

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### 200.01 INTRODUCTION

This chapter discusses sources and treatment of income in the Aged, Blind and Disabled (ABD) programs. Eligibility for the ABD Medicaid programs is based on the rules used to decide eligibility for Supplemental Security Income (SSI). In accordance with 42 CFR 435.601, Medicaid is required to use SSI financial eligibility requirements unless a subsequently issued Medicaid statute or regulation supersedes SSI policy. In addition, 1902(r)(2) of the Social Security Act allows states to apply income rules to certain Medicaid categories that are more liberal than the SSI program.

#### 200.01.01 SSI INCOME RULES

The following income rules are based on SSI income policy:

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

#### 200.01.02 LIBERALIZED INCOME RULES

Certain liberalized income policies apply to the following categories of eligibility:

- Qualified Medicare Beneficiaries (QMB)
- Specified Low-Income Medicare Beneficiaries (SLMB)
- Qualifying Individuals (QI)
- Working Disabled (WD)
- Healthier Mississippi Waiver (HMW)

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### **LIBERALIZED INCOME RULES** (Continued)

The following income liberalizations are applicable to the five categories listed above:

- The value of in-kind support and maintenance (ISM) is excluded.
- The \$20 general exclusion is raised to a \$50 general exclusion.
- The SSI budgeting practice that requires an individual who is married to an ineligible spouse to be eligible as both an individual and as a member of a couple is replaced with one test in which the couple's income is combined after allocating to the ineligible children from the ineligible spouse's income. The couple's countable income is then tested against the couple limit appropriate to the coverage group.
- Interest, dividend and royalty income that does not exceed \$5 per month per individual is excluded.
- Couples living together are budgeted separately when one member is enrolled in a HCBS Waiver Program and evaluated for eligibility using institutional financial criteria and the other member of a couple is applying under an at-home category.
- Annual cost of living increases in federal benefits (such as VA, Railroad Retirement, Civil Service, etc.,) that are in addition to Title II benefits are disregarded in determining income through the month following the month in which the annual Federal Poverty Level (FPL) update is published.
- Annual cost of living increases in federal benefits (Title II benefits, VA, Civil Service, and Railroad Retirement) are disregarded when the Federal Poverty Level (FPL) update fails to increase at an equal or greater rate than the federal cost of Living (COL) increase during the same year. The disregard of the COL increase in federal benefits will apply to increase(s) received by the eligible individual, couple and/or ineligible spouse. The COL increase will be disregarded as income until such time as the FPL increase is greater than the previous COL increase.
- For the Working Disabled coverage group, unearned income between the SSI limit and 135% of the federal poverty limit is disregarded.

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### 200.02 WHAT IS INCOME

Income is defined as any item an individual receives in cash (or in some cases in-kind) that can be used to meet his/her needs for food or shelter.

**NOTE:** Effective March 9, 2005, clothing is no longer considered a basic need for SSI purposes.

#### 200.02.01 RELATIONSHIP OF INCOME TO RESOURCES

The following must be considered in determining the relationship of income to resources:

- Anything received in a month, from any source is income to an individual, subject to the SSI definition of income.
- Anything the individual owned prior to the month under consideration is subject to resource counting rules.
- The same item cannot be counted as both a resource and income in the same month. An item received for the current month is income for the current month only. If held by the individual until the following month, that item is subject to resource counting rules. Any exceptions are noted in the discussion of the particular type of income involved.

**Example:** Mr. Jones receives his Social Security check in March. It is directly deposited into his checking account. Count the Social Security check as income in March and subtract the deposit from the checking account to determine how much he has in resources for March.

If Mr. Jones carries all or part of the check into April, the remaining amount is counted as a resource.

#### 200.02.02 TYPES OF INCOME

Income is either earned or unearned. Different rules apply to each type. Some examples of the types of income are listed below.

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### **TYPES OF INCOME** (Continued)

<b>TYPES OF EARNED INCOME</b>
Earned income consists of the following types of payments: <ul style="list-style-type: none"><li>• Wages</li><li>• Net earnings from self-employment (NESE)</li><li>• Payments for services performed in a sheltered workshop or work activities center</li><li>• Royalties earned by an individual in connection with any publication of his work and any honoraria received for services rendered</li></ul>
<b>TYPES OF UNEARNED INCOME</b>
Unearned income consists of the following types of payments: <ul style="list-style-type: none"><li>• Annuities, pensions, and other periodic payments</li><li>• Alimony and support payments</li><li>• Dividends, Interest and royalties (except for royalties mentioned above)</li><li>• Rents</li><li>• Benefits received as the result of another’s death to the extent that the total amount exceed expenses of the deceased last illness and burial paid by the beneficiary</li><li>• Prizes and awards</li><li>• In-kind support and maintenance</li></ul>

### **200.02.03**     **FORMS OF INCOME**

Whether earned or unearned, income may be received in either of two forms:

- **Cash** – Currency, checks, money orders or Electronic Funds Transfers (EFT), such as:
  - Social Security
  - Unemployment Compensation
  - Wages
- **In-kind** – Items such as:
  - Shelter
  - Food
  - Clothing (Before March 9, 2005)
  - Non-cash wages (such as room and board as compensation for employment)

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### 200.02.04 EFFECT OF GARNISHMENT OR SEIZURE

A garnishment or seizure is a withholding of an amount from earned or unearned income in order to satisfy a debt or legal obligation. Amounts withheld from earned or unearned income to satisfy a debt or legal obligation are income for Medicaid purposes.

**Example:** Ms. Jones' wages are being garnished to repay a delinquent debt. The amount withheld for the garnishment is countable income.

### 200.02.05 WHEN INCOME IS COUNTED

Generally, count income in the earliest month it is:

- Received by the individual;
- Credited to an individual's account; or
- Set aside for an individual's use.

For Medicaid eligibility purposes, all income is determined monthly and counted in the month the income is received.

**NOTE:** For institutional clients, income that varies in amount or frequency is averaged to determine Medicaid Income provided the client is income-eligible for Medicaid in the month the payment is received without averaging.

### Exceptions to Counting Income in the Month of Receipt

Occasionally, a periodic payment (like wages, Title II or VA benefits) is received in a month other than the month of normal receipt. As long as there is no intent to interrupt the regular payment schedule, the funds are considered to be income in the normal month of receipt.

The most common types of situations where this would apply are:

- **Advance Dated Checks** - When the payer advance dates a check because the regular payment date falls on a weekend or holiday, there is no intent to change the normal delivery date. When this occurs, consider the check income in the normal month of receipt.
- **Electronic Funds Transfer** – When an individual's money goes to a bank by direct deposit, the funds may be posted to an account before or after the month they are payable. When this occurs, treat the electronically transferred funds as income in the month of normal receipt.

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### **200.02.06 INCOME DETERMINATIONS INVOLVING AGENTS**

Monies received by an individual in his capacity as an agent on another's behalf (such as a representative payee) are not income to him. However, monies a person receives for his own use (not paid on behalf of another) must be evaluated under regular income rules.

**Example:** Mr. Jones is receiving a Social Security check as the payee for his disabled child. This check is counted as income for the child, not Mr. Jones.

### **200.02.07 INCOME DERIVED FROM JOINT BANK ACCOUNTS**

The following explains how to charge income in situations involving joint bank accounts held by Medicaid applicants/recipients with other individuals:

#### **Eligible with Ineligible**

When an applicant/recipient and an ineligible individual hold a joint bank account, the full amount of any deposit, regardless of the source of the deposit, is income to the applicant/recipient unless:

- The ineligible individual is a deemor (parent or spouse) for income and/or resource purposes. In which case the deposits are income to the person actually receiving them, but the ineligible's income or resources will be deemed to the eligible.
- The ineligible is a legal guardian or conservator of the eligible and legal documents allow deposits to be treated otherwise.
- The deposit can be excluded under some other provision.
- Spousal impoverishment rules apply.

#### **Eligible with Other Eligibles**

When Medicaid-eligibles are joint account holders, a deposit by one Medicaid-eligible is not income to the other eligible person. Deposits are counted as income to the eligible person actually receiving the benefit or entitled to the payment. Interest payments are allocated equally among the joint holders.

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### **INCOME DERIVED FROM JOINT BANK ACCOUNTS** (Continued)

#### **Rebuttal Situations**

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

If an eligible individual or deemor has successfully rebutted ownership of all of the funds held in a joint bank account, no deposits by other account holders or interest credited to the account are counted as income to the eligible individual or deemor.

#### **Income from Trusts/Conservatorships**

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

The income/resource rules that apply to a trust or conservatorship depend on when the trust or conservatorship was established. Refer to the chapter on Resources for a complete discussion of applicable income/resource rules.

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### 200.03 WHAT IS NOT INCOME

Some items received by an individual are not income because they do not meet the definition of income. Other items are income by definition, but are excluded from an individual's income by federal statute. Only those items specifically listed in the law and regulations can be excluded from income. The items in this section are not considered income for Medicaid purposes.

#### 200.03.01 MEDICAL AND SOCIAL SERVICES, RELATED CASH AND IN-KIND ITEMS

Medical and social services are not income for Medicaid purposes. Under the circumstances specified in this section, cash and in-kind items received in conjunction with medical and social services are also not income.

##### Medical Services

Medical services are those services which are directed toward diagnostic, preventive, therapeutic or palliative treatment of a medical condition and which are performed, directed or supervised by a state licensed health professional. The term "medical services" includes any room and board (i.e., food or shelter) provided during a medical confinement, as well as in-kind medical items such as prescription drugs, eyeglasses, prosthetics and their maintenance, electric wheelchairs, modified scooters and specially trained animals, such as seeing eye dogs, and their maintenance. Transportation to and from medical treatment is also considered a medical service.

##### Social Services

A social service is any service (other than medical) which is intended to assist a handicapped or socially disadvantaged individual to function in society on a level comparable to that of an individual who does not have such a handicap or disadvantage. Some frequently encountered social services programs are programs funded under Title IV-B of the Social Security Act, Child Welfare Services; Title V of the Social Security Act, Maternal and Child Health and Crippled Children's Services and the Rehabilitation Act of 1973.

Education is not generally considered to be a social service, nor is vocational training that is not part of a vocational rehabilitation program. Government income maintenance programs such as TANF or Bureau of Indian Affairs General Assistance and Child Welfare Assistance are also not social services.

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### **MEDICAL AND SOCIAL SERVICES, RELATED CASH AND IN-KIND ITEMS** (Continued)

#### **Cash Received in Conjunction with Medical or Social Services**

When cash is received in conjunction with medical or social services, handle as follows:

- Any cash provided by a governmental medical or social services program is not income.
- Any cash from a nongovernmental medical or social services organization is not income when:
  - The cash is for medical or social services already received by the individual and approved by the organization; however, if the individual receives an amount in excess of the expense of the medical or social services, the excess cash is unearned income; or
  - The cash is a payment restricted to the future purchase of a medical or social service, or related excludable in-kind items.
  - Cash from any insurance policy which pays “loss of time” benefits to the recipient and restricts payment to periods of hospital confinement is treated as a third party resource, not income. However, cash payments considered to be an income supplementation for lost income due to a disability are income. This includes weekly disability policies without regard to hospital confinement.

