

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

September 25, 2019  
10:00 a.m. Central Time  
Gold's Building - Room 534  
1033 O Street, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed changes to Title 477, Chapter 22 of the Nebraska Administrative Code (NAC) – *Income for Non-Modified Adjusted Gross Income (Non-MAGI) Programs*. The regulations apply to the following non-modified adjusted gross income programs: Aged, blind, and disabled (ABD); medically needy (MN); medical insurance for workers with disabilities (MIWD); women's cancer program; transitional medical assistance (TMA); former foster care (FFC); emergency medical services assistance (EMSA); and children and young adults eligible for IV-E assistance. The proposed changes update the regulations to be consistent with the federal Supplemental Security Income program; update and clarify to specify the necessary conditions to meet an income counting exception; and update formatting.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or [dhhs.regulations@nebraska.gov](mailto:dhhs.regulations@nebraska.gov), respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

## FISCAL IMPACT STATEMENT

Agency: <b>Department of Health and Human Services</b>	
Title: 477	Prepared by: Jason Davis
Chapter: 22	Date prepared: 7/01/2019
Subject: Medicaid Eligibility Income	Telephone: (402)471-6059

### Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input checked="" type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

### Provide an Estimated Cost & Description of Impact:

State Agency: Not taking action/updating regulations could result in additional program costs that have not yet been determinable to the department.

Political Subdivision:

Regulated Public:

### If indeterminable, explain why:

The costs to the state agency cannot be determined at this time. Eligibility rules have been aligned with federal provisions and updated due to impact resulting from a court decision. In some cases, additional applicants may become eligible. In other cases, those currently eligible may have to pay a greater cost for their care. Although small, it is not known what the exact size of the respective populations may be or to what extent the savings will offset any additional costs.

TITLE 477            NEBRASKA MEDICAL ASSISTANCE ELIGIBILITY

CHAPTER 22        INCOME FOR NON-MODIFIED ADJUSTED GROSS INCOME (NON-MAGI)  
PROGRAMS

001. APPLICABILITY. This chapter applies to the following Non-Modified Adjusted Gross Income (Non-MAGI) programs: Aged, blind, and disabled (ABD); medically needy (MN); medical insurance for workers with disabilities (MIWD); women's cancer program; transitional medical assistance (TMA); former foster care (FFC); emergency medical services assistance (EMSA); and children and young adults eligible for IV-E assistance.

002. INCOME.

002.01 DEFINITION. Income is a gain or recurrent benefit received in money or in-kind from employment, business, property, investments, gifts, benefits, or annuities, at regular or irregular intervals of time. Unless otherwise stated in this chapter, income is defined and counted according to 20 Code of Federal Regulations (CFR) Part 416 Subpart K.

002.02 VERIFICATION. Income must be verified at least every 12 months. Verification of income consists of at least the following:

- (i) The source of the payment or benefit;
- (ii) The date the payment or benefit was received;
- (iii) The person entitled to receive the payment or benefit;
- (iv) The period covered by the payment or benefit; and
- (v) The gross amount of payment or benefit.

002.02(A) VERIFICATION SOURCES. Electronic data sources will be used to verify income, if available. Paper documentation is required when electronic data sources are either unavailable or are not reasonably compatible with a client's attestation.

002.02(A)(i) STABLE INCOME. One month's income is verified when a client's income is stable.

002.02(A)(ii) FLUCTUATING INCOME. When a client's income fluctuates, the most recent three months income is verified, when available.

002.03 PROSPECTIVE BUDGETING. Non-Modified Adjusted Gross Income (Non-MAGI) is computed on a monthly budgeting basis. Income is converted into a monthly amount. The amount used to determine monthly eligibility is the amount which is expected or can reasonably be anticipated consistent with the regulations in this chapter.

002.03(A) RETROACTIVE EXCEPTION. To determine retroactive eligibility, the amount of income actually received by the assistance unit in the requested retroactive months is verified and used.

002.04 AVAILABILITY. All sources of income, whether earned or unearned, available to the client are used to determine initial and ongoing eligibility. Relative responsibility provisions determine what income is used to determine eligibility for each member of the assistance unit.

002.04(A) PAYMENT RECEIVED FOR ANOTHER PERSON. Any benefit or payment received by the client for a person not in the assistance unit is countable for the client if the benefit or payment is not forwarded to the person for whom such payment is due.

002.05 INTERCEPTED, WITHHELD, OR GARNISHED INCOME. Income which is being intercepted, withheld, or garnished, even if done pursuant to a court order, is counted in determining eligibility.

002.06 TERMINATED INCOME. It is necessary to verify when a source of income ends. The income is not used in determining eligibility beginning in the month after the month in which the final payment is received or the benefit or contract ends.

### 003. EARNED INCOME.

003.01 DEFINITION. Earned income is money received from wages, tips, salary, commissions, bonuses, holiday pay, or profits from activities in which an individual is engaged as a self-employed person or as an employee. Earned income does not include reimbursement for employment-related expenses such as fuel, mileage, lodging, or meals.

003.02 IN-KIND INCOME. For programs in which age, blindness, or disability is an eligibility requirement, earned income includes any food, clothing, shelter, or other items provided in lieu of wages.

003.03 SELF-EMPLOYMENT. Self-employment is an activity or work effort performed by the individual for the purpose of generating income. Passive receipt of income from a resource does not constitute self-employment. For self-employed individuals, the net amount of income, after payment of expenses, is used to determine eligibility. Gross income and expenses must be verified. If the self-employed individual files taxes on this source of income, then the taxable amount of income from the self-employment may be used.

003.03(A) OFFSET OF INCOME. Losses from self-employment may be used to offset other earned income of the individual or a financially responsible spouse or relative. Self-employment losses cannot be used to offset unearned income.

003.04 CONTRACTUAL INCOME. Income paid on a contractual basis is prorated over the number of months covered under the contract, even if the client is paid in fewer months than the contract covers.

### 004. UNEARNED INCOME.

004.01 DEFINITION. Unearned income is any cash benefit that is not the direct result of labor or services performed by the individual as an employee or a self-employed person. Unearned income includes, but is not limited to:

- (A) Retirement, Survivors, and Disability Insurance (RSDI) benefits;
- (B) Railroad retirement benefits;
- (C) Child, cash, and medical support;
- (D) Military service benefits;
- (E) Veteran's Affairs (VA) benefits;
- (F) Civil service benefits;
- (G) Unemployment compensation;
- (H) Gifts or inheritance;
- (I) Disability insurance benefits;
- (J) Workers' compensation payments;
- (K) Disability benefits, other than sick leave, paid by an employer;
- (L) Returns from certain investments;
- (M) Payments from an annuitized annuity; or
- (N) Income from a life estate in real property.

004.02 PRORATION OF PERIODIC INCOME. When income is received annually, semi-annually, quarterly, or bi-monthly, the amount is prorated on a monthly basis.

004.02(A) PERIODIC INCOME PRIOR TO APPLICATION. If the most recent periodic payment has been received and spent before the initial application, then the income may be considered unavailable and is not counted. If the application is approved, the client must report the receipt of the next payment within ten days. All payments received after the application is approved are prorated on a monthly basis and used for eligibility.

004.03 POTENTIAL BENEFITS. Applicants and recipients of Medicaid must take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless there is good cause shown for not doing so. Annuities, pensions, retirement, and disability benefits include, but are not limited to, veterans' compensation and pensions; retirement, survivors, and disability insurance (RSDI) benefits; railroad retirement benefits; unemployment compensation; and employer sponsored retirement benefits.

004.03(A) ELIGIBILITY DETERMINATION. If a client is otherwise eligible for Medicaid, then eligibility may be determined. The client will be notified that continued eligibility for Medicaid depends on their application for the potential benefit. A client has 60 days from the date of the notice to apply for a potential benefit.

004.03(B) REINSTATEMENT OF BENEFITS. If a Medicaid client loses eligibility for a pre-existing benefit, then continued eligibility is dependent upon taking all necessary steps to reinstate the benefit. A client has 30 days to apply to reinstate the benefit.

004.04 SPECIFIC TYPES OF UNEARNED INCOME. Certain types of unearned income have specific rules which apply. These may be an exception to the general rule, a result from the application of other program rules, or may apply to only certain eligibility groups governed by this chapter.

