

Stakeholder Comment Summary

MSB 20-09-21-A

Revisions to the Medical Assistance Rule concerning changes to income and reasonable opportunity period for sections 8.100.3.H, 8.100.3.Q, 8.100.5.B, 8.100.5.F and 8.100.4.C

ATTACH THE STAKEHOLDER LOG.

COMMENTS WERE RECEIVED FROM STAKEHOLDERS ON THE PROPOSED RULE:

YES

NO

IF YES, PLEASE SUMMARIZE.

POLICY RECEIVED COMMENTS FROM COLORADO CENTER ON LAW AND POLICY ON SEVERAL AREAS OF THE RULE UPDATES. CCLP SUGGESTED THE DEPARTMENT TO UPDATE THE ROP LANGUAGE FOR INCOME VERIFICATION, TO REASONABLE COMPATIBILITY PERIOD(RCP) BECAUSE IT MAY CAUSE CONFUSING TO CASEWORKERS/OR MEMBERS WITH ROP NOW HAVING TWO DIFFERENT TIMEFRAMES. POLICY DID INFORM CCLP THAT AT THIS TIME THE LANGUAGE WILL NOT BE UPDATED TO RCP, BECAUSE THIS WILL REQUIRE UPDATING LANGUAGE THROUGHOUT EXISTING DOCUMENTS AND WITHIN OUR WEBSITES. THE DEPARTMENT WILL CONSIDER LOOKING INTO POSSIBLY UPDATING THIS LANGUAGE IN THE FUTURE. IN THE MEANTIME, THE ROP TIMEFRAMES WILL BE TRAINED TO ALL CASEWORKER.

CCLP ALSO MADE SOME RECOMMENDATIONS FOR SECTIONS 8.100.3, 8.100.4 AND 8.100.5 SOME OF THESE CHANGES WERE MINOR EDITS TO THE RULE. FOR OTHER SECTIONS CCLP ASKED TO MODIFY THE LANGUAGE. I DID INFORM CCLP THAT I DID MAKE SOME CHANGES BASED ON THEIR FEEDBACK AND FOR THOSE CHANGES I COULD NOT UPDATE, I WOULD INCLUDE IN A MEMO THE DEPARTMENT IS WRITING.

Title of Rule: Revisions to the Medical Assistance Rule concerning changes to income and reasonable opportunity period for sections 8.100.3.H,8.100.3.Q, 8.100.5.B, 8.100.5.F and 8.100.4.C
Rule Number: MSB 20-09-21-A
Division / Contact / Phone: Eligibility Policy Section / Ana Bordallo / 303-866-3558

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The proposed rule change will amend 10 CCR 2505-10 sections 8.100.3.H, 8.100.3.Q, 8.100.5.B,8.100.5. F and 8.100.4.C based on 42 C.F.R 435.603 as this pertains to the Modified Adjusted Gross Income (MAGI)-based methodologies. Policy is adding two new allowable deductions, net operating loss and capital losses which will help reduce an applicant's modified adjusted gross income. Policy will start counting lottery/gambling winning for MAGI programs in the month received if less than \$79,999. Winnings of \$80,000 but less than \$90,000 are counted as income over two months, with an equal amount counted in each month; and for every additional \$10,000 one month is added to the period over which total winnings are divided, in equal installments, and counted as income. For, example Justine wins the state lottery and receives a lump sum payment of \$755,000 in April. Her winnings of \$755,000 would be counted in her MAGI-based income for 69 months (or, 5 years and 9 months), beginning in the month in which she receives the winnings. That is, Justine's winnings would be counted in her MAGI-based income in April 2020 through December 2025. An equal amount of \$10,942 would be counted in each month ($\$755,000/69 \text{ months} = \$10,942 \text{ per month}$). For Non-MAGI programs lottery/gambling winnings will be treated as income in the month received and a resource thereafter. Non-cash prizes like a boat or car will continue to be counted as lump sum income in the month in which they are received. This change applies to both MAGI and non-MAGI categories. Amount of student loan debt discharged will count as income in the month the debt is discharged unless the member is disabled or is deceased. Most of these changes were provided from Center for Medicare and Medicaid Services (CMS). The eligibility system, Colorado Benefit Management System (CBMS), will be updated to reflect these policy changes. Other revisions are based on 42 C.F.R 435.952 which will reduce the reasonable opportunity period (ROP) from 90 days to 30 days for an income discrepancy. This change will apply to both MAGI and Non-MAGI programs.

2. An emergency rule-making is imperatively necessary

- to comply with state or federal law or federal regulation and/or
- for the preservation of public health, safety and welfare.

Initial Review **12/11/2020** Final Adoption **01/08/2021**
Proposed Effective Date **03/17/2021** Emergency Adoption

DOCUMENT #04

Title of Rule: Revisions to the Medical Assistance Rule concerning changes to income and reasonable opportunity period for sections 8.100.3.H,8.100.3.Q, 8.100.5.B, 8.100.5.F and 8.100.4.C

Rule Number: MSB 20-09-21-A

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Explain:

3. Federal authority for the Rule, if any:

42 CFR 435.603,42 CFR 435.952,1902(e)(14)(K)(v) of the Act, section 11031 of the TCJA amended section 108(f), Section 36B(d)(2) of the Internal Revenue Code, 26 U.S.C. 62

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2020);

Initial Review

12/11/20

Final Adoption

01/08/21

Proposed Effective Date

03/17/20

Emergency Adoption

DOCUMENT #04

1 **8.100 MEDICAL ASSISTANCE ELIGIBILITY**

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5 **8.100.3. Medical Assistance General Eligibility Requirements**

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8 **8.100.3.H. Citizenship and Identity Documentation Requirements**

9 1. For determinations of initial eligibility and redeterminations of eligibility for Medical Assistance
10 made on or after July 1, 2006, citizenship or nationality and identity status must be verified unless
11 such satisfactory documentary evidence has already been provided, as described in
12 8.100.3.H.4.b. This requirement applies to an individual who declares or who has previously
13 declared that he or she is a citizen or national of the United States.

14 a. The following electronic interfaces shall be accepted as proof of citizenship and/or
15 identity as listed and should be used prior to requesting documentary evidence from
16 applicants/clients:

17 i) SSA Interface is an acceptable interface to verify citizenship and identity. An
18 automated response from SSA that confirms that the data submitted is consistent
19 with SSA data, including citizenship or nationality, meets citizenship and identity
20 verification requirements. No further action is required for the individual and no
21 additional documentation of either citizenship or identity is required.

22 ii) Department of Motor Vehicles (DMV) Interface is an acceptable interface to verify
23 identity. An automated response from DMV confirms that the data submitted is
24 consistent with DMV data for identity verification requirements. No further action
25 is required for the individual and no additional documentation of identity is
26 required.

27 b. This requirement does not apply to the following groups:

28 i) Individuals who are entitled to or who are enrolled in any part of Medicare.

29 ii) Individuals who receive Supplemental Security Income (SSI).

30 iii) Individuals who receive child welfare services under Title IV-B of the Social
31 Security Act on the basis of being a child in foster care.

32 iv) Individuals who receive adoption or foster care assistance under Title IV-E of the
33 Social Security Act.

34 v) Individuals who receive Social Security Disability Insurance (SSDI).

1 vi) Children born to a woman who has applied for, has been determined eligible, and
2 is receiving Medical Assistance on the date of the child's birth, as described in
3 8.100.4.G.5. This includes instances where the labor and delivery services were
4 provided before the date of application and were covered by the Medical
5 Assistance Program as an emergency service based on retroactive eligibility.

6 1) A child meeting the criteria described in 8.100.3.H.1.b.vi shall be deemed
7 to have provided satisfactory documentary evidence of citizenship or
8 nationality and shall not be required to provide further documentary
9 evidence at any time in the future, regardless of any subsequent
10 changes in the child's eligibility for Medical Assistance.

