

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

CHAPTER 200 – Income: Aged, Blind and Disabled (ABD) Categories

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### **200.07 SOURCES AND TREATMENT OF UNEARNED INCOME**

The following sections list different sources of unearned income and how they are treated in the eligibility process.

#### **200.07.01 ANNUITIES, PENSIONS, RETIREMENT AND DISABILITY PAYMENTS**

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 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 disability.

Annuities, pensions, retirement benefits and disability benefits are counted as unearned income. One exception is certain accident disability benefits paid within the first 6 months after the month an employee last worked are treated as earned income. Refer to the Earned Income section for the discussion of these benefits.

Verify the source, type, amount and frequency of these payments by award letters, other documents in the individual's possession or contact with the organization making the payment.

#### **200.07.02 TITLE II/RETIREMENT, SURVIVORS AND DISABILITY INSURANCE (RSDI)**

Retirement, Survivors and Disability Insurance monthly benefits are counted as unearned income. Special age 72 benefits, also known as Prouty benefits, are also counted as unearned income.

The amount of Title II is determined based on the following factors:

- The amount of premiums deducted from RSDI for the optional Supplemental Medical Insurance (SMI) premium under Medicare or Medicare Part D is unearned income. Refunded SMI/Medicare Part D premiums are not income.

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### TITLE II/RETIREMENT, SURVIVORS AND DISABILITY INSURANCE (RSDI) (Continued)

- The Title II benefit payable to the beneficiary is rounded at different points in the computation process by SSA. When verifying Title II benefits through BENDEX, charge as income the amount of Title II shown as the “Net Monthly Benefit Amount”. This is the amount of the benefit after rounding, but before the Medicare premium is deducted.
- When using SVES to verify Title II benefits, the Gross Benefit Amount payable prior to the state buy-in of the Part B premium is less than the benefit payable after state buy-in occurs. To account for this difference for applicants, the “Gross” amount shown on the SVES must be **rounded up** to the nearest dollar to determine the amount of Title II to count as income prior to state buy-in.

**Example:** If the “Gross Benefit Amount” shows \$677.10 at the time of application, round up to \$678.

#### Exceptions to rounding:

- Rounding does not apply to Prouty benefits. The gross benefit shown is the amount counted as income for all J1 or K1 beneficiaries.
- If a monthly benefit payment has been reduced because of a Workers’ Compensation offset, the net amount of the benefit received (plus any SMI, Medicare Part D premium withheld) is unearned income. A Title II benefit is reduced dollar for dollar in the amount of any monthly Workers’ Compensation paid.
- Overpayments recovered from SSA benefits are included unless the overpayment occurred when the person was receiving SSI and the overpaid amount was included at that time. In this instance, the amount deducted for an overpayment is not included in calculating countable Title II income.
- Refund of recovered monies based on a waiver approval is not income if the money was previously withheld to recover a Title II overpayment, both SSI and Title II benefits were received at the time of the overpayment and the overpaid amount was included in figuring the SSI payment at that time.
- If a monthly Title II benefit payment has been reduced because of a garnishment, the gross amount of the benefit received (plus any SMI premium withheld) is counted as unearned income.

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### **200.07.02A WHEN TO COUNT RETROACTIVE RSDI BENEFITS**

Retroactive RSDI benefits, whether paid in one lump sum or by installment, are treated as unearned income in the month payment is received, with the following exceptions:

- Retroactive RSDI benefits must be paid in installments when paid to representative payees of persons who are eligible because of Drug Addiction or Alcoholism (DAA). The total of retroactive RSDI benefits paid in installments is treated as if paid in a lump sum in the usual manner. The total of such benefits paid in installments is considered unearned income in the month in which the first installment is made.
- Retroactive RSDI benefits paid for a month for which a person also received an SSI payment (i.e., an offset month) have been reduced by an amount equal to the amount of SSI that would not have been paid had the RSDI benefits been paid when due. The balance of these retroactive RSDI benefits are considered income not when received, but rather in the month regularly due. 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.

**NOTE:** Retroactive RSDI benefits paid for periods outside of an offset period are not subject to reduction and are considered income when received.

- In certain situations, SSA will agree at the recipient's request to pay by installment retroactive RSDI benefits that would otherwise be paid in one lump sum. In such cases, the total of retroactive RSDI benefits (except for amounts considered paid in a windfall offset as discussed above) is counted as unearned income in the month the benefits were set aside for the person's use.

### **Resource Exclusion for Retroactive Payments**

Retroactive **SSI** benefits are SSI benefits issued in any month after the calendar month for which they are paid. SSI 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; however, RSDI benefits for January that are issued in March are retroactive.

**NOTE:** The unspent portion of retroactive SSI and RSDI benefits is excluded from resources for 9 calendar months following the month the individual receives the benefits.

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### **200.07.03 MANDATORY STATE SUPPLEMENT (MSS)**

Aged, blind and disabled individuals converted from state welfare rolls are deemed to have filed for SSI beginning January 1, 1974. Converted recipients receive SSI and a Mandatory State Supplement to maintain the 12/73 income levels of former assistance recipients and protect them from suffering a loss of income under the SSI Program. Certain recipients may receive MSS without an SSI payment.

The Social Security Administration (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 as a “State Amount” and is treated the same as Income Based on Need for income purposes.

Currently, there are no remaining state supplement cases.

### **200.07.04 BLACK LUNG BENEFITS (BL)**

Black Lung benefits are paid to miners and their survivors under the provisions of the Federal Mine Safety and Health Act (FMSHA). BL benefit payments are counted as unearned income. Under the Black Lung Consolidation of Administrative Responsibilities Act, benefits under Part B and Part C of the FMSHA are paid by the Department of Labor (DOL). Part B benefits are generally paid on the third of the month. Part C benefits are generally paid on the fifteenth of the month.

Both Part B and Part C BL benefits are subject to offsets (like Workers’ Compensation) and can be reduced due to the recovery of an overpayment. (Refer to 200.08.04 Overpayment Recovery) In addition, Part C benefits may be reduced because of liens imposed by other federal agencies such as the Internal Revenue Service (IRS). The amount deducted from a Part C BL benefit because of garnishment (such as liens imposed by other federal agencies) is counted as unearned income.

The amount of the BL benefit to charge as income is the amount paid after application of an offset (like Workers’ Compensation), but before the collection of any obligations of the recipient.

Black Lung benefits can be verified by the individual’s own records, such as an award notice and check, if available. Contact the US Department of Labor if information from the client is unavailable.

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### **200.07.05 CIVIL SERVICE AND FEDERAL EMPLOYEE RETIREMENT SYSTEM PAYMENTS**

The Office of Personnel Management (OPM) makes US Civil Service and Federal Employee Retirement System (FERS) payments because of disability, retirement or death.

#### **Treatment of Income**

US Civil Service and FERS payments are counted as unearned income to the entitled retiree or individual survivor even when additional monies for other family members are included in the payment. However, certain disability benefits paid within the first six (6) months after an employee last worked are treated as earned income. Refer to the Earned Income section for further discussion.

#### **Retired Health Benefits (RHB) Program**

OPM provides annuitants under the Retired Health Benefits (RHB) program free coverage under Part B of Medicare. At the employee's option, the Part B premium may instead be paid to another health insurance plan or paid directly to the annuitant for use in purchasing health insurance coverage privately. All annuitants covered by the RHB program retired before 7/1/1960. The RHB payment is shown as a positive amount (addition) on the health benefits line of the OPM notice. RHB payments to annuitants are not income.

#### **Verification**

Use notices or other documents in the individual's possession (other than a check) to verify the OPM payment. If the individual has no acceptable documents, write or telephone OPM. Provide the individual's name and civil service annuity claim identification number (a 7-digit number with a "CSA" or "CSF" prefix). If the claim number is not available, provide the individual's date of birth and Social Security Number.

The OPM toll-free telephone number is (888) 767-6738. Send written inquiries to:

Office of Personnel Management  
Retirement Operations Center  
P O Box 45  
Boyers, PA 16017

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### **200.07.06 OTHER GOVERNMENT PENSIONS AND RETIREMENT PAYMENTS**

Payments made to former employees, their dependent(s) or survivor(s) by state, local (or foreign) governments are unearned income. Examples include State Retirement and Municipal Retirement. The full amount of benefits the recipient is entitled to receive is counted as income.

#### **Verification**

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.

#### **200.07.06A STATE RETIREMENT 13<sup>TH</sup> CHECK**

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

#### **Institutional Clients with Income Trusts**

Institutionalized clients, who receive a 13<sup>th</sup> check and are subject to Income Trust provisions, are required to have the bonus check averaged over the 12-month period as a condition of eligibility. The recipient's representative must be instructed to contact the Public Employees' Retirement System (PERS) to make this change.

#### **Other Recipients**

For all other recipients, the 13<sup>th</sup> check is counted as income each December to determine eligibility for the month of December. To ensure each affected recipient has the bonus check counted as income in the month of December, a tickler must be set for November 1 on every state retirement recipient. A PERS listing is generated semi-annually to verify the 13<sup>th</sup> check.

Institutional clients who are eligible for December based on receipt of the bonus check will have the bonus payment averaged in the Medicaid Income computation pursuant to budgeting instructions.

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### **200.07.07 RAILROAD RETIREMENT BENEFITS**

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

- Life and Survivor annuities;
- Title II benefits certified by RRB; and
- Unemployment, sickness and strike benefits.

#### **200.07.07A 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. Any increase in a beneficiary's check because of a dependent child is unearned income to the RR beneficiary and is not the child's income.