004.04(A) CHILD OR SPOUSAL SUPPORT. Child, spousal, and cash medical support received by the individual is considered unearned income. If payment has been irregular or is less than the court ordered amount, then a three month average is used. If a portion of the payment has been retained by the Department to satisfy a debt to the state, then no more than the court-ordered amount will be used. When child support is paid to a child who is not in the home of the assistance unit, the payment is considered income of the child only when it is provided to the child.

004.04(B) CONTRIBUTIONS. Contributions are verified gifts, payments, or in-kind assistance given to members of the assistance unit by a third party. Contributions are considered unearned income subject to the exceptions below:

- (i) A self-supporting individual who resides with the client pays the client for a portion of the shelter expenses or shares expenses with the client. This includes situations where more than one assistance unit resides at the same address;
- (ii) An individual makes payments directly to a vendor on behalf of a client for items which are not food or shelter;
- (iii) A client who has no income receives shelter from another individual due to a crisis situation and has made arrangement to pay the individual providing shelter when the client has income;
- (iv) Contributions made directly to an alternate living arrangement for a Medicaid client in order for the client to have a private room in the facility; or
- (v) Payment directly to a medical provider for services which are not covered by Medicaid.

004.04(C) INHERITENCE AND GIFTS. Gifts or inheritance received by a client are considered unearned income in the month of receipt or report and are counted in the first possible month considering adequate and timely notice. Any unspent remainder is considered a resource in the month after it is countable as income.

004.04(D) INSURANCE BENEFITS. Insurance settlements, benefits, and payments are countable as income depending on the type of payment made according to the rules below.

004.04(D)(i) INCOME PRODUCING. Payments from an income producing or income replacement policy are countable as unearned income. An income producing policy pays the beneficiary based upon the triggering of a specific event without regard to costs incurred or medical procedures which may be necessary.

004.049D(ii) REPLACEMENT. Payments made to replace or restore damaged property are not counted as income.

004.04(D)(iii) LIFE INSURANCE. Life insurance benefits paid are countable as unearned income. Any verified payments of debts or obligations of the deceased are subtracted from the countable amount.

004.04(D)(iv) SETTLEMENTS. Insurance payments received from a legal settlement are counted as unearned income. Any costs related to the cause of the settlement,

including attorney fees, that the client is obligated to pay is deducted from the settlement amount.

004.04(E) CONTRACT PAYMENTS. If the client has sold property on contract and the contract is not a countable resource, then the full amount of the payment received is countable as unearned income. If the contract is a countable resource, and the client remains eligible, then only the interest portion of the payment is countable as unearned income.

004.04(F) LIFE ESTATE INCOME. Net income from property retained as a life estate when a client is the life tenant is countable as unearned income. The net income is determined by deducting payments for the cost of maintaining, repairing, or restoring property; and taxes due on the property from the gross amount received. Examples are available in the appendix to this chapter.

004.04(G) LUMP SUM PAYMENTS. Lump sum payments are considered income in the first possible month considering adequate and timely notice requirements. Any unspent remainder is considered a resource in the month after the lump sum is counted as income.

004.04(G)(i) BENEFIT EXCEPTION. Any lump sum received as the result of a retroactive determination of eligibility for retirement, survivors, and disability insurance (RSDI); supplemental security income (SSI); veterans' assistance (VA) benefits; or other entitlement benefit programs are not considered income when received.

004.04(H) MEDICAL PAYMENTS. Income received from a liable third party that pays the client directly is disregarded if it is refunded to the provider or the Department as reimbursement for a specific service. If the client fails or refuses to refund a payment due, then the payment is counted as unearned income in the first possible month, considering adequate and timely notice requirements.

## 005. INCOME DISREGARDS.

005.01 EARNED INCOME DISREGARDS. Specific portions of earned income are disregarded in determining eligibility. The amounts below are only disregarded from the earned income received by the client or a financially responsible relative and do not apply to unearned income.

005.01(A) AMERICORPS INCOME. Income earned by participants in the AmeriCorps program is disregarded.

005.01(B) INCOME FROM EMPLOYMENT. Earned income from employment is disregarded according to the category of eligibility.

005.01(B)(i) AGED, BLIND, AND DISABLED (ABD) CLIENTS. For categories of eligibility where age, blindness, or disability are an eligibility factor, earned income receives the following disregards:

- (1) Aged or disabled clients deduct \$65 from the gross amount of earned income. The remainder is divided by two to arrive at the countable amount used to determine eligibility; or
- (2) Blind or blind-aged clients deduct \$85 from the gross amount of earned income. The remainder is divided by two to arrive at the countable amount used to determine eligibility.

005.01(B)(ii) MEDICALLY NEEDY FAMILIES AND CHILDREN. Medically needy families and children categories of eligibility are allowed the following disregards from earned income to determine the countable amount used to determine eligibility:

- (1) One-hundred dollars (\$100) is deducted from the gross amount of earned income of each employed individual whose income is used to determine eligibility;
- (2) Child care expenses as billed or paid are deducted if the parent whose income is used to determine eligibility requires child care in order to participate in education, training, or employment; and
- (3) Any earned income of a child is disregarded.

005.01(C) EARNED INCOME TAX CREDITS (EIC). The amount of an individual's earned income tax credits (EIC) are not counted as income. This includes any advanced earned income tax credits (AEIC).

005.01(D) JURY PAY. Income received from serving on a jury is disregarded.

005.01(E) INCOME FROM THE NATIONAL COMMUNITY SERVICE TRUST ACT. Income earned from programs funded by the National Community Service Trust Act of 1993 are not counted as income for eligibility. This includes the following programs:

- (i) Volunteers in Service to America (VISTA or AmeriCorps VISTA);
- (ii) University Year for Action;
- (iii) Special and Demonstration Volunteer Programs;
- (iv) Retired Senior Volunteer Program (RSVP);
- (v) Foster Grandparent Program; and
- (vi) Senior Companion Program.

005.02 UNEARNED INCOME DISREGARDS. The following amounts are deducted from unearned income in determining eligibility. When a source of income is only disregarded for a specific category of eligibility, it is noted. These disregards do not apply to earned income.

005.02(A) ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNT DISTRIBUTION. A distribution from a qualified Achieving a Better Live Experience (ABLE) account is not counted as income if the distribution is for a qualified disability expense. It is presumed that any distribution is for a qualified disability expense unless the client reports otherwise or other information becomes known to the agency.

005.02(B) BONA FIDE LOANS. A bona fide, enforceable loan is treated as follows:

005.02(B)(i) CLIENT AS BORROWER. When a client has borrowed money which must be repaid, the money received by the client is not counted as income.



005.02(B)(ii) CLIENT AS LENDER. When a client has loaned money to another party, and the loan is countable as a resource, then the principal portion of the payment is not considered income. If the loan made to another party would not be considered a countable resource, then the full amount of the payment is countable as unearned income. A loan made to a third party where the purpose of the loan is to make the client eligible for Medicaid is not considered a bona fide loan, and is countable as a resource. It is the client's responsibility to show that a loan was not made for the purpose of becoming eligible for Medicaid.

005.02(C) CHILD SUPPORT PAYMENTS. One third of the amount of a child support payment received on behalf of a child eligible due to blindness or disability is disregarded from the income of the blind or disabled child.

005.02(D) COMPENSATION PAYMENTS. Payments that a client receives as compensation due to various circumstances are treated according to the provisions below.

005.02(D)(i) AGENT ORANGE. Payments made from the fund created by manufacturers of Agent Orange due to product liability are disregarded as income.

005.02(D)(ii) CERTAIN CHILDREN OF VETERANS. Veterans' Affairs (VA) payments made to the children of veterans who served in Vietnam and Korea who were born with spina bifida and children born to women veterans who served in Vietnam who have certain birth defects are disregarded as unearned income.

005.02(D)(iii) CERTAIN HEMOPHILIA PATIENTS. Payments made to hemophilia patients from any fund established by the Susan Walker v. Bayer Corporation et al. who are infected with human immunodeficiency virus (HIV) are disregarded as unearned income.

005.02(D)(iv) RADIATION EXPOSURE COMPENSATION FUND. Payments made to victims under the Radiation Exposure Compensation Fund are disregarded as unearned income.

005.02(D)(v) VICTIMS OF CRIME. Payments made by a state or local government to compensate crime victims are disregarded as unearned income.

005.02(D)(vi) VICTIMS OF NAZI PERSECUTION. Payments made to victims of Nazi persecution made by any country are disregarded as unearned income.

005.02(E) EDUCATIONAL ASSISTANCE. Assistance paid to clients for higher education is treated according to the provisions below.