#### **In-Kind Items Received in Conjunction with Medical or Social Services**

When in-kind items are is received in conjunction with medical or social services, handle as follows:

- In-kind items which meet the definition of medical services are not income regardless of their source.
- Room and board (food and shelter) provided during a medical confinement is not income. A medical confinement exists when an individual receives treatment in a medical treatment facility.
- Any in-kind items (including food and shelter) provided by a governmental medical or social services program are not income.
- In-kind items (other than food or shelter) provided by a nongovernmental medical or social services organization for medical or social services purposes are not income.

**NOTE:** Cash payments for medical or social services that are not income are also not a resource for one calendar month following the month of receipt.

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### 200.03.02 PERSONAL SERVICES

A personal service performed for an individual is not income. Examples of personal services for an individual which are not income are:

- Mowing the lawn;
- Doing housecleaning;
- Going to the grocery store; and
- Babysitting.

### 200.03.03 CONVERSION OR SALE OF A RESOURCE

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

**Example:** Jerry sells his 1999 Buick for \$1000. The money he receives is not income, but a resource which has been converted from one form (a car) to another form (cash).

### 200.03.04 REBATES AND REFUNDS

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

### 200.03.05 INCOME TAX REFUNDS

Any amount of income tax refunded to an individual is not income. Amounts withheld or paid as income tax during the course of a taxable year are included in the definition of income; therefore, any later refund of income taxes by a federal, state, or local taxing authority is not again treated as income. This is so even if the income from which the tax was withheld or paid was received in a period prior to the Medicaid application.

**NOTE:** The American Taxpayer Relief Act of 2012 excludes from income all federal tax refunds and advanced tax credits received on or after January 1, 2010. A federal refundable tax credit reduces the federal tax liability of certain taxpayers. It can result in a payment to the taxpayer, either as an advance from an employer or as a refund from the IRS. All federal tax refunds and advanced tax credits received after 01/01/2010 also qualify for a 12-month resource exclusion.

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### **200.03.06 CREDIT LIFE OR CREDIT DISABILITY INSURANCE PAYMENTS**

Credit life and credit disability insurance are issued to or on behalf of borrowers to cover payments on loan, mortgages, etc., in the event of the borrower's death or disability. Both types of insurance may be administered under group or individual policies. The insurance payments are made directly to loan or mortgage companies, and are not available to the individual, either directly or by sale or conversion, for purposes of meeting his basic needs. These payments made on behalf of an individual under credit life or credit disability policies are not income.

### **200.03.07 OTHER INSURANCE PAYMENTS**

Each insurance policy must be examined to determine the type of benefit it provides and the purposes for which it can be used. Cash payments should be treated as follows:

- Cash payments from any insurance policy made directly to the provider are not income since the beneficiary does not receive the payment. Any amounts paid to a facility for purposes other than medical care may be considered income if the facility actually pays the amount to the individual.
- Cash payments from any insurance policy which are restricted for purchase or reimbursement of medical services covered under the policy are a third party resource, not income.
- Cash payments from policies that restrict payments to periods of hospital confinement are a third party resource, not income.
- Cash payments from specialized policies, such as cancer or dismemberment policies, are reimbursements, not a third party resource.
- Cash payments from any insurance policy intended for income supplementation for lost income due to a disability are considered income. This includes weekly disability payments without regard to hospital confinement.
- Long term care insurance policies may be paid directly to the individual or to the nursing facility. If payments are made directly to the individual, consider them countable unearned income. If paid directly to the nursing facility, consider them a third party resource.

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### **200.03.08 BILLS PAID BY A THIRD PARTY**

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

### **200.03.09 REPLACEMENT OF INCOME ALREADY RECEIVED**

If an individual's income is lost, stolen or destroyed and the individual receives a replacement, the replacement is not income. This is because once a payment has been issued and treated as income in determining an individual's eligibility, the reissuance of that same payment is not counted as income

### **200.03.10 RETURN OF ERRONEOUS PAYMENTS**

A payment is not income when the individual is aware the he is not due the money and returns the check uncashed or otherwise refunds all of the erroneously received money in the month of receipt or the following month. When the return is timely, accept the client's statement the money was returned and do not count it as income. However, if there is a delay in return of the erroneous payment beyond the month following the month of receipt, verify return of the full payment and document the reason for the delay and any other relevant facts.

### **200.03.11 WEATHERIZATION ASSISTANCE**

Weatherization assistance (insulation, storm doors, windows, etc.) is not income.

### **200.03.12 RECEIPT OF CERTAIN NON-CASH ITEMS**

The value of any noncash items (other than an item of food or shelter) is not income if the item would become a partially or totally excluded nonliquid resource if retained into the month after the month of receipt.. Such non-income items may include, but are not limited to, specially equipped vehicles, automobiles, household goods, and property essential to self-support. Consider these non-income items solely under resource rules.

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### 200.03.13 WAGE- RELATED PAYMENTS

The following payments by an employer are not income unless the funds for them are deducted from the employee's salary:

- Funds the employer uses to purchase qualified benefits under a cafeteria plan
- Employer contributions to a health insurance or retirement fund
- The employer's share of FICA taxes or unemployment compensation taxes, in all cases
- The employee's share of FICA taxes or unemployment taxes paid by the employer on wages *for domestic service in the private home of the employer or for agricultural labor only*; to the extent the employee does not reimburse the employer.

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### 200.03.14 PROCEEDS OF A LOAN

#### Bona Fide Loan

The proceeds of a bona fide loan are not income to the borrower because of the borrower's obligation to repay. Money received as repayment of the principal of a bona fide loan is not income to the lender; however, the interest received on money loaned is income to the lender. A bona fide loan is an agreement that is legally valid and made in good faith. The agreement must have been in effect at the time of the transaction. Money given with no obligation to repay cannot become a loan at a later date. The repayment plan must be feasible. The loan agreement must be in writing and include:

- The borrower's acknowledgment of his obligation to repay, with or without interest.
- Schedule and plan for repayment, e.g., borrower plans to repay when he receives anticipated income in the future, and
- Borrower's express intent to repay by pledging either real or personal property or anticipated future income.

#### Non Bona Fide Loan

If the loan is not bona fide, the proceeds received in the transaction are unearned income to the borrower in the month received. If the loan is not bona fide, payments toward principal and interest are unearned income to the lender. As indicated above, the interest received by the lender on money loan is unearned income whether the loan is bona fide or not.

### 200.03.15 PROMISSORY NOTES AND PROPERTY AGREEMENTS

For the Medicaid client who is the borrower, under both SSI and liberalized policy, cash paid by the lender to the borrower is not income if a promissory note or property agreement is bona fide, but it may be a resource the following month. Also under both policies, if the agreement is non-bona fide or non-negotiable, cash paid by the lender to the borrower is income in the month received by the borrower and any retained cash (or property received) may be a resource the following month.

A promissory note is a written, unconditional agreement where one person promises to pay another party a specific amount at a specific time (or on demand). It can be repayment for goods, money loaned or services rendered.

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### **PROMISSORY NOTES AND PROPERTY AGREEMENTS** (Continued)

A property agreement, also known as a mortgage, deed of trust, real estate contract, etc., exists when a piece of property is used to secure payment of a debt or performance of services within a specified period of time. A bona fide agreement is one which is legally valid and made in good faith. An agreement is assumed to be negotiable if there is no legal bar to its sale.

#### **SSI Policy – Medicaid Client is Lender**

Under SSI policy, a bona fide, negotiable promissory note or property agreement is a resource. The goods or money represented in the agreement are not a resource because they are not accessible. The interest portion of the payment on a bona fide, negotiable agreement received by the Medicaid client who is the lender is unearned income. If the agreement is non-bona fide or non-negotiable, both principal and interest paid to the lender are income.

#### **Liberalized Policy – Medicaid Client is Lender**

For coverage groups subject to liberalized resource policy, a bona fide, non-negotiable promissory note or agreement can be excluded as a resource if it produces at least a 6% net annual return of the principal balance. For this exclusion to apply to the non-institutionalized client, the income must be received by the client/spouse and counted as income. For all institutionalized individuals in either SSI or liberalized programs, the agreement may be excluded as a resource if it produces at least a 6% net annual return of the principal balance and meets all of the following criteria:

- The repayment terms of the note or agreement are actuarially sound; the institutional client must reasonably expect to receive full payoff of the note or agreement during his lifetime. The average number of years of life expectancy remaining based on the Annuity Life Expectancy charts must coincide with the payout of the note or agreement
- Principal and interest portions of payments are of uniform rate, with no deferred or balloon payments and
- The agreement must not state the debt is cancelled upon death of the lender.

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### 200.03.16 **FUND RAISING PROCEEDS**

Benefits received through fund raising are a potential third party liability source. The applicant/recipient must report all sources of income from fund raising to the regional office. The regional office will inform the Third Party Liability unit of the availability of any source of payment for medical services. Donated funds for the purpose of payment of medical services are considered a third party source.

In order for donated funds to be excluded as income, the following criteria must be met:

- Prior to accepting donations, the applicant/recipient (or family of a child) must make arrangements to place donations in a trust fund or special account;
- The trust fund or special account must be managed by an administrator (someone outside the family);
- The funds must never be mixed with personal or family money;
- The applicant/recipient should not have direct access to the trust funds or special account;
- The applicant/recipient or administrator must be able to produce documentation of how the funds were spent.

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### **200.04 EXCLUSIONS FOR EARNED AND UNEARNED INCOME**

An exclusion is an amount of income which does not count in determining Medicaid eligibility. Exclusions never reduce income below zero. There are three statutory exclusions that apply to both earned and unearned income.

**NOTE:** Income exclusions are not applicable in long term care budgeting. For individuals applying for long term care, the total income received in a month is counted as income in each month for which eligibility is being determined. For a full discussion, refer to the Institutionalization chapter.

#### **200.04.01 \$50/\$20 PER MONTH GENERAL EXCLUSION**

A general income exclusion of either \$50 or \$20 per month is applied based on whether the program operates under liberalized or strict SSI income policy.