**Survivor annuities** are payable to widows, widowers, children and dependent parents of railroad employees. A small number of widows received 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 and cost of living adjustments (COLA) for RR annuities are effective the same month as Title II COLAs. 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. The Railroad Retirement COLA must be verified.

#### **200.07.07B SOCIAL SECURITY BENEFITS CERTIFIED BY RRB**

SSA may authorize the payment of Title II benefits for RR employees to RRB instead of directly to Treasury. Although RRB in these situations has responsibility for certifying Title II benefit to Treasury, they remain Title II benefits. 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 Title II payments. The final notice, from RRB, specifies the amount of the first check. RR annuity payments and Title II benefits certified by RRB may be paid in a single check. In these cases, RRB may issue an interim notice before the final notice which specifies the amount of the first check.

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### **RAILROAD RETIREMENT BENEFITS (Continued)**

#### **200.07.07C 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 two weeks. These claims are usually filed through the railroad employer or directly with RRB in Chicago.

#### **200.07.07D DETERMINING THE AMOUNT OF THE RRB PAYMENT**

RRB payments are counted as unearned income. Include the amount deducted from a RRB benefit for Medicare. The amount of the RRB annuity to charge as income is the amount before collection of any obligations of the annuitant.

Refer to the discussion in 200.08.04, Overpayment Recovery, for specific policy governing overpayments withheld from unearned income.

#### **200.07.07E VERIFICATION OF RRB BENEFITS**

Contact the appropriate Railroad Retirement Board district office for verification of benefits. Office addresses and counties served are listed in the Appendix.



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### 200.07.08 MILITARY PENSIONS

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

#### 200.07.08A CATEGORIES OF BENEFICIARIES

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

- **RETIREE** - A person with 20 years of service who meet 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.

#### 200.07.08B TYPES OF ANNUITANTS

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 designates to receive survivor benefits based on monies withheld from his/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).

#### 200.07.08C TREATMENT AND VERIFICATION OF MILITARY PENSIONS

Military pensions are counted as unearned income. However, payments to Minimum Income Widows are counted as income based on need (IBON) not subject to the \$50/\$20 general income exclusion.

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### **TREATMENT AND VERIFICATION OF MILITARY PENSIONS** (Continued)

If the person does not have sufficient evidence to verify benefits, the appropriate Military Finance Center should be contacted. Include the service member's full name, service identification number, if available, and SSN as well as the annuitant's or allottee's name and SSN. Specify the period for which payment information is needed and identify the pay plan (RSFPP or SBP) in the request.

Send requests directly to the appropriate address below:

Type	Military Finance Center Mailing Addresses
Retirees - Army, Navy, Air Force and Marine Corps	Defense Finance Accounting Service Retired Pay Operations Anthony J. Celebrezze Building 1240 E 9 <sup>th</sup> Street Cleveland, OH 44199
Annuitants - Army, Navy, Air Force and Marine Corps	Defense Finance Accounting Service Annuity Pay Operations 6760 Irvington Place Denver, CO 80279
Retirees/Annuitants - Coast Guard	United States Coast Guard Pay and Personnel Center RPD 444 SE Quincy Street Topeka, KS 6683-3591

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### **200.07.09 DEPARTMENT OF VETERANS AFFAIRS PAYMENTS (VA BENEFITS)**

The Department of Veterans Affairs (VA) has numerous programs that make payments to recipients and their families. Treatment of those VA payments for SSI/Medicaid purposes depends on the nature of the payments. The most common types of VA payments discussed in this section are:

- Pensions
- Compensation
- Educational Assistance
- Aid and Attendance Allowance
- Housebound Allowance
- Clothing Allowance
- Payment Adjustment for Unusual Medical Expenses
- Payments to Vietnam Veterans' children with Spina Bifida
- VA Caregiver Payments

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

- A veteran
- The child or spouse of a disabled or deceased service person or veteran
- An unmarried widow or widower of a deceased service person or veteran
- The parent(s) of a service person or veteran who died after December 31, 1956 from a service-connected cause

### **Mississippi Laws Concerning Veterans Benefits**

Mississippi state laws require or allow the following to assist a veteran in applying for VA benefits:

- Each county in Mississippi may employ a County Veterans Service Officer to assist veterans and/or their family members apply for VA benefits with the federal Department of Veterans Affairs.
- The Mississippi Department of Health, Bureau of Vital Statistics, must furnish copies of birth and death certificates, without charge, when needed to establish claims for dependency, disability or survivors benefits for any veterans who are legal residents of Mississippi or their claimants.

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### **Mississippi Laws Concerning Veterans Benefits (Continued)**

- Chancery and Circuit Clerks must furnish, without charge, copies of marriages licenses, divorce decrees, adoption decrees and any and all other records when needed to establish claims for dependency, disability or survivors benefits for any veterans who are residents of Mississippi or their claimants.
- Chancery Clerks must record, without cost, all certificates of service of any and all members of the Armed Forces of the U.S. Certified copies must be furnished without cost to the service member or veteran, his/her authorized representative or his/her dependents.

### **VA and the Utilization of Benefits Provision**

An applicant or recipient, who is potentially eligible for VA pension or compensation benefits must be advised in writing to apply for those benefits as a condition of eligibility, if it will result in a new or increased benefit that will count as income.

When making a referral to file an application for VA benefits, observe the following rules:

- Pension payments are only paid to or on behalf of veterans (living or deceased) with eligible wartime service. Refer to policy for “VA Pension Payments” below. Do not refer veterans or surviving spouses or children of veterans to apply for pension benefits as a condition of eligibility if the veteran served outside of an eligible wartime period. Accept the veteran or surviving spouse’s statement regarding dates of service. If declared to be outside of an eligible wartime period, accept the declaration. If services dates are unknown, require a certificate of service or other documentation so that the worker can determine if an application is required. Advise the veteran or spouse that an application will be required absent information on dates of service.
- For at-home COE’s, if a veteran or surviving spouse of a veteran who served during a wartime period has never applied for a pension, refer the individual to apply through the VA or the County Veterans Service Officer. The VA uses various income limits to determine pension benefits, based on family size and income. Accept a letter from the VA or County Veterans Service Officer as proof of a pending application or accept a statement from either source that no pension benefits are payable.

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### VA and the Utilization of Benefits Provision (Continued)

- If an application for pension or compensation benefits has previously been filed and denied, accept a previously issued letter from the VA or a statement from the County Veterans Service Officer that such benefits are not payable.
- If a veteran or surviving spouse of a veteran is in a nursing facility and is subject to the reduced pension, as described in policy below, refer the individual to apply for the reduced pension as a courtesy only. It is not a required benefit under the Utilization of Other Benefits provision.
- Divorced and re-married spouses of veterans do not qualify for any VA benefits as a former spouse of a veteran. Do not refer these individuals to apply for any benefits on the veteran's record.
- If the ineligible (living) spouse is the veteran, do not require the ineligible spouse to apply for any type of VA benefit.
- VA Aid & Attendance or Housebound benefits are not a required benefit under the Utilization of Other Benefits provision. Eligible individuals should be advised to apply for A&A or Housebound benefits, if appropriate, but there is no penalty for failing to apply when either benefit is the only benefit involved.

DOM-312, Notice of Potential Eligibility for VA Benefits, is used to notify the client of the requirement to file and follow through with an application. Allow 30 days for the individual to file the VA application, if required as a condition of eligibility. Set appropriate ticklers to require proof of filing and subsequent follow up on the decision to approve or deny benefits.

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### 200.07.09A VA PENSION PAYMENTS

VA Pension payments are based on a combination of service, age or disability or death. With a few rare exceptions that are noted below, VA pension payments are federally-funded income based on need (IBON), which means the \$50/\$20 general exclusion is not applied to the payment. Pensions are usually paid monthly; however, when the payment due is less than \$19, VA will pay quarterly, bi-annually or annually. VA may also make an extra payment if an underpayment is due. Pensions, per the VA, are tax free monetary benefits payable to low-income wartime veterans or to low-income un-remarried spouses and/or unmarried children of a deceased veteran with *wartime* service.

*Eligible Wartime Periods*, under current VA law, are determined to be:

- Mexican Border Period (May 9, 1916 – April 5, 1917 for Veterans who served in Mexico, on its borders, or adjacent waters)
- World War I (April 6, 1917 – November 11, 1918)
- World War II (December 7, 1941 – December 31, 1946)
- Korean conflict (June 27, 1950 – January 31, 1955)
- Vietnam era (February 28, 1961 – May 7, 1975 for Veterans who served in the Republic of Vietnam during that period; otherwise August 5, 1964 – May 7, 1975)
- Gulf War (August 2, 1990 – through a future date to be set by law or Presidential Proclamation)

If a veteran served *outside* of any of the eligible periods shown above, *do not require* the individual to apply for a VA pension under the Utilization of Other Benefits provision.

The payment amount is based on the veteran's own income and the income of his/her spouse and children. Maximum annual pension rates are established by Congress. Disability pension payments take dependents' needs into account when determining the payment; however, the VA normally will not make a payment directly to a dependent during the lifetime of the veteran. Instead, the VA increases the amount of the veteran's basic pension if the veteran has dependents.

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### **VA PENSION PAYMENTS (Continued)**

The VA pension payment increased for dependents is an augmented VA payment. A VA pension payment paid directly to the dependent of a living veteran is an apportioned payment. A VA augmented or apportioned pension applies to disability pension payments, surviving spouse pension payments and Special Acts of Congress pensions but does not apply to surviving child or Medal of Honor pensions, as described below.