005.02(E)(i) GRANTS, SCHOLARSHIPS, FELLOWSHIPS, AND GIFTS. Any portion of a grant, scholarship, fellowship, or gift used to pay for tuition, fees, or other necessary educational expenses is disregarded from income. Any portion used to pay for other expenses is counted as unearned income.

005.02(E)(ii) ASSISTANCE UNDER THE HIGHER EDUCATION ACT OR BUREAU OF INDIAN AFFAIRS. All assistance received from the Bureau of Indian Affairs (BIA) or paid under the Higher Education Act of 1965 is disregarded as unearned income. Programs under the Higher Education Act of 1965 include:

- (1) Pell grants;
- (2) State student incentives;
- (3) Academic achievement incentive scholarships;
- (4) Byrd Scholars;
- (5) Federal supplemental educational opportunities grants;
- (6) Federal educational loans;
- (7) Upward Bound;
- (8) Gaining early awareness and readiness for undergraduate programs (GEARUP);
- (9) Leveraging educational assistance partnership (LEAP);
- (10) Special leveraging educational assistance partnership (SLEAP); or
- (11) Work-study programs.

005.02(E)(iii) VETERANS AFFAIRS EDUCATION BENEFITS. The Department of Veterans' Affairs (VA) has several types of education assistance programs available for veterans, spouses, or the children of veterans. Regardless of the type of educational program paying benefits, any portion of a payment which is used to pay for tuition, fees, or other necessary educational expenses is disregarded as unearned income. Any portion of the payment not used for such expenses is countable as unearned income.

005.02(E)(iv) MEDICALLY NEEDY FAMILIES AND CHILDREN. For medically needy family and children programs, the full amount of any grant, scholarship, or fellowship is disregarded as income.

005.02(F) INTEREST INCOME. Interest earned on excluded accounts, investments, and burial funds is not counted as income. Any countable interest earned has \$10 per month per source disregarded in determining eligibility.

005.02(G) MEDICAL SERVICES. Medical services received at no cost to the client are not considered income. Medical services include diagnostic, preventative, therapeutic, or palliative care provided at no cost; prescription drugs; eyeglasses; prosthetics; durable medical equipment; service animals and supplies; or vehicle modifications.

005.02(H) NEEDS BASED ASSISTANCE. Assistance received by a client which is wholly funded by a state or local government or provides basic food and shelter and is determined by financial need is not counted in determining eligibility. This includes the following:

- (i) General assistance;
- (ii) Supplemental Nutritional Assistance Program (SNAP) benefits;
- (iii) Housing assistance;
- (iv) Energy assistance including Low Income Home Energy Assistance Program (LIHEAP);
- (v) Crisis assistance payments; or
- (vi) Home modification or weatherization.

005.02(I) OLDER AMERICANS ACT PAYMENTS. Payments or services received pursuant to the Older Americans Act are not considered income. These may include nutrition services, legal assistance, or health services. Income paid as wages or salaries for a program under the Older Americans Act is considered earned income and counted.

005.02(J) RELOCATION ASSISTANCE. Relocation costs paid by an employer as an inducement to an employee are countable as income. Relocation costs paid by a local, state, or federal government as assistance are not counted as income. These costs may include:

- (i) Moving expenses;
- (ii) Reimbursement for losses of property;
- (iii) Displacement allowances;
- (iv) Rental expenses due to displacement;
- (v) Direct provision of housing; or
- (vi) Expenses for closing costs on a replacement dwelling.

005.02(K) SOCIAL SECURITY BENEFITS. In certain instances, all, or a portion of, a client's Social Security income is not used in determining eligibility.

005.02(K)(i) SUPPLEMENTAL SECURITY INCOME (SSI). Supplemental Security Income (SSI) benefits are not used in determining eligibility. A recipient of Supplemental Security Income (SSI) benefits is considered categorically eligible to receive Medicaid.

005.02(K)(ii) FORMER SUPPLEMENTAL SECURITY INCOME (SSI) RECIPIENTS. Certain former recipients of Supplemental Security Income benefits continue to be considered receiving the Supplemental Security Income benefit for the purposes of receiving Medicaid. An individual must meet all of the specific criteria in order to receive the corresponding income disregard.

005.02(K)(ii)(1) DISABLED EARLY WIDOWS OR WIDOWERS. These individuals are also referred to as additional reduction factor (ARF) widows or widowers. The amount or increase in Title II benefits are not counted if all of the following are met:

- (a) Have been determined disabled;
- (b) Were receiving Supplemental Security Income (SSI) in December, 1983 and lost Supplemental Security Income (SSI) benefits in January, 1984 due to the elimination of a benefit reduction factor for widows or widowers before the attainment of age 60;
- (c) Have been continuously entitled to the Title II widow or widowers benefit based on disability since January, 1984;
- (d) Applied for benefits under this group prior to July 1, 1988 or a later date established under the court order in Darling v. Bowen; and
- (e) Would continue to be eligible for Supplemental Security Income (SSI) benefits, including the resource standard, if the client had not received the increase in Title II benefits.

005.02(K)(ii)(2) DISABLED ADULT CHILDREN (DAC). This population is also known as childhood disability beneficiaries (CDB). The amount or increase in Title

II benefits received from a parent's claim is not counted if all of the following are met:

- (a) Lost Supplemental Security Income (SSI) status after November 10, 1986 due to the mandatory receipt or increase in Title II benefits on a parent's record due to the retirement, death, or disability of the parent;
- (b) Are age 18 or older;
- (c) Blindness or disability began before age 22; and
- (d) Would continue to be eligible for a Supplemental Security Income (SSI) payment, including the resource standard, if they were not receiving the Title II disabled adult child benefit.

005.02(K)(ii)(3) SECTION 503 GROUP. This population is commonly referred to as the Pickle Amendment Group. Title II cost-of-living increases beginning the month before the month in which Supplemental Security Income (SSI) benefits ended if all of the following factors are met:

- (a) Is currently receiving Title II income;
- (b) Was eligible for and receiving Supplemental Security Income (SSI) benefits concurrently with Title II income for at least one month after April 1, 1977; and
- (c) Lost Supplemental Security Income (SSI) benefits, but would continue to receive it, including the resource standard, if the amount of cost-of-living increases received from Title II income after the month in which Supplemental Security Income (SSI) benefits were lost were deducted from the current Title II benefit. The cost-of-living increases include the increases received by the individual, the individual's spouse, or a financially responsible family member.

005.02(K)(ii)(4) EARLY WIDOWS OR WIDOWERS. This population is also known as COBRA widows or widowers. The amount received from Title II benefits is deducted in determining eligibility if all of the following factors are met:

- (a) Lost Supplemental Security Income (SSI) benefits due to the mandatory receipt of Title II benefits;
- (b) Is not yet eligible for Medicare Part A;
- (c) Has attained age 50, but is not yet age 65; and
- (d) Would continue to be eligible for Supplemental Security Income (SSI) if not receiving Title II benefits.

005.02(K)(iii) DELAYED COST-OF-LIVING ADJUSTMENT (COLA). In determining countable income for aged, blind, or disabled recipients whose eligibility is determined by a comparison to the federal poverty line (FPL), the amount of Retirement, Survivors, or Disability Insurance (RSDI) increase received from the annual cost-of-living adjustment is not counted until the month after the month in which the annual revision to the federal poverty line (FPL) is published. This applies only to the Retirement, Survivors, or Disability Insurance (RSDI) benefits. A cost-of-living adjustment to another source of income continues to be counted in the first month it is received.

005.02(L) VETERANS' PAYMENTS. The amount received by a veteran or their spouse as an Aid and Attendance benefit while in a nursing facility is not counted as income or used when determining the share of cost due to the facility.

005.02(M) WINNINGS AND DIVIDENDS. Gambling and gaming winnings and countable dividends have \$10 per month per source of the income disregarded in determining eligibility. The winnings or dividends are considered income in the month of receipt or report subject to adequate and timely notice requirements.

005.03 GENERAL INCOME DISREGARDS. General income disregards are not specific to earned or unearned income. Such disregards may apply to either earned, unearned, or both, as appropriate.

005.03(A) \$20 GENERAL DISREGARD. The first \$20 of income is not counted in determining eligibility. The disregard is applied first to any unearned income. Any remaining amount is applied to earned income. This disregard is only used once in the assistance unit, regardless of the number of individuals in the unit.

