



POLICY MEMO

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TITLE: TYPES OF EXEMPTIONS AVAILABLE TO AMERICAN INDIANS AND ALASKA NATIVES (AI/AN)

SUPERSEDES NUMBER: N/A

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PROGRAM AREA: ELIGIBILITY POLICY

APPROVED BY: CHRIS UNDERWOOD

KEY WORDS: EXEMPTIONS AVAILABLE TO AMERICAN INDIANS AND ALASKA NATIVES (AI/AN).

HCPF Memo Series can be accessed online: <https://www.colorado.gov/hcpf/memo-series>

Purpose and Audience:

The purpose for this Policy Memo is to inform eligibility workers on the types of exemptions available to American Indians and Alaska Natives (AI/AN) enrolled or applying for Health First Colorado and Child Health Plan *Plus* (CHP+). This Policy Memo will also provide guidance on what information must be entered in the Colorado Benefits Management Eligibility System (CBMS) to exempt American Indians and Alaska Natives from copayments and enrollment fees.

Background:

The American Recovery and Reinvestment Act of 2009 was signed into law by President Obama on February 17th, 2009. Section 5006 of the Recovery Act provides protections for Indians in Medicaid and the Children's Health Insurance Program (CHIP). The Recovery Act provides certain premium and cost-sharing protections under Medicaid and exemption for certain Indian-specific property from consideration in determining Medicaid eligibility and from Medicaid estate recovery. The Act also requires States to exclude certain types of Indian-specific property from being considered as "resources" when determining Medicaid eligibility for an individual who is an Indian.

Information/Policy:

This Policy Memo will assist in identifying what income types are exempt when processing an application for an individual who is American Indian or Alaska Native.

Income Exceptions

Below are some specific types of AI/AN income that are excluded when determining eligibility for the Health First Colorado and CHP+ programs. If any of the income types below are reported by an applicant, ensure this income is not counted towards their eligibility. If the income type is counted towards their eligibility open a help desk ticket to resolve this issue. If you are unfamiliar or unsure with an income type reported please email the Medicaid Inbox at Medicaid.Eligibility@hcpf.state.co.us.

The following categories of income are excluded:

- **Distributions from Alaska Native Claims Settlement Act (ANCSA) Corporations and Settlement Trusts**
 - Cash distributions from an ANCSA corporation or settlement trust
 - Stock or bonds issued by, or acquired from, an ANCSA Corporation
 - Property or an interest in land (including land or an interest in land received from an ANCSA Corporation as a dividend or distribution on stock)
- **Per Capita payments or distributions from trust or reservation property**
 - Distributions resulting from real property interests related to natural resources and improvements located on or near a reservation.
 - Rents from any such lands and any structures on the land (housing, retail facilities, etc.)
 - Royalties or other compensation received from oil and gas production, mineral extraction, timber harvesting, and similar activities
 - Profits or revenues derived from economic activity on the land, such as the operation of motels, retail stores, gas stations, farms and ranches, etc.
- **Income from property and rights related to hunting, fishing, and natural resources**
 - Profits from the sale, lease, or harvest of mineral, timber, and other such resources
 - Income derived from hunting, fishing, gathering, and harvesting fish, wildlife, and plant resources pursuant to federally protected rights, including off-reservation rights
- **Income from the sale and use of cultural/subsistence property**
 - Materials such as the sale of sage or sweetgrass for use in a healing or spiritual ceremony
 - The sale of artwork, pottery, or jewelry with cultural or religious significance
- **Student financial assistance provided by the Bureau of Indian Affairs and/or a Tribe**

- Student financial assistance provided under programs in Title IV of the Higher Education Act of 1965
- **Income that falls within the IRS General Welfare Doctrine**
 - Housing assistance
 - Education assistance
 - Programs serving elders and individuals with disabilities
- **Payments that are exempt from federal income taxation under federal statute**
 - Per capita shares distributed to Indians pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. § 1401 *et seq.*), including interest and investment income earned on Judgment Funds while under administration
 - Distributions from certain federal settlements, such as the *Cobell v. Salazar* class action settlement and some payments under the *Keepseagle v. Vilsack* settlement