##### **200.04.01A LIBERALIZED POLICY**

The general exclusion is \$50 for the programs subject to liberalized income policy:

- Qualified Medicare Beneficiaries (QMB)
- Specified Low-Income Medicare Beneficiaries (SLMB)
- Qualifying Individuals (QI)
- Working Disabled (WD)
- Healthier Mississippi Waiver

##### **200.04.01B SSI POLICY**

For coverage groups subject to strict SSI income policy, the general exclusion is \$20. This includes:

- SSI Retro
- Disabled Child Living at Home
- Qualified Working Disabled (QWDI)
- Disabled Adult Child (DAC)\*
- Cost of Living (COL)\*
- OBRA Widow/Widowers\*
- HR-1\*

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### **50/\$20 PER MONTH GENERAL EXCLUSION (Continued)**

**NOTE:** \*The COEs designated above are allowed other income disregards specific to the coverage group. Eligibility and the amount of these disregards are determined by state office staff upon referral by the regional office. There are currently no recipients on file in the HR-1 COE and additions to this limited mandatory category are unlikely.

### **200.04.01C APPLICATION OF THE GENERAL EXCLUSION**

Apply the general exclusion to unearned income first. Any remainder is then applied to any earned income. If there is no unearned income, apply the full general exclusion to earnings before excluding \$65 plus one-half of the remaining earned income.

### **200.04.01D GENERAL PRINCIPLES**

The following principles must be considered in regard to the \$50/\$20 per month general exclusion:

- The general exclusion applies to the individual applicant's or recipient's own income, which includes income which has been deemed to them.
- Only one general exclusion can be applied to the combined income of any couple. A spouse deemed is not allowed a separate deduction from his/her income.
- In parent to child deeming situations, the \$20 SSI disregard is applied to income of a single parent or combined parental income when a two-parent household is involved.
- No other unused unearned income exclusion, except the general exclusion, may be applied to earned income.
- The general exclusion is not applied to Income Based on Need (IBON).

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### 200.04.02 INFREQUENT AND IRREGULAR INCOME EXCLUSION

For this exclusion to apply, the earned or unearned income must be received infrequently or irregularly. This provision does not apply to unearned income that is subject to other exclusions, i.e., infrequent or irregular child support, subject to the one-third child support exclusion.

- **Infrequent Income** – Effective September 8, 2006, income is considered to be received infrequently if an individual receives it only once during a calendar quarter from a single source **and** the individual did not receive that type of income in the month immediately preceding that month or in the month immediately subsequent to that month, regardless of whether these payments occur in different calendar quarters.
- **Irregular Income** – Income is considered to be received irregularly if an individual cannot reasonably expect to receive it.

Exclude the following amount which is received either infrequently or irregularly:

- The **first** \$30 per calendar quarter of earned income; and
- The **first** \$60 per calendar quarter of unearned income.

The exclusion can apply to both earned and unearned income in the same month, provided the total does not exceed the limits stated above. Thus, it is possible to exclude as much as \$90 in a quarter under this provision when applicable.

#### NOTES:

- A single source of earned income is defined as an employer, trade or a business.
- A single source of unearned income is defined as an individual, a household, an organization or an investment.
- The exclusion is applicable to income received infrequently or irregularly by an eligible, individual, eligible or ineligible spouse, ineligible parent(s) and ineligible children.
- The dollar amount of the exclusion does not increase, even if both an eligible individual and spouse (eligible or ineligible) have infrequent or irregular income.
- Effective September 8, 2006, if an individual begins receiving a recurring payment (like a Social Security check) in the third month of a quarter, the payment does not meet the definition of infrequent because it will be received in the following month, even though the following month is in another quarter. The same would be true if the recurring payment ended in the first month of a quarter, but had been received in the prior month in another quarter.

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### **INFREQUENT AND IRREGULAR INCOME EXCLUSION (Continued)**

If someone receives <b>UNEARNED</b> income ...	And...	Then its receipt is...
No more than once in a calendar quarter from a single source	Received the same type of income in the month preceding or following that month even if it is in another calendar quarter	<b>Not</b> Infrequent
No more than once in a calendar quarter from a single source	Did not receive the same type of income in the month preceding or following that month, but in a separate calendar quarter	Infrequent
No more than once in a calendar quarter from each of several sources	It is the same type of income in each instance	Infrequent
More than once in a calendar quarter from the same source	It is a different type of income in each instance	Infrequent
More than once in a calendar quarter from the same source	It is the same type of income in each instance	<b>Not</b> Infrequent
Any number of times in a calendar quarter	The individual could not reasonably have expected or budgeted for it	Irregular
Any number of times in a calendar quarter	The individual could reasonably have expected or budgeted for it (even if the individual did not know the exact amount)	<b>Not</b> Irregular

If someone receives <b>EARNED</b> income...	Then its receipt is...
No more than once in a calendar quarter from a single source or from each of several sources, and did not receive the same type of income in the month immediately preceding or following in a different calendar quarter	Infrequent
No more than once in a calendar quarter from a single source or from each of several sources and received the same type of income in the month immediately preceding or following even if in a different quarter	<b>Not</b> Infrequent
More than once in a calendar quarter from a single source or from several sources	<b>Not</b> Infrequent
Any number of times in a calendar quarter and the individual could not have reasonably expected or budgeted for it	Irregular
Any number of times in a calendar quarter and the individual could reasonably have expected or budgeted for it (even if the exact amount was unknown)	<b>Not</b> Irregular

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### **INFREQUENT AND IRREGULAR INCOME EXCLUSION (Continued)**

**Example:** Mr. Jones receives \$500 rent in October each year for land he rents to a local farmer. The money meets the definition of infrequent in that it is received only once during a calendar quarter from a single source and Mr. Jones did not receive rental income in the month immediately preceding or immediately subsequent to October; therefore, the first \$60 is excluded, and \$440 is counted as unearned income in the month received.

### **Medicaid Income Computation**

In post-eligibility budgeting to determine Medicaid Income, recurring infrequent income, such as the annual land rental payment in the example above, is averaged over the period the income is intended to cover if the client is income-eligible in the month the payment is received without averaging. Refer to the Institutionalization chapter for more information.

### **200.04.03 PLAN FOR ACHIEVING SELF-SUPPORT (PASS) INCOME EXCLUSION**

The Social Security Act permits the exclusion of income and resources of a person who is blind or disabled if the person needs such income to fulfill a Plan for Achieving Self-Support under an approved plan. This exclusion applies to a blind or disabled individual under age 65, or age 65 or older if the individual was receiving SSI, disability or blind payments, for the month before he became age 65.

The income of a blind or disabled recipient, whether earned or unearned, may be excluded under an approved PASS when the income is set aside for a planned expenditure determined necessary to achieve the individual's occupational objective. To be eligible for this income exclusion for Medicaid, the individual plan must be submitted to state office for approval. The plan submitted must:

- Include the objective and time period for achieving it;
- Include the amount of money involved; and
- Be currently in use by the individual.

**NOTE:** With the implementation of the Working Disabled Program with higher income and resource limits, PASS income and resource exclusions are rare.

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### **200.05 EARNED INCOME EXCLUSIONS**

While the source and amount of all earned income must be determined, not all earned income counts when determining Medicaid eligibility. First, any earned income excluded by federal law must be disregarded. Then the applicable income exclusions discussed in this section are applied in the following order to the rest of the earned income in the month:

- Earned income tax credit payments (EITC) and child tax credit (CTC) payments
- Up to \$30 of earned income in a calendar quarter if it is infrequent or irregular
- Student Earned Income Exclusion (SEIE)
- Any portion of the \$50/\$20 general income exclusion which has not been excluded from unearned income in that same month
- \$65 of earned income in a month (applied only once to a couple, even when both members, whether eligible or ineligible, have earned income)
- Earned income of disabled individuals used to pay impairment-related expenses (IRWE)
- One-half of the remaining earned income in a month
- Earned income of blind individuals used to meet work needs (BWE)
- Any earned income used to fulfill an approved plan to achieve self-support (PASS)

An unused earned income exclusion is never applied to unearned income and cannot be carried over for use in subsequent months.

**NOTE:** Income exclusions are not applicable in long term care budgeting. For individuals applying for long term care, the total income received in a month is counted as income in each month for which eligibility is being determined. For a full discussion, refer to the Institutionalization chapter.

#### **200.05.01 EARNED INCOME TAX CREDIT (EITC) AND CHILD TAX CREDIT (CTC) PAYMENTS**

These special tax credits are available to certain low income working taxpayers. The EITC reduces the federal tax liability and results in a payment to the taxpayer, either as advance from the employer or a refund from IRS. The CTC is a special refundable federal tax credit that is available to parents, step-parents, grandparents and foster parents and provides a refund to individuals even if they do not owe any tax. There is no advance payment with the CTC. Exclude EITC received either as an advance or as a refund and CTC refund payments from income.

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### **200.05.02 STUDENT EARNED INCOME EXCLUSION (SEIE)**

Effective April 1, 2005, the Student Earned Income Exclusion was extended to all individuals who are working students under the age of 22, not just those who meet the SSI definition of a child. The SEIE will apply to earnings deemed from an ineligible spouse or parent(s) and it will apply to the joint earned income of eligible couples when both members are under age 22 and are working students. The SEIE allows an individual under age 22 and regularly attending school to have earnings up to a monthly maximum, but not more than an annual maximum. The monthly and yearly limits are adjusted annually based on cost of living index increases, if applicable. The monthly and yearly maximum exclusion amounts are located in the Appendix, entitled Student Earned Income Exclusion Chart.

#### **Qualifying for the SEIE Effective April 1, 2005**

To qualify for this exclusion, the individual must be:

- Under age 22 and
- A student regularly attending school

This exclusion may apply to an eligible or ineligible:

- Individual
- Child
- Spouse or
- Parent(s)

#### **Application of the Exclusion**

Apply the exclusion as follows:

- Consecutively to months in which there is earned income until the maximum yearly exclusion is exhausted or the individual is no longer a student under age 22; and
- Only to a student's own earned income
- Before applying any portion of the general income exclusion which has not been deducted from unearned income and before applying the \$65 plus one-half of the remaining income.

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**Example:** Jim Thayer, a 20 year old student, takes a summer job doing computer programming. He had no prior earnings during the year and he has no unearned income. He earns \$2000 in June, July and August, 2010. His countable income is computed as follows for these months:

\$2000	Gross Earnings
<u>-1640</u>	Student Exclusion
360	
<u>- 50</u>	General Income Exclusion
310	
<u>- 65</u>	Earned Income Exclusion
245	
<u>-122.50</u>	One-Half Remainder
\$122.50	Countable Income

Jim has used \$4920 of his \$6600 student earned income exclusion (\$1640 for June, July and August). He has \$1680 left to be excluded over the remaining calendar year should he have other earned income through December of 2010.

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### **200.05.03 \$65 PLUS ONE-HALF REMAINDER EARNED INCOME EXCLUSION**

\$65 per month of earned income plus one-half of the remaining earned income in the month is excluded in the order listed in 200.06 above.