11 2) Special Provisions for Retroactive Reversal of a Previous Denial

12 a) If a child described at 8.100.3.H.1.b.vi was previously
13 determined to be ineligible for Medical Assistance solely for
14 failure to meet the citizenship and identity documentation
15 requirements, the denial shall be reversed. Eligibility shall be
16 effective retroactively to the date of the child's birth provided all
17 of the following criteria are met:

18 (1) The child was determined to be ineligible for Medical
19 Assistance during the period between July 1, 2006 and
20 October 1, 2009 solely for failure to meet the citizenship
21 and identity documentation requirements as they existed
22 during that period;

23 (2) The child would have been determined to be eligible for
24 Medical Assistance had 8.100.3.H.1.b.vi and/or
25 8.100.3.H.1.b.vi.2.a been in effect during the period from
26 July 1, 2006 through October 1, 2009; and

27 (3) The child's parent, caretaker relative, or legally
28 appointed guardian or conservator requests that the
29 denial of eligibility for Medical Assistance be reversed.
30 The request may be verbal or in writing.

31 b) A child for whom denial of eligibility for Medical Assistance has
32 been retroactively reversed shall be subject to the eligibility
33 redetermination provisions described at 8.100.3.P.1. Such
34 redetermination shall occur twelve months from the retroactive
35 eligibility date determined when the denial was reversed
36 pursuant to this subsection 1.

37 c) A child granted retroactive eligibility for Medical Assistance shall
38 be subject to the requirements described at 8.100.4.G.2. for
39 continued eligibility.

40 vii) Individuals receiving Medical Assistance during a period of presumptive eligibility.

41 2. Satisfactory documentary evidence of citizenship or nationality includes the following:

42 a. Stand-alone documents for evidence of citizenship and identity. The following evidence
43 shall be accepted as satisfactory documentary evidence of both identity and citizenship:

- 1 i) A U.S. passport issued by the U.S. Department of State that:
- 2 1) includes the applicant or recipient, and
- 3 2) was issued without limitation. A passport issued with a limitation may be
4 used as proof of identity, as outlined in 8.100.3.H.3.
- 5 ii) A Certificate of Naturalization (DHS Forms N-550 or N-570) issued by the
6 Department of Homeland Security (DHS) for naturalized citizens.
- 7 iii) A Certificate of U.S. Citizenship (DHS Forms N-560 or N-561) issued by the
8 Department of Homeland Security for individuals who derive citizenship through
9 a parent.
- 10 iv) A document issued by a federally recognized Indian tribe, evidencing
11 membership or enrollment in, or affiliation with, such tribe (such as a tribal
12 enrollment card or certificate of degree of Indian blood).
- 13 1) Special Provisions for Retroactive Reversal of a Previous Denial
- 14 a) For a member of a federally recognized Indian tribe who was
15 determined to be ineligible for Medical Assistance solely for
16 failure to meet the citizenship and identity documentation
17 requirements, the denial of eligibility shall be reversed and
18 eligibility shall be effective as of the date on which the individual
19 was determined to be ineligible provided all of the following
20 criteria are met:
- 21 (1) The individual was determined to be ineligible for
22 Medical Assistance on or after July 1, 2006 solely on the
23 basis of not meeting the citizenship and identity
24 documentation requirements as they existed during that
25 period;
- 26 (2) The individual would have been determined to be eligible
27 for Medical Assistance had 8.100.3.H.2.a.iv) been in
28 effect on or after July 1, 2006; and
- 29 (3) The individual or a legally appointed guardian or
30 conservator of the individual requests that the denial of
31 eligibility for Medical Assistance be reversed. The
32 request may be verbal or in writing.
- 33 b) A member of a federally recognized Indian tribe for whom denial
34 of eligibility for Medical Assistance has been retroactively
35 reversed shall be subject to the eligibility redetermination
36 provisions described at 8.100.3.P.1. Such redetermination shall
37 occur twelve months from the retroactive eligibility date
38 determined when the denial was reversed as provided in this
39 subsection 2.
- 40 b. Evidence of citizenship. If evidence from the list in 8.100.3.H.2.a. is not provided, an
41 applicant or recipient shall provide satisfactory documentary evidence of citizenship from
42 the list specified in this section to establish citizenship AND satisfactory documentary

1 evidence from the documents listed in section 8.100.3.H. 3. to establish identity.
2 Evidence of citizenship includes:

- 3 i) A U.S. public birth certificate.
- 4 1) The birth certificate shall show birth in any one of the following:
- 5 a) One of the 50 States,
- 6 b) The District of Columbia,
- 7 c) Puerto Rico (if born on or after January 13, 1941),
- 8 d) Guam (if born on or after April 10, 1899),
- 9 e) The Virgin Islands of the U.S. (if born on or after January 17,
10 1917),
- 11 f) American Samoa,
- 12 g) Swain's Island, or
- 13 h) The Northern Mariana Islands (NMI) (if born after November 4,
14 1986 (NMI local time)).
- 15 2) The birth record document shall have been issued by the State,
16 Commonwealth, Territory or local jurisdiction.
- 17 3) The birth record document shall have been recorded before the person
18 was 5 years of age. A delayed birth record document that is recorded at
19 or after 5 years of age is considered fourth level evidence of citizenship,
20 as described in 8.100.3.H.2.d.
- 21 ii) A Certification of Report of Birth (DS-1350) issued by the U.S. Department of
22 State to U.S. citizens who were born outside the U.S. and acquired U.S.
23 citizenship at birth.
- 24 iii) A Report of Birth Abroad of a U.S. Citizen (Form FS-240) issued by the U.S.
25 Department of State consular office overseas for children under age 18 at the
26 time of issuance. Children born outside the U.S. to U.S. military personnel
27 usually have one of these.
- 28 iv) A Certification of birth issued by the U.S. Department of State (Form FS-545 or
29 DS-1350) before November 1, 1990.
- 30 v) A U.S. Citizen I.D. card issued by the U.S. Immigration and Naturalization
31 Services (INS):
- 32 1) Form I-179 issued from 1960 until 1973, or
- 33 2) Form I-197 issued from 1973 until April 7, 1983.

- 1 vi) A Northern Mariana Identification Card (I-873) issued by INS to a collectively
2 naturalized citizen of the U.S. who was born in the NMI before November 4,
3 1986.
- 4 vii) An American Indian Card (I-872) issued by the Department of Homeland Security
5 with the classification code "KIC."
- 6 viii) A final adoption decree that:
- 7 1) shows the child's name and U.S. place of birth, or
- 8 2) a statement from a State approved adoption agency that shows the
9 child's name and U.S. place of birth. The adoption agency must state in
10 the certification that the source of the place of birth information is an
11 original birth certificate.
- 12 ix) Evidence of U.S. Civil Service employment before June 1, 1976. The document
13 shall show employment by the U.S. government before June 1, 1976.
- 14 x) U.S. Military Record that shows a U.S. place of birth such as a DD-214 or similar
15 official document showing a U.S. place of birth.
- 16 xi) Data verification with the Systematic Alien Verification for Entitlements (SAVE)
17 Program for naturalized citizens.
- 18 xii) Child Citizenship Act. Adopted or biological children born outside the United
19 States may establish citizenship obtained automatically under section 320 of the
20 Immigration and Nationality Act (8 USC § 1431), as amended by the Child
21 Citizenship Act of 2000 (Pub. L. 106-395, enacted on October 30, 2000). section
22 320 of the Immigration and Nationality Act (8 USC § 1431), as amended by the
23 Child Citizenship Act of 2000 (Pub. L. 106-395, enacted on October 30, 2000) is
24 incorporated herein by reference. No amendments or later editions are
25 incorporated. Copies are available for inspections from the following person at
26 the following address: Custodian of Records, Colorado Department of Health
27 Care Policy and Financing, 1570 Grant Street, Denver, CO 80203-1818. Any
28 material that has been incorporated by reference in this rule may be examined at
29 any state publications repository library.
- 30 Documentary evidence must be provided at any time on or after February 27,
31 2001, if the following conditions have been met:
- 32 1) At least one parent of the child is a United States citizen by either birth or
33 naturalization (as verified under the requirements of this part);
- 34 2) The child is under the age of 18;
- 35 3) The child is residing in the United States in the legal and physical
36 custody of the U.S. citizen parent;
- 37 4) The child was admitted to the United States for lawful permanent
38 residence (as verified through the Systematic Alien Verification for
39 Entitlements (SAVE) Program); and

- 1 2) The school record shows the child's date of admission to the school;
- 2 3) The school record shows the child's date of birth;
- 3 4) The school record shows a U.S. place of birth for the child; and
- 4 5) The school record shows the name(s) and place(s) of birth of the
- 5 applicant's parents.