#### 1. Disability Pension Payments

- Improved disability pension payments – When a veteran is eligible for a disability pension, he or she will receive benefits under the VA improved disability pension program which was established on January 1, 1979. A veteran is eligible for the improved pension when he or she has at least 90 days of active duty service with at least 1 day of service during a wartime period. A veteran who entered active duty after September 7, 1980, must have served at least 24 months or the full period ordered to active duty with at least 1 day of service during a wartime period. The veteran must have been discharged from military service honorably and also be 1) age 65 or over; or 2) totally and permanently disabled; or 3) a patient in a nursing home receiving skilled care; or 4) receiving Social Security disability benefits or SSI.
- Protected disability pension payments – Prior to the VA improved disability pension program, disability pensions were called Old Law and Section 306 disability pensions. These protected pensions were phased out and replaced by the improved disability pension program. Any pension recipient who elected to remain on the protected pension continued to receive the payment rate received when the program was phased out with no cost of living adjustments to the payment. Medicaid applicants in receipt of old law pension are required to apply for improved disability pension payments if it will result in an increased pension payment under the Utilization of Other Benefits provision.

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### **VA PENSION PAYMENTS (Continued)**

#### 2. Surviving Spouse Pension Payments

- Surviving spouse improved death pension payments – When a surviving spouse is eligible for a death pension, he or she will receive benefits under the VA surviving spouse’s improved death pension program established on January 1, 1979. The VA provides this pension to low-income surviving spouses and unmarried children of deceased veterans with wartime service. To be eligible, spouses must not have remarried. For children to be eligible they must be under age 18 or under age 23 if attending a VA-approved school, or determined to be permanently incapable of self-support because of a disability before age 18.
- Surviving spouse protected death pension payments – Prior to the VA surviving spouse improved death pension program, the previous pension programs were called Old Law and Section 306 death pensions. These pensions were phased out with the improved pension program in 01/01/1979; however, spouses could elect to continue to receive a protected pension payment at the rate received when the program was phased out with no cost of living adjustments to the pension payments. Medicaid applicants in receipt of old law pension payments must apply for improved surviving spouse pension benefits if it will result in an increased payment under the Utilization of Other Benefits provision.
- NOTE: Divorced spouses and remarried spouses do not qualify for any VA benefits as a former spouse of a veteran. Do not refer divorced or remarried spouses of veterans to apply for VA benefits under the Utilization of Other Benefits provision.



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### **VA PENSION PAYMENTS (Continued)**

#### 3. Surviving Child Improved Death Pension Payments

The VA provides pensions to low-income, unmarried surviving children of wartime veterans who are independent of the veteran's surviving spouse (e.g., the surviving child is no longer in the custody of the surviving parent or the surviving parent is deceased). An independent child receives VA benefits on his or her own award. The independent child must be under age 18 or under age 23 if attending a VA-approved school or determined to be permanently incapable of self-support because of a disability before age 18.

#### 4. Medal of Honor and Special Act of Congress Pension Payments – Pensions NOT Based on Need

- A veteran who received a Medal of Honor is eligible to receive a special monthly pension payable as either a single entitlement or with another entitlement in a combined award. This type of pension is payable only to the recipient of the Medal of Honor.
- Special Act of Congress pensions are made to individuals in recognition of special acts. When awarded, the terms of the award set the rate, begin date and duration of the payment and whether cost of living adjustments will be applied to the payment.

#### 5. Aid and Attendance and Housebound Benefits (Special Monthly Pension)

Veterans and surviving spouses who are eligible for VA pensions are eligible for higher maximum pension rates if they qualify for aid and attendance or housebound benefits. An eligible individual may qualify if he or she requires the regular aid of another person in order to perform personal functions required in everyday living, or is bedridden, a patient in a nursing home, or is substantially confined to his/her immediate premises because of a disability. VA Aid & Attendance and Housebound Benefits are not income and are excluded from the total VA payment when determining eligibility and Medicaid Income (if applicable). In addition, these payments are not considered third party medical payments.

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### VA PENSION PAYMENTS (Continued)

#### 6. Unreimbursed Medical Expenses (UME)

When computing some needs-based pension payments, VA deducts unreimbursed medical expenses from countable income. The VA considers expenses, which exceed 5% of the maximum annual VA pension payment, as UME. This computation may result in an increase in a pension payment or in an extra payment. An increase or extra payment resulting from VA's consideration of UME is not income and is excluded from the total VA payment when determining eligibility and Medicaid Income (if applicable). UME is not countable as income for institutionalized individuals eligible under an Income Trust.

Unspent VA payments resulting from UME are resources if retained into the month following the month of receipt.

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### 200.07.09B VA COMPENSATION PAYMENTS

VA pays compensation payments based on a service-connected disability or death.

1. Disability Compensation

Veterans are eligible for disability compensation when they have disabilities that result from diseases or injuries incurred or aggravated during active military service. The disability compensation benefit amount is graduated according to the degree of a veteran's disability on a scale from 10 to 100 percent (in increments of 10). VA disability compensation benefits are *not* based on need.

2. Surviving Spouse Dependency Indemnity Compensation (DIC)

The VA provides monthly surviving spouses and surviving children of veterans who died during military service or after discharge from military service as a result of a service-connected disability. Surviving spouse DIC payments are *not* based on need.

3. Surviving Child DIC

The VA provides monthly surviving child DIC payments to independent surviving children of veterans who died during military service or after discharge from military service as a result of a service-connected disability. Independent surviving child means one who is no longer in the custody of the surviving spouse of the deceased veteran who receives VA benefits on his/her own award. To be eligible, a child must be under age 18 or under age 23 if attending a VA-approved school or determined permanently incapable of self-support because of a disability before age 18. Surviving child DIC payments are *not* based on need.

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### VA COMPENSATION PAYMENTS (Continued)

#### 4. Parents' DIC

The VA provides a needs-based monthly benefit to surviving parent(s) of a deceased veteran whose death was service-connected. A surviving parent can be single, married to the deceased veteran's other surviving parent, or remarried to the deceased veteran's step-parent. To be eligible, the VA must determine the surviving parent(s) financially dependent on the deceased veteran. Parents' DIC payments *are income based on need*.

#### 5. Unreimbursed Medical Expenses (UME) Included in Compensation Payments

For needs-based compensation (Parents' DIC), VA may deduct unreimbursed medical expenses from any countable income. The VA considers expenses, which exceed 5% of the maximum annual VA pension payment, as UME. This computation may result in an increase in a compensation payment or in an extra payment. An increase or extra payment resulting from VA's consideration of UME is not income and is excluded from the total VA payment when determining eligibility and Medicaid Income (if applicable). UME is not countable as income for institutionalized individuals eligible under an Income Trust.

Unspent VA payments resulting from UME are resources if retained into the month following the month of receipt.

#### 6. Special Monthly Compensation (SMC)

Veterans with certain specific, very severe disabilities can receive a higher monthly compensation rate that is above the 100% disability rating. The VA calls this payment Special Monthly Compensation (SMC) and it is paid for the veteran's need of daily aid and attendance or regular health services. SMC is not income and is excluded from the total VA payment when determining eligibility and Medicaid Income (if applicable).

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**VA COMPENSATION PAYMENTS (Continued)**

The VA will take dependents' needs into account when determining compensation for the veteran or surviving spouse compensation payments, resulting in increased allowances for dependents. An increase in a payment for dependent(s) is an augmented payment. A payment made directly to the dependent(s) is an apportioned payment. There is no increased allowance for dependents for surviving child and parents' DIC payments.

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### **200.07.09C VA EDUCATIONAL BENEFITS**

VA provides educational assistance under a number of different programs, including vocational rehabilitation. Depending on the nature of the program, different SSI/Medicaid income and resource policies apply. Generally, veterans have up to ten years after leaving the service to complete their education and twelve years to complete a program of vocational rehabilitation. Dependents and survivors of veterans may also be eligible for educational benefits.

#### **Frequency of Payment**

Payments are usually made monthly for months the veteran is in school or according to the school year (quarter, semester, other). However, payments may be made less frequently if school attendance is less than full time.

#### **“Contributory” Programs**

Some programs are “contributory”. That is, the money is contributed by the veteran to an educational fund while the veteran is in service and the VA matches the money when it is withdrawn to pursue an education. The veteran has a right to withdraw as a lump sum the funds he has contributed.

If payments are made under a contributory program or the nature of the program is in question, obtain the amount of the veteran’s contributions remaining in the fund that can be withdrawn as a lump sum and the portion of any VA educational benefit payment that is a withdrawal of the veteran’s contributions to the fund.

#### **Treatment of VA Educational Benefits**

The following are not considered in determining VA income:

- **Vocational Rehabilitation** - Payments made as part of a VA program of vocational rehabilitation are not income, including any augmentation for dependents. Subsistence allowances received during vocational rehabilitation may be augmented, but the augmentation is not income.
- **Withdrawal of Contributions** – Any portion of a VA educational benefit that is a withdrawal of the veteran’s own contributions is conversion of a resource and is not income.

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### **VA EDUCATIONAL BENEFITS** (Continued)

The following must be considered in determining countable VA educational income:

- Any VA educational benefit payment or portion of such a payment funded by the government that is not part of a program of vocational rehabilitation is unearned income.
- Any portion of the VA educational benefit used to pay for tuition, books, fees, tutorial services, or other necessary educational expenses is excluded from income.
  - For SSI/Medicaid purposes, only the portion of an educational payment that is income to the veteran obtaining the education is subject to the educational expenses exclusion. The augmented portion, which is income to the dependent, is not subject to the educational expenses exclusion.
- The \$50/\$20 general income exclusion applies to countable VA educational assistance and these payments are subject to deeming.