005.03(B) MEDICAL INSURANCE PREMIUMS. The amount paid for private health insurance premiums is deducted from countable income in determining eligibility. The client or a financially responsible relative must be responsible for payment of the premium. The insurance policy must be a health insurance policy which pays for medical services or treatments, and the amount of income producing policies does not receive this income deduction. This deduction is not used for Medicare premiums. This disregard does not apply to individuals eligible as medically needy. For medically needy individuals, the amount of health insurance premiums is deducted from any share of cost due.

005.03(C) NATIVE AMERICAN INCOME. Certain types of income received by Native Americans are disregarded, in whole or in part, when determining Medicaid eligibility. Multiple statutes exclude this income from Medicaid eligibility. In some cases, an income type may be specific to a certain tribe or activity. If an income source is identified or alleged which is not listed below, then submit the income for review to determine whether an exclusion exists.

005.03(C)(i) INDIAN JUDGMENT FUNDS DISTRIBUTION ACT. Per capita distribution payments made to tribal members who are due judgment funds after October 19, 1973 according to a plan of the Secretary of the Interior are excluded.

005.03(C)(ii) DISTRIBUTION OF JUDGMENT FUNDS. Distributions after January 12, 1983 of judgment funds held in trust or distributed per capita are excluded from income. This includes any interest or investment income accrued while the funds were held in trust.

005.03(C)(iii) PER CAPITA ACT. Any funds held in trust distributed after August 2, 1983 by the Secretary of the Interior to tribal members are excluded from income.

005.03(C)(iv) ALASKA NATIVE CLAIMS SETTLEMENT ACT. Stock, a partnership interest, an interest in land, or an interest in a settlement trust for Alaskan Natives are excluded. Up to \$2,000 received in income from a native corporation is excluded.

005.03(C)(v) INCOME FROM RESTRICTED LANDS. Up to \$2,000 per year is excluded from income from individual interests or trust interests if the income is derived from restricted lands.

005.03(D) PLAN TO ACHIEVE SELF-SUPPORT (PASS). Income used to meet a goal for the Plan to Achieve Self-Support (PASS) program is disregarded in determining Medicaid eligibility. This may be earned or unearned income. The Plan to Achieve Self-Support (PASS) program is administered by the Social Security Administration (SSA). The amount of income to be disregarded due to participation in this program will need to be verified with the Social Security Administration (SSA) when determining Medicaid eligibility.

005.03(E) TAX RETURNS. The amount received by an individual as a tax return is not counted as income.

005.04 LONG-TERM CARE EXCEPTION. When a client resides in a medical facility, any income disregarded in determining eligibility is used in determining the amount of the share of cost due. Medical facilities include nursing facilities, skilled nursing facilities, intermediate care facilities for the developmentally disabled, or hospitals.

~~Chapters 477 NAC 20 through 28 apply to the following: Aged, Blind, and Disabled (ABD); Medically Needy (MN); Medicaid Insurance for Workers with Disabilities (MIWD); Women's Cancer Program; Transitional Medical Assistance (TMA); Former Foster Care; Emergency Medical Services Assistance (EMSA); Children and Young Adults Eligible for IV-E Assistance~~

## ~~CHAPTER 22-000 INCOME FOR NON-MAGI PROGRAMS~~

### ~~22-001 INCOME~~

~~22-001.01 Definition of Income:~~ ~~Income is defined as gain or recurrent benefit received in money or in-kind (see 477 NAC 22-003.01B) from employment, business, property, investments, gifts, benefits, or annuities, at regular or irregular intervals of time (for examples see Appendix 477-000-011).~~

~~22-002 VERIFICATION OF INCOME:~~ ~~Verification of income consists of at least the following:~~

- ~~1. The source of the income;~~
- ~~2. The date paid or received;~~
- ~~3. The period covered by the payment or benefit; and~~
- ~~4. The gross amount of payment or benefit.~~

~~For income verification procedures, see Appendix 477-000-004.~~

~~22-002.01 Income Verification:~~ ~~Income must be verified every 12 months and shall be converted for weekly and bi-weekly income.~~

- ~~1. Regular income must be verified using one month's income as a minimum.~~
- ~~2. Irregular income must be verified using the three (3) most recent months, if available.~~

~~Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI) benefits shall be verified by viewing direct deposit records or the system interface.~~

~~22-002.01A Prospective Budgeting:~~ ~~Electronic data sources, if available, shall be utilized to verify income for budgeting purposes. Paper documentation will be required if electronic data sources are unavailable or a reasonable explanation does not apply.~~

~~When income is stable and verification is based on paper documentation, one month of income must be used.~~

~~When income fluctuates and verification is based on paper documentation, the three most recent consecutive months of income must be used.~~

~~The most recent three months' actual income must be averaged to arrive at the gross income amount for the income period. The amount is converted for weekly and bi-weekly income.~~

~~22-003 AVAILABILITY AND TYPES OF INCOME: All income, whether earned or unearned, must be considered.~~

~~For a unit that includes a child, all of the child's income and all income of his/her responsible relative(s), whether earned or unearned, must be considered.~~

~~The provisions for general relative responsibility at 477 NAC 24-001 and parent for child relative responsibility at 477 NAC 24-001.01 must be applied before any income is considered.~~

~~22-003.01 Earned Income: Earned income is money received from wages, tips, salary, commissions, profits from activities in which an individual is engaged as a self-employed person or as an employee, or shelter received at no cost in lieu of wages. For partnership and S-corporation income see Appendix 477-000-051. For shelter in lieu of wages see chart at 477 NAC 22-003.02D2a. Items of need received at no cost in lieu of wages are considered earned income for ABD.~~

~~Note: A retired individual who is not working full-time for purposes of earning a livelihood is not considered self-employed for Medicaid, regardless of his/her status as a tax filer.~~

~~Note: Reimbursement for employment-related expenses such as mileage, lodging, or meals is not considered earned income.~~

~~22-003.01A Earned Income Tax Credit: Some low-income wage earners are eligible for a tax credit, which may be paid in one of two forms:~~

- ~~1. Advanced Earned Income Tax Credit (AEITC) – a periodic credit received by an employee in advance of filing his/her federal income tax return; or~~
- ~~2. Earned Income Tax Credit (EITC) – an amount received by an employee as part of his/her federal income tax return.~~

~~The letters "EITC" are printed on the tax refund check. Both EITCs and AEITCs are disregarded as income and a resource.~~

~~22-003.01B In-Kind Income: For ABD only, in-kind income is the value of food, clothing, shelter, or other items received in lieu of wages.~~



~~22-003.01C Contractual Income: Income paid on a contractual basis is prorated over the number of months covered under the contract, even if the client is paid in fewer months than the contract covers.~~

- ~~1. Income received intermittently is prorated over the period it is intended to cover if the income is expected to continue.~~
- ~~2. The client must be notified on a Notice of Action that income is being treated as contractual income and how it is budgeted.~~

~~22-003.01D Terminated Earned Income: When an individual engages in different types of self-employment, it is not considered a termination of income if the individual stops one type of work.~~

~~22-003.02 Unearned Income: Unearned income is any cash benefit that is not the direct result of labor or services performed by the individual as an employee or a self-employed person. Unearned income includes but is not limited to~~

- ~~1. RSDI benefits;~~
- ~~2. Railroad Retirement;~~
- ~~3. Child, cash, and medical support;~~
- ~~4. Military service benefits;~~
- ~~5. Veterans Affairs (VA) benefits;~~
- ~~6. Civil service benefits;~~
- ~~7. Unemployment compensation;~~
- ~~8. Gifts; inheritance~~
- ~~9. Disability insurance benefits;~~
- ~~10. Workers' compensation;~~
- ~~11. Disability benefits paid by an employer (this does not include sick leave);~~
- ~~12. Returns from securities or investments (i.e., stocks, bonds, annuities, or savings) in which the individual is not actively engaged; and~~
- ~~13. Income from a life estate in real property.~~

~~If a client receives a benefit (e.g., RSDI or VA) for an individual who is not in the unit and does not give the benefit to the individual, it is counted as income to the client.~~

~~If payments are received annually, semi-annually, or quarterly, the amount is prorated on a monthly basis.~~

~~22-003.02A Income from a Life Estate in Real Property: Income from a life estate in real property is considered unearned income. Allowable deductions from such income are limited to costs expended for maintaining, repairing, or restoring functionality to an already existing feature, structure, or system that produces income. See Appendix 477-000-030 for examples of treatment of life estate income.~~

