



OPERATIONAL MEMO

TITLE:	CHANGES TO MODIFIED ADJUSTED GROSS INCOME (MAGI) - BASED INCOME METHODOLOGIES
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Purpose and Audience:

The purpose of this Memo is to provide guidance to Eligibility Sites regarding several legislative changes to the modified adjusted gross income (MAGI)-based methodologies used to determine eligibility for MAGI Medical Assistance Programs, in accordance with 1986 36B(d)(2) of the Internal Revenue Code (IRC) and 42 CFR 435.603(d)(1). These changes stem from the following: The Tax Cuts and Jobs Act (Pub. L. No. 115-97, "TCJA"), The Bipartisan and Jobs Act (Pub. L. No. 115-123, "BBA") and guidance received from Centers for Medicaid & Medicaid Services (CMS).

Information:

These federal regulation changes under the TCJA have been updated within the Code of Colorado Regulations at 10 C.C.R. 2505-10 8.100.4.C.1.b.v, 8.100.4.C.1.b.xii, 8.100.4.C.1.b.xv, 8.100.4.C.1.e.vii, and 8.100.4.C.1.e.xii for Countable Income and Allowable Tax Deductions. These changes have also been made in the Colorado Benefits Management System (CBMS) effective as of January 1, 2020.

Alimony or Spousal Support:

Under the TCJA, alimony payments received by a recipient due to a divorce or separation agreements or pre-existing agreements modified on or after January 1, 2019, will no longer be considered countable income for MAGI Medical Assistance programs. For recipients with alimony agreements finalized on or before December 31, 2018, alimony payments received will continue to count as income for MAGI programs.

Alimony payments paid out due to divorce or separation agreements or preexisting agreements modified after January 1, 2019, are no longer an allowable tax deduction for the payer. Alimony agreements will continue to count as an allowable tax deduction for payers that have agreements finalized on or before December 31, 2018.

Moving Expenses:

Section 11049 of the TCJA, amending section 217 of the Internal Revenue Code (IRC), eliminated the allowable tax deduction for qualified moving expenses for tax years 2018 through 2025. Moving expenses incurred by an individual or reimbursement from an employer are no longer an allowable tax deduction when calculating MAGI Medical Assistance programs. This change does not apply to those who are active duty members of the military who are ordered to move or change duty station.

Tuition and Fees:

Section 40203 of the BBA amended section 222(e) of the IRC, eliminating the amount paid for qualified education expenses for post-secondary tuition and fees as an allowable tax deduction when calculating MAGI Medical Assistance programs.

Discharged Student Debt:

In reference to section 11031 of the TCJA, amended section 108(f) of the Internal Revenue Code provides an exception to student loan debt for tax years 2018 through 2025. The exception declares that student loan debt will be discharged, forgiven, or canceled in the event of the death or permanent and total disability of the student. This discharged debt will not be counted in the MAGI income for the borrower (the borrower and the student may or may not be the same person) or for any other members of the borrower's household.

If the student loan debt is not discharged for these reasons (death or permanent and total disability), discharged student debt will still be treated as taxable unearned income counting in the month it was discharged under MAGI programs to the borrower and their household. If the borrower meets any of the exceptions under the Public Service

Loan Forgiveness program and certain teacher loan/healthcare loan forgiveness programs, the discharged student loan debt will not be treated as taxable income and will not count for MAGI programs (26 USC 108(f)(1)).

Cancelled or discharged student loans are not considered countable income for MAGI eligibility under the following programs:

- Perkins Loan Teacher Cancellation,
- Loan Repayment Award Program, and
- Certain repayment or forgiveness programs linked to post-graduate work in underserved areas or professions.

Cancelled or discharged student loans are not considered countable income for MAGI in the following circumstances:

- Loans discharged under the Closed School discharge process,
- Loans discharged under the Defense to Repayment discharge process, and
- Loans discharged based on a settlement of a legal cause of action involving unlawful business practices against a for-profit or nonprofit school.

Capital Gains and Losses:

A capital gain is recognized as a unearned income. A capital loss is a gross income adjustment that has occurred from the sale of an asset that was below the amount the seller initially paid for the asset. Per the Internal Revenue Services (IRS) Publications [544](#) and [550](#), if a taxpayer's total net capital loss is more than the yearly loss limit, it can carry over to the next year's tax return. The applicant is responsible for reporting the updated capital loss amounts for the new year and a new record must be entered and the old record must be end-dated.

Entry and Calculation of Capital Loss in CBMS

The capital loss will be entered as a "Tax deduction" type in CBMS, under the Tax Deductions page. This loss is limited to \$3,000 per year, or \$1,500 if married and filing a separate return. The amount reported will be divided by 12 to come up with a monthly amount.

Verification for Capital Loss

A capital loss requires verification to allow this tax deduction and should follow the standard Verification Check List (pending) request process. Client Statement will be acceptable only at Intake and RRR. When a member reports this change in on-going mode, a VCL will be requested for the member.

Countable Income:

Based on guidance received from CMS, when considering countable income for a child or tax dependent who is applying for MAGI Medical Assistance programs and who lives with someone other than a parent, their income will count towards their eligibility determination. Their income will be counted regardless if they fall below the tax filing threshold.

Attachment(s):

None

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