### **200.05.04 IMPAIRMENT-RELATED WORK EXPENSES (IRWE) EXCLUSION**

IRWE expenses are for items or services which are directly related to enabling a person with a disability (other than blindness) to work and which are necessarily incurred by that individual because of a physical or mental impairment.

Any earned income of a person who is disabled (but not blind) that is used to meet any reasonable, non-reimbursable impairment-related work expenses is not counted. The IRWE exclusion may be applied to the earnings of a disabled person who is under age 65, or is age 65 or older and received SSI and Medicaid or a disability payment for the month prior to attaining age 65.

The IRWE exclusion applies only to earned income. The exclusion is deducted after applying any portion of the general income exclusion which has not been deducted from unearned income and the \$65 earned income exclusion and immediately before deducting one-half of the remaining earned income.

**NOTE:** Before applying the IRWE exclusion, obtain clearance from state office.

### **200.05.05 BLIND WORK EXPENSES (BWE) EXCLUSION**

BWE represent any earned income of a blind person which is used to meet any expenses reasonably attributable to earning the income.

Exclude BWE from earned income if the blind person is under age 65, or is age 65 or older and received SSI and Medicaid or disability payments for the month before attaining age 65.

The BWE exclusion applies to earned income only. The exclusion is deducted after applying any portion of the general income exclusion not deducted from unearned income and all other applicable earned income exclusions except the PASS exclusion.

**NOTE:** Before applying the BWE exclusion, obtain clearance from state office.

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### 200.06 UNEARNED INCOME - GENERAL

Unearned income is all income that is not earned income. The monthly amount of any unearned income must be determined and verified for all applicants and recipients, except in cases where ineligibility results from another factor of eligibility. Verification of unearned income will normally be by documentation from the source of the unearned income. Another means of verification may be used only if the source and amount of unearned income can be clearly established. The case record will clearly show the method and particulars of the verification used to establish the unearned income.

#### 200.06.01 WHEN TO COUNT UNEARNED INCOME

Unearned income is counted as income in the earliest month it is:

- Received by the individual;
- Credited to the individual's account; or
- Set aside for the individual's use.

**NOTE:** To determine when to count retroactive RSDI benefits, refer to 200.09.02.

#### 200.06.02 UNEARNED INCOME EXCLUSIONS

An exclusion is an amount of income that does not count in determining eligibility and payment amount. Except for the \$50/\$20 general exclusion, no unused unearned income exclusion may be applied to earned income.

#### 200.06.03 EXPENSES OF OBTAINING INCOME

The amount of unearned income which must be counted in determining eligibility for Medicaid is the gross amount due the client; however, the gross amount of unearned income may be reduced by certain expenses that are an essential factor in obtaining a particular payment(s). Therefore, unearned income does not include that part of a payment that is for an essential expense incurred in getting the payment. For example:

- From a payment received for damages in connection with an accident, subtract legal, medical and other expenses connected with the accident.
- From a retroactive check from a benefit program other than SSI, subtract legal fees connected with that claim.

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### **EXPENSES OF OBTAINING INCOME** (Continued)

The following fees are considered essential to obtaining income and are allowed as deductions:

- **Document Fees** – A fee to acquire documentation to establish that an individual has a right to certain income is an essential expense and reduces the amount of unearned income which is countable. Examples include fees for obtaining birth or death certificates, legal papers, medical examinations, filing fees, etc.
- **Guardianship Fees** – A guardianship fee is an essential expense only if the presence of a guardian is a requirement for receiving the income.

### **Deducting Allowable Expenses**

Use the following criteria when deducting expenses essential to obtaining the unearned income:

- Expenses are deducted from the first and any subsequent amount(s) of related income until the expense is completely offset.
- Excludable expenses can be offset against the income when it is actually or constructively received.
- Allow any verified expenses which were paid by the recipient prior to the receipt of the income (e.g., a partial payment to an attorney made from an individual's savings account) as long as they are essential to obtaining the income.
- Proof of having incurred the expense (bills, canceled checks, money orders, etc.) is required. If an expense has been incurred, but not paid, assume the individual will pay the expense.
- The remainder is unearned income subject to the general rules pertaining to income and income exclusions.

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### 200.06.04 OVERPAYMENT RECOVERY

Unearned income includes that part of a benefit that has been withheld to recover a previous overpayment. However, the amount withheld to reduce a prior overpayment is not included as income if double counting would result. Double counting (counting the unearned income twice) would result if:

- The individual received both SSI and the other benefit (or deemed income using the other benefit) at the time the overpayment of the other benefit occurred; and
- The overpaid amount was included in figuring the SSI payment (and resulting Medicaid eligibility) at the time.

This policy applies to the following types of benefits:

- Annuities and pensions
- Retirement or disability benefits (including veteran’s pensions and compensation)
- Workers’ Compensation
- Social Security benefits
- Railroad Retirement benefits
- Unemployment benefits
- Black Lung benefits

Overpayment means “overpayment as defined by the entity paying the benefit” and may include overpayments made to someone other than the person whose benefits are withheld.

**Example:** Joe Jones started receiving RSDI benefits and SSI in January 2010. His SSI terminated in December 2010. In January 2011, he received a notice explaining that he was overpaid \$150 in RSDI benefits from April 2010 through August 2010 and \$30 will be withheld from his RSDI benefit from March 2011 through July 2011 to recover the overpayment. Since the overpaid amount was used to determine his SSI payment from April 2010 through August 2010, the \$30 a month overpayment recovery is not included in the determination of his countable unearned income for March through July 2011.

Do not apply this exception if the individual was determined ineligible for SSI based on countable income that included the overpayment and no SSI payment was received for the months the overpayment occurred.

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### 200.06.05 **GARNISHMENT OR OTHER WITHHOLDING**

Unearned income includes amounts withheld because of a garnishment or to make certain other payments (such as Medicare premiums).

Unearned income includes amounts withheld whether the withholding is:

- Purely voluntary;
- To repay a debt; or
- To meet a legal obligation.

**NOTE:** This policy does not apply to amounts withheld to pay the expenses of obtaining the income since such amounts are not income.

<b>The following are types of items for which amounts may be withheld, but the withheld amounts <u>are</u> considered income received:</b>	
Federal, State or Local Income Taxes	Life or Health Insurance Premiums
Supplementary Medical Insurance (SMI) – Medicare Part B	Union Dues
Loan Payments	Garnishments
Child Support	Bank Service Charges

### **Return of Money Previously Deducted**

If any of the types of deductions listed above are later returned to the individual by the original source, agency or organization which received the deduction (e.g., refund of Medicare premiums), the refunded amounts cannot again be income.

However, refunded amounts can be available resources when received and would be counted if retained into the following month.

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### **200.06.06 PAYMENTS IN FOREIGN CURRENCY**

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

Foreign currency payments are counted as income when received unless the individual can establish that the payment was received too late in the month for conversion prior to the following month. Use a check or documents in the individual's possession to verify receipt of a foreign payment and the amount in foreign currency. If the payment is made directly to a bank, the bank may provide a statement of the amount received.

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

### **200.06.07 DEEMED INCOME**

Deemed income is unearned income attributed to an applicant or recipient for Medicaid eligibility from an ineligible spouse or parent. Deeming only applies in household situations. There is no deeming of income in any month of institutionalization and deemed income is not used in determining Medicaid Income. A discussion of the deeming process is found later in this chapter.

### **200.06.08 INCOME BASED ON NEED (IBON)**

Income based on need is assistance which is:

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

IBON is unearned income that is not subject to the \$50/\$20 general exclusion. If received by a client, IBON is counted in its entirety. However, if IBON is received by an ineligible spouse, parent or child, it is not deemed to a client. Refer to the discussion of deemed income later in this chapter.

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**200.06.09 ASSISTANCE BASED ON NEED (ABON)**

Assistance based on need is assistance which is:

- Provided under a program which uses income as a factor of eligibility; and
- Funded **wholly** by a state, a political subdivision of a state or a combination of such jurisdictions.

Assistance based on need is excluded from income. If a program uses income to determine payment amount, but not eligibility, it is not ABON, e.g., some crime victim compensation programs.

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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:

<b>Type</b>	<b>Military Finance Center Mailing Addresses</b>
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.

Effective Month: June 2012

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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**

#### **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.

<b>INCOME</b>	<b>TYPE</b>	<b>TREATMENT</b>
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.

Effective Month: June 2012

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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 deeming'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.

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**200.08 CHART OF OTHER UNEARNED INCOME EXCLUSIONS**

The following chart describes other unearned income exclusions and their treatment:

UNEARNED INCOME	EXCLUSION
<p><b>Agent Orange Settlement Payments</b></p> <p>Payments made in connection with the Agent Orange Product Liability Litigation settlement fund</p>	<p>Payments from Agent Orange settlement fund or any other fund established pursuant to the settlement in the Agent Orange liability litigation are excluded from both income and resources.</p> <p>Effective July 2004, interest earned by conserved Agent Orange settlement payments is excluded income.</p>
<p><b>Austrian Social insurance Payments</b></p> <p>The nationwide class action lawsuit, Bondy v. Sullivan, involved Austrian social insurance payments based, in whole or in part, on wage credits under Paragraphs 500-506 of the Austrian General Social Insurance Act, which grant credits to person who suffered a loss (imprisoned, unemployed, forced to flee Austria from March 1933 to May 1945 for political, religious or ethnic reasons.</p>	<p>Credits authorized under paragraphs 500-506 of the Austrian General Social Insurance Act are excluded as income.</p> <p>Effective July 2004, interest earned on Austrian social insurance payments retained is excluded from income.</p> <p>Austrian social insurance payments <b>Not</b> based on Paragraphs 500-506 are counted as income.</p>
<p><b>Child Care Payments Under the Child Care and Development Block Grant Act (CCDBG)</b></p> <p>Payments to low-income families or to children with special needs for certain childcare activities, such as early childhood development, before and after school services and services designed to permit a parent to continue working.</p>	<p>Payments to a child’s family under the CCDBG are not counted as income. There are no specific resource exclusions for payments made under CCDBG.</p> <p>Other types of child care payments are subject to general policy pertaining to income and income exclusions.</p> <p>NOTE: Payments the child’s family makes to the child care provider using the funds is income to the provider.</p>

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**CHART OF OTHER UNEARNED INCOME EXCLUSIONS** (Continued)