- 6 xvii) Federal or State census record showing U.S. citizenship or a U.S. place of birth
- 7 and the applicant's age.

- 8 xviii) One of the following documents that shows a U.S. place of birth and was created
- 9 at least 5 years before the application for The Medical Assistance Program. For
- 10 children under 16 the document must have been created near the time of birth or
- 11 at least 5 years before the date of application.

- 12 1) Seneca Indian tribal census record;
- 13 2) Bureau of Indian Affairs tribal census records of the Navajo Indians;
- 14 3) U.S. State Vital Statistics official notification of birth registration;
- 15 4) A delayed U.S. public birth record that is recorded more than 5 years
- 16 after the person's birth;

- 17 5) Statement signed by the physician or midwife who was in attendance at
- 18 the time of birth; or

- 19 6) The Roll of Alaska Natives maintained by the Bureau of Indian Affairs.

- 20 xix) Institutional admission papers from a nursing facility, skilled care facility or other
- 21 institution created at least 5 years before the initial application date that indicate
- 22 a U.S. place of birth.

- 23 xx) Medical (clinic, doctor, or hospital) record.

- 24 1) The record shall have been created at least 5 years before the initial
- 25 application date; and

- 26 2) The record shall indicate a U.S. place of birth.

- 27 3) An immunization record is not considered a medical record for purposes
- 28 of establishing U.S. citizenship.

- 29 4) For children under 16 the document shall have been created near the
- 30 time of birth or at least 5 years before the date of application.

- 31 xxi) Written affidavit. Affidavits shall only be used in rare circumstances. They may be
- 32 used by U.S. citizens or nationals born inside or outside the U.S. If
- 33 documentation is by affidavit, the following rules apply:

- 34 1) There shall be at least two affidavits by two individuals who have
- 35 personal knowledge of the event(s) establishing the applicant's or

- 1 recipient's claim of citizenship (the two affidavits could be combined in a
2 joint affidavit);
- 3 2) At least one of the individuals making the affidavit cannot be related to
4 the applicant or recipient. Neither of the two individuals can be the
5 applicant or recipient;
- 6 3) In order for the affidavit to be acceptable the persons making them shall
7 provide proof of their own U.S. citizenship and identity.
- 8 4) If the individual(s) making the affidavit has (have) information which
9 explains why documentary evidence establishing the applicant's claim of
10 citizenship does not exist or cannot be readily obtained, the affidavit shall
11 contain this information as well;
- 12 5) The applicant/recipient or other knowledgeable individual (guardian or
13 representative) shall provide a separate affidavit explaining why the
14 evidence does not exist or cannot be obtained; and
- 15 6) The affidavits shall be signed under penalty of perjury pursuant to 18
16 U.S.C. §1641 and Title 18 of the Criminal Code article 8 part 5 and need
17 not be notarized.
- 18 c. Evidence of citizenship for collectively naturalized individuals. If a document shows the
19 individual was born in Puerto Rico, the Virgin Islands of the U.S., or the Northern Mariana
20 Islands before these areas became part of the U.S., the individual may be a collectively
21 naturalized citizen. A second document from 8.100.3.H.3. to establish identity shall also
22 be presented.
- 23 i) Puerto Rico:
- 24 1) Evidence of birth in Puerto Rico on or after April 11, 1899 and the
25 applicant's statement that he or she was residing in the U.S., a U.S.
26 possession or Puerto Rico on January 13, 1941; OR
- 27 2) Evidence that the applicant was a Puerto Rican citizen and the
28 applicant's statement that he or she was residing in Puerto Rico on
29 March 1, 1917 and that he or she did not take an oath of allegiance to
30 Spain.
- 31 ii) US Virgin Islands:
- 32 1) Evidence of birth in the U.S. Virgin Islands, and the applicant's statement
33 of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on
34 February 25, 1927; OR
- 35 2) The applicant's statement indicating residence in the U.S. Virgin Islands
36 as a Danish citizen on January 17, 1917 and residence in the U.S., a
37 U.S. possession or the U.S. Virgin Islands on February 25, 1927, and
38 that he or she did not make a declaration to maintain Danish citizenship;
39 OR

- 1 a) A driver's license issued by a State or Territory either with a photograph of the individual
2 or other identifying information such as name, age, sex, race, height, weight, or eye color;
- 3 b) School identification card with a photograph of the individual;
- 4 c) U.S. military card or draft record;
- 5 d) Identification card issued by the Federal, State, or local government with the same
6 information included on driver's licenses;
- 7 e) Military dependent's identification card;
- 8 f) U.S. Coast Guard Merchant Mariner card;
- 9 g) Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native Tribal
10 document with a photograph or other personal identifying information relating to the
11 individual. The document is acceptable if it carries a photograph of the individual or has
12 other personal identifying information relating to the individual such as age, weight,
13 height, race, sex, and eye color; or
- 14 h) Three or more documents that together reasonably corroborate the identity of an
15 individual provided such documents have not been used to establish the individual's
16 citizenship and the individual submitted evidence of citizenship listed under
17 8.100.3.H.2.b. or 8.100.3.H.2.c. The following requirements must be met:
- 18 i) No other evidence of identity is available to the individual;
- 19 ii) The documents must at a minimum contain the individual's name, plus any
20 additional information establishing the individual's identity; and
- 21 iii) All documents used must contain consistent identifying information.
- 22 iv) These documents include, but are not limited to, employer identification cards,
23 high school and college diplomas from accredited institutions (including general
24 education and high school equivalency diplomas), marriage certificates, divorce
25 decrees, and property deeds/titles.
- 26 i) Special identity rules for children. For children under 16, the following records are
27 acceptable:
- 28 i) Clinic, doctor, or hospital records; or
- 29 ii) School records.
- 30 1) The school record may include nursery or daycare records and report
31 cards; and
- 32 2) The school, nursery, or daycare record must be verified with the issuing
33 school, nursery, or daycare.
- 34 3) If clinic, doctor, hospital, or school records are not available, an affidavit
35 may be used if it meets the following requirements:

- 1 a) It shall be signed under penalty of perjury by a parent or
2 guardian;
- 3 b) It shall state the date and place of birth of the child; and
- 4 c) It cannot be used if an affidavit for citizenship was provided.
- 5 d) The affidavit is not required to be notarized.
- 6 e) An affidavit may be accepted on behalf of a child under the age
7 of 18 in instances when school ID cards and drivers' licenses are
8 not available to the individual until that age.
- 9
- 10 j) Special identity rules for disabled individuals in institutional care facilities.
- 11 i) An affidavit may be used for disabled individuals in institutional care facilities if
12 the following requirements are met:
 - 13 1) It shall be signed under penalty of perjury by a residential care facility
14 director or administrator on behalf of an institutionalized individual in the
15 facility; and
 - 16 2) No other evidence of identity is available to the individual.
 - 17 3) The affidavit is not required to be notarized.
- 18 k) Expired identity documents.
 - 19 i) Identity documents do not need to be current to be acceptable. An expired
20 identity document shall be accepted as long as there is no reason to believe that
21 the document does not match the individual.
- 22 l) Referrals for Colorado Identification Cards
 - 23 i) An applicant or client who does not possess a Colorado driver's license or
24 identification card shall be referred to the Department of Revenue Division of
25 Motor Vehicles by the county department to obtain an identification card at no
26 charge, pursuant to C.R.S. § 42-2-306(1)(a)(II).
 - 27 ii) The referral shall be provided on county department letterhead and shall include
28 the following:
 - 29 1) The name and address of the applicant or client;
 - 30 2) A statement that the county department requests that the Department of
31 Revenue Division of Motor Vehicles waive the identification card fee,
32 pursuant to C.R.S § 42-2-306(1)(a)(II).; and
 - 33 3) The name and contact telephone number for the county caseworker
34 responsible for the referral.