Note:

- **Per capita income from Indian gaming is not excluded and should be reported.**

Resource Exceptions:

Here are some helpful tips to determine whether a resource should be excluded from counting. Remember that even though the question is included in the application, assets are not counted against families applying for regular Health First Colorado or for CHP+. If the resource type is counted towards their eligibility, open a help desk ticket to resolve this issue. If you are unfamiliar or unsure with a resource type reported please email the Medicaid Inbox at Medicaid.Eligibility@hcpf.state.co.us. In general, the Recovery Act requires States to exclude resources in two categories:

- Property connected to the political relationship between Indian Tribes and the Federal government; and
- Property with unique Indian significance.

The following resources must be excluded:

- **Property, including real property and improvements,**
 - held in trust, subject to Federal restrictions, or otherwise under the supervision of the Secretary of the Interior;
 - located on a reservation, including any federally-recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act and Indian allotments on or near a reservation as designated and

approved by the Bureau of Indian Affairs of the Department of the Interior.

- **For any federally-recognized Tribe not described above, any property located within the most recent boundaries of a prior Federal reservation.**
- **Ownership interests**
 - in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally-protected rights.
- **Ownership interests in or usage rights to items not already covered above that have**
 - unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal law or custom.

The Medicaid estate recovery rules only apply to those age 55 and older who receive long-term care services, such as nursing home care. The specific income, resources, and property exempted from Medicaid estate recovery for American Indian or Alaska Native are:

- **Certain income and resources**
 - (such as interests in and income derived from Tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court) that are exempt from Medicaid estate recovery by other laws and regulations.
- **Ownership interest in trust or non-trust property**
 - Including real property and improvements located on a reservation (any federally-recognized Indian Tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by Alaska Native Claims Settlement Act and Indian allotments) or near a reservation as designated and approved by the Bureau of Indian Affairs of the U.S. Department of the Interior; or
 - For any federally-recognized Tribe located within the most recent boundaries of a prior federal reservation.
 - Protection of non-trust property described in the 2 bullet points is limited to circumstances when the property passes from an Indian (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. section 1603)) to one or more relatives (by blood, adoption, or marriage), including Indians not enrolled as members of a Tribe and non-Indians, such as spouses and step-children, that their culture would nevertheless protect as family members; to a Tribe or Tribal Organization; and/or to one or more Indians;
- **Income left as a remainder in an estate derived from property protected that was either collected by**

- an Indian, or by a Tribe or Tribal Organization and distributed to Indian(s), as long as the individual can clearly trace it as coming from the protected property.
- **Ownership interests in**
 - rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights; and
- **Ownership interests that have unique religious, spiritual, traditional, and/or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom.**

Co-Payments, Premiums and Enrollment Fee Exemptions

American Indians and Alaska Natives who qualify for or get services from an Indian Health Service, or tribal or urban Indian health programs, including Contract Health Services, are exempt from Health First Colorado or Child Health Plan *Plus* (CHP+) co-payments, premiums and enrollment fees.

Data Entry Process

- Eligibility workers must complete the following fields listed below in the Colorado Benefits Management System (CBMS) within the **Ethnicity/Race Details** page and determine eligibility, to ensure applicants are recognized as an American Indian or Alaska Native. Completing these fields correctly will ensure that applicants/members are exempt from applicable premiums and enrollment fees that are calculated in the CBMS. This will also ensure that the member is exempt from applicable billing co-payments that are calculated in the claims systems. The **AI/AN Indicator** field within the **Medical Assistance Eligibility Span** page in CBMS will be updated to reflect **Yes** once the data entry is completed and eligibility has been determined. This indicator will be sent to the claims systems for billing co-payment exemptions. Please submit a help desk ticket if the data entry listed below is completed and a premium or enrollment fee is being calculated for the applicant/member and/or the **AI/AN Indicator** is set to **No**.
- **Race** = American Indian/Alaska Native (other ethnicity or race options can be selected along with AI/AN)
- **Member of a Federally Recognized Tribe** = Yes
- **Tribe State** = Select from drop-down
- **Tribe Name** = Select from drop-down
- **Eligible to receive health services at an I/T/U** = must be YES if next question is answered NO