~~22-003.02B Child/Spousal Support: Child, spousal, and cash medical support received by the individual is considered unearned income.~~

- ~~1. If payment has been irregular or less than the court-ordered amount, support paid for the last three months is averaged (unless there has been a significant change). If there is a payment trend, that amount is used.~~
- ~~2. If the Department is retaining part of the child support payments to satisfy a debt to the state, no more than the court-ordered amount shall be used.~~
- ~~3. If there is no debt to the state, a three-month average of the total amount of support that is being paid is used.~~

~~For child support disregards for ABD see 477 NAC 22-005.02E.~~

~~22-003.02C Child Support Paid for a Minor Parent: If a noncustodial parent pays support for his or her child and that child is a minor parent who is receiving assistance, child support is treated as follows. If the parent of the minor is not receiving assistance and~~

- ~~1. Gives the child support to the minor parent, the child support is treated as unearned income in the minor's child's budget;~~
- ~~2. Does not give the child support to the minor parent, the child support
  - ~~a. Is included in the minor's Medicaid budget if the minor is living with his/her parent; or~~
  - ~~b. Is not counted in the budget if the minor parent is living independently.~~~~

~~22-003.02D Contributions/Cash Support: Contributions are verified payments that are paid to or for the unit.~~

~~Contributions received regularly to aid in the support of the client, either in the form of money payments or items of need, are considered unearned income.~~

~~Payments by relatives directly to an alternate living arrangement that is not a medical facility (i.e., an assisted living facility) are not counted as a contribution.~~

~~22-003.02D1 Contribution from an Individual Not in the Household: If an individual who is not living in the household gives money to the unit, the income must be counted in the budget. In order to determine how to treat the income, it must be determined to whom the contribution is paid. The following are not considered contributions:~~

- ~~1. Energy Assistance;~~
- ~~2. Emergency Assistance;~~
- ~~3. General Assistance; and/or~~
- ~~4. Crisis assistance from a community agency or service agency.~~

~~22-003.02D2 Shelter Contributions for Children, Parents and Caretaker Relatives Pertaining to Medically Needy: If an individual who is not in the household is paying the client, the payment is counted as unearned income.~~

~~When an individual who is not in the household (including a noncustodial parent) makes shelter payments directly to the vendor on behalf of the client or provides total shelter, the chart below is used. Any other payments (e.g., car payments, payments for utilities) made to a vendor by an individual who is not in the unit are not counted as income toward the client.~~

~~The budget is figured according to the following guidelines:~~

- ~~1. If the individual pays the entire obligation or provides the total shelter, the appropriate figure from the chart is used as unearned income in the budget;~~
- ~~2. If the individual pays the entire obligation or provides the total shelter, but the amount is less than the figure allowed in the standard of need, the actual amount paid as unearned income is used; or~~
- ~~3. If the individual makes only partial payments or provides partial shelter, none of the payment is counted in the budget.~~

~~22-003.02D2a Shelter Amounts from ADC Payment Standard~~

<del>Unit Size</del>	<del>1</del>	<del>2</del>	<del>3</del>	<del>4</del>	<del>5</del>	<del>6</del>	<del>7</del>	<del>8</del>	<del>9</del>	<del>10</del>	<del>11</del>	<del>12</del>
<del>Shelter</del>	<del>101</del>	<del>101</del>	<del>103</del>	<del>105</del>	<del>108</del>	<del>109</del>	<del>111</del>	<del>112</del>	<del>113</del>	<del>114</del>	<del>123</del>	<del>133</del>

~~Shelter includes taxes and insurance. The shelter obligation should be compared to the chart, using the amount shown for the unit size.~~

~~22-003.02D3 Contributions Not Counted as Income: A contribution is not counted as income in the following situations:~~

- ~~1. A self-supporting individual who resides in the home pays the client for a portion of the shelter expenses;~~
- ~~2. The client states s/he and a self-supporting individual are sharing expenses. The statement must be documented in the case record;~~
- ~~3. An individual who is not in the unit is making payments to a vendor for certain services or goods not listed at 477 NAC 22-003.02D2 (e.g., car payments);~~
- ~~4. Two or more assistance units are in the same household and share expenses. Income of one unit is not counted toward another unit;~~
- ~~5. In determining initial eligibility only when the applicant
  - ~~a. Has no income and has been forced to share a living arrangement with a self-supporting individual because of a crisis situation; and~~~~

- b. ~~Plans to make other arrangements (either to move or pay a share of the expenses) as soon as s/he has income; and~~
6. ~~Shelter that is indirectly provided to an eligible child by a non-responsible relative, such as a household consisting of ineligible parents, a minor parent for whom assistance is not being requested, and the minor's child, an eligible infant.~~

~~It shall be determined if a contribution needs to be counted on the client's budget as soon as the client begins receiving income.~~

~~22-003.02D4 Nursing Facility, Assisted Living Waiver, or Hospital Care: Contributions to or for an applicant/client who is receiving nursing facility, Assisted Living Waiver, or hospital care are considered unearned income in the client's budget if Medicaid is or will be paying any part of the nursing facility, Assisted Living Waiver, or hospital care.~~

~~Exception: If an applicant/client resides in a nursing facility, a payment to the facility for the client to enable him/her to have a single room is not considered income in the applicant's/client's budget if Medicaid is or will be paying any part of the nursing home care.~~

~~Contributions to assist an applicant/client in paying for private care are not considered income in his/her budget. The applicant/client may be determined eligible for payment of other medical services (e.g., medication, coinsurance and deductibles, doctor bills).~~

~~22-003.02D5 Insurance Premiums~~

~~22-003.02D5a Life Insurance Premiums: Payment of premiums on small protective life insurance policies is not considered a contribution.~~

~~22-003.02D5b Health Insurance Premiums: Payment of a health insurance premium by another individual is not considered a contribution as long as the premium is paid directly to the insurance company, not to the applicant/client. The amount of the premium is not allowed as a deduction on the Medicaid budget if the applicant/client does not pay the premium.~~

~~22-003.02E Income-Producing Insurance Policies: Income received from an insurance policy that supplements the applicant's/client's income is treated as unearned income. These policies provide income regardless of the type of service being provided or the condition of the applicant/client. If it is verified that the income was applied to medical bills, the income is not counted in the applicant's/client's budget. See Appendix 477-000-026 for examples.~~

~~22-003.02F Medical Payments:~~ Income received from a third party that pays the applicant/client directly is

- ~~1. Disregarded if it is refunded to the provider or the Department as reimbursement for a specific service; or~~
- ~~2. Counted as unearned income if the client fails or refuses to refund these payments.~~

~~22-003.02G Inheritance and Gifts:~~ If the applicant/client receives a gift or inheritance, it is considered unearned income in the month of receipt or report and should be counted in the budget the first month possible, considering timely notice; any unspent remainder is considered a resource in the following month.

~~22-003.02H Life Estate or Land Contract Income:~~ If an applicant receives periodic life estate or land contract income (e.g., annual, semi-annual or quarterly) and the last periodic payment has been spent before the application, the life estate/land contract income may be considered unavailable and not counted in the budget. If the application is approved, the client must be notified that s/he must report receipt of the next payment within ten (10) days and that the life estate/land contract income must then be counted in the budget.

~~22-003.02I SSI Benefits:~~ SSI benefits are not used in the Medicaid budget.

~~22-003.02J RSDI Benefits:~~ For budgeting, the gross amount of RSDI is used; the gross amount is the RSDI benefit with no Medicare premium deducted and rounded down to the nearest whole dollar. See Appendix 477-000-041 for RSDI verification process.