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### **200.07.09D AUGMENTED BENEFITS**

As previously indicated, VA often considers the existence of dependents when determining a veteran's or veteran's surviving spouse's eligibility for pension, compensation and educational benefits. If dependents are involved, the amount of the benefit payable may be larger. However, the presence of dependents does not necessarily mean a payment will be augmented.

#### **Apportionment**

Apportionment is direct payment of the dependent's portion of VA benefits to a dependent spouse or child. On a case-by-case basis, the VA decides whether and how much to pay by apportionment. Apportionment reduces the amount of the augmented benefit payable to the veteran or the veteran's surviving spouse. The portion of a VA benefit paid by apportionment to a dependent spouse or child is VA income to the dependent spouse or child. It is not a support payment from the designated VA beneficiary.

#### **Augmentation**

An augmented benefit is an increase in benefit payment to a veteran or a veteran's surviving spouse or higher VA income eligibility limits because of a dependent. An augmented payment includes a designated VA beneficiary's portion and one or more dependent portions. The augmented payment is usually issued as a single payment to the veteran or veteran's surviving spouse.

The designated beneficiary's portion is that part of an augmented benefit that is attributable to the veteran or the veteran's surviving spouse. It is VA income to the designated beneficiary.

The dependent's portion is VA income to the dependent, provided the dependent resides with the designated beneficiary. The dependent's portion is not a support payment from the designated beneficiary.

An absent dependent's portion of an augmented VA benefit is not VA income to either the dependent or the designated beneficiary. This is true even if the designated beneficiary continues to receive the absent dependent's portion. The dependent's portion of a VA benefit is not VA income to an absent dependent unless he receives it directly as an apportioned payment. Any portion of the benefit retained by the designated beneficiary is a countable resource.



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### **AUGMENTED BENEFITS (Continued)**

**Example:** Raymond Jones is a Medicaid recipient. He has one dependent, Robert Jones, 17, who does not reside with him. Mr. Jones' VA pension is \$450 per month, which includes a portion for Robert. The VA verified Mr. Jones' portion of the VA payment as \$400. This is the amount of VA income counted for Mr. Jones. The \$50 augmented payment is not counted.

Under the Utilization of Benefits provision, the applicant who is an absent dependent of a veteran or veteran's surviving spouse receiving VA compensation, pension or educational benefits may be required to file for an apportioned (direct) payment as a condition of eligibility unless apportionment has been denied since the dependent began living apart from the designated beneficiary.

### **Other Payments to Absent Dependents**

Any payment made from the designated beneficiary directly to an absent dependent is unearned income in the form of a gift, a support payment, or other income, not VA income.

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### 200.07.09E VA BENEFITS AND INSTITUTIONAL RULES

#### 1. Reduction in VA Pension for Veterans and Surviving Spouses in Nursing Facilities

Medicaid eligible veterans in nursing facilities without a dependent spouse or child and Medicaid eligible surviving spouses without a dependent child are subject to a maximum VA pension that can be paid of \$90. The maximum payment is \$90 but the payment can be less. The reduced pension is considered Aid and Attendance and is not countable as income for eligibility or Medicaid Income, which includes recipients eligible under an Income Trust.

Federal law prohibits counting the reduced pension toward the veterans' cost of care (Medicaid Income). The Personal Needs Allowance (PNA) for all recipients receiving a reduced pension is equal to the pension payment received, usually \$90.

If a veteran or surviving spouse is receiving a VA pension payment upon admission to a nursing facility, refer the individual to the VA to determine if their pension is subject to the \$90 maximum. Set appropriate ticklers to check with the VA to determine the case action needed.

For individuals who do not receive a VA pension upon admission to a nursing facility but who may be eligible for the reduced pension due to wartime service, there is no requirement to apply for the benefit but it will result in the individual having a higher Personal Needs Allowance if they file for it. Make a referral to file for the reduced pension as appropriate but do not require it under the Utilization of Other Benefits provision since it will not result in a benefit that will count.

#### 2. IS/CS Cases with UME and/or A&A

If the institutional client (IS) receives non-countable income from UME or A&A, the community spouse (CS) will be allowed to receive the IS' payment attributable to UME or A&A in addition to the CS allocation amount computed in the Medicaid Income computation.

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### VA BENEFITS AND INSTITUTIONAL RULES (Continued)

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 the UME (or 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 the 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 (or A&A), the possibility of excess resources building up for the IS exists. In this case, resources must be monitored closely.

#### 3. 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 the nursing home placement and covers the date of admission, but not the date the contract expires. For example, if a veteran is placed in a nursing facility under VA contract effective January 12, 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 the application is filed and provided the individual is eligible on all other factors. Reimbursement cannot begin until the date the VA contract expires.

Do not count VA money paid to the nursing home as income to the Medicaid applicant. Although a VA contract payment is a third party medical payment, it is not a payment subject to recovery by Medicaid. The veteran's ongoing VA benefits may be reduced during the VA contract period and returned to the full amount following expiration of the contract. When verifying VA income for eligibility purposes during a VA contract period, determine if reduced benefits are involved and determine when full benefits will resume. Benefits are usually raised in the month following the month the contract ends.

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### **200.07.09F 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 is not income for eligibility or Medicaid Income purposes.

### **200.07.09G PAYMENTS TO VETERANS' CHILDREN WITH CERTAIN BIRTH DEFECTS**

These VA payments are made to, or on behalf of, the natural children of veterans, regardless of age or marital status, who are in the following categories:

- Vietnam veterans' children for any disability resulting from spina bifida;
- Korea service veterans' children for any disability resulting from spina bifida;
- Women Vietnam veterans' children for certain birth defects.

These payments are excluded from income and resources. The interest earned on unspent funds is excluded effective July 2004.

**NOTE:** While individuals receiving these payments are children of veterans, many would not meet the SSI definition of "child". They may be applicants/recipients and/or have spouses or children who are applicants/recipients.

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### **200.07.09H DEEMING RULES FOR VA PENSION AND COMPENSATION PAYMENTS WITH AND WITHOUT A&A AND UME**

Under the deeming provision, 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 non-deemable along with any other income of the ineligible. However, if an ineligible spouse or parent receives a VA payment that is solely attributed to UME, the 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 that is attributed solely to UME, the ineligible's Social Security would be deemable to the eligible. However, if the ineligible receives a VA needs-based pension or needs-based compensation payment in addition to payment for UME, all income of the ineligible is non-deemable to the eligible person.

### **200.07.09I VA CAREGIVER PAYMENTS**

VA provides family caregivers a monthly stipend payment to provide personal care to eligible veterans who have serious post-9/11 injuries and elect to receive their care in a home setting. To be eligible for the VA caregivers program, the veteran must have:

- Been medically discharged from service;
- A serious injury that was aggravated in the line of duty on or after 9/11/2001;
- Need of personal care because of the inability to perform one or more activities of daily living; and
- Been enrolled in VA health services.

Eligible caregivers include a parent, spouse, child, a step-family member, an extended family member or someone who lives with the veteran but is not a member of the family of the veteran.

VA caregiver payments are unearned income to which the \$50/\$20 general exclusion applies. The monthly stipend is compensation to the caregiver for providing personal care services to the eligible veteran.

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### **200.07.09J VA BENEFIT ALLOCATED TO A SPOUSE RECEIVING IBON**

When the **spouse** of an applicant or recipient receives Income Based on Need (IBON), the source of the IBON may count a portion of the VA benefit as income to the spouse receiving the IBON. When this occurs, a deduction will be made from the VA benefit of the Medicaid client equal to the amount counted as income by the IBON source.

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.

**Example:** An applicant receives a VA pension and his spouse receives SSI. SSI verifies \$50 of the VA pension is the spouse's income in the SSI computation; therefore, \$50 is deducted from the client's verified VA pension.

### **200.07.09K DETERMINING THE AMOUNT OF VA PAYMENTS**

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 payment.

Overpayments recovered from VA benefits are included as income in determining eligibility and Medicaid Income. Refer to the discussion in Overpayment Recovery for specific policy governing overpayments withheld from unearned income.

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.

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**200.07.09L 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 VA verification form. These forms are mailed to:

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

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

VA Center  
P O Box 8079  
Philadelphia PA 19101

VA Insurance payments do not change once the benefit amount has been determined. Once this benefit amount has been verified, it is not necessary to re-verify the benefit amount.

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### **200.07.10 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 compensation is unearned income. A computer match with the Mississippi Department of Employment Security (MDES) is completed at application and redetermination to check for receipt of these benefits.

### **200.07.11 WORKERS' COMPENSATION**

Workers' Compensation (WC) payments are awarded to an injured employee and 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 obtaining the payment is counted as unearned income.
- Any portion of a WC payment or award that the authorizing or paying agency designates for medical, 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.
- If an individual alleges having incurred expenses that exceed the amounts designated for expenses, or to which no amount was designated, the normal rules pertaining to the expenses of obtaining income apply.
- Requests for verification of WC payments are sent to state office for an on-line inquiry. DOM-333 may be used to provide pertinent information for the inquiry. If information from the on-line query conflicts with the client's statement or information provided by the client, contact with the paying agency may be necessary.

### **200.07.12 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)**

TANF provides a monetary grant to families under a program that uses income as a factor of eligibility and is partially funded by federal block grants.



