



Ohio Administrative Code

Rule 5160:1-3-03.2 Medicaid: income exclusions.

Effective: August 1, 2016

(A) When determining eligibility for medical assistance for the aged, blind, or disabled, certain types of income, including income from certain sources, are not counted. This rule sets forth the types of income that are to be excluded, and the order in which they must be excluded from the individual's income.

(B) Definitions.

(1) "Blind work expense" means the portion of the individual's earned income used to meet any expenses reasonably attributable to the earning of the income if the individual is blind and;

(a) Is under age sixty-five; or

(b) Is age sixty-five or older and received SSI payments due to blindness for the month before attaining age sixty-five.

(2) "Countable income" means the total earned and unearned income minus the income exclusions set forth in this rule. It is compared to the appropriate income standard in determining eligibility for medical assistance.

(3) "Exclusion" means an amount of income which does not count in determining eligibility for medical assistance.

(C) Order of exclusions. Unearned income exclusions must be applied before applying earned income exclusions, and the specific order of exclusions described in paragraphs (D) and (E) of this rule must be followed.

(D) Unearned income exclusions.



(1) Unearned income excluded by federal laws other than the Social Security Act, in accordance with 20 C.F.R 416 Subpart K Appendix (as in effect on February 1, 2016) unless otherwise noted. The exclusions listed in this paragraph must be applied before applying the exclusions in paragraph (D)(2) of this rule:

(a) Agent orange settlement payments;

(b) Child care assistance under the Child Care and Development Block Grant Act of 1990 (as in effect on February 1, 2016);

(c) The first two thousand dollars per calendar year received as compensation for participation in clinical trials that meet the criteria detailed in section 1612(b) of the Social Security Act (as in effect February 1, 2016);

(d) Payments made for supporting services or reimbursement of out-of-pocket expenses to volunteers participating in corporation for national and community service (CNCS, formerly ACTION) programs:

(i) AmeriCorps program;

(ii) Special and demonstration volunteer program;

(iii) University year for ACTION (UYA);

(iv) Retired senior volunteer program (RSVP);

(v) Foster grandparents program;

(vi) Senior companion program;

(e) Energy employees occupational illness program payments;

(f) Federal food and nutrition programs:



- (i) Food assistance (formerly known as food stamps);

- (ii) U.S. department of agriculture food commodities distributed by a program (private or governmental);

- (iii) School breakfast, lunch, and milk programs;

- (iv) Women, infants, and children program (WIC);

- (v) Nutrition programs for older Americans;

- (g) Student financial assistance received under the Higher Education Act of 1965 (as in effect on February 1, 2016) or bureau of Indian affairs is excluded from income and resources, regardless of use:
 - (i) Pell grants;

 - (ii) Student services incentives;

 - (iii) Academic achievement incentive scholarships;

 - (iv) Byrd scholars;

 - (v) Federal supplemental education opportunity grants;

 - (vi) Federal educational loans (federal PLUS loans, Perkins loans, Stafford loans, Ford loans, etc.);

 - (vii) Upward bound;

 - (viii) Gear up (gaining early awareness and readiness for undergraduate programs);

 - (ix) State educational assistance programs funded by the leveraging educational assistance program;



- (x) Work-study programs;

- (h) Home energy assistance provided on the basis of need, in accordance with 20 C.F.R. 416.1157 (as in effect on February 1, 2016);

- (i) Matching funds that are deposited into individual development accounts (IDAs), either demonstration project or TANF-funded, in accordance with 42 U.S.C. 604 (as in effect on February 1, 2016);

- (j) Japanese-American and Aleutian restitution payments;

- (k) Payments to victims of Nazi persecution;

- (l) Netherlands WUV payments to victims of persecution from 1940-1945;

- (m) Department of defense payments to certain persons captured and interned in North Vietnam, in accordance with the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1998 (as in effect on February 1, 2016);

- (n) Radiation exposure compensation trust fund payments, in accordance with the Radiation Exposure Compensation Act of 1990 (as in effect on February 1, 2016);

- (o) Veterans affairs payments made to or on behalf of:
 - (i) Certain Vietnam veterans' natural children regardless of or age or marital status, for any disability resulting from spina bifida suffered by such children;

 - (ii) Certain Korea service veterans' natural children regardless of their age or marital status, for any disability resulting from spina bifida suffered by such children;

 - (iii) Women Vietnam veterans natural children regardless of their age or marital status, for certain birth defects;



(p) Austrian social insurance payments received under the provisions of the Austrian General Social Insurance Act, paragraphs 500 through 506 (as in effect on February 1, 2016). These payments must be documented and identifiable from countable insurance;

(q) Payments made to Native Americans as listed in section IV of 20 C.F.R. 416 Subpart K Appendix (as in effect on February 1, 2016);

(r) Payments from the Ricky Ray hemophilia relief fund or the class settlement in the case of *Susan Walker v. Bayer Corporation, et al.* under the Ricky Ray Hemophilia Relief Fund Act of 1988 (as in effect on February 1, 2016);

(2) Unearned income excluded by the Social Security Act, in accordance with 20 C.F.R. 416.1124 (as in effect on February 1, 2016) unless otherwise noted. The exclusions listed in this paragraph must be applied after the exclusions listed in paragraph (D)(1) of this rule, and in the following order:

(a) Any public agency's refund of taxes on real property or food;

(b) Assistance based on need which is provided under a program which uses income as a factor of eligibility and is wholly funded by a state or political subdivision. Disability financial assistance (DFA) and residential state supplement (RSS) payments are included in this category.

(c) Grants, scholarships, fellowships, or gifts used for paying educational expenses are either excluded or countable, depending upon their use:

(i) Any portion of a grant, scholarship, fellowship, or gift used for paying tuition, fees, or other necessary educational expenses at any educational institution, including vocational or technical education, is excluded from income.

(ii) Any portion of such educational assistance that is not used to pay current tuition, fees or other necessary educational expenses but is set aside to be used for paying this type of educational expense at a future date is excluded from income in the month of receipt. If these funds are not spent



after nine months, they become a countable resource as of the tenth month following receipt.

(iii) Any portion of a grant, scholarship, fellowship, or gift that is not used or set aside for paying tuition, fees, or other necessary educational expenses is income in the month received and a resource the month after the month of receipt, if retained.

(d) Food which an individual or his/her spouse raises if it is consumed by the household;

(e) Assistance received under the Disaster Relief and Energy Assistance Act (as in effect on February 1, 2016) and assistance provided under any federal statute because of a presidentially-declared disaster;

(f) The first sixty dollars of infrequent or irregular unearned income received in a calendar quarter;

(g) Alaska longevity bonus payments;

(h) Foster care payments;

(i) Any interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become a part of that burial fund;

(j) Support and maintenance assistance based on need:

(i) Provided in kind by a private nonprofit agency; or

(ii) Provided in cash or in kind by a supplier of home heating oil or gas, or by a private or municipal utility company.

(k) One-third of child support payments made by an absent parent;

(l) Twenty dollar general income exclusion, but does not apply to income based on need that uses income as a factor of eligibility and is wholly or partially funded by the federal government or by a nongovernmental agency. Catholic charities and the salvation army are nongovernmental agencies;



- (m) Unearned income used to fulfill an approved plan to achieve self-support (PASS);
- (n) Federal housing assistance provided by:
 - (i) The office of housing and urban development (HUD); or
 - (ii) The U.S. department of agriculture's rural housing service (RHS), formally known as the farmers home administration (FHA);
- (o) Any interest on excluded burial space purchase agreement if left to accumulate as part of the value of the agreement;
- (p) The value of any commercial transportation ticket which is received as a gift and is not converted to cash;
- (q) Payments from a state compensation fund for victims of crime;
- (r) Relocation assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 in accordance with 42 U.S.C. 301 (as in effect on February 1, 2016) provided to individuals displaced by any federal or federally-assisted project or state or local government or through a state-assisted or locally-assisted project in the acquisition of real property;
- (s) Combat fire pay received from the uniformed services;
- (t) Interest on a dedicated account in a financial institution, the sole purpose of which is to receive and maintain past-due supplemental security income (SSI) benefits which are required or allowed to be paid into such an account, and the use of which is restricted by section 1631(a)(2)(F) of the Social Security Act (as in effect on February 1, 2016);
- (u) Gifts to children with life-threatening conditions from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (as in effect on February 1, 2016), within the



following limitations:

(i) In-kind gifts not converted to cash;

(ii) The first two thousand dollars of any cash gifts within a calendar year;

(v) Interest and dividend income from a countable resource or from a resource excluded under a federal statute other than section 1613(a) of the Social Security Act (as in effect on February 1, 2016);

(w) A State annuity paid by a state, to an individual and/or the individual's spouse, on the basis of the state's determination that the individual is a veteran and is blind, disabled, or aged.

(E) Earned income exclusions excluded by the Social Security Act, in accordance with 20 C.F.R. 416.1112 (as in effect on February 1, 2016) unless otherwise noted. The exclusions listed in this paragraph must be applied after the unearned income exclusions, and in the following order:

(1) Earned income tax credit payments and child tax credit payments;

(2) The first thirty dollars of infrequent or irregular earned income received in a calendar quarter;

(3) Student earned income exclusion (SEIE) is applied as follows:

(a) Earned income of blind or disabled student children under the age of twenty-two, up to the SEIE monthly limit, and not more than the SEIE yearly limit. The SEIE monthly and yearly limits are updated and published annually in the medicaid eligibility policy letter that lists standards and limits that are changed by the social security administration's cost of living allowance (COLA).

(b) Available to a student attending school to include college, university or a course of vocational or technical training designed to prepare students for gainful employment.

(4) Any portion of the twenty-dollars monthly general income exclusion which has not been excluded from unearned income in that same month;



- (5) The first sixty-five dollars of earned income in a month.
 - (6) Earned income of disabled individuals used to pay impairment-related work expenses (IRWEs), as described in 20 C.F.R. 404.1576 (as in effect on February 1, 2016);
 - (7) One-half of remaining earned income in a month;
 - (8) Blind work expenses, as defined in paragraph (B) of this rule;
 - (9) Earned income used to fulfill an approved plan to achieve self-support (PASS);
- (F) Unused exclusions.
- (1) Exclusions never reduce earned or unearned income below zero.
 - (2) Unused portions of a monthly exclusion cannot be carried over for use in subsequent months.
 - (3) Unused earned income exclusions are never applied to unearned income.
 - (4) Other than the twenty-dollar general income exclusion, no unused unearned income exclusion may be applied to earned income.
- (G) The twenty-dollar general and sixty-five-dollar earned income exclusions are applied only once to an eligible couple, even when both members have income, since the couple's earned income is combined in determining medicaid eligibility.