~~Exceptions: Certain specified groups of individuals retain Medicaid eligibility without regard to required receipt of Social Security benefits because they are considered to be receiving SSI:~~

- ~~1. Disabled Early Widow(er)s/COBRA Widow(er)s who meet all the following requirements:
  - ~~a. Lose SSI due to mandatory receipt of Title II widows benefits;~~
  - ~~b. Are not yet eligible for Medicare Part A;~~
  - ~~c. Are at least age 50, but not yet age 65; and~~
  - ~~d. Would continue to be eligible for SSI benefits if they were not receiving the Title II benefits;~~~~
- ~~2. Disabled Adult Children (DAC)/Childhood Disability Beneficiaries (CDB) who meet all the following requirements:
  - ~~a. Lose SSI or 1619(b) after 11/10/1986 (Public Law 99-643) due to mandatory receipt/increase of Title II benefits on a parent's record due to retirement, death, or disability of a parent;~~
  - ~~b. Are age 18 or older;~~
  - ~~c. Whose blindness or disability began before the age of 22; and~~~~

- d. ~~Would continue to be eligible for SSI (including the SSI resource standard) if they were not receiving the Title II disabled adult child's benefits;~~
3. ~~Section 503/Pickle Amendment Group. The Central Office will notify the eligibility worker of an individual in this group; or~~
4. ~~Disabled Widow(er)s/Additional Reduction Factor (ARF) Widow(er)s. The Central Office will notify the eligibility worker of an individual in this group.~~

~~22-003.02J1 Delay in Counting RSDI Increase: After the annual RSDI cost of living increase, if a client would go from MA only status to MA excess because his/her income exceeds the Federal Poverty Level, the current RSDI amount shall be used. The month after the month that the new FPL figures are published, the client's eligibility shall be determined by comparing the increased RSDI benefit to the new FPL guidelines. The delayed COLA provision applies only if the RSDI increase would cause the client to have excess income. If there is an increase in other unearned income or the client starts receiving other unearned income in the same month as the COLA in RSDI benefits, the delayed COLA provisions do not apply.~~

~~22-003.02K Veterans' Benefits: Applicants/Clients who are veterans, their spouses, and the widows of veterans may be eligible for Aid and Attendant services. This service may be available and is to be explored if the individual is in a nursing home, residing in his/her own home, in an Adult Foster Home, or other alternate arrangement when the individual requires aid with daily living activities.~~

~~22-003.02L Lump Sum Benefits: If an applicant/client is receiving Medicaid when a lump sum is received, the lump sum is considered income in the first month possible taking into account timely notice provision unless the sum is an accumulated payment of Retirement, Survivors, and Disability Insurance (RSDI), Railroad Retirement, veteran's pension, worker's compensation, or other benefit payment. Any unspent remainder is considered a resource in the following month.~~

~~Exception: The unspent portion of an RSDI or SSI retroactive payment is excluded for six months following the month of receipt.~~

~~22-003.02M Insurance Settlements: Insurance payments for damage to personal property caused by a disaster are not treated as a lump sum.~~

~~When a client is a beneficiary of life insurance, verified payment of debts or obligations of the deceased are subtracted from the settlement.~~

~~When an applicant/client receives an insurance settlement or other lump sum (e.g., a tort claim settlement), any bills relating to the cause of the settlement, including attorney's fees, that the client is obligated to pay, are subtracted from the amount.~~

~~22-003.02N Intercepted, Withheld, or Garnished Income: If the applicant's/client's wages or unearned income are being garnished or intercepted, the gross amount of income before garnishment shall be counted.~~

~~22-003.02O Overpayments: If an applicant/client received both ABD and another benefit at any time during which an overpayment occurred and the overpaid amount was included in the ABD budget, the amount after deduction of an overpayment is used.~~

~~22-003.02P Income Taxes Paid: Income taxes that must be paid on unearned income are not deducted from the income for budgeting purposes.~~

~~22-003.03 Potential Income: As a condition of Medicaid eligibility, the Department shall require applicants/clients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled.~~

~~Annuities, pensions, retirement, and disability benefits include, but are not limited to, veterans' compensation and pensions, Social Security benefits, railroad retirement benefits, and unemployment compensation.~~

~~A client and/or any responsible relative, such as a spouse or parent, is required to apply for any non-Medicaid benefits for which s/he appears to be entitled within 60 days of the date the client is notified of the requirement.~~

~~If the applicant/client is determined eligible for Medicaid, s/he shall be notified in writing of the requirement to apply for a potential benefit for which the applicant/client appears eligible and shall be informed of the number of days left in which to apply.~~

~~Determination of Medicaid eligibility shall not be delayed pending determination of entitlement for potential benefits, so long as the client/responsible relative has applied for such benefits within the 60-day timeframe.~~

22-003.03A Refusal to Apply for Potential Income:

~~If an individual fails or refuses to apply for potential benefits within 60 days after notification or refuses to accept benefits for which s/he has been determined eligible, Medicaid eligibility cannot be determined.~~

~~If a client's non-Medicaid benefit is terminated for noncompliance, s/he shall be given ten days to make contact to reestablish the benefit. If no contact is made within ten days, Medicaid eligibility cannot be determined.~~

~~If a responsible relative (including an ineligible spouse or the parent of a minor child) who is considered in determining the need of a client fails or refuses to apply for or comply with requirements for non-Medicaid benefits for which s/he is apparently eligible, the responsible relative is not considered in determining the client's need. However, income and resources of responsible relatives are still considered in determining the Medicaid eligibility of the client.~~

~~22-004 INCOME COUNTED FOR RETROACTIVE MEDICAID ELIGIBILITY: To determine retroactive medical eligibility, each month's actual income must be used. Electronic data sources, if available, shall be utilized to verify income for budgeting purposes. Paper documentation will be required if electronic data sources are unavailable. See Appendix 477-000-004 for Verification Plan.~~

## 22-005 INCOME DISREGARDS

### 22-005.01 Medically Needy Income Disregards Pertaining to Parents, Caretaker Relatives, Pregnant Women, and Children's Medicaid

~~22-005.01A One Hundred Dollar Disregard: A \$100 disregard is deducted from gross earned income of each employed individual in the unit to determine the amount of net earned income used in the budgeting process. Deductions from self-employment income may be made before application of the \$100 disregard. See 477 NAC 22-005.04.~~

~~22-005.01B Parent in the Home but Not in the Unit: The parent's gross earned income minus the \$100 earned income disregard is counted. Unearned income is counted in full toward the unit.~~

~~22-005.01C Child Care Disregard: The actual cost of child care as billed or paid is disregarded from earned income.~~

- ~~1. The cost of child care must be verified.~~
- ~~2. A child care disregard is allowed for a parent whose income is used in the budget computation if s/he requires child care in order to participate in education, training, or employment.~~

~~22-005.02 Aged, Blind, and Disabled Income Disregards: The amount deducted from adjusted gross earned income (the amount after deduction of the cost of operation if self-employment income and the remainder of the general disregard from wages or self-employment) for each unit:~~

~~22-005.02A General \$20 Disregard: Every ABD unit receives a \$20 income disregard.~~

- ~~1. Married couples living together and budgeted together are considered a unit and receive one \$20 disregard.~~

REV. MARCH 13, 2018 NEBRASKA DEPARTMENT OF MEDICAID ELIGIBILITY  
MANUAL LETTER # 15-2018 HEALTH AND HUMAN SERVICES 477 NAC 22-005.02A

- ~~2. The income disregard is applied to unearned income first; any remainder is subtracted from earned income for clients who are receiving SSI.~~



3. ~~Clients who are receiving Assisted Living AD-Waiver services or Program of All-Inclusive Care for the Elderly (PACE) receive the \$20 disregard.~~

~~Exception: Clients who are living in a nursing home, public institution, hospital, or other medical institution do not receive a \$20 disregard.~~

~~22-005.02B Blind or Blind-Aged Clients: Net earned income for blind or blind and aged clients is determined by disregarding the first \$85 of gross income plus one-half of the remainder.~~

~~22-005.02C Aged or Disabled Clients: Net earned income for aged or disabled clients is determined by disregarding the first \$65 of gross income plus one-half of the remainder.~~

~~22-005.02D Guardianship/Conservator Fee: The expense of a guardian or conservator fee is allowed as paid, up to a maximum of \$10 per month. If the guardian/conservator is required by the court to purchase a bond and file an annual report with the court, the amount allowed by the court for expenses (in excess of \$120) may also be disregarded.~~

~~22-005.02E Child Support Disregards for ABD:~~

- a. ~~One-third of the amount of child support paid on behalf of an ABD child is disregarded.~~
- b. ~~Child support payments received by an ABD parent on behalf of an adult child are disregarded if the support is forwarded to the child. A payment retained by the parent is considered unearned income.~~

~~22-005.03 Medical Insurance Disregard: The cost of medical insurance premiums is deducted if the client or his/her responsible relative is responsible for payment. The Medicare Part B premium that the client or responsible relative is accountable for paying is included in this disregard. Exception: The cost of premiums for income-producing policies is not allowed as a medical disregard. See Appendix 477-000-059.~~

~~22-005.04 Disregards (i.e., Deductions) for Self-Employment: Operating expenses related to producing goods or services and without which the goods or services could not be produced are deducted from gross income. Operating expenses may include~~