1 iii) An applicant or client who has been referred to the Division of Motor Vehicles to
2 obtain an identification card shall not be required to present a Colorado
3 identification card to satisfy the identity documentation requirement at
4 8.100.3.H.3. The applicant or client shall have the right to use any of the
5 documents listed under 8.100.3.H.3. to satisfy the identity documentation
6 requirement.

7 4. Documentation Requirements

8 a. Citizenship and identity documents may be submitted as originals, certified copies,
9 photocopies, facsimiles, scans or other copies.

10 b. Individuals who submitted notarized copies of citizenship and identity documents as part
11 of an application or redetermination before January 1, 2008 shall not be required to
12 submit originals or copies certified by the issuing agency for any application or
13 redetermination processed on or after January 1, 2008.

14 c. All citizenship and identity documents shall be presumed to be genuine unless the
15 authenticity of the document is questionable.

16 d. Individuals shall not be required to submit citizenship and identity documentation in
17 person. Documents shall be accepted from a Medical Assistance applicant or client or
18 from his or her guardian or authorized representative in person or by mail.

19 i) Individuals are strongly encouraged to use alternatives to mailing original
20 documents to counties, such as those described in 8.100.3.H.4.e.

21 e. Individuals may present original citizenship and identity documents or copies certified by
22 the issuing agency to Medical Assistance (MA) sites, School-based Medical Assistance
23 sites, Presumptive Eligibility (PE) sites, Federally Qualified Health Centers (FQHCs),
24 Disproportionate Share Hospitals (DSHs), or any other location designated by the
25 Department by published agency letter.

26 i) Staff at these locations shall make a copy of the original documents and shall
27 complete a "Citizenship and Identity Documentation Received" form, stamp the
28 copy, or provide other verification that identifies that the documents presented
29 were originals. The verification shall include the name, telephone number,
30 organization name and address, and signature of the individual who reviewed the
31 document(s). This form, stamp, or other verification shall be attached to or
32 directly applied to the copy.

33 ii) Upon request by the client or eligibility site, the copy of the original document
34 with the "Citizenship and Identity Documentation Received" form, stamp, or other
35 verification as described in 8.100.3.H.4.e. i) shall be mailed or delivered directly
36 to the eligibility site within five business days.

37 f. Counties shall accept photocopies of citizenship and identity documents from any
38 location described in 8.100.3.H.4.e provided the photocopies include the form, stamp, or
39 verification described in 8.100.3.H.4.e.i).

40 g. Counties shall develop procedures for handling original citizenship and identity
41 documents to ensure that these documents are not lost, damaged, or destroyed.

- 1 i) Upon receiving the original documents, eligibility site staff shall make a copy of
2 the original documents and shall complete a "Citizenship and Identity
3 Documentation Received" form, stamp the copy, or provide other verification that
4 identifies that the documents presented were originals, as described in
5 8.100.3.H.4.e. i). This form, stamp, or other verification shall be attached to or
6 directly applied to the copy.
- 7 ii) The original documents shall be sent by mail or returned to the individual in
8 person within five business days of the date on which they were received.
- 9 iii) To limit the risk of original documents being lost, damaged, or destroyed,
10 counties are strongly encouraged to make copies of documents immediately
11 upon receipt and to return original documents to the individual while he or she is
12 present.
- 13 h. Once an individual has provided the required citizenship and identity documentation, he
14 or she shall not be required to submit the documentation again unless:
- 15 i) Later evidence raises a question about the individual's citizenship or identity; or
- 16 ii) There is a gap of more than five years between the ending date of the individual's
17 last period of eligibility and a subsequent application for The Medical Assistance
18 Program and the eligibility site has not retained the citizenship and identity
19 documentation the individual previously provided.
- 20 5. Record Retention Requirements
- 21 a. The eligibility site shall retain a paper or electronically scanned copy of an individual's
22 citizenship and identity documentation, including any verification described in
23 8.100.3.H.4.e.i), for at least five years from the ending date of the individual's last period
24 of Medical Assistance eligibility.
- 25 6. Name Change Provisions
- 26 a. An individual who has changed his or her last name for reasons including, but not limited
27 to, marriage, divorce, or court order shall not be required to produce any additional
28 documentation concerning the name change unless:
- 29 i) With the exception of the last name, the personal information in the citizenship
30 and identity documentation provided by the individual does not match in every
31 way;
- 32 ii) In addition to changing his or her last name, the individual also changed his or
33 her first name and/or middle name; or
- 34 iii) There is a reasonable basis for questioning whether the citizenship and identity
35 documents belong to the same individual.
- 36 7. Reasonable Level of Assistance
- 37 a. The eligibility site shall provide a reasonable level of assistance to applicants and clients
38 in obtaining the required citizenship and identity documentation.
- 39 b. Examples of a reasonable level of assistance include, but are not limited to:

- 1 i) Providing contact information for the appropriate agencies that issue the required
2 documents;
- 3 ii) Explaining the documentation requirements and how the client or applicant may
4 provide the documentation; or
- 5 iii) Referring the applicant or client to other agencies or organizations which may be
6 able to provide further assistance.
- 7 c. The eligibility site shall not be required to pay for the cost of obtaining required
8 documentation.

9 8. Individuals Requiring Additional Assistance

- 10 a. The eligibility site shall provide additional assistance beyond the level described in
11 8.100.3.H.7 to applicants and clients in obtaining the required citizenship and identity
12 documentation if the client or applicant:
 - 13 i) Is unable to comply with the requirements due to physical or mental impairments
14 or homelessness; and
 - 15 ii) The individual lacks a guardian or representative who can provide assistance.
- 16 b. Examples of additional assistance include, but are not limited to:
 - 17 i) Contacting any known family members who may have the required
18 documentation;
 - 19 ii) Contacting any known current or past health care providers who may have the
20 required documentation; or
 - 21 iii) Contacting other social services agencies that are known to have provided
22 assistance to the individual.
- 23 c. The eligibility site shall document its efforts to provide additional assistance to the client
24 or applicant. Such documentation shall be subject to the record retention requirements
25 described in 8.100.3.H.5.a.

26 9. Reasonable Opportunity Period

- 27 a. If a Medical Assistance applicant does not have the required documentation, he or she
28 must be given a reasonable opportunity period to provide the required documentation.
29 The reasonable opportunity period will begin as of the date of the Notice of Action. The
30 required documentation must be received within the reasonable opportunity period. If the
31 applicant does not provide the required documentation within the reasonable opportunity
32 period, then the applicant's Medical Assistance benefits shall be terminated.
- 33 b. The reasonable opportunity period is 90 calendar days if unable to verify proof of
34 citizenship/identity and applies to MAGI, Adult, and Buy-In Programs:
 - 35 i) For the purpose of this section only, MAGI Programs for persons covered
36 pursuant to 8.100.4.G or 8.100.4.I, include the following:

Commonly Used Program Name	Rule Citation
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Children's Medical Assistance	8.100.4.G.2
Parent and Caretaker Relative Medical Assistance	8.100.4.G.3
Adult Medical Assistance	8.100.4.G.4
Pregnant Women Medical Assistance	8.100.4.G.5
Transitional Medical Assistance	8.100.4.I.1-5

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- ii) For the purpose of this section only, Adult and Buy-In Programs for persons covered pursuant to 8.100.3.F, 8.100.6.P, 8.100.6.Q, or 8.715 include the following:

Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
Medicaid Buy-In Program for Working Adults with Disabilities	8.100.6.P
Medicaid Buy-In Program for Children with Disabilities	8.100.6.Q
Breast and Cervical Cancer Program (BCCP)	8.715

5 10. Good Faith Effort

- 6 a. In some cases, a Medical Assistance client or applicant may not be able to obtain the
7 required documentation within the applicable reasonable opportunity period. If the client
8 or applicant is making a good faith effort to obtain the required documentation, then the
9 reasonable opportunity period should be extended. The amount of time given should be
10 determined on a case-by-case basis and should be based on the amount of time the
11 individual needs to obtain the required documentation.

