMV never applies to earned income. Use of the PMV in determining an individual's countable income is rebuttable by the individual's showing that the AV of the in-kind support and maintenance he receives is less than the PMV. The lower of the two figures is always used, but never an amount in excess of the PMV, regardless of the number of sources of such income or the variety of living arrangements during any given period.

2. Value of ISM

If an eligible individual or couple:

- lives in the household of another,
- receives rent free shelter,
- has someone else (a third party) pay for goods and services provided to the eligible, or
- receives rental subsides

then the value of such ISM must be developed. The value of the ISM is counted as income using the lesser of the CMV, AV or PMV.

3. State Office Clearance

ISM is rarely included in Medicaid budgeting since Medicaid does not make a money payment for food, shelter and clothing as does the SSI Program. If there are cases where it is questionable whether ISM is countable as income in an SSI-related case, the case should be referred to the State Office for clearance.