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### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) (Continued)**

TANF payments are considered income based on need (IBON). If a Medicaid client is included in the TANF family unit, the client's share of the TANF grant is counted dollar for dollar as income and the \$50/\$20 general income exclusion does not apply.

In Mississippi, the maximum payment is made based on an incremental method (grant increases or decreases with changes in family size) as follows:

- \$110 for the first person
- \$36 for the second person
- \$24 for each additional person

### **Determining the Client's Share of the TANF Grant**

To determine the client's share of the grant, figure the difference between the grant actually paid and the payment without the client. If the maximum TANF grant is not being received, contact with DHS may be needed to determine the client's share. If the grant amount without including the client is the same or more, the client's share is zero.

### **Other TANF Payments**

TANF incentive payments, additional payments made as a reward for compliance with program requirements, are also IBON and the \$50/\$20 general income exclusion does not apply. Participation allowances for the TANF program are reimbursements.

There is no federal bar to simultaneous SSI/TANF eligibility; however, Mississippi, like most states, does not include SSI recipients' needs or income in the TANF grant.

### **200.07.13 BUREAU OF INDIAN AFFAIRS (BIA) GENERAL ASSISTANCE(GA)**

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 or a tribe. The program makes periodic payments to needy Indians. The administering agency 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 \$50/\$20 per month general income exclusion does not apply.

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### 200.07.14 FOSTER CARE AND ADOPTION ASSISTANCE

#### Foster Care

An individual (adult or child) is considered to be in foster care when:

- A public or private nonprofit agency places the individual under a specific placement program; and
- The placement is in a home or facility which is licensed or otherwise approved by the state to provide care; and
- 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 foster care provider for meeting the needs of the individual in care. An agency may make an additional payment to the foster care provider, which is not intended to support the individual in care, for the provider's own use. While these two payments may be combined and termed "foster care" payment by the issuing agency, only the part that is intended to meet the needs of the individual in care is the foster care payment. Treatment of foster care payments depends on the funding source of the payment, the purpose of the payment and whether the Medicaid recipient is the provider or beneficiary of the care.

#### Adoption Assistance

Adoption assistance programs provide payments and/or services for the child for whom unassisted adoption is unlikely because of age, ethnic background, disability, etc. The income of the adoptive parent, the adopted child or both may be considered in determining the payment. Usually adoption assistance will be formalized by 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 need.

### 200.07.14A FOSTER CARE PAYMENTS UNDER TITLE IV-E

Title IV-E foster care payments are income based on need (IBON) to the individual in care. This income is not subject to the \$50/\$20 general income exclusion. Amounts paid to the provider in excess of the foster care payment, e.g., incentive or service payments, which are not intended to support the child, and are in addition to the foster care payment are counted as income to the provider.

**NOTE:** Payments made under Section 477 of Title IV-E, Independent Living Initiatives, are cash assistance from a governmental social services program and do not count as income.

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**FOSTER CARE AND ADOPTION ASSISTANCE (Continued)**

**200.07.14B ADOPTION ASSISTANCE UNDER TITLE IV-E**

Adoption assistance provided by states under Title IV-E involves 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 (IBON) to the adopted child. This income is not subject to the \$50/\$20 general income exclusion. The total payment is considered cash income to the adopted child and is counted dollar for dollar. Social services may be provided to the adoptive parents under Title IV-E, but they are not counted as income.

**200.07.14C OTHER TYPES OF ASSISTANCE**

The following chart lists other types of foster care and adoption assistance and their treatment.

INCOME	TYPE	TREATMENT
Foster Care Payments Under Title IV-B or Title XX	Not Income	Payments are social services.
Adoption Assistance through Title IV-B or Title XX	Not Income	Payments are social services.
Other Foster Care Payments	Unearned	These payments are subject to general policy pertaining to income and income exclusions.
Other Adoption Assistance Payments	Unearned	These payments are subject to general policy pertaining to income and income exclusions and may be income to the parent of child depending on the type of assistance.

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### **200.07.15 SUPPORT PAYMENTS - SPOUSAL SUPPORT, ALIMONY**

Alimony and support payments are cash contributions to meet some or all of a person's needs for food and shelter. Support payments may be made voluntarily or because of a court order. Alimony, sometimes call "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 and spousal support payments are counted as unearned income to the recipient.

#### **Deeming**

The income used to make court-ordered support payments by an ineligible spouse, ineligible parent or ineligible child is excluded from the deemor's income.

### **200.07.16 SUPPORT PAYMENTS – CHILD SUPPORT**

A child support payment is payment from a parent to or for a child to meet the child's needs for food and shelter. Child support can be voluntary or court-ordered.

#### **Absent Parent**

An absent parent is a parent who does not live in the same household as the child. If periods of living together are brief and the child remains independent or under the care and control of another person, agency or institution, or is living in the home of another, the parent is usually considered absent unless the parent retains parental control and responsibility.

A parent is not considered absent if the parent is away due to employment, intends to resume living with the child and retains parental control and responsibility. A child (or parent) who is a boarding student in an educational facility is not considered absent.

### **200.07.16A TREATMENT OF CHILD SUPPORT PAYMENTS**

Child support payments (including arrearage payments) are unearned income to the child. An arrearage payment is one that was due, but not paid timely and is being paid to comply with an unfulfilled past obligation. Exclude one-third of the amount of the child support payment made to or for an eligible child by an absent parent.

Verify amount and frequency using court records, records of an agency where payments are made, documents in the individual's possession or contact with the source of the payment.

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### **TREATMENT OF CHILD SUPPORT PAYMENTS (Continued)**

When a single support payment, e.g., one check, is made for two or more persons, review the legal document that describes the support payments. If the legal document states the amount of each person's share, divide the payment according to the terms of the document. If not, divide the payment equally. If no legal document exists, contact the payment source to establish intent and allocate the support payment according to that intent. If contact with the source is unsuccessful, accept the recipient's signed allegation about how the support should be allocated. If the recipient cannot state how the support should be allocated, divide the payment equally.

#### **Deeming**

The one-third exclusion of a child support payment applies to the eligible child only. The disregard is not applied when an ineligible child receives child support payments which are considered in a deeming computation. In addition, the income used to make court-ordered or Title IV-D support payments by an ineligible spouse, ineligible parent or ineligible child is excluded from the deemor's income.

#### **Adult Children**

Child support payments (excluding arrearages) received by a parent after an adult child stops meeting the definition of a "child" are income to the adult child, whether or not the adult child lives with the parent or receives any of the child support from the parent. These payments are not subject to the one-third reduction.

When a parent receives child support arrearage payments on behalf of an adult child:

- Any portion of the arrearage payment that the parent receives and does not give to the adult child is income to the parent.
- Any amount of the arrearage payment that the parent gives to the adult child is income to the adult child in the month given, not income to the parent. The one-third reduction does not apply.
- When an adult child receives an arrearage payment directly from the absent parent, the arrearage payment is income to the adult child. The one-third reduction does not apply.

Child support payments and arrearages received by a parent on behalf of a deceased child or adult child are income to the parent who receives them.

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### 200.07.17 RENTAL INCOME

Rent is payment that a person receives for the use of real or personal property, such as land, housing or machinery. Net rental income is gross less the ordinary and necessary expenses paid in the same taxable year. In determining Medicaid eligibility for at-home and institutional categories, consider net rental income.

#### Deductible Expenses

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 tax;
- Expenses of managing or maintaining the property.

Specific examples of deductible expenses include:

- 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 corrections to the existing structure;
- Property taxes;
- Lawn care;
- Snow removal;
- Advertising for tenants;
- Utilities.

#### Nondeductible Expenses

The following are not allowable expenses:

- Principle portion of a mortgage payment;
- Capital expenditures, i.e., an expense for an addition or increase in value of the property which is subject to depreciation for tax purposes (For example, a new roof or replacement of the central heating and air unit.)
- Depreciation or depletion of property.

**NOTE:** If uncertain about whether an expense is allowable, e.g., whether it is an incidental repair or a capital expenditure, refer to IRS Publication 527 or contact the local Internal Revenue Service (IRS).

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### Treatment of Rental Income

- Expenses are deducted when paid, not when incurred.
- Net rental income is counted as unearned income unless it is earned income from self-employment (such as someone in the business of renting properties).
- Rental deposits are not counted as income to the landlord, while subject to return to the tenant. However, rental deposits used to pay rental expenses do become income to the landlord at point of use.
- In determining net rental income, do not consider rents received or expenses paid in months prior to Medicaid eligibility.
- In determining net rental income, do consider rents received or expenses paid in a month in which the case is ineligible as if the case had been in an eligible status (interim months of ineligibility).
- For 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 approximately equal size, prorate allowable expenses based on the number of rooms in the rental units compared with the total number of occupied or unoccupied rooms in the building.
  - Any expenses strictly related to a particular rental unit are deducted in total from rent for that unit and not prorated.
- For rooms in a single family residence:
  - Prorate allowable expenses based on the number of rooms designated for rent compared to the number of rooms in the house, excluding bathrooms and counting basements or attics only if they have been converted to living spaces, e.g. recreation rooms).

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### RENTAL INCOME (Continued)

- Any expenses strictly related to a particular rental room are deducted in total from rent for that room and not prorated.
- For land, prorate based on the percentage of total acres for rent.
- For joint ownership, apportion the income equally among the owners unless a distribution other than equal apportioning is verified. Apportioning is not necessary in cases where the income is combined for the couple who jointly own rental property.