UNEARNED INCOME	EXCLUSION
<p><b>Department of Defense (DOD) Payments to Certain Persons Captured and Interned by North Vietnam</b></p> <p>Payments made under section 657 of the National Defense Authorization Act to an individual (or if deceased, to the surviving spouse or child of any age) captured and interned by the Democratic Republic of North Vietnam as a result of participation in certain military operations.</p>	<p>These payments are excluded from income and resources.</p> <p>Effective July 2004, interest earned on unspent payments is excluded from income.</p>
<p><b>Energy Employees Occupational Illness Compensation Program Act (EEOICPA)</b></p>	<p>Lump sum payments made under EEOICPA, including reimbursement for medical expenses, are excluded from income and resources.</p> <p>Effective July 2004, interest earned on unspent payments is excluded from income.</p>
<p><b>Filipino Veterans Equity Compensation Fund Payments (FVECF)</b></p> <p>The American Recovery and Reinvestment Act signed February 17, 2009, established a one-time payment to eligible Filipino veterans (or surviving spouse) who aided American troops during World War II. Must file within one year of enactment.</p>	<p>The one-time FVECF payment is excluded from income.</p> <p>The interest earned on an unspent payment is excluded from income.</p>
<p><b>Food Programs with Federal Involvement</b></p> <p>SNAP  School Lunch Program,  Child Nutrition Programs and  Nutrition Programs for Older Americans</p>	<p>The value of food or assistance offered under these programs is excluded from income and resources.</p>

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**CHART OF OTHER UNEARNED INCOME EXCLUSIONS** (Continued)

UNEARNED INCOME	EXCLUSION
<p><b>Gifts to Children with Life Threatening Conditions</b></p> <p>Any in-kind gift, not converted to cash, and cash gifts that do not exceed \$2000 in any calendar year from a 501(c)(3) organization (e.g., Make-a-Wish Foundation, other charities or churches) for the benefit of a child under age 18 with a life threatening condition</p>	<p>Such gifts are excluded from income and resources.</p> <p>This exclusion includes a gift to a parent whose income is subject to deeming if the gift is for the benefit of the child and does not exceed the limits discussed above.</p> <p>Interest and dividends earned on funds excluded by this provision are <b>not</b> excluded from income or resources,</p>
<p><b>HIV and Hemophiliac Settlement Payments</b></p> <p>Includes payments from Ricky Ray Hemophilia Relief Fund and Susan Walker v. Bayer Corporation, et al, settlement fund)</p>	<p>These payments are excluded from income and resources.</p> <p>The interest earned on retained funds is excluded from income effective July 2004.</p>
<p><b>Home Produce for Personal Consumption</b></p> <p>Home produce is food which a person catches in the wild or raises</p>	<p>Home produce is excluded from income if it is consumed by the individual or his household.</p> <p>If home produce is basically raised for home consumption rather than business and the amount of produce traded or sold is small, e.g., extra eggs, home-canned beans, etc., assume the production costs equaled the value of what was received. No income is derived from such a trade or sale.</p> <p>Otherwise, if home produce is sold, but not as a trade or business, the income is unearned. If sold as a trade or business the income is earnings from self employment.</p> <p>Accept the individual’s allegations concerning raising, catching and consuming home produce unless there is reason to question it.</p>

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### **CHART OF OTHER UNEARNED INCOME EXCLUSIONS** (Continued)

UNEARNED INCOME	EXCLUSION
<p><b>Individual Interest in Indian Trust or Restricted Lands Exclusion</b></p> <p>Including certain Tribal per capita payments and other types of Tribal income distributed or held in trust by the Secretary of the Interior and monies received from the lease or sale of natural resources, and rent or lease income resulting from federally-protected rights on excluded Indian property.</p>	<p>All such payments are considered a converted asset rather than income.</p> <p><b>NOTE:</b> The \$2000 annual income exclusion allowed for eligibles and deemors since January 1, 1994, on monies derived from individual interests in Indian Trust or restricted lands is <u>no longer applicable</u> since all such payments are considered a converted asset.</p> <p>This does <u>not</u> include gaming revenues, such as the Choctaw bonus payments, which are distributed to individuals on a per capita basis. Gaming revenues are countable income.</p>
<p><b>Japanese American and Aleutian Restitution Payments</b></p> <p>Payments by the US government to individual Japanese-Americans or the spouse or parent of an individual of Japanese ancestry and Aleuts who were interned or relocated during WWII. This exclusion also includes payments made by the Canadian government to Japanese-Canadians interned or relocated during WWII.</p>	<p>These payments are excluded from income and resources.</p> <p>Effective July 2004, interest earned on unspent restitution payments is excluded from income.</p>
<p><b>Nazi Persecution Payments</b></p> <p>Payments made to individuals because of their status as victims of Nazi persecution includes German Reparation payments and payments under provisions of the Nazi Persecution Victims Eligibility Act</p>	<p>Payments from <u>any</u> source to individuals because of their status as victims of Nazi persecution are excluded from income and resources.</p> <p>Interest on unspent payments on victims of Nazi persecution is excluded from income effective July 2004.</p>

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**CHART OF OTHER UNEARNED INCOME EXCLUSIONS** (Continued)

UNEARNED INCOME	EXCLUSION
<p><b>Netherlands WUV Payments to Victims of Persecution</b></p> <p>Payments by the Dutch Government to Dutch/non-Dutch persons in WWII, who were victims of persecution due to religion, race, beliefs or homosexuality and are presently suffering from disabilities and illnesses as a result of that persecution</p>	<p>WUV payments are excluded from income.</p> <p>Interest earned on unspent WUV payments is excluded from income effective July 2004.</p>
<p><b>Radiation Exposure Compensation Trust Fund (RECF)</b></p> <p>Lump sum payments made to individuals who contracted certain diseases after radiation exposure due to nuclear testing and uranium mining.</p>	<p>Payments from RECF are excluded from income.</p> <p>Interest earned on unspent payments is excluded from income effective July 2004.</p>
<p><b>Refunds of Taxes Paid on Real Property or Food</b></p> <p>Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased</p>	<p>These refunds are excluded from income.</p>
<p><b>Victims' Compensation Payments</b></p> <p>Payments received from a fund established by a state to aid crime victims.</p>	<p>Any payment received from a fund established by a state to aid victims of crime is excluded from income.</p> <p>Unspent victims' compensation assistance payments are excluded from resources for 9 months following the month or receipt.</p> <p>Interest earned on unspent victims' compensation payments is <b>not</b> excluded from income or resources.</p>

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**200.09 SOURCES AND TREATMENT OF EARNED INCOME**

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

**200.09.01 SICK PAY**

Sick pay is a payment made to or on behalf of an employee by an employer or a private third party (such as a union or insurance company) for sickness or accident disability. Sick pay is either wages or unearned income.

**NOTE:** Payments under a Workers’ Compensation law are neither wages nor sick pay. Annual and sick leave payments are considered a continuation of salary.

**Treatment**

The following chart shows how to treat sick pay:

<b>When sick pay is received</b>	<b>Attributable to the Employee’s Own Contribution?</b>	<b>Type of Income</b>
Within 6 months after stopping work	No	Wages
	Yes	Unearned
More than 6 months after stopping work	NA	Unearned

When sick pay is alleged within 6 full calendar months after stopping work, it must be determined whether or not the employee contributed by payroll deduction toward a sick pay plan. Any portion of sick pay received by an employee within 6 full calendar months after stopping work, which according to the employer, is attributable to the employee’s own contribution is not wages.

To determine the 6-month period after stopping work:

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

**Example:** If an individual stops work on May 5, the 6-month period ends November 30<sup>th</sup>.

Verify the last day (or month) worked with the employer or knowledgeable third party. Verify sick pay which is wages using the wage verification procedure.

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### 200.09.02 **WAGES**

Wages are what an individual receives (before deductions) for working as someone else's employee. Under certain conditions, services performed as an employee are deemed self-employment rather than wages, e.g., ministers, real estate agents, share farmers, insurance salesmen, etc.

Wages are counted at the earliest date of the following:

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

Wages may take the form of:

TYPE	DEFINITION
Salaries	Payments (fixed or hourly rate) received for work performed for an employer
Commissions	Fees paid to an employee for performing a service (such as a percentage of sales)
Bonuses	Amounts paid by employers as extra pay for past employment (for example, outstanding work, length of service, holidays)
Severance Pay	Payment made by an employer to an employee whose employment is terminated independently of his wishes
Military Basic Pay	Service member's wage, which is based solely on the member's pay grade and length of service
Special Payments received because of employment	Items such as vacation pay, advance/deferred wages, etc.

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

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### 200.09.03 CAFETERIA PLANS

A cafeteria plan is a written benefit plan offered by an employer in which:

- All participants are employees and
- Participants choose cafeteria-style from a menu of two or more cash or qualified benefits.

A qualified benefit is not considered part of an employee's gross income. Qualified benefits include, but are not limited to:

- Accident and health plans, including medical plans, vision plans, dental plans, accident and disability insurance;
- Group term life insurance plans up to \$50,000;
- Dependent care assistance plans;
- Certain stock bonus plans under Section 401(k)(2) of the IRC, but not 401(k)(1) plans.

**NOTE:** Cash is not a qualified benefit.

#### Salary Reduction Agreement

A salary-reduction agreement is an agreement between the employer and employee whereby the employee, in exchange for the right to participate in a cafeteria plan, accepts a lower salary or foregoes a salary increase. Most pay slips do not reflect that a salary-reduction agreement exists. However, the amount of a salary-reduction agreement is not part of gross income and is not subject to Social Security, Medicare or other income taxes. Amounts used to purchase qualified benefits with a salary-reduction agreement are not the employee's wages and are not considered income for Medicaid purposes.

#### Employer Contributions

Many cafeteria plans are funded by salary-reduction agreements; however, employers may also contribute to fund basic benefit levels under a cafeteria plan. Amounts an employer contributes to fund basic benefit levels under a cafeteria plan, with or without a salary reduction agreement, are not the employee's wages and are not considered income for Medicaid purposes.

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### **CAFETERIA PLANS** (Continued)

#### **Payroll Deductions**

Payroll deductions used to purchase cafeteria-plan benefits are the employee's wages and are earned income. For example, employees who want more than basic benefits contributed by the employer may pay additional costs through payroll deductions. The amounts of those voluntary payroll deductions are the employee's wages and are considered earned income for Medicaid purposes. Unless an exception applies, FICA will be deducted from these payroll deductions.

**NOTE:** Be aware that paystubs that appear to show voluntary payroll deductions may actually show how funds from a salary-reduction agreement are allotted among qualified benefits.

#### **Cash Received Under a Cafeteria Plan**

Cash received under a cafeteria plan in lieu of benefits is wages. However, cash received as reimbursement for qualified-benefit expenses, such as child care, is not income.

**Example:** ABC, Inc., contributes \$50 per week to fund basic benefits under a cafeteria plan. Mr. White selects insurance that costs \$35 per week and opts for a weekly cash payment of \$15 in lieu of additional coverage. The \$15 cash payment is part of Mr. White's countable wages.