12 Examples of good faith effort include, but are not limited to:

- 13 i) Providing verbal or written statements describing the individual's effort at
14 obtaining the required documentation;
- 15 ii) Providing copies of emails, letters, applications, checks, receipts, or other
16 materials sent or received in connection with a request for documentation; or
- 17 iii) Providing verbal or written statements of the individuals' efforts at identifying
18 people who could attest to the individual's citizenship or identity, if citizenship
19 and/or identity are included in missing documentation.

20 An individual's verbal statement describing his or her efforts at securing the required
21 documentation should be accepted without further verification unless the accuracy or
22 truthfulness of the statement is questionable. The individual's good faith efforts should be
23 documented in the case file and are subject to all record retention requirements.

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1 **8.100.3.Q. Continuous Eligibility (CE) for Medical Assistance programs**

- 2 1. Continuous eligibility applies to children under age 19, who through an eligibility determination,
3 reassessment or redetermination, are found eligible for a Medical Assistance program. The
4 continuous eligibility period may last for up to 12 months.
- 5 a. The continuous eligibility period applies without regard to changes in income or other
6 factors that would otherwise cause the child to be ineligible.
- 7 i) A 14-day no fault period shall begin on the date the child is determined eligible
8 for Medical Assistance. During the 14-day period, any changes to income or
9 other factors made to the child's case during the 14-day no fault period may
10 change his or her eligibility for Medical Assistance.
- 11 b. Exception: A child's continuous eligibility period will end effective the earliest possible
12 month if any of the following occur:
- 13 i) Child is deceased
- 14 ii) Becomes an inmate of a public institution
- 15 iii) The child is no longer part of the Medical Assistance required household
- 16 iv) Is no longer a Colorado resident
- 17 v) Is unable to be located based on evidence or reasonable assumption
- 18 vi) Requests to be withdrawn from continuous eligibility
- 19 vii) Fails to provide documentation during a reasonable opportunity period as
20 specified in section [8.100.3.G.3](#) and 8.100.3.H.9
- 21 viii) Fails to provide a reasonable explanation or paper documentation when self-
22 attested income is not reasonably compatible with income information from an
23 electronic data source, by the end of the ~~30~~90-day reasonable opportunity
24 period. This exception only applies the first-time income is verified following an
25 initial eligibility determination or an annual redetermination.
- 26 2. The continuous eligibility period will begin on the first day of the month the application is received
27 or from the date all criteria is met. Continuous eligibility is applicable to children enrolled in the
28 following Medical Assistance programs:
- 29 a. MAGI-Medical Assistance, program as specified in section 8.100.4.G.2
- 30 b. SSI Mandatory, as specified in section 8.100.6.C
- 31 i.) When a child is no longer eligible for SSI Mandatory they will be categorized as
32 eligible within the MAGI-Child category for the remainder of the eligibility period.
- 33 c. Long- Term Care services
- 34 i.) When a child is no longer eligible for Long-Term Care services they will be
35 categorized as eligible within the MAGI- Child category for the remainder of the
36 eligibility period.

- 1 d. Medicaid Buy-In program specified in section 8.100.6.Q
- 2 i) Exception: Enrollment will be discontinued if there is a failure to pay premiums
- 3 e. Pickle
- 4 f. Disabled Adult Child DAC)
- 5 3. Children, under the age of 19, no longer enrolled in Foster Care Medicaid will be eligible for the
- 6 MAGI-Medical Assistance program. The continuous eligibility period will begin the month the child
- 7 is no longer enrolled in Foster Care Medicaid as long as they meet one of the following
- 8 conditions:
- 9 a. Begin living with other Relatives
- 10 b. Are reunited with Parents
- 11 c. Have received guardianship

15 **8.100.4 MAGI Medical Assistance Eligibility [Eff. 01/01/2014]**

18 **8.100.4.C. MAGI Methodology for Income Calculation**

- 19 1. For an in depth treatment of gross income, refer to 26 U.S.C. § 61, which is hereby incorporated
- 20 by reference. The incorporation of 26 U.S.C. § 61 (2014) excludes later amendments to, or
- 21 editions of, the referenced material. Pursuant to § 24-4-103(12.5), C.R.S., the Department
- 22 maintains copies of this incorporated text in its entirety, available for public inspection during
- 23 regular business hours at: Colorado Department of Health Care Policy and Financing, 1570 Grant
- 24 Street, Denver CO 80203. Certified copies of incorporated materials are provided at cost upon
- 25 request. Except as otherwise provided, pursuant to 26 U.S.C. § 61 gross income means all
- 26 income from all derived sources, The Modified Adjusted Gross Income calculation for the
- 27 purposes of determining a household's financial eligibility for Medical Assistance shall consist of,
- 28 but is not limited to, the following:
- 29 a. Earned Income:
- 30 i) Wages, salaries, tips;
- 31 ii) Gross income derived from business;
- 32 iii) Gains derived from dealings in property;
- 33 iv) Distributive share of partnership gross income (not a limited partner);

- 1 v) Compensation for services, including fees, commissions, fringe benefits and
2 similar items; and
- 3 vi) Taxable private disability income.
- 4 b. Unearned Income:
- 5 i) Interest (includes tax exempt interest);
- 6 ii) Rents;
- 7 iii) Royalties;
- 8 iv) Dividends;
- 9 v) Alimony received counts as unearned income if the divorce or legal separation is
10 executed on or before December 31, 2018. Alimony received will not be
11 countable income if the divorce or legal separation is modified or executed on or
12 after January 1, 2019;
- 13 vi) Pensions and annuities;
- 14 vii) Income from life insurance and endowment contracts;
- 15 viii) Income from discharge of indebtedness;
- 16 ix) Income in respect of a decedent;
- 17 x) Income from an interest in an estate or trust;
- 18 xi) Social Security (SSA) income; ~~and~~
- 19 xii) Distributive share of partnership gross income (limited partner);:-
- 20 xiii) Capital gains;
- 21 xiv) Lottery/Gambling Winnings:
- 22 1) If less than \$79,999 winnings are counted as income in the month
23 received.
- 24 2) If over \$80,000 but less than \$90,000 it is counted as income and it is
25 divided equally betweeny two months.
- 26
- 27 3) For every additional \$10,000 over \$90,000, one month is added, and
28 divided equally and counted as income for each month.
- 29
- 30 4) Lottery/gambling winnings of an individual will continue to count only in
31 the month received in determining the eligibility for the members of their
32 household.
- 33
- 34 xv) Student loan debt that is discharged, forgiven, or cancelled is generally treated
35 as taxable income to the borrower, with certain exceptions.

1) This debt will not be considered income for the borrower in the event of death or permanent and total disability of the student (the borrower and the student may or may not be the same person) if discharged during tax years 2018 through 2025.