- **Has received health services at an I/T/U** = must be YES if previous question is answered NO
- ***One of these I/T/U questions must be answered as YES**
- **Verification** = Received
- **Source** = Tribal Document(s) or Client Statement is an acceptable source
- **Date Reported** = date reported to Agency

Ethnicity/Race Details EDMS \$ ☆ 📄 🌐 🔄 🗨️ 🖨️

- [Programs](#)

* Name:

Ethnicity/Race

Ethnicity

Hispanic/Latino Non-Hispanic/Latino

Race

American Indian/Alaska Native Asian Black/African American
 Native Hawaiian/Other Pacific Islander White/Caucasian

Other/Unknown

American Indian/Alaska Native Detail

Member of a Federally Recognized Tribe: Yes No

Tribe State:

Eligible to receive health services at an I/T/U: Yes No

Verification:

Status Date:

Tribe Name:

Has received health services at an I/T/U: Yes No

* Source:

* Date Reported:

Medical Assistance Eligibility Spans

Begin Date	End Date	Primary Category	Secondary Category	Transaction Date	Transmit Date
03/01/2019		MAGI Adult		02/14/2019	
02/01/2019	02/28/2019	MAGI Adult		02/14/2019	
04/01/2018	01/31/2019	MAGI Adult		02/14/2019	
06/01/2017	02/28/2018	MAGI Adult		02/15/2018	02/23/2018

Detail

Begin Date: 03/01/2019 End Date: MM/DD/YYYY

Primary Category: MAGI Adult Secondary Category: Case#:

Level of Care Type:

POI Indicator: Yes No

Incarcerated Indicator: Yes No

Limited to EMS Indicator: Yes No

AI/AN Indicator: Yes No

Continuous Eligibility Indicator: Yes No

Pregnancy Indicator: Yes No

Health Insurance Coverage American Indians and Alaska Natives who are enrolled in Health First Colorado or Child Health Plan *Plus* (CHP+) can continue to receive services from their Indian Health Service or tribal or urban Indian health programs, even if the Indian Health Service or tribal or urban Indian health programs is not a provider and is not in the Health First Colorado or CHP+ provider network. For the purposes of Health First Colorado and CHP+ eligibility determinations, the Southern Ute Tribal Member Health Benefit plan is not considered other health insurance.

Southern Ute Tribal Member Benefit Plan

Because the Southern Ute Tribal Member Health Benefit Plan is operated by a federally-recognized tribe, the program must be considered a payer of last resort - even after such alternative health care resources as Medicare, Medicaid, Indian Health Services, State or local health care programs, and private insurance. The Southern Ute Indian Tribe does not provide health insurance to its enrolled members. Instead, the Tribe provides supplemental funding from its general assets to help tribal members access affordable health care. Claims are not paid through individual or group insurance, but instead are paid from the general assets of the Tribe and are processed through a third-party administrator. The funding offered by the Tribe is not designed to replace or supplement any federal, state or private insurance product and it only applies where other coverage, including Indian Health Services, Veterans Health Administration, Medicare, Medicaid or a private insurance product, is unavailable. Although, the Tribe manages this program, the contracts are with third parties in order to provide access to negotiated network rates, provider billing edits, utilization review and case management services which help the Tribe deliver services to tribal members efficiently and cost-effectively.

Attachments:

None

Department Contact:

Medicaid.Eligibility@hcpf.state.co.us