#### **Determining Countable Income under a Cafeteria Plan**

When a cafeteria plan is involved, countable wages for Medicaid purposes can be less than the gross amount on the check stub. It can be difficult to tell whether paystubs represent payroll deductions, which are part of gross wages, or cafeteria-plan itemizations, which are not. One indicator is when the deduction for Social Security and Medicare taxes is less than the tax rate times the gross wages shown on the checkstub. A cafeteria plan is also indicated when the pay stubs uses terms such as:

- FLEX;
- CHOICES;
- Sec. 125;
- Cafe Plan.

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### **CAFETERIA PLANS** (Continued)

To determine countable wages when there is Cafeteria Plan participation, take the following steps:

- If the paystub shows FICA wages or equivalent, use the FICA wage amount as countable wages, otherwise:
- Multiply the gross amount shown on the checkstub by 7.65% or .0765 (or by 5.65% or .0565 for paystubs issued in 2011 and 2012 only) and compare to the FICA tax withheld (if itemized, include the Medicare tax with FICA).

$$\frac{\text{Gross wages from checkstub}}{\text{SS/Medicare Tax Rate}} \times \text{SS/Medicare Tax Rate} = \text{Expected Tax}$$

- If the actual amount withheld is within cents of the expected tax amount, consider them the same and use the gross wages shown on the checkstub.
- If FICA and Medicare tax withheld is less than the expected amount, use the following formula to compute countable wages:

$$\frac{\text{Social Security/Medicare Tax from Pay Stub}}{\text{Multiplier*}} \times \text{Multiplier*} = \text{Countable Wages}$$

\*Multiplier = 13.071 for paychecks issued in 2010 and 17.699 for paychecks issued in 2011 and 2012 only.

**Example:** A June 2010 monthly pay stub reflects gross wages of \$999.94, a deduction for FICA/Medicare taxes of \$68.85 (does not equal 7.65 percent of the gross wages) and a \$160 voluntary deduction for health insurance. The employer confirms the company contributes \$100 per month to fund basic benefit levels under a cafeteria plan that offers a variety of insurance coverages. The \$100 that the employer contributes toward benefits under a cafeteria plan is not wages. Also, the employer confirms the employee voluntarily pays \$60 for additional benefits.

The specialist could use the checkstub and contact with the employer to determine and document countable wages of \$899.94 (\$999.94 - \$100 employer contribution) or use the formulas above:

$$\begin{array}{rclcl} \$999.94 & \times & .0765 & = & \$76.50 \text{ (FICA actually withheld is less)} \\ \$68.85 & \times & 13.071 & = & \$899.94 \end{array}$$

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### 200.09.04 **WAGE ADVANCES AND DEFERRED WAGES**

Wage advances are payments by an employer to an individual for work to be done in the future. An advance is wages in the month received.

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

- Wages that are deferred due to circumstances beyond the control of the employee are considered earned income when actually received;
- Wages that are deferred at the employee’s request or by mutual agreement with the employer are considered earned income when they would have been received had they not been deferred.

### 200.09.05 **VERIFICATION OF WAGES**

Verification of wage amounts and frequency of receipt is required whenever an individual alleges he received wages, sick pay or temporary disability payments. The burden of proof is on the client; however, the specialist must provide assistance if the client is unable to secure evidence of wages.

The most common methods of verifying wages include:

- Pay stubs which show the individual’s name or SSN, gross wages and period covered by the earnings. Use other evidence to resolve discrepancies if pay stubs appear altered or are questionable, if all pay stubs are not available or pay stubs do not contain necessary information.
- Wage verification from an approved wage verification company like the Work Number, which also can be used to verify termination of wages.
- Written (DOM-355, Request for Verification of Wages) or verbal statement of wages from the employer documented in the case record. This method also can be used to verify termination.
- W2s, if no other verification is available and the client alleges earnings will be about the same. Use of W2s should be restricted to situations where employment is sporadic or there are multiple or a long succession of employers.

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### 200.09.06 CONVERTING WEEKLY/BIWEEKLY WAGES

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

- Establish the day of the week wages are received;
- Compute the number of paydays in each month;
- If the gross wage amount is the same each payday, multiply it by the number of paydays in each month;
- If the gross wage amount is different each payday, add the individual amounts for each payday in each month.

### 200.09.07 ESTIMATING FUTURE WAGES

In estimating future wages, consider any recent past work history, unless inappropriate to the current situation, e.g., work stopped due to retirement or disability. Try to establish a logical wage pattern by reviewing the rate of pay, hours worked per week, and number of pay periods in each month with the recipient. In deriving an estimate, be alert to individuals who perform seasonal work such as school bus drivers.

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

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**200.09.08     NET EARNINGS FROM SELF EMPLOYMENT (NESE)**

NESE is the gross income from any trade or business, less allowable deductions for that trade or business. NESE also includes any profit or loss in a partnership. NESE is determined on an annual basis. The chart below indicates the steps and procedures to determine NESE.

STEPS	PROCEDURE
Determine monthly NESE	<p>Divide the entire taxable year’s NESE equally among the number of months in the taxable year, even if the business:</p> <ul style="list-style-type: none"> <li>• Is seasonal</li> <li>• starts during the year</li> <li>• Ceases operation before the end of the taxable year; or</li> <li>• Ceases operation before initial application.</li> </ul>
Offset net losses	<p>Any <b>verified</b> net losses from self-employment are divided in the same way as net earnings. Then each month’s net loss is deducted from any other earned income of the individual or spouse in that month. Apply this procedure whether a couple filed jointly or separately and regardless of which member of the couples below incurred the loss:</p> <ul style="list-style-type: none"> <li>• An eligible couple</li> <li>• An eligible individual with an ineligible spouse</li> <li>• Two parents</li> </ul>
Apply the 7.65% deduction	<p>This deduction recognizes part of the Social Security taxes paid as a business expense. If Social Security taxes are not paid (i.e., when NESE is less than \$400, there is a net loss or when no tax return is filed), the deduction does not apply.</p> <p>When Social Security taxes were paid on NESE, multiply net profit by .9235 to determine countable NESE.</p>

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**NET EARNINGS FROM SELF EMPLOYMENT** (Continued)

STEPS	PROCEDURE
Include the distributive share for partnerships	Any distributive share (whether distributed or not) of income or loss from a trade or business carried on by a partnership is included in NESE.
Allow Work Expenses	If an individual is self-employed (whether or not he is also a wage earner), reduce his earned income by any allowable work expenses that have not already been used to compute NESE.
Withdrawals for personal use	<p>When a person alleges (or it is discovered) that cash or in-kind items are withdrawn from a business for personal use:</p> <ul style="list-style-type: none"> <li>• Ask the person whether the withdrawals were properly accounted for, e.g., were either deducted on the person’s federal income tax return in determining cost of goods sold or the cost of expenses incurred, or deducted on his business records.</li> <li>• Accept the person’s allegation of whether the withdrawals were properly accounted for.</li> </ul> <p>If the withdrawals were properly accounted for, do not count them again as income. If the withdrawals were not properly accounted for, and</p> <ul style="list-style-type: none"> <li>• The person can estimate the value of the withdrawals, deduct that amount from the cost of goods sold or costs of expenses incurred on the profit and loss statement to arrive at proper NESE.</li> <li>• The person cannot or will not provide the profit and loss statement, but alleges an amount of NESE, add the value of the withdrawals to the person’s allegation of NESE.</li> </ul>

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**200.09.08A VERIFICATION OF NESE**

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

The following schedules from the federal income tax return can be used to determine NESE:

Schedule	Section or Line
<b>Schedule SE</b>	<b>Net Earnings:</b> Section A, Line 4 or Section B, Line 4.C  NOTE: If line 4 or 4.C shows a positive amount of less than \$400, then line 3 is used, even if the amount of line 3 is greater than \$400. For example, line 3 shows \$410 and line 4/4.C shows \$378. Line 3 should be used because no tax was due.
	<b>Net Loss:</b> Section A, Line 3 or Section B, Line 4.C
<b>Schedule C</b>	Line entitled “Net Profit or Loss”
<b>Schedule C-EZ</b>	Line entitled “Net Profit”
<b>Schedule F</b>	Line entitled “Net Profit or Loss”

**200.09.08B ESTIMATING NESE FOR THE CURRENT TAXABLE YEAR**

Use the first of the following methods in the sequence below, which is applicable:

SITUATION	METHOD
<p>When an individual:</p> <ul style="list-style-type: none"> <li>• Has been conducting the same trade or business for several years;</li> <li>• Has had NESE which has been fairly constant from year-to-year; and</li> <li>• Anticipates no changes or gives no satisfactory explanation of why current NESE would be substantially lower than past NESE</li> </ul>	<p><b>Current Year’s Estimate Based on Prior Year’s Profit</b></p> <ul style="list-style-type: none"> <li>• Use the NESE from the prior year as an estimate for the current taxable year.</li> </ul>

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**ESTIMATING NESE FOR THE CURRENT TAXABLE YEAR (Continued)**

SITUATION	METHOD
<p>When an individual:</p> <ul style="list-style-type: none"> <li>• Is engaged in the same business he had only in the <b>preceding</b> taxable year; and</li> <li>• Anticipates no change or gives no satisfactory explanation of why current NESE would be substantially different from what it has been in the past</li> </ul> <p><b>Exception:</b> Do not use this method for businesses which are seasonal or have unusual income peaks at certain times of the year, go to the next applicable procedure.</p>	<p><b>Gross-Net Ratio:</b></p> <ul style="list-style-type: none"> <li>• Calculate from the individual’s tax return or business records the ratio between net profit and gross receipt for the last year.</li> </ul> <p style="padding-left: 40px;"><b>Example:</b> Net profit of \$1200 for \$6000 gross income or 20%</p> <ul style="list-style-type: none"> <li>• Calculate from his records the actual gross receipts for the current taxable year and project it for the remainder of the year.</li> </ul> <p style="padding-left: 40px;"><b>Example:</b> \$4000 in current year’s receipts for the first 6 months gives an assumed gross of \$8000 for the entire year.</p> <ul style="list-style-type: none"> <li>• Apply the previously calculated gross-net ratio to the current year’s assumed gross to arrive at the estimate NESE.</li> </ul> <p style="padding-left: 40px;"><b>Example:</b> 20% of \$8000 results in an estimated net profit of \$1600</p>
<p>When an individual is engaged in a new business</p> <p><b>Exception:</b> Do not use this method for businesses which are seasonal or have unusual income peaks at certain times of the year, go to the next applicable procedure.</p>	<p><b>Projecting Partial Year’s Profit for Whole Year</b></p> <ul style="list-style-type: none"> <li>• Obtain the profit and loss statement or other business records for the taxable year to date</li> <li>• Ascertain net profit to date and</li> <li>• Project that net profit for the entire taxable year.</li> </ul>

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**ESTIMATING NESE FOR THE CURRENT TAXABLE YEAR (Continued)**