### Determining Net Rental Income

- **Determine** gross rent received and deductible expenses month by month.
- **Subtract** deductible expenses paid in a month from gross rent received in that same month.
- If deductible expenses exceed gross rent in a month, subtract **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 expense is paid.
- If there are **still excess expenses**, 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.
- **Do not** carry excess expenses over to other tax years and do not 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 rent to zero in July (the month the expenses were paid) and in 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 preceding month) and September (the next preceding month).



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### **RENTAL INCOME (Continued)**

#### **Timely Submission of Allowable Expenses**

Allowable expenses must be submitted timely in order for the expense to be considered as a deduction from rental income. The 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 is lost; although any excess may be allowed in a subsequent month or month prior to payment if an excess exists at the end of the tax year.

#### **Verification of 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 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 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 the dates paid must be documented in the file. Copies of all record (bills, receipts, etc.) used in computing the amount of net rental income must be in the file. If the individual has no tax return or other records, obtain the individual's signed statement of the reason no records are available and providing his allegation of gross rental income and allowable expenses for the period involved.

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

#### **Estimating Future Rental Income**

When projecting future rental income, use the documentation obtained from the prior year as discussed above 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 can be estimated with a reasonable degree of accuracy. Examples of predictable expenses include interest payments, property taxes, insurance premiums and utilities. Do not project variable or unpredictable expenses. Consider variable expenses after they have been paid when payment can be documented. Examples of variable expenses include repairs and advertising costs.

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### **200.07.18 DIVIDENDS AND INTEREST**

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

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

#### **Treatment of Dividends and Interest**

Count dividends or interest as income or excluded income based on the following criteria:

- When the source of the dividends or interest is a countable resource, the dividends or interest generated is excluded income for programs with an asset test. (**NOTE:** The Medicare Cost Sharing programs (QMB, SLMB, and QI) do not have an asset test so the exclusion does not apply to them.)
- When the source of the dividends or interest is a resource which is excluded under federal statute, the dividends or interest generated is excluded income. Examples are: Agent Orange payments, Austrian Social Insurance payments, Japanese-American and Aleutian Restitution payments, Radiation Exposure Compensation Trust Fund payments, Ricky Ray Hemophilia Relief funds, payments to Veterans' Children with Certain Birth Defects, etc. The treatment of dividends and interest is included in the discussion of each income source in this chapter.
- When the source of the dividends or interest is a resource excluded by the Social Security Act, dividends or interest generated on the excluded resource may or may not be excluded. Treatment is specific to the excluded resource. Some examples are: burial funds and burial spaces, relocation assistance, PASS funds, gifts to children with life-threatening diseases, victim's compensation, grants, scholarships, fellowships and gifts, etc. The treatment of dividends and interest is included in the discussion for each income source in this chapter.
- Under liberalized income policy, interest, dividend and royalty income or any combination that does not exceed \$5 per month per individual is excluded.

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### **DIVIDENDS AND INTEREST** (Continued)

- In post-eligibility budgeting to determine Medicaid Income, recurring income that varies in amount or frequency, such as dividends and interest, is averaged if the client is income-eligible in the month the payment is received without averaging. Refer to the Institutionalization chapter for more information.

### **200.07.19 ROYALTIES**

Royalties include compensation paid to the owner for the use of property, usually copyrighted material, e.g., books, music or art, or natural resources, e.g., minerals, oil, gravel or timber. Royalty compensation may be expressed as a percentage of receipts from using the property or as an amount per unit produced. To be considered royalties, payments for the use of natural resources also must be received:

- Under a formal or informal agreement whereby the owner authorizes another individual to manage and extract a product (like timber or oil) and
- In an amount that is dependent on the amount of the product actually extracted.

Royalties are counted as unearned income unless they are:

- Received as part of a trade or business; or
- Received by an individual in connection with any publication of his work. Royalties earned by an individual in connection with any publication of his work are earned income (for example, publication of a manuscript, magazine article or artwork).

Some documents concerning royalty payments will provide both a gross and a net payment amount. When the difference between the gross and net figures is due to income taxes withheld or windfall profit tax deductions, use the gross figure in determining income. However, when the difference between the gross and net figures represents a production or severance tax (for example, most oil royalties will be reduced by this tax), use the net figure when determining income. The production or severance tax is a cost of producing the income and therefore, deducted from the gross income. Under liberalized income policy, interest, dividend and royalty income that does not exceed \$5 per month per individual is excluded. The exclusion applies to either income type or a combination of the three types up to the \$5 maximum.

In post-eligibility budgeting to determine Medicaid Income, recurring income that varies in amount or frequency, such as royalties, is averaged if the client is income-eligible in the month the payment is received without averaging. Refer to the Institutionalization chapter for more information.

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### **200.07.20 AWARDS**

An award is something received as the result of a decision by a court, board of arbitration or the like. Use documents in the individual's possession or contact with the court, board, etc., to verify the amount of the award, the payment date and if needed, the purpose(s) of the payments, e.g., reimbursement for medical expenses. An award is counted as unearned income subject to the general rules pertaining to income and income exclusions.

### **200.07.21 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 giver's part. A gift is something that is given irrevocably, i.e., the giver relinquishes all control. Donations and contributions may meet the definition of a gift.

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

A gift of a house which is used for 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). Refer to 200.13.04, In-Kind Support and Maintenance (ISM).

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. Otherwise, determine the item's CMV with an independent source.

A gift is unearned income subject to general rules pertaining to income and income exclusions. Determine the nature of the gift and apply appropriate policy.

### **Gifts Used to Pay Tuition, Fees or other Necessary Educational Expenses**

Effective June 1, 2004, gifts (or a portion of a gift) used to pay for tuition, fees or other necessary educational expenses at any educational institution, including vocational and technical education, are excluded from income. They are also excluded from resources for the 9-month period beginning the month after the month the gift was received. For more information, refer to the discussion of the treatment of income used for educational expenses in 200.09.25 below.

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### **200.07.22 GIFTS OF TRAVEL TICKETS**

#### **Domestic Travel Tickets**

Domestic travel is travel in or between the 50 states, the District of Columbia, Puerto Rico, the US Virgin Islands, Guam, American Samoa and the Northern Mariana Islands. A domestic ticket received as a gift is treated as unearned income in the month the ticket was converted to cash. The value of a ticket for domestic travel received by an individual, his spouse or parent whose income is subject to deeming is excluded from income if the ticket is received as a gift and was used for transportation or retained and has not been converted to cash (e.g., cashed in or sold, etc.).

#### **Non-Domestic Travel Tickets**

The gift of a non-domestic travel ticket that cannot be converted to cash (non-refundable) or used to obtain food or shelter is not considered income even if the ticket was used for transportation. Travel tickets that can be converted are income and counted as unearned income at the current market value in the month of receipt whether or not the ticket was used for transportation.

### **200.07.23 PRIZES**

A prize is generally something won in a contest, lottery or game of chance. A prize is counted as unearned income subject to the general rules pertaining to income and income exclusions. Do not subtract gambling losses from gambling winnings in determining an individual's countable income. If a person is offered a choice between an in-kind prize and cash, the cash offered is counted as unearned income even if the individual chooses the in-kind item, regardless of the value, if any, of the in-kind item.

### **200.07.24 GIFT CARDS AND GIFT CERTIFICATES**

The value of a gift card or gift certificate is unearned income in the month it is received if the gift card or certificate can be used to purchase food or shelter or can be resold. Absent evidence to the contrary, presume a gift card or certificate can be resold. Evidence to the contrary could include a legally enforceable prohibition on resale or transfer of the card/certificate imposed by the card issuer/merchant printed on the card or certificate. The value of the gift card/certificate is subject to general rules pertaining to income and income exclusion, e.g., infrequent or irregular income exclusion policy.

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### **200.07.25 WORK-RELATED UNEARNED INCOME**

The following work-related payments are counted as unearned income:

- Certain in-kind items provided as remuneration for employment, e.g., in-kind payments of food or shelter to domestic employees;
- Money paid to a resident of a public institution when no employer/employee relationship exists;
- Tips under \$20 per month;
- Jury fees, i.e., fees for services, not expense money.

### **200.07.26 SICK PAY AS UNEARNED INCOME**

Any payments on account of sickness and accident disability paid more than six full months after work stopped because of that sickness or disability are unearned income.

### **200.07.27 DEATH BENEFITS**

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

- Proceeds of life insurance policies received due to death of the insured;
- Lump sum death benefits from SSA;
- RR burial benefits;
- VA burial benefits;
- Inheritances 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 death.

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

Death benefits are counted as income to the extent the total amount exceeds the expenses of the deceased person's last illness and burial paid by the recipient of the benefit. Last illness and burial expenses include: related hospital and medical expenses; funeral, burial plot and interment expenses, and other related expenses. If an expense is incurred but not paid, assume 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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### **DEATH BENEFITS** (Continued)

To determine the income derived from death benefits, subtract the total expenses for the last illness and burial 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.

**Example:** Last illness and burial expenses total \$10,000. Two death benefits are received - \$5,000 in January and \$6,000 in February. Charge the remaining \$1,000 of the death benefit received in February as income in February.

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

### **200.07.28 INHERITANCE**

An inheritance is cash, a right or a noncash item(s) received as the result of someone's death. An inheritance is a death benefit.

**NOTE:** Until an item or right has a value (i.e., can be used to meet the heir's need for food or shelter), it is neither income nor a resource. The inheritance is income in the first month it has a value and can be used.

An inheritance is not income to a person if the inheritance is something that was considered that person's resource (either as a member of an eligible couple or through deeming of resources) immediately before the death.