2) This debt will not be considered countable income for the borrower if discharged, forgiven, or cancelled under the following programs (but not limited to):

a) Public Service Loan Forgiveness program;

b) Certain teacher loan forgiveness programs;

c) Healthcare loan forgiveness programs; and

d) Loans discharged under the Closed School discharge process.

c. Additional Income: In addition to the types of income identified in section 8.100.4.C.1.a-b., the following income is included in the MAGI calculation.

- i) Any tax exempt interest income.
- ii) Untaxed foreign wages and salaries.
- iii) Social Security Title II Benefits (Old Age, Disability and Survivor's benefits).

d. The following are Income exclusions:

- i) An amount received as a lump sum is counted as income only in the month received;
- ii) Scholarships, awards, or fellowship grants used for educational purposes and not for living expenses;
- iii) Child support received;
- iv) Worker's Compensation;
- v) Supplemental Security Income (SSI);
- vi) Veteran's Benefits;
- vii) The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act Recovery Rebate, also known as the COVID-19 Economic Stimulus, shall be exempt from consideration as income.
- viii) Federal Pandemic Unemployment Compensation (FPUC) program, which provides an extra \$600.00 a week for qualified individuals, is exempt as countable unearned income.
- ix) American Indian/Alaskan Native income exceptions listed at 42 C.F.R. § 435.603(e) (2012) is hereby incorporated by reference. The incorporation of 42 C.F.R. § 435.603(e) (2012) excludes later amendments to, or editions of, the

1 referenced material. Pursuant to § 24-4-103(12.5), C.R.S., the Department
 2 maintains copies of this incorporated text in its entirety, available for public
 3 inspection during regular business hours at: Colorado Department of Health Care
 4 Policy and Financing, 1570 Grant Street, Denver, CO 80203. Certified copies of
 5 incorporated materials are provided at cost upon request.

- 6 e. Allowable Deductions: For an in-depth treatment of allowable deductions from gross
 7 income, please refer to 26 U.S.C. 62, which is hereby incorporated by reference. The
 8 incorporation of 26 U.S.C. 62 (2014) excludes later amendments to, or editions of, the
 9 referenced material. Pursuant to § 24-4-103(12.5), C.R.S., the Department maintains
 10 copies of this incorporated text in its entirety, available for public inspection during regular
 11 business hours at: Colorado Department of Health Care Policy and Financing, 1570
 12 Grant Street, Denver CO 80203. Certified copies of incorporated materials are provided
 13 at cost upon request.

14 The following deductions can be subtracted from an individual's taxable gross income, in
 15 order to calculate the Adjusted Gross Income (AGI) including (but not limited to):

- 16 i) Student loan interest deductions;
- 17 ii) Certain Self-employment expenses SEP, SIMPLE and qualified plans, and
 18 health insurance deductions;
- 19 iii) Deductible part of self-employment tax;
- 20 iv) Health savings account deduction;
- 21 v) Certain business expenses of reservists, performing artist, and fee-basis
 22 government officials;
- 23 vi) Reimbursed expenses of employees;
- 24 vii) Moving expenses for active duty military who are moving due to a permanent
 25 change of station;
- 26 viii) IRA deduction: Regular Individual Retirement Account (IRA) contributions
 27 claimed on a federal income tax return and which does not exceed the IRA
 28 contributions limits; Pre-tax contributions to a 401(k) or 403(b) retirement plan
 29 are excluded from earned income);
- 30 ix) Penalty on early withdrawal of savings;
- 31 x) Domestic production activities deduction;
- 32 xi) Alimony paid can be deducted only if the divorce or legal separation is executed
 33 on or before December 31, 2018. It cannot be deducted if the divorce or
 34 separation is modified or executed on or after January 1, 2001-;
- 35 xii) Certain educator expenses; ~~and~~
- 36 xiii) Certain pre-tax contributions; ~~;~~
- 37 xiv) Net operating losses; and

xv) Capital losses.

f. Income of children and tax dependents:

i) The income of a child who is included in the household of their natural, adopted, or step parent will not be included in the household income unless that child has income above the tax filing threshold..

1) Income from Title II Social Security benefits and Tier I Railroad benefits are excluded when determining if a child is required to file taxes.

ii) The income of a person, other than a child or spouse, who expects to be claimed as a tax dependent will not be included in the household income of the taxpayer unless that tax dependent has income above the tax filing threshold.

1) Income from Title II Social Security benefits and Tier I Railroad benefits are excluded when determining if a tax dependent is required to file taxes.

ii) The income of a child or tax dependent who does not live with their natural, adopted, or step parent will always count towards the determination of their own eligibility, even if the child's or tax dependent's income is below the tax filing threshold.

2. Income verifications: When discrepancies arise between self-attested income and electronic data source results, the applicant shall receive **every a** reasonable opportunity to establish his/her financial eligibility through the test for reasonable compatibility, by providing a reasonable explanation of the discrepancy, or by providing paper documentation within their accordance with this section. For Reasonable Opportunity Period (ROP) of 30 calendar days please see section 8.100.3.H.9.

a. Income information obtained through an electronic data source shall be considered reasonably compatible with income information provided by or on behalf of an applicant in the following circumstances:

i) If the amount attested by the applicant and the amount reported by an electronic data source are both below the applicable MAGI Medical Assistance program income standard ~~for the requested program~~, that income shall be determined reasonably compatible and the applicant shall be determined eligible.

ii) If the amount attested by the applicant is below the applicable MAGI Medical Assistance program income standard ~~for that program~~, but the amount reported by the electronic data source is above, and the difference is within the reasonable compatibility threshold percentage of 20%, the income shall be determined reasonably compatible and the applicant shall be determined eligible.

iii) If both amounts are above the applicable MAGI Medical Assistance program income standard ~~for that program~~, the income shall be determined reasonably compatible, and the applicant shall continue to be determined eligible during the federal Coronavirus COVID-19 Public Health Emergency.

b. If income information provided by or on behalf of an applicant is not determined reasonably compatible with income information obtained through an electronic data source, a reasonable explanation of the discrepancy will not be requested during the

1 federal Coronavirus COVID-19 Public Health Emergency. When the federal COVID-19
 2 Public Health Emergency has ended, a reasonable explanation will be requested from
 3 the member.

4 i) During the federal Coronavirus COVID-19 public health emergency the
 5 Department may request paper documentation when the Department does not
 6 find income to be reasonably compatible. If the member does or does not provide
 7 paper documentation they will remain eligible during the public health emergency
 8 period.

9 3. Self-Employment – If the applicant is self-employed the ledger included in the Single Streamlined
 10 Application shall be sufficient verification of earnings, unless questionable.

11 4. Budget Periods for MAGI-based Income determination – The financial eligibility of applicants for
 12 Medical Assistance shall be determined based on current or previous monthly household income
 13 and family size.

14 a. Applicants who are found financially ineligible based on current or previous monthly
 15 household income and family size, and whose household has earned income from self-
 16 employment, seasonal employment, and/or commission-based employment, shall have
 17 their financial eligibility determined using annualized self-employment, seasonal
 18 employment, and commission-based employment income.

19 5. If an applicant does not meet the financial eligibility requirements for Medical Assistance based
 20 on MAGI, but meets all other eligibility requirements, the applicant shall be found eligible for
 21 MAGI Medical Assistance if the applicant's income, as calculated using the methodology for
 22 determining eligibility for Advanced Premium Tax Credits or Cost Sharing Reductions through the
 23 marketplace, is below 100% of the federal poverty level.

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 27 **8.100.5. Aged, Blind, and Disabled, Long Term Care, and Medicare Savings Plan Medical**
 28 **Assistance General Eligibility**

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 31 **8.100.5.B. Verification Requirements**

32 1. The particular circumstances of an applicant will dictate the appropriate documentation needed
 33 for a complete application. The following items shall be verified for individuals applying for
 34 Medical Assistance:

35 a. Social Security Number: Each individual requesting assistance on the application shall
 36 provide a Social Security Number (SSN), or each shall submit proof of an application to
 37 obtain an SSN, unless they qualify for an exception listed in 8.100.3.I.1.b. Individuals who
 38 qualify for an exception must not be required to provide an SSN.