SITUATION	METHOD
<p>When an individual:</p> <ul style="list-style-type: none"> <li>• Is engaged in a new business and records are not yet available; or</li> <li>• The business has been going on for some time, but no records were kept.</li> </ul>	<p><b>Individual’s Estimate:</b></p> <ul style="list-style-type: none"> <li>• Obtain a signed allegation of the individual’s best estimate.</li> </ul>
<p>When an individual:</p> <ul style="list-style-type: none"> <li>• Alleges his NESE for the current year will vary from NESE for past years; and</li> <li>• Gives a satisfactory explanation for the variation (and provides relevant documentation if NESE is lower).</li> </ul> <p><b>NOTE:</b> In some cases, such as a downturn in the economy, they may not be any documentation of the event. In such cases, the individual’s written statement for the variation is sufficient documentation.</p>	<p><b>Current Year’s Estimate Varies from Past Records</b></p> <ul style="list-style-type: none"> <li>• Obtain a written statement from the individual explaining the basis for the NESE variation.</li> <li>• If the individual’s estimate of NESE for the current year is higher than that of the prior years, and the individual satisfactorily explains why, accept the individual’s estimate of NESE.</li> </ul> <p><b>Example:</b> Individual recently added new products to his mail order sales catalog and sales have dramatically increased.</p> <ul style="list-style-type: none"> <li>• If the individual’s estimate of NESE for the current year is lower than that of prior years and the individual’s explanation explains why satisfactorily, request any relevant documentation for the file and accept the lower estimate.</li> </ul> <p><b>Example:</b> The business suffered a heavy loss or damage due to fire, flood, burglary, serious illness or disability of the owner or other catastrophic event. Relevant documentation would be copies of newspaper accounts, police reports, etc.</p>

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### 200.09.09 **PAYMENTS FOR SERVICES PERFORMED IN A SHELTERED WORKSHOP OR WORK ACTIVITIES CENTER**

Payment for services performed in a sheltered workshop or work activities center are what an individual receives for participating in a program designed to help him become self-supporting. Payments for such services are a type of earned income and are counted when received or when set aside for the person's use.

A sheltered workshop is a nonprofit organization or institution whose purpose is:

- To carry out a recognized program of rehabilitation for handicapped workers; and/or
- To provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

A work activities center is:

- A sheltered workshop, or
- A physically separated department of a sheltered workshop having an identifiable program and separate supervision and records.

A work activities center is planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make their productivity capacity inconsequential.

Therapeutic activities are custodial activities such as activities where the focus is on teaching basic living skills and other purposeful activity so long as work production is not the main purpose.

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### 200.09.10 ROYALTIES AND HONORARIA

Royalties include compensation paid to the owner for the use of property, usually copyrighted material (e.g., books, music, or art) or natural resources (like minerals, oil, gravel or timber). Royalty compensation may be expressed as a percentage of receipt 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 person 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.

An outright sale of natural resources by the owner of the land or by the owner of rights to use the land constitutes conversion of a resource. Proceeds from the conversion of a resource are not income.

Royalties are earned income when they are:

- Received as part of a trade or business; or
- Received by a person in connection with any publication of his work such as publication of a manuscript, magazine article or artwork.

An honorarium is an honorary or free gift, reward or donation usually provided gratuitously for services rendered (like a guest speaker), for which no compensation can be collected by law. The amount also may include payment for items other than services rendered, e.g., lodging or travel expenses.

For income purposes, a payment received for a service as described above is earned income. Any other payment received in cash or in-kind connected with service is unearned income to the extent it exceeds the individual's expenses. Absent evidence to the contrary, assume the amount of any honorarium received **is** in consideration of the actual services provided by the individual and treat as earned income.

Do not deduct expenses of obtaining income from royalties/honoraria that are earned income. Such expenses are deductible from royalties/honoraria that are unearned income.

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### **200.09.11 UNIFORMED SERVICES – PAY AND ALLOWANCES**

Military personnel rarely apply for Medicaid; however, spouses and children may apply and the military pay and allowances would be subject to deeming.

Compensation to members of the Uniformed Services takes several forms, chiefly:

- Basic or Base Pay;
- Special and Incentive Pay; and
- Cash Allowances.

Effective September 1, 2008, the Heroes Earnings Assistance and Relief Tax Act of 2008 (the HEART Act) changed how certain cash payments to members of the Uniformed Services are treated. Cash payments, other than for on-base or privatized military housing and hostile fire/imminent danger pay, paid for service as a member of the uniformed service are treated as earned income. A service member's Leave and Earnings Statement (LES) will identify the type of cash payment and the amount for each.

#### **Basic Allowance for Housing (BAH)**

Service members and their families living in on-base housing or privatized military housing may receive a BAH payment or the military may direct a BAH to a housing contractor by way of payroll deduction or allotment. In each case, the BAH is not cash income.

However, if service members and their families who live in private housing receive a BAH payment, it is earned income.

#### **Basic Allowance for Subsistence (BAS)**

A BAS payment for food is earned income. If a deduction is made from the BAS to pay for meals eaten on base (e.g., a meal card), the gross amount of BAS is still earned income.

#### **Clothing Allowance**

A cash payment to purchase clothing is earned income.

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### **UNIFORMED SERVICES – PAY AND ALLOWANCES**

#### **Special and Incentive Pay**

Special and incentive pay is compensation to specific groups of uniformed people for inconveniences or hazard or provides incentives for those with skills in high demand to join or remain in the service. Special pay includes enlistment and reenlistment bonuses, flight pay, sea pay and more than thirty additional types of pay. Special and incentive pay is earned income.

#### **Hostile Fire/Imminent Danger Pay**

Hostile fire pay and imminent danger pay (sometimes referred to as “combat pay”) are types of special pay to a service member who is subject to hostile fire or explosion of hostile mines or on duty in an area in which he/she is in imminent danger of being exposed to hostile fire or explosion of hostile mines and while on duty in that area, other service members in the same area are subject to, killed, injured or wounded by hostile fire, explosion of a hostile mine or any other hostile action. Hostile fire and imminent danger pay is excluded income. If retained, unspent funds are a resource the following month if not otherwise excluded.

#### **Advance Pay**

Advance pay is a cash loan to be repaid in cash installments, usually by payroll deduction, rather than by future work. Advance pay is not income.

#### **Additional Pay**

Additional pay is an extra increment in pay, other than an increase in basic pay. Other than the on-base housing or privatized military housing allowance and hostile fire/imminent danger pay, additional pay is charged as earned income if the income was received after August 31, 2008, and the deemor was not serving in a combat zone when the additional pay was received. if additional pay is not treated as earned income, it is in-kind support and maintenance.

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### 200.09.12 INCOME OF MEMBERS OF RELIGIOUS ORDERS

The existence of a vow of poverty is a factor in determining whether cash is considered wages or net earnings from self-employment. The existence of a vow of poverty is also a factor in determining if payments made by a member to the order can be considered contributions for food, clothing, or shelter. The treatment of income to members of religious orders (nuns, monks, priests, etc.) who take a vow of poverty is determined by the source and nature of such income.

- Cash or in-kind remuneration for members of religious orders who take a vow of poverty is considered wages if:
  - An individual receives compensation from the order as an active, working member of that order, whether or not the religious order has elected Title II coverage. e.g., an individual works at a hospital owned by the order.
  - An active, working member of a religious order receives compensation for performing services from an agency of the church supervising the order or from an affiliated institution, whether or not the religious order has elected Title II coverage, e.g., an individual teaches at a school which is an affiliate of the order's supervising church.
  - A member of a religious order receives compensation from a third party for services performed as an employee, e.g., an individual works for a private firm as a computer programmer.
- Remuneration for members of religious orders who take a vow of poverty is considered earnings from self-employment only when a member engages in self-employment activity unrelated to his membership in the order, e.g., an individual writes articles for nature magazines on a free-lance basis.
- Any income provided by the order to a member who has taken a vow of poverty, which does not fall under one of the above provisions is unearned income to the member even if turned over to the order.
- Any income or resources turned over by the member to the order are considered to be in fulfillment of the vow of poverty and are not considered contributions for food, clothing, or shelter received from the order.
- Unearned income received by a member from any source other than the order (such as a Title II or VA benefits) is income to the member even if the member turns it over to the order.

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### 200.10 INCOME VERIFICATION

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

#### Projecting Actual Income

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

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

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

#### Use of a Tickler

The specialist will use a tickler file, either in MEDS or manually, as appropriate, to control cases with income that will affect eligibility or Medicaid income for a future month. A tickler must be set for the month prior to the month of receipt of the income to handle the case to either adjust Medicaid Income or issue a Notice of Adverse Action.

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### 200.11 INCOME COMPUTATIONS

An individual's or couple's monthly income is one of the factors that determines eligibility for Medicaid. The instructions in this section explain how to compute countable income based on federal rules.

#### 200.11.01 COUNTABLE INCOME

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

- Eliminating all amounts that are not income; and
- Applying all appropriate exclusions.

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

#### 200.11.02 NEED STANDARDS

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

- **SSI Federal Benefit Rates (FBR)** set by SSI policy and subject to increase in January of each year. SSI FBRs are used for SSI-related cases, i.e., SSI Retro and former SSI recipient cases. Countable income cannot equal or exceed the appropriate FBR for Medicaid eligibility.
- **Federal Poverty Levels (FPL)** set by the federal government and subject to change each year, usually in February or March. FPLs are used at varying rates (100%, 120%, 135%, 200%, and 250%) depending on the coverage group, i.e., QMB, SLMB, QI, etc. Countable income can be equal to, but cannot exceed the appropriate FPL for Medicaid eligibility.
- **300% of the SSI FBR** is the formula required by federal regulation, 42 CFR 435.1005, to set the institutional need standard for all long term care coverage groups. This limit is subject to increase in January of each year when SSI FBRs increase. Countable income cannot be equal to or exceed the institutional limit for Medicaid eligibility. If income equals or exceeds the limit, ineligibility exists for that month unless an Income Trust is in effect.

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### **INCOME COMPUTATIONS** (Continued)

#### **200.11.03**     **INCOME BREAK-EVEN POINTS**

An income break-even point is the earned or unearned income amount an individual can have so that countable income equals the applicable FPR or FPL. Medicaid eligibility does not exist at or above that break-even point.

Break-even points for SSI FBR cases:

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

Break-even points for FPL cases:

- 2 times FPL + \$115 = monthly earned income break-even point effective July 1, 1999.
- 2 times FPL + \$85 = monthly earned income break-even point prior to July 1, 1999.
- FPL + \$50 = monthly unearned income break-even point effective July 1, 1999.
- FPL + \$20 = monthly unearned income break-even point prior to July 1, 1999.