**NOTE:** The proceeds of a life insurance policy were not a resource before the death.

### **200.07.29 CHOCTAW TRIBAL BONUS**

Recurring lump sum payments, such as the Choctaw Tribal bonus, are considered income in the month of receipt for Medicaid eligibility purposes. In post-eligibility budgeting to determine Medicaid Income, these payments are averaged if the client is income-eligible in the month the payment is received without averaging. Refer to the Institutional chapter for more information.

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### **200.07.30 EDUCATIONAL ASSISTANCE**

Educational assistance is provided in many forms. Treatment will vary depending on the nature and sometimes the use of the assistance. Educational assistance may be earned or unearned and may be counted or excluded.

The following are specific types of educational assistance:

- VA Educational Benefits discussed at 200.09.09C;
- Assistance under Title IV of the Higher Education Act (HEA) of 1965 or Bureau of Indian Affairs discussed at 200.09.28A;
- Grants, Scholarships, Fellowships and Gifts discussed at 200.09.28B;
- Educational Payments under AmeriCorps and the National Civilian Community Corps discussed at 200.09.42.

### **200.07.31 GRANTS, SCHOLARSHIPS, FELLOWSHIPS AND GIFTS**

Grants, scholarships and fellowships are amounts paid by private nonprofit agencies, the US government, instrumentalities or agencies of the US, state and local governments, foreign governments and private concerns, e.g., a private citizen, to enable qualified individuals to further their education and training by scholastic or research work, etc.

As indicated earlier, a gift is something a person receives which is not repayment for goods or services provided and is not given by legal obligation on the giver's part. To be a gift, something must be irrevocably given.

#### **Educational Expenses**

Educational expenses include laboratory fees, student activity fees, transportation, stationery supplies, books, technology fees, 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.



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### **200.07.31A ASSISTANCE UNDER TITLE IV OF HEA OR BUREAU OF INDIAN AFFAIRS (BIA)**

All student financial assistance received under HEA or BIA assistance programs is excluded from income and resources, regardless of use. The resource exclusion does not have a time limit, i.e., regardless of how long held, the assistance is excluded from resources. Interest and dividends earned on unspent educational assistance under Title IV HEA and BIA are excluded from income.

Examples of HEA Title IV programs include:

- PELL grants;
- State Student Incentives
- Academic Achievement Incentive Scholarships
- Byrd Scholars
- Federal Supplemental Educational Opportunity Grants (FSEOG)
- Federal Educational loans (Federal PLUS, Perkins, Stafford, Ford loans)
- Upward Bound
- GEAR Up (Gaining Early Awareness and Readiness for Undergraduate Programs)
- LEAP (Leveraging Educational Assistance Partnership)
- SLEAP (Special Leveraging Educational Assistance Partnership)
- Work Study programs
- State educational assistance programs, including work study, funded by LEAP or SLEAP

### **200.07.31B OTHER GRANTS, SCHOLARSHIPS, FELLOWSHIPS AND GIFTS**

Any portion of a grant, scholarship, fellowship or gift used for paying tuition, fees, or other necessary educational expenses at any educational institution, including vocational or technical education, is excluded from income.

#### **Funds Set Aside**

Any portion of such educational assistance that is not used for paying current tuition, fees or other necessary educational expenses but will be used for paying this type of educational expense at a future date is excluded from income in the month of receipt.

**NOTE:** This exclusion does not apply to that portion set aside or actually used for food, clothing or shelter.

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### **OTHER GRANTS, SCHOLARSHIPS, FELLOWSHIPS AND GIFTS (Continued)**

#### **Treatment of Grants, Scholarships, Fellowships or Gifts Not Used or Set Aside**

Any portion of grants, scholarships, fellowships, or gifts that is not used or set aside for paying tuition, fees, or other necessary educational expenses is income in the month received and a resource the month after the month of receipt, if retained.

#### **Treatment of Funds Set Aside, But Not Used for Paying Educational Expenses**

If any portion of grants, scholarships, fellowships or gifts that is excluded from resource because it is set aside to pay for necessary educational expenses is used for some other purpose, the funds are income at the earliest of the following points:

- In the month that it is spent; or
- The month the individual no longer intends to use the funds to pay necessary educational expense.

#### **Excluded Funds Not Spent**

If the funds set aside to pay for necessary educational expenses are not spent after the 9<sup>th</sup> month, they are countable resources as of the 10<sup>th</sup> month following the month of receipt.

### **200.07.31C DETERMINING COUNTABLE AND EXCLUDABLE AMOUNTS OF ASSISTANCE**

- Verify that the assistance is a grant, scholarship, fellowship or gift.
  - Use documents in the individual's possession, contact with the institution or provider to verify the nature of the assistance. If the assistance is not totally excluded as Title IV HEA or BIA, verify the amount, date(s) of payment, payee and source of payment/payer, etc.
- Determine the amount of tuition, fees, and other necessary educational expenses.
  - Use receipts, bills with cancelled checks, contact with the provider, etc., to verify expenses paid. If an expense is verified as incurred, but not paid, assume it will be paid. A signed allegation is acceptable evidence of expenses when it is unreasonable to obtain other evidence, e.g., daily bus fare, small expendable items, etc., but this does not apply to tuition, fees or books.

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### **DETERMINING COUNTABLE AND EXCLUDABLE AMOUNTS OF ASSISTANCE** (Continued)

- Deduct the amount of tuition, fees and other necessary expenses from the gross amount of assistance.
- Exclude any remainder from income if the individual alleges it will be used for necessary educational expenses.
  - Any portion not used or set aside is income in the month received and a resource the following month.
- Inform the individual that he must report if the money is spent for a purpose other than educational expenses or if he changes his intent to spend it on educational expenses.
- Count any portion of grants, scholarships, fellowships or gifts as income in the earliest of either month it is spent for something other than educational expenses or the month the individual no longer intends to use the money for educational expenses.
- Any funds not spent after the 9<sup>th</sup> month are counted as a resource beginning the 10<sup>th</sup> month following month of receipt.
  - Interest and dividends earned on grants, scholarships, fellowships or gifts which are excluded as a resource count as income. Interest and dividends earned on educational assistance which is a countable resource are excluded as income.

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### **200.07.32 DISASTER ASSISTANCE (PRESIDENTIALLY- DECLARED DISASTER)**

This section addresses only presidentially-declared disasters. There are no specific instructions or exclusions addressing other disasters. At the request of the 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 (for example, the Red Cross).

The value of support and maintenance in cash or in-kind is not counted as countable income if:

- The individual lived in a household which he or she (or he and another person) maintained as his or their home at the time a catastrophe occurred in the area; and
- The President declared the catastrophe a major disaster for purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (formerly the Disaster Relief Act of 1974); and
- The individual stopped living in his home because of the catastrophe and began to receive support and maintenance within 30 days after the catastrophe; and
- The individual receives support and maintenance while living in a residential facility maintained by another person. A residential facility is to be interpreted broadly, including a private household, a shelter, or any other temporary housing arrangement resorted to because of the disaster.

Assistance (other than support and maintenance) received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or any other Federal statute because of a catastrophe which the President declares to be a major disaster is excluded from countable income. This includes assistance to repair or replace the individual's own home or other property and disaster unemployment assistance. Interest earned on the assistance is excluded from income and resources. If excluded from income, any unspent assistance is permanently excluded from resources.

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### **200.07.33 FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) EMERGENCY FOOD DISTRIBUTION AND SHELTER 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 providing emergency food and shelter to needy individuals. The entity receiving these funds decides how they will be best used (such as to buy beds and blankets, to stock a soup kitchen or pay an individual's rent.) The federal funds are not provided to meet ongoing basic needs.

Assistance involving FEMA is subject to general rules pertaining to income and income exclusions. It is neither IBON nor ABON. Assistance involving FEMA is most often provided in-kind by private nonprofit organizations and with state certification will qualify for exclusion as Home Energy Assistance and Support and Maintenance Assistance (HEA/SMA).

### **200.07.34 FEDERAL HOUSING ASSISTANCE**

The Federal Government through the Office of Housing and Urban Development (HUD) and the US Department of Agriculture's Rural Housing Service (RHS), formerly the Farmers Home Administration, provides many forms of housing assistance including:

- Subsidized housing (such as, public housing, reduced rent, cash toward utilities);
- Loans for renovations;
- Loans for construction, improvement, or replacement of farm homes and other buildings;
- Mortgage or investment insurance; and
- Guaranteed loans and mortgages.

This assistance may be provided directly by the federal government or through other entities such as local housing authorities or nonprofit organizations.

The value of any assistance paid with respect to a dwelling unit is not counted as income or resources if paid under a program or project in which HUD or RHS is involved. "Section 8" housing is HUD housing assistance.

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### **200.07.35 LOW INCOME ENERGY ASSISTANCE**

Through a block grant, the federal government provides funds to states for energy assistance (including weatherization) to low income households. This assistance may be provided by a variety of agencies (such as state or local welfare offices, community action agencies, special energy offices) and known by a variety of names (for example, HEAP, Project Safe). It is most often provided in a medium other than cash (such as, voucher, two-party check, direct payment to vendor) but may be in cash.

Home energy assistance payments or allowances provided under the Federal Low-Income Home Energy Assistance Program (LIHEAP) are not counted as income or resources.

### **200.07.36 HOME ENERGY ASSISTANCE AND SUPPORT AND MAINTENANCE ASSISTANCE (HEA/SMA)**

Low income energy assistance discussed above is governmental assistance. The legislative intent of the exclusion of HEA/SMA was to address charitable efforts by the community to help recipients.