1. ~~Cost of goods sold;~~
2. ~~Advertising;~~
3. ~~Bad debts from sales or services;~~
4. ~~Bank service charges;~~  
~~Car and truck expenses;~~
5. ~~Commission;~~
6. ~~Employee benefit programs;~~

REV. MARCH 13, 2018 NEBRASKA DEPARTMENT OF MEDICAID ELIGIBILITY  
MANUAL LETTER # 15-2018 HEALTH AND HUMAN SERVICES 477 NAC 22-005.04

7. ~~Freight/shipping costs;~~
8. ~~Insurance;~~

- ~~9. Interest on business indebtedness;~~
- ~~10. Laundry and cleaning;~~
- ~~11. Legal and professional services;~~
- ~~12. Office supplies and postage;~~
- ~~13. Rent on business property;~~
- ~~14. Repairs and maintenance;~~
- ~~15. Supplies;~~
- ~~16. Utilities and telephone;~~
- ~~17. Wages; and~~
- ~~18. Transportation other than to and from work and child care. Mileage is allowed at the State of Nebraska employee Mileage rate. See Appendix 477-000-013 for mileage rate.~~

~~22-005.04A Disregarded Operating Expenses – Farm Income:~~ The following expenses related to farm income are disregarded as operating expenses:

- ~~1. Cost of goods sold;~~
- ~~2. Cost of labor;~~
- ~~3. Repairs and maintenance;~~
- ~~4. Interest;~~
- ~~5. Rent of farm, pasture;~~
- ~~6. Feed purchased;~~
- ~~7. Seeds, plants purchased;~~
- ~~8. Fertilizers, lime, and chemicals;~~
- ~~9. Cost of machines leased;~~
- ~~10. Supplies purchased;~~
- ~~11. Breeding fees;~~
- ~~12. Veterinary fees, medicine;~~
- ~~13. Gasoline, fuel, or oil;~~
- ~~14. Storage, warehousing;~~
- ~~15. Insurance;~~
- ~~16. Utilities;~~
- ~~17. Freight, trucking;~~
- ~~18. Conservation expenses;~~
- ~~19. Land clearing expenses; and~~
- ~~20. Employee benefit programs.~~

~~22-005.04B Operating Expenses Not Disregarded:~~ The following expenses are not disregarded as operating expenses:

- ~~1. Depreciation;~~
- ~~2. Personal business expenses such as subscriptions, dues to professional organizations and unions, training courses, etc.;~~
- ~~3. Personal transportation;~~

REV. MARCH 13, 2018 \_\_\_\_\_ NEBRASKA DEPARTMENT OF \_\_\_\_\_ MEDICAID ELIGIBILITY  
MANUAL LETTER # 15-2018 \_\_\_\_\_ HEALTH AND HUMAN SERVICES \_\_\_\_\_ 477 NAC 22-005.04B

- ~~4. Purchase of capital equipment;~~
- ~~5. Payments on the principal of loans; and~~

~~6. Business-related entertainment expenses. If the IRS Form 1040 document is used to verify income, depreciation as a cost of operation is not allowed and capital gains and other gains from lines 13, 14, and 15 of Form 1040 are not counted as income.~~

~~22-005.04C Offset of Earnings: If a client has a combination of farm or self-employment income and regular earned income, the regular earnings may be offset with a loss from the self-employment or farm operation.~~

~~22-005.05 School District Payment Disregards: If a school-aged child is receiving nursing home care in a facility, including an intermediate care facility (ICF), ICF/developmental disability (DD) facility, skilled nursing facility, or chronic care facility, and the school district is contracting with the facility in providing the child's educational needs, the school district payment is disregarded as income if the payment is designated for educational services only.~~

~~If any or all of the school district payment is for residential services, that portion must be shown as Payment on Services. The correct standard of need (SON) must be budgeted based on the child's living arrangement.~~

~~If the school-aged child resides in a board and room or other alternative care facility, it must be determined if the school provides payment for the child's board and room. If payment is being made to the facility, the payment is disregarded as income. The SON for personal needs only is used instead of using the full consolidated alternate care standard.~~

~~22-005.06 Other Income Disregards~~

Other Income	Parents/Needy Caretaker Relatives and Children Medically Needy	ABD and ABD Medically Needy
1. Earnings of child age 18 or younger and in school	Disregard.	Earned Income.
2. Earnings of a child age 18 or younger and not in school	Treat as earned income.	Earned Income.
3. Income of a parent in the home but not in the unit	Count as income in full.	N/A
4. Fuel assistance payments and allowances	Disregard.	Disregard.
5. Energy payments	Disregard.	Disregard.
6. Sale of home produce, livestock, poultry	Consider as earned income.	Consider as earned income.
7. Home produce from garden, livestock and poultry used by the household for their own consumption	Disregard.	Disregard.
8. Indian judgment funds distributed as per capita payments to members of Indian tribes or held in trust by the Secretary of the Interior, interest and investment income accrued on Indian judgment funds while held in trust, and purchases made with the funds	Disregard.	Disregard.
9. Jury duty pay	Disregard.	Disregard.
10. Any student financial assistance to an undergraduate student provided under programs in Title IV of the Higher Education Act or under Bureau of Indian Affairs student assistance programs: This would include: a. Pell Grants (formerly called BEOG's); b. Supplemental Educational Opportunity Grants (SEOG); c. College work study; d. Perkins Loans (formerly National Direct Student Loans); e. Guaranteed student loans (including PLUS loans and Supplemental Loans for Students); f. State Student Incentive Grants (SSIG); and g. Student assistance from the Bureau of Indian Affairs	Disregard.	Disregard.

REV. MARCH 13, 2018 — NEBRASKA DEPARTMENT OF — MEDICAID ELIGIBILITY  
MANUAL LETTER # 15-2018 — HEALTH AND HUMAN SERVICES — 477 NAC 22-005.06 (2 of 9)

Other Income	Parents/Needy Caretaker Relatives and Children Medically Needy	ABD and ABD Medically Needy
--------------	--	-----------------------------

11. Graduate Assistantship	Consider as earned income if must perform work for pay.	Consider as earned income if must perform work for pay.
12. Any portion of grants, scholarships, or graduate assistantships not listed and actually used for items such as tuition, books, fees, equipment, special clothing needs, transportation to and from school, child care services necessary for school attendance, etc. Transportation costs are allowed if the client uses private transportation or the actual cost of public transportation. The client must provide verification of expenses. Money received from the GI Bill, Veterans Administration under the Veterans Education and Employment Assistance Act for education expenses of veteran, or BIA, is treated the same way. This reference applies to undergraduate students, graduate students, and students working for a second undergraduate degree.	Disregard.	Disregard.
13. Any portion of a grant, scholarship, or funds paid out from a Veterans Education and Employment Assistance account not used for items listed above.	Consider as unearned income and prorate over the period for which it is intended to cover.	Consider as unearned income and prorate over the period for which it is intended to cover.
14. Financial assistance for a graduate student or student working for a second undergraduate degree if the student is required to work in order to receive the assistance. This includes work study, stipends, fellowships, and graduate assistantships	Consider as earned income.	Consider as earned income.
15. Payments to a client participating in training or school attendance subsidized by the Division of Vocational Rehabilitation	Disregard.	Disregard.