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

#### **200.11.04**     **DEEMED INCOME**

The term “deeming” identifies the process of considering another person’s income and resources to be available for meeting a Medicaid client’s basic needs. Deemed income and resources are attributed to an eligible individual whether or not they are actually made available, with the following restrictions:

- Deeming only applies in household situations;
- Income is only deemed from an ineligible spouse to an eligible spouse and from ineligible parent(s) to eligible child.

**NOTE:** Deeming of income is not applied in the eligibility determination for either an institutional or community spouse and deemed income is never included in the Medicaid Income computation post-eligibility. Deeming of spousal or parental income is also prohibited for individuals considered to be institutionalized, i.e., HCBS and DCLH applicants and recipients.

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### **DEEMED INCOME** (Continued)

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

#### **200.11.04A ALLOCATIONS**

It would not be equitable to deem the entire amount of an ineligible parent’s or spouse’s income to the eligible individual without some provision to permit the deeming to meet his own needs and those of ineligible children in the household. An allocation is an amount deducted from income subject to deeming which is considered to be set aside for the support of certain individuals other than the eligible individual. Based on this consideration, allocations are applied for the following:

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

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

#### **200.11.04B DEFINITION OF ELIGIBLE CHILD FOR DEEMING**

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

- Under age 18 or
- Under age 22 and a student.

For deeming purposes, an eligible child is a natural or adopted child under age 18 who lives in the household with one or both parents, is not married and is eligible for or applying for ABD Medicaid. Deeming no longer applies beginning the month following the month the eligible child attains age 18.

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

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### 200.11.04C DEFINITION OF INELIGIBLE CHILD FOR DEEMING

An ineligible child for deeming purposes is either a natural or adopted child of an:

- Eligible individual or the eligible individual's spouse; or
- An ineligible parent or the ineligible parent's spouse.

In addition to the general definition of a child, an ineligible child must also be unmarried and:

- Under age 18 or
- Under age 22 and a student. (**NOTE:** Prior to 06/16/08, an ineligible student child could remain a "child" for deeming purposes only until age 21) and
- Who lives in the same household with an eligible individual. (NOTE: an ineligible child, for ABD purposes, assumes the child is not applying for or receiving Medicaid through SSI, TANF or as a DCLH. A child applying or receiving benefits through any of these programs cannot receive an "ineligible child" allocation from an ineligible parent in the deeming process.)

### 200.11.04D DEFINITION OF PARENT FOR DEEMING

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

- A natural parent of the child;
- An adoptive parent of the child.

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

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

Deeming is applied from parent to child when they live together in the same household. When the child lives with a stepparent, the stepparent is not considered a parent or spouse of a parent of the eligible child for deeming purposes. Other relatives

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### **DEFINITION OF PARENT FOR DEEMING (Continued)**

or individuals who have legal custody of a child, but are not natural or adoptive parents, are also not considered parents for deeming purposes.

An individual whose parental rights have been terminated due to adoption no longer meets the definition of “parent” for Medicaid purposes. This remains true if the adopted child later lives in the same household as the former parent.

### **Waiver of Parental Deeming Rules**

Effective July 1, 1998, a child in the Disabled Child Living at Home coverage group is exempt from parental deeming of income and resources. The eligible child’s own income and resources affect Medicaid eligibility in the usual manner.

### **Temporary Absence**

For deeming purposes, a temporary absence exists when an individual (eligible individual or child or ineligible spouse, parent or child) leaves the household but intends to, and does, return in the same month or the following month. If the absence is temporary, deeming continues to apply.

A child, away at school (vocational or educational training facility), who returns home on some weekends, holidays, or vacations and is subject to parental control is considered temporarily absent from the parents’ household regardless of the duration of the absence. Evidence which may indicate a child away at school is not subject to parental control includes an existing agreement, court order or signed statements from parents or school authorities. In the absence of such evidence, consider the child subject to parental control.

### **200.11.04E INCOME EXCLUDED FROM DEEMING**

Any item which is not income to an eligible individual is also not income to an ineligible spouse or parent. In addition, the following types of income are excluded from deeming:

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

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### **INCOME EXCLUDED FROM DEEMING (Continued)**

- Exclude a stepparent's income from deeming. Work the case as a one-parent household, deeming the legal parent's income to the eligible child.
- Exclude In-Home Supportive Services Payments provided under Title XX or other federal, state or local governmental programs to an eligible individual and paid by the eligible individual to his ineligible spouse, parent or child living in the same household in return for in-home supportive services (chore, attendant, homemaker, etc.). Payments made directly to the ineligible spouse, parent or child to provide services to the eligible are also excluded for deeming purposes and these payments may be in the form of wages if the provider/deemor is an employee of the agency.

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

### **Public Income Maintenance Payments (PIM) Received by a Deemor**

PIM payments are payments based on need made under:

- Temporary Assistance for Needy Families (TANF);
- Supplemental Security Income (SSI);
- The Refugee Act of 1980;
- The Disaster Relief Act of 1974;
- General Assistance programs of the Bureau of Indian Affairs;
- State or local government assistance programs based on need; and
- VA benefits based on need.

In the deeming computation, the PIM payment **and** any income counted in determining the PIM payment are excluded when received by an ineligible spouse or parent. Assume all of the income of the person who received the PIM payment was used (counted or excluded) in determining the payment. There is no deeming allocation given for ineligible spouses, parents or children who receive PIM payments.

Resources continue to be deemed (or combined) from the spouse or parent receiving Income Based on Need.

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### **Public Income Maintenance Payments (PIM) Received by a Deemor (Continued)**

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

As a result of these exclusions from the deeming process, there may be situations advantageous to a couple if the potentially eligible spouse who has non-deemable income does not file.

**Example:** One spouse has a VA pension of \$500. The pension (and any income used to determine the pension payment) is not deemable. The other applicant spouse has no income and would be treated as an individual with zero income. If the spouse who has the pension also files, the \$500 would result in a dollar for dollar reduction in the couple FBR or FPL since income based on need is considered income to an eligible individual.

### **200.11.04F CHANGES IN DEEMING STATUS FOR COUPLES**

There are several events which can cause changes in spouse-to-spouse deeming status. The following chart lists the changes and the effective month of each change:

CHANGE	EFFECTIVE MONTH OF CHANGE
Ineligible Spouse Becomes Eligible	The spouses become a couple effective the month the ineligible spouse becomes eligible (and applies)
Spouses Separate or Divorce	Deeming stops the month after the month of the separation or divorce.
Eligible Begins Living with Ineligible Spouse	Deeming begins the month after the month they begin living together
Ineligible Spouse Dies	Deeming stops the month after the month of death
Eligible Spouse becomes Institutionalized	Deeming stops the month of entry into the facility

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**200.11.04G CHANGES IN DEEMING STATUS FOR PARENTS/CHILDREN**

Deeming from a parent can begin or end when there has been a change in the family’s situation. The following chart lists some changes and the effective month of each change:

CHANGE	EFFECTIVE MONTH OF CHANGE
Ineligible Parent Becomes Eligible	Deeming stops beginning with the month the parent becomes eligible
Eligible Parent Becomes Ineligible	Deeming begins with the parent’s first ineligible month to determine if the child is eligible
Ineligible Parent Dies	Deeming stops the month after the month of death
Ineligible Parent and Child No Longer Live in Same Household	Deeming stops effective the month after the month the parent (or child) leaves the household.
Ineligible Parent and Eligible Child Begin to Live in the Same Household	The parent’s income is deemed to the child the month after the month they begin living together, e.g., parental deeming begins the month after the month a newborn child comes home from a hospital.
Eligible Child Becomes Institutionalized	Deeming stops effective the month of entry into the facility
Eligible Child Attains Age 18	Deeming stops the month following the month the child becomes 18
Adopted Eligible Child Resumes Living with a Former Parent	Deeming does not resume if an adopted eligible child returns to a household where a former parent resides since there is no longer a parent/child relationship. However, deeming may apply from the adoptive parents if they also live with the child.

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### 200.11.05 IN-KIND INCOME

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

- Food or shelter; or
- Something the individual can sell or convert to obtain food or shelter.

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

### In-Kind Support and Maintenance (ISM)

In-kind support and maintenance (ISM) is unearned income in the form of food or shelter, or both. Receipt of clothing is no longer counted as ISM effective March 9, 2005.

ISM is an SSI policy principal that may be applicable to all categories of eligibility as described below for SSI-related categories and FPL or institutional categories:

- Whenever in-kind payments, as defined above, are received by individuals in SSI-related categories, such as SSI retro cases and former SSI recipient cases, the value of the ISM is determined by one of the three methods discussed under **Valuation of ISM** below and the ISM is counted as unearned income.
- For cases associated with the Federal Poverty Level (FPL) or Institutional Income limit, the source of the in-kind payment determines whether the ISM is countable. If the source of the in-kind payment is for the benefit of the client and the in-kind payment is for food or shelter, the actual amount of the ISM is countable unearned income.

**Example:** The client is the beneficiary of a trust, which is not a resource. A monthly disbursement of \$300 is made from the trust to pay his shelter costs. The amount of the disbursement is countable unearned income.

**Example:** The client's mother pays his rent of \$300 to his landlord from her own funds. This third party payment is not countable ISM to the Medicaid recipient.

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### **IN-KIND INCOME**

#### **Valuation of ISM**

To determine the value of ISM for an eligible individual or couple in an SSI-related category of eligibility, use the lesser of the three values discussed below when the individual or couple:

- Lives in the household of another,
- Receives rent free shelter,
- Has someone else (a third party) pay for goods and services provided to the eligible, or
- Receives rental subsidies.

#### **Current Market Value (CMV)**

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

#### **Actual Value (AV)**

The current market value is divided by the number of people receiving support and maintenance minus any payment made out of an individual's own funds. If he makes no payment, AV and CMV may be the same amount.

#### **Presumed Maximum Value (PMV)**

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

**NOTE:** PMV is not used to determine the value of ISM for individuals in FPL or institutional categories.

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### **When to Count ISM**

ISM is counted as income in the month in which the individual has use of the food or shelter item, with the exception that a third party vendor payment received as a gift is income in the month in which the payment is made.

### **200.11.05A IN-KIND ITEMS PROVIDED AS REMUNERATION FOR EMPLOYMENT**

Wages may include the value of food and/or shelter (ISM), or other items received in lieu of cash for individuals in SSI-related categories. In-kind payment of food or shelter to the following people or under the following conditions is unearned income:

- Agricultural employees
- Domestic employees
- Service not in the course of the employer's trade or business
- Service by certain home workers
- Members of the Uniformed Services
- In the form of food and/or shelter which is on the employer's business premises for the employer's convenience and, if shelter, its acceptance by the employee is a condition of employment

This SSI policy principal applies only to SSI-related cases.

**NOTE:** If there are cases where it is questionable about whether ISM is countable as income in an SSI-related case, the case should be referred to state office for clearance.