Home energy assistance is any assistance related to meeting the costs of heating or cooling a home. Support and maintenance assistance is in-kind support and maintenance or cash provided for the purpose of meeting food, clothing and shelter needs. It includes energy assistance.

Home energy or support and maintenance assistance is not counted as income 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 (501(c) organization); or
- Provided **in cash or in-kind** by a supplier of home heating oil or gas, a rate-of-return entity (e.g., a utility company) providing home energy, or a municipal utility providing home energy.

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### **200.07.37 RELOCATION ASSISTANCE**

Relocation assistance provided to persons displaced by governmental projects that acquire real property is not income. 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;
- 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;
- Direct provision of replacement housing (as a last resort).

#### **Federal or Federally-Assisted Projects**

Relocation assistance provided under the Uniform Relocation Assistance and Real Property Acquisitions Policies Act is not counted as income. This exclusion applies to relocation assistance provided to persons displaced by any federal or federally assisted project. Any federal assistance (except revenue sharing only) is sufficient to bring into play the federal statutes controlling acquisition of real property, requiring that relocation assistance be available and not counted as income. Federal relocation assistance is permanently excluded from resources. Interest earned on unspent payments is not excluded from income or resources.

#### **State, Local or State-Assisted/Locally-Assisted Projects**

Relocation assistance provided to persons displaced by any state, local or state-assisted/locally-assisted project is not counted as income. Unspent payments are excluded from resources for 9 months. Interest earned on unspent payments is not excluded from income or resources.

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### **200.07.38 REFUGEE CASH ASSISTANCE (RCA), CUBAN AND HAITIAN ENTRANT CASH ASSISTANCE (CHECA)**

Refugee Cash Assistance and Cuban and Haitian Entrant Cash Assistance are federally funded programs that make ongoing needs-based payments to refugees during their first 8 months in the United States. The payments are made by the state or local government according to AFDC standards and rules, although there need not be a child involved. RCA and CHECA payments are federally-funded income based on need and unless excluded under a PASS, are counted dollar for dollar as income under IBON policy. The \$50/\$20 general income exclusion does not apply.

### **200.07.39 REFUGEE RECEPTION AND 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. Refugee reception and placement grants are provided by the Department of State. Refugee matching grants are provided by the Department of Health and Human Services.

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.

### **200.07.40 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.



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### **200.07.41 WORK RELIEF (WORKFARE) PROGRAMS**

Many governmental assistance programs require that certain recipients work in exchange for the assistance 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. The payment in such situations is an assistance payment and is not earned income.

### **200.07.42 PROGRAMS FOR OLDER AMERICANS**

The Federal Government through the Administration on Aging is involved in a variety of programs for older Americans. State or local governments or community organizations may operate the programs. Some types of programs are:

- Health services
- Nutrition services
- Legal assistance
- Community service employment

A wage or salary paid under Programs for Older Americans is counted as earned income subject to the general policies regarding earned income. Anything provided under the Programs for Older Americans other than a wage or salary is not counted as income.

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### 200.07.43 WORKFORCE INVESTMENT ACT (WIA)

The Workforce Investment Act replaced the Job Training Partnership Act (JTPA.) The Workforce Investment Act of 1998 (WIA), which became effective July 1, 2000, establishes a national workforce preparation and employment system to meet the needs of businesses, job seekers and those who want to further their careers. Individuals have easy access to information and services through the One-Stop Career Center system.

Determine the type, amount and frequency of the income the individual receives and evaluate the income, e.g., wages, stipends, bonuses, incentive payments, etc., under the general rule pertaining to income and income exclusions. Disregard any payments that represent supportive services (child care, transportation, medical care, meals, etc.) which are social services, not income.

### 200.07.44 JOB CORPS

The Job Corps is a Workforce Investment Act (WIA) program. A Job Corps participant who is a student under age 22 qualifies for the student earned income exclusion.

#### Treatment of Income

The **living allowance** (also called student pay) is the regular, recurring payment to Job Corps participants. It is paid bi-weekly and may include bonuses and/or incentive payments. FICA is withheld from the entire amount. The living allowance is wages.

The **readjustment allowance** is paid at the completion or termination of the program based on length of participation. It may include bonuses and/or incentive payments. FICA is withheld from the entire amount. The readjustment allowance, including any amount deducted to pay the participant's share of a dependent's allowance, is wages.

Any **bonus and incentive payments** are also wages.

A **bi-weekly dependent's allowance** may be paid directly to a participant's dependent. The Federal Government pays for half. The other half is subsequently deducted from the participant's readjustment allowance. This allowance is counted as unearned income to the dependent.

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### **JOB CORPS** (Continued)

The **clothing allowance** is furnished only as a voucher redeemable at a designated clothing store. The clothing allowance (voucher) is not income. The transportation allowance is furnished only as tickets (usually bus tickets) that cannot be converted to cash. This allowance is not income.

**Supportive services** are services such as childcare, transportation, medical care, meals, and other reasonable expenses provided in-kind. Those supportive services (such as medical services, transportation to and from medical treatment, counseling, job placement services) provided in-kind which are medical or social services are not income.

### **Deeming**

- The rules regarding temporary absence for deeming purposes apply to Job Corps participants who reside in a Job Corps Center or who are away at school.
- If the participant is a deemor and his dependent is eligible for Medicaid, only one-half of the dependent's allowance is unearned income to the dependent.

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### 200.07.45 **AMERICORPS AND NATIONAL CIVILIAN COMMUNITY CORPS (NCCC) PAYMENTS**

The National and Community Service Trust Act established the Corporation for National and Community Services (CNCS). Through CNCS, the federal government administers a number of national and community service programs. It is also the federal agency that administers VISTA and the Service Corps, programs formerly administered by the ACTION agency.

**NOTE:** AmeriCorps State and National, AmeriCorps NCCC and AmeriCorps VISTA (formerly VISTA) are three different programs.

#### **AmeriCorps State and National and AmeriCorps NCCC**

Both of these are national service programs authorized by the National and Community Service Trust Act.

- **AmeriCorps State and National** provides grants to states, Indian tribes, private and public nonprofit organization and Institutes of Higher Education for community service projects such as educational programs, environmental activities and disaster relief.
- **AmeriCorps NCCC** is a residential service program for young adults between the ages of 19 and 24 in which participants provide work teams for a variety of community service projects.

Participants in both programs receive a stipend or living allowance generally based on minimum wage requirements. Participants are also eligible to receive an educational award for the cost of college attendance or for outstanding college loans. They may also receive a direct payment in lieu of the educational award as well as other types of assistance.

#### **Treatment of Income**

Effective September 1, 2008, cash or in-kind payments provided by AmeriCorps State and National and AmeriCorps NCCC are excluded from income, even if they meet the definition of wages. Such payments include, but are not limited to:

- Living allowance payments;
- Stipends;
- Food and shelter;
- Clothing allowances;
- Educational awards and payments in lieu of educational awards.

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### **AMERICORPS AND NATIONAL CIVILIAN COMMUNITY CORPS (NCCC) PAYMENTS** (Continued)

#### **AmeriCorps VISTA and Other Former ACTION Programs**

ACTION consisted of a number of volunteer service programs including:

- Volunteers in Service to America (VISTA, now AmeriCorps VISTA);
- Retired Senior Volunteer Program (RSVP);
- University Year for Action (UYA);
- Foster Grandparent Program; and
- Senior Companion Program.

All payments to volunteers made by CNCS under former ACTION programs are excluded from income and resources.

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### 200.07.46 PAYMENTS FOR CLINICAL TRIAL PARTICIPATION

Pursuant to the Improving Access to Clinical Trials Act of 2009, exclude the first \$2,000 of compensation per calendar year received by a Medicaid client, spouse or deemor as compensation for participation in clinical trials which research and test treatment of rare diseases or conditions. Payments which are reimbursements for expenses incurred while participating in the trial do not reduce the \$2,000 calendar year maximum.

Most clinical trials involving human subjects obtain the participants' informed consent. The "informed consent form" will provide most of the information needed to determine if the exclusion applies. In the alternative, request an official letter from the administrator of the clinical trial which provides all relevant information of informed consent. Apply the exclusion only if the clinical trial meets the following requirements:

- Must be reviewed and approved by an institutional Review Board (IRB), a committee which ensures a clinical trial is ethical and protects the participants;
  - An informed consent form is proof an IRB reviewed and approved the trial. In the absence of the informed consent form, assume IRB approval if the clinical trial appears in the Clinical Trials.gov website;
- Must involve research and testing of medical treatments, e.g., experimental treatments, new combinations of drugs, new approaches to surgery or radiation therapy, etc.; and
- Must target an "orphan" or rare disease or condition;
  - Some commonly known rare disease are Lou Gehrig's disease, Crohn's disease, cystic fibrosis, cystinosis, Duchenne muscular dystrophy, Huntington's disease, and Tourette syndrome;
  - If the disease associated with the clinical trial is not one of the above or the documentation provided does not state the condition is a rare disease or condition, search for it in the Office of Rare Disease Research's rare disease database at [www.rarediseases.info.nih.gov](http://www.rarediseases.info.nih.gov) under Rare Diseases and Related Terms.

Verify date, frequency and amount of payments using check stubs, payment receipts, informed consent form, etc. Apply the exclusion, if applicable. Otherwise, use regular income counting rules.

The Act specifies this exclusion will expire on October 5, 2015. Any unspent compensation under this exclusion will count as a resource at that time.