1 i) Due to the Coronavirus COVID-19 Public Health Emergency, at application, self-
 2 attestation is acceptable for SSN criteria, with the exception of verification of
 3 citizenship and immigration status. At the end of the COVID-19 Public Health
 4 Emergency, verification for SSN eligibility criteria will be required.

5 1) Applicants who meet the criteria for any categorical Medical Assistance
 6 programs, but do not meet the federal and state criteria of citizenship
 7 and immigration status are only eligible to receive emergency medical
 8 services.

9 b. Verification of citizenship and identity as outlined in the section 8.100.3.H under
 10 Citizenship and Identity Documentation Requirements.

11 c. Earned income may be self-declared by an individual and verified by the Income and
 12 Eligibility Verification System (IEVS). Individuals who provide self-declaration of earned
 13 income must also provide a Social Security Number for wage verification purposes. If a
 14 discrepancy occurs between self-declared income and IEVS wage data reports, IEVS
 15 wage data will be used to determine eligibility. An individual may dispute IEVS wage data
 16 by submitting all wage verification for all months in which there is a wage discrepancy.

17 When discrepancies arise between self-attested income and electronic data source
 18 results, the applicant shall receive **every a** reasonable opportunity to establish his/her
 19 financial eligibility through the test for reasonable compatibility, by providing a reasonable
 20 explanation of the discrepancy, or by providing paper documentation with in accordance
 21 with this section the. For Reasonable Opportunity Period (ROP) of 30 calendar days.
 22 please see section 8.100.3.H.9.

23 Income information obtained through an electronic data source shall be considered
 24 reasonably compatible with income information provided by or on behalf of an applicant
 25 in the following circumstances:

26 i) If the amount attested by the applicant and the amount reported by an electronic
 27 data source are both below the applicable Medical Assistance program income
 28 standard ~~for the requested program~~, that income shall be determined reasonably
 29 compatible and the applicant shall be determined eligible.

30 ii) If the amount attested by the applicant is below the applicable Medical
 31 Assistance program income standard ~~for that program~~, but the amount reported
 32 by the electronic data source is above, and the difference is within the
 33 reasonable compatibility threshold percentage of 20%, the income shall be
 34 determined reasonably compatible and the applicant shall be determined eligible.

35 iii) If both amounts are above the applicable Medical Assistance program income
 36 standard ~~for that program~~, the income shall be determined reasonably
 37 compatible, and the applicant shall continue to be determined eligible during the
 38 federal Coronavirus COVID-19 Public Health Emergency.

39 If income information provided by or on behalf of an applicant is not determined
 40 reasonably compatible with income information obtained through an electronic data
 41 source, a reasonable explanation of the discrepancy will not be requested due to the
 42 federal COVID-19 Public Health Emergency. When the federal Public Health Emergency
 43 has ended, a reasonable explanation will be requested from the member.

1 iv) During the federal Coronavirus COVID-19 public health emergency the
2 Department may request paper documentation when the Department does not
3 find income to be reasonably compatible. If the member does or does not provide
4 paper documentation they will remain eligible during the public health emergency
5 period.

6 If the applicant is self-employed, ledgers are sufficient for verification of earnings, if a
7 ledger is not available, receipts are acceptable. The ledger included in the Medical
8 Assistance application is sufficient verification of earnings, unless questionable. If an
9 individual cannot provide verification through self-declaration, income shall be verified by
10 wage stubs, written documentation from the employer stating the employees' gross
11 income or a telephone call to an employer. Applicants may request that communication
12 with their employers be made in writing.

13 As of CBMS implementation, estimated earned income shall be used to determine
14 eligibility if the applicant/client provides less than a full calendar month of wage stubs for
15 the application month. A single recent wage stub shall be sufficient if the applicant's
16 income is expected to be the same amount for the month of application. Written
17 documentation from the employer stating the employees' gross income or a telephone
18 call to an employer, if the applicant authorizes the telephone call shall also be acceptable
19 verification of earned income. Verification of earned income received during the month
20 prior to the month of application shall be acceptable if the application month verification is
21 not yet available. Actual earned income shall be used to determine eligibility if the client
22 provides verification for the full calendar month.

23 v) During the federal COVID-19 Public Health Emergency, all earned income and
24 self-employment may be reported by self-attestation. At the end of the federal
25 COVID-19 Public Health Emergency, proof of any unverified income shall be
26 provided.

27 d. Verification of all unearned income shall be provided if the unearned income was
28 received in the month for which eligibility is being determined or during the previous
29 month. If available, information that exists in another case record or verification system
30 shall be used to verify unearned income.

31 i) During the federal COVID-19 Public Health Emergency, all unearned income
32 may be reported by self-attestation. At the end of the federal COVID-19 Public
33 Health Emergency, proof of any unverified income shall be provided.

34 e. Verification of all resources shall be provided if the resources were available to the
35 applicant in the month for which eligibility is being determined.

36 Resource information that is verified through an electronic data source, such as the Asset
37 Verification Program, shall be a valid verification. Supplemental physical verifications for
38 the same resource is not required unless further information is needed for clarification.

39 i) During the federal COVID-19 Public Health Emergency, all resources may be
40 reported by self-attestation. At the end of the federal COVID-19 Public Health
41 Emergency, proof of any unverified resources shall be provided.

42 f. Immigrant registration cards or papers, if applicable, to determine if the client is eligible
43 for full Medical Assistance benefits. If an applicant does not provide this, he/she shall
44 only be eligible for emergency Medical Assistance if they meet all other eligibility
45 requirements.

- 1 g. Additional verification-If the requested verification is submitted by the applicant, no other
2 additional verification shall be required unless the submitted verification is found to be
3 questionable on the basis of fact.
- 4 h. The determination that information is questionable shall be documented in the applicant's
5 case file and CBMS case comments.

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9 **8.100.5.F. Income Requirements**

- 10 1. This section reviews how income is looked at for the ABD and Long Term Care Medical
11 Programs and determining premiums for the Medicaid Buy-In Program for Working Adults with
12 Disabilities. For more general income information and income types refer to the Medical
13 Assistance General Eligibility Requirements section 8.100.3.
- 14 2. Income for the ABD Medical Programs eligibility is income which is received by an individual or
15 family in the month in which they are applying for or receiving Medical Assistance, or the previous
16 month if income for the current month is not yet available to determine eligibility.
- 17 3. A self-declared common law spouse retains the same financial responsibility as a legally married
18 spouse. Once self-declared as married under the common law, financial responsibility remains
19 unless legal separation or divorce occurs. If two persons live together, but are not married to each
20 other, neither one has the legal responsibility to support the other. This is not changed by the fact
21 that the unmarried individuals may share a common child.
- 22 4. Earned income is countable as income in the month received and a countable resource the
23 following month. Earned Income includes the following:
- 24 a. Wages, which include salaries, commissions, bonuses, severance pay, and any other
25 special payments received because of employment;
26 b. Net earnings from self-employment;
27 c. Payments for services performed in a sheltered workshop or work activities center;
28 d. Certain Royalties and honoraria.
- 29 5. Unearned income is the gross amount received in cash or kind that is not earned from
30 employment or self-employment.