Other Income	Parents/Needy Caretaker Relatives and Children Medically Needy	ABD and ABD Medically Needy
--------------	--	-----------------------------

16. <del>Payments for services or reimbursement of expenses to volunteers serving as foster grandparents, senior health aides, or senior companions, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE) and any other programs under Titles II and III, (P.L. 93-113)</del>	<del>Disregard.</del>	<del>Disregard.</del>
17. <del>Indian land lease</del>	<del>Disregard.</del>	<del>Disregard.</del>
18. <del>Income from land contracts</del>	<del>Consider as unearned income.</del>	<del>Consider as unearned income.</del>
19. <del>HUD rental and/or utility subsidies under Section 8 of the Housing Act (lump sum or monthly payments)</del>	<del>Disregard.</del>	<del>Disregard.</del>
20. <del>Rental income from real property</del>	<del>Consider as earned income. Treat like a small business.</del>	<del>a. Consider as earned income if operated as a small business. b. Treat like unearned income from boarder/renter if not operated as a business. c. Rental property must be considered a resource if not operated like a small business. Note: For both a and b, do not deduct payments on the principal of a loan.</del>
21. <del>Income from life estate in real property</del>	<del>Consider as unearned income; determine the total cost of operation and deduct from gross income.</del>	<del>Consider as unearned income; deduct from gross income any expenses specified as a condition of the life estate.</del>

REV. MARCH 13, 2018 — NEBRASKA DEPARTMENT OF — MEDICAID ELIGIBILITY  
 MANUAL LETTER # 15-2018 — HEALTH AND HUMAN SERVICES — 477 NAC 22-005.06 (4 of 9)

Other Income	Parents/Needy Caretaker Relatives and Children Medically Needy	ABD and ABD Medically Needy
--------------	--	-----------------------------

22. A bona fide loan from any source	Disregard.	Disregard bona fide loans that must be repaid.
23. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970	Disregard.	Disregard.
24. Payments provided by a state or local government to assist in relocation	Disregard.	Disregard.
25. Income from boarders, rented rooms and apartments	Consider as earned income. Treat like a small business.  Exception: Income received from foster care payments is disregarded.	Consider as unearned income: a. Deduct total monthly cost of operation from the monthly gross income (If 1040 document is used to verify income, the allowance for depreciation is added back in to arrive at the adjusted gross income figure); b. From adjusted gross income, deduct the \$20 standard disregard. Exception: Income received from one client/unit for board and room and all foster care payments are disregarded. c. Rental property must be considered a resource if not operated like a small business.
26. Retroactive RSDI benefits	Excluded for six months following the month of receipt.	Excluded for six months following the month of receipt.

Other Income	Parents/Needy Caretaker Relatives and Children Medically Needy	ABD and ABD Medically Needy
--------------	--	-----------------------------

27. Income from Experience Works, Inc. Senior Community Service Employment, and any other income received under Title V of the Older Americans Act	Disregard.	Consider as earned income.
28. Benefits from the Supplemental Nutrition Assistance Program (SNAP)	Disregard.	Disregard.
29. The value of federally donated foods	Disregard.	Disregard.
30. Payments from Nutrition Program for the elderly	Disregard.	Disregard.
31. The value of assistance from a Child Nutrition Act or National School Lunch Program	Disregard.	Disregard.
32. Self-employment income —	Consider as earned income: a. Deduct total monthly cost of operation from the monthly gross business income (if 1040 document is used to verify income, do not allow depreciation as a cost of operation and do not count as income capital gains and other gains from lines 13, 14 and 15 of form 1040); b. From adjusted gross income, deduct the appropriate standard disregard for earned income.	Consider as earned income: a. Deduct total monthly cost of operation from the monthly gross business income (if 1040 document is used to verify income, do not allow depreciation as a cost of operation and do not count as income capital gains and other gains from lines 13, 14 and 15 of form 1040); b. From adjusted gross income, deduct the appropriate standard disregard for earned income.
33. Federal and state income tax refunds	Disregard.	Disregard.

Other Income  
34. EITCs and AEITCs

Parents/Needy Caretaker Relatives  
and Children Medically Needy  
Disregard.

ABD and ABD  
Medically Needy



35. <del>Victims' compensation payments, e.g., payments received from a state or local government to aid victims of crime</del>	<del>Disregard.</del>	<del>Disregard.</del>
36. <del>Subsidized adoption or subsidized guardianship payments from Title IV-E or child welfare funds</del>	<del>Disregard.</del>	<del>Disregard.</del>
37. <del>Any child, cash, medical, or spousal support received by the individual</del>	<del>Disregard.</del>	<del>Consider as unearned income.</del>
38. <del>Child, cash, or medical support paid on behalf of an ABD child</del>	<del>Consider as unearned income.</del>	<del>Disregard 1/3 of the amount.</del>
39. <del>Payments to individuals due to their status as victims of Nazi persecution</del>	<del>Disregard.</del>	<del>Disregard.</del>
40. <del>Payments from Title I Workforce Investment Act (WIA) for classroom training</del>	<del>Disregard.</del>	<del>Disregard.</del>
41. <del>Unpredictable gifts of indeterminate value</del>	<del>Disregard.</del>	<del>Disregard.</del>
42. <del>Interest on Series E savings bonds and other bonds that accrue interest</del>	<del>Disregard</del>	<del>Disregard</del>
43. <del>Income from the sale of blood or plasma</del>	<del>Count as earned income from self-employment.</del>	<del>Consider as unearned income.</del>
44. <del>Earnings received from the employer or compensation in lieu of wages under a Title I-WIA program</del>	<del>Disregard for a student regardless of age.</del>	<del>For clients age 18 and younger who are full-time students, disregard for six months per calendar year; then consider as earned income. b. For clients age 19 and older, consider as earned income.</del>

Other Income	Parents/Needy Caretaker Relatives and Children Medically Needy	ABD and ABD Medically Needy
45. On the job training (OJT) payments made to adults by an employer	Consider as earned income.	Consider as earned income.

46. Title I WIA program allowance paid to the client or vendor payments made to the provider for supportive services, such as transportation, meals, special tools, and clothing. This includes temporary Welfare-to-Work payments and work experience payments made through Workforce Development

Disregard for all ages.

Disregard for all ages.

47. Earned and unearned income received by a youth age 18 or younger under a Title I WIA program. For a minor parent who is applying for Medicaid for him/herself, see 477 NAC 24-001.01F.

Disregard.

Disregard.

48. Declared cash winnings; interest and dividends (may be prorated on a monthly basis); a gift that marks a special occasion; small and insignificant children's cash allowances

Disregard \$10 a month per individual for each income type. If more than \$10 a month per individual, count the amount that exceeds \$10 as unearned income.

Disregard \$10 a month per individual for each income type. If more than \$10 a month per individual, count the amount that exceeds \$10 as unearned income.

49. Income from securities and investments

Disregard \$10 a month per individual for each income type. If more than \$10 a month per individual, count the amount that exceeds \$10 as unearned income.

Disregard \$10 a month per individual for each income type. If more than \$10 a month per individual, count the amount that exceeds \$10 as unearned income.

Other Income

Parents/Needy Caretaker Relatives  
 and Children Medically Needy

ABD and ABD  
 Medically Needy

50. Interest on Series H savings bonds and other bonds which pay dividends or interest

Disregard \$10 a month per individual for each income type. If more than

<p>51. Veterans pension benefits reduced to \$90 for nursing home residents</p> <p>52. Picket pay or strike pay</p>	<p><del>\$10 a month per individual, count the amount that exceeds \$10 as unearned income.</del></p> <p>N/A</p>	<p>Disregard.</p>
	<p>Consider as earned income</p>	<p>a. Consider as earned income if the client is required to perform specific duties or participate for a specific number of hours. Allow the earned income disregards. b. If the client is not required to perform specific duties or participate for a specific number of hours, consider as unearned income.</p>
<p>53. Any payment received from the Radiation Exposure Compensation Trust Funds (RECTF)</p>	<p>Disregard.</p>	<p>Disregard. Any interest earned on unspent RECTF payments is counted as unearned interest income.</p>
<p>54. Veterans Assistance benefits received by the spouse of an SSI recipient if the spouse is applying for or receiving ABD</p>	<p>N/A</p>	<p>a. Disregard the amount of VA benefits, if any that are budgeted by SSI to the SSI spouse. b. Consider as unearned income the remainder on the ABD budget of the non-SSI spouse.</p>
<p>55. Agent Orange settlement payments</p>	<p>Disregard.</p>	<p>Disregard.</p>

56. Benefits under Public Law 104-204 for a child born with spina bifida and whose parent(s) is a Vietnam veteran	Disregard.	Disregard.
57. Payments made from any fund established as a result of the case of Susan Walker v. Bayer Corporation, et al. to hemophilia patients who are infected with HIV	Disregard.	Disregard.
58. Payments to AmeriCorps volunteers	Disregard.	Disregard.
59. The living allowance issued to Job Corps recipients or the readjustment allowance that is issued when Job Corps participants leave the program	Consider as earned income.	Consider as earned income.
60. In-kind income received by Job Corps participants for food, shelter, etc.	Disregard.	Disregard.
61. Insurance payments for damage to personal property	Disregard.	Disregard.
62. Assistance received under the Disaster Relief Act of 1974 or under a federal statute because of catastrophe declared to be a major disaster by the President and any interest earned on the assistance	Disregard.	Disregard.
63. Holiday bonus/work-related bonus	Consider as an earned income lump sum. For children, consider as earned income. Count as an earned income lump sum if received in a separate check.	Earned income.