



## Ohio Administrative Code

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

Effective: July 1, 2021

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(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 are excluded from the individual's income.

(B) Definitions.

(1) "Blind work expense" (BWE) 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. Countable income is compared to the appropriate income standard when determining eligibility for medical assistance.

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

(C) Order of exclusions. Unearned income exclusions are applied before earned income exclusions. The specific order of exclusions are described in paragraphs (D) through (F) of this rule.

(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 October 1, 2020) unless otherwise noted. The exclusions listed in this paragraph are applied before the exclusions listed in paragraph (D)(2) of this rule:

(a) Agent orange settlement fund payments received on or after January 1, 1989, as a result of the Agent Orange Compensation Exclusion Act (Pub. L. No. 101-201).

(b) Child care assistance under the Child Care and Development Block Grant Act (Pub. L. No. 113-186).

(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 October 1, 2020).

(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 in accordance with 42 U.S.C. 1382a (as in effect October 1, 2020):

(i) AmeriCorps VISTA program; and

(ii) Special and demonstration volunteer program; and

(iii) Retired senior volunteer program (RSVP); and

(iv) Foster grandparents program; and

(v) Senior companion program.

(e) Payments made to individuals under the Energy Employees Occupational Illness Compensation Program Act of 2000 (Pub. L. No. 106-398).

(f) Federal food and nutrition programs:



- (i) Supplemental nutrition assistance program (SNAP), formerly known as food stamps or food assistance; and
  - (ii) The value of foods donated by the U.S. department of agriculture commodity supplemental food program; and
  - (iii) The value of supplemental food assistance received under the Child Nutrition Act of 1966 (Pub. L. No. 89-642) and the special food service program for children under the National School Lunch Act (Pub. L. No. 90-302); and
  - (iv) The special supplemental nutrition program for women, infants, and children (WIC); and
  - (v) Nutrition program benefits provided for the elderly under Title VII of the Older Americans Act of 1965 (Pub. L. No. 89-73).
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- (g) Student financial assistance received under the Higher Education Act of 1965 (as in effect October 1, 2020) or bureau of Indian affairs is excluded from income and resources, regardless of use:
    - (i) Pell grants; and
    - (ii) Student services incentives; and
    - (iii) Academic achievement incentive scholarships; and
    - (iv) Federal supplemental education opportunity grants; and
    - (v) Federal educational loans (Stafford loans, William D. Ford federal direct and direct PLUS loans, etc.); and
    - (vi) Upward bound; and
    - (vii) Gear up (gaining early awareness and readiness for undergraduate programs); and



(viii) State educational assistance programs funded by the leveraging educational assistance program; and

(ix) 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 October 1, 2020).

(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 October 1, 2020).

(j) Restitution payments under the Civil Liberties Act of 1988, to U.S. citizens of Japanese ancestry and permanent resident Japanese non-citizens who were interned during World War II, or their survivors, in accordance with 50 U.S.C. 4215 (as in effect October 1, 2020).

(k) Restitution payments under the Aleutian and Pribilof Island Restitution Act in accordance with 50 U.S.C. 4236 (as in effect October 1, 2020).

(l) Payments to victims of Nazi persecution.

(m) Payments from the Dutch government under the Netherlands' Benefit Act for victims of persecution from 1940-1945 (Dutch acronym, WUV) (Pub. L. No. 103-286).

(n) 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 (Pub. L. No. 105-78).

(o) Radiation exposure compensation trust fund payments, in accordance with the Radiation Exposure Compensation Act of 1990 (Pub. L. No. 101-426).

(p) Veterans affairs payments made to or on behalf of:



- (i) Certain Vietnam veterans' natural children, regardless of age or marital status, for any disability resulting from spina bifida suffered by such children; and
  - (ii) Certain Korea service veterans' natural children, regardless of age or marital status, for any disability resulting from spina bifida suffered by such children; and
  - (iii) The natural children, regardless of age or marital status, with certain birth defects born to a woman who