31 Unearned income is countable as income in the month received and any unspent amount is a
32 countable resource the following month. Unearned income includes, but is not limited to, the
33 following:

- 34 a. Death benefits, reduced by the cost of last illness and burial;
35 b. Prizes and awards;
36 c. Gifts and inheritances;

- 1 d. Interest payments on promissory notes established on or after March 1, 2007;~~i~~
- 2 e. Interest or dividend payments received from any resources;~~i~~
- 3 f. Lump sum payments from workers' compensation, insurance settlements, etc.
- 4 g. Dividends, royalties or other payments from mineral rights or other resources listed for
- 5 sale within the resource limits
- 6 h. Income from annuities that meet requirements for exclusion as a resource

7 i Lottery/Gambling winnings

8 ii. Pensions and other period payments, such as:

- 9 i) Private pensions or disability benefits;~~i~~
- 10 ii) Social Security benefits (Retirement, survivors, and disability);~~i~~
- 11 iii) Workers' Compensation payments;~~i~~
- 12 iv) Railroad retirement annuities;~~i~~
- 13 v) Unemployment insurance payments;~~i~~
- 14 vi) Veterans benefits other than Aid and Attendance (A&A) and Unusual Medical
- 15 Expenses (UME);~~and-~~
- 16 vii) Alimony and support payments.~~i~~

17 kj. Support and maintenance in kind - The support and maintenance in kind amount should

18 not be greater than one third of the Federal Benefit Rate (FBR). Use the Presumed

19 Maximum Value (PMV) of 1/3 of the recipient's portion of the rent to determine the

20 support and maintenance in kind amount. Use one third of the FBR if an amount is not

21 declared by the client.

22 6. For the purpose of determining eligibility for the Long Term Care and Aged, Blind, and Disabled

23 Medical Assistance categories the following shall be exempt from consideration as either income

24 or resources:

- 25 a. A bona fide loan. Bona fide loans are loans, either private or commercial, which have a
- 26 repayment agreement. Declaration of such loans is sufficient verification.
- 27 b. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older
- 28 Americans Act.
- 29 c. Title XVI (SSI) or Title II (Retirement Survivors or Disability Insurance) retroactive
- 30 payments (lump sum) for nine months following receipt and the remainder countable as a
- 31 resource thereafter.
- 32 d. The value of supplemental food assistance received under the special food services
- 33 program for children provided for in the National School Lunch Act and under the Child
- 34 Nutrition Act, including benefits received from the special supplemental food program for
- 35 women, infants and children (WIC).

- 1 e. Home produce utilized for personal consumption.
- 2 f. Payments received under Title II of the Uniform Relocation Assistance and Real Property
3 Acquisition Policies Act; relocation payments to a displaced homeowner toward the
4 purchase of a replacement dwelling are considered exempt for up to 6 months.
- 5 g. The value of any assistance paid with respect to a dwelling unit is excluded from income
6 and resources if paid under:
- 7 i) Experimental Housing Allowance Program (EHAP) payments made by HUD
8 under section 23 of the U.S. Housing Act.
- 9 ii) The United States Housing Act of 1937 (§ 1437 et seq. of 42 U.S.C.);
- 10 iii) The National Housing Act (§ 1701 et seq. of 12 U.S.C.);
- 11 iv) Section 101 of the Housing and Urban Development Act of 1965 (§ 1701s of 12
12 U.S.C., § 1451 of 42 U.S.C.);
- 13 v) Title V of the Housing Act of 1949 (§ 1471 et seq. of 42 U.S.C.); or
- 14 vi) Section 202(h) of the Housing Act of 1959.
- 15 h. Payments made from Indian judgment funds and tribal funds held in trust by the
16 Secretary of the Interior and/or distributed per capita; and initial purchases made with
17 such funds. (Public Law No 98-64 and Public Law No. 97-458).
- 18 i. Distributions from a native corporation formed pursuant to the Alaska Native Claims
19 Settlement Act (ANCSA) which are in the form of: cash payments up to an amount not to
20 exceed \$ 2000 per individual per calendar year; stock; a partnership interest; or an
21 interest in a settlement trust. Cash payments, up to \$ 2000, received by a client in one
22 calendar year which is retained into subsequent years is excluded as income and
23 resources; however, cash payments up to \$ 2000 received in the subsequent year would
24 be excluded from income in the month(s) received but counted as a resource if retained
25 beyond that month(s).
- 26 j. Assistance from other agencies and organizations.
- 27 k. Major disaster and emergency assistance provided to individuals and families, and
28 comparable disaster assistance provided to states, local governments and disaster
29 assistance organizations shall be exempt as income and resources in determining
30 eligibility for Medical Assistance.
- 31 l. Payments received for providing foster care.
- 32 m. Payments to volunteers serving as foster grandparents, senior health aids, or senior
33 companions, and to persons serving in the Service Corps of Retired Executives (SCORE)
34 and Active Corps of Executives (ACE) and any other program under Title I (VISTA) when
35 the value of all such payments adjusted to reflect the number of hours such volunteers
36 are serving is not equivalent to or greater than the minimum wage, and Title II and Title III
37 of the Domestic Volunteer Services Act.
- 38 n. The benefits provided to eligible persons or households through the Low Income Energy
39 Assistance (LEAP) Program.

- 1 o. Training allowances granted by the Workforce Investment Act (WIA) to enable any
2 individual whether dependent child or caretaker relative, to participate in a training
3 program
- 4 p. Payments received from the youth incentive entitlement pilot projects, the youth
5 community conservation and improvement projects, and the youth employment and
6 training programs under the Youth Employment and Demonstration Project Act.
- 7 q. Social Security benefit payments and the accrued amount thereof to a client when an
8 individual plan for self-care and/or self-support has been developed. In order to disregard
9 such income and resources, it shall be determined that (1) SSI permits such disregard
10 under such developed plan for self-care-support goal, and (2) assurance exists that the
11 funds involved will not be for purposes other than those intended.
- 12 r. Monies received pursuant to the "Civil Liberties Act of 1988" P.L. No. 100-383, (by
13 eligible persons of Japanese ancestry or certain specified survivors, and certain eligible
14 Aleuts).
- 15 s. Payments made from the Agent Orange Settlement Fund or any fund established
16 pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No
17 381 (E.D.N.Y).
- 18 t. A child receiving subsidized adoption funds shall be excluded from the Medical
19 Assistance budget unit and his income shall be exempt from consideration in determining
20 eligibility, unless such exclusion results in ineligibility for the other members of the
21 household.
- 22 u. The Earned Income Tax Credit (EIC). EIC shall also be exempt as resources for the
23 month it is received and for the following month.
- 24 v. Any money received from the Radiation Exposure Compensation Trust Fund, including
25 the Energy Employees Occupational Illness Compensation Program Act, pursuant to P.L.
26 No. 101-426 as amended by P.L. No. 101-510.
- 27 w. Reimbursement or restoration of out-of-pocket expenses. Out-of-pocket expenses are
28 actual expenses for food, housing, medical items, clothing, transportation, or personal
29 needs items.
- 30 x. Payments to individuals because of their status as victims of Nazi persecution pursuant
31 to Public Law No. 103-286.
- 32 y. General Assistance, SSI, OAP-A and cash assistance under the Temporary Assistance
33 to Needy Families (TANF) funds.
- 34 z. All wages paid by the United States Census Bureau for temporary employment related to
35 the decennial Census.
- 36 aa. Any grant or loan to an undergraduate student for educational purposes made or insured
37 under any programs administered by the Commissioner of Education (Basic Education
38 Opportunity Grants, Supplementary Education Opportunity Grants, National Direct
39 Student Loans and Guaranteed Student Loans), Pell Grant Program, the PLUS Program,
40 the BYRD Honor Scholarship programs and the College Work Study Program.

- 1 bb. Any portion of educational loans and grants obtained and used under conditions that
2 preclude their use for current living cost (need-based).

- 3 cc. Financial assistance received under the Carl D. Perkins Vocational and Applied
4 Technology Education Act that is made available for attendance cost shall not be
5 considered as income or resources. Attendance cost includes tuition, fees, rental or
6 purchase of equipment, materials or supplies required of all students in the same course
7 of study, books, supplies, transportation, dependent care and miscellaneous personal
8 expenses of students attending the institution on at least a half-time basis, as determined
9 by the institution.

- 10 dd. The additional unemployment compensation of \$25 a week enacted through the
11 American Recovery and Reinvestment Act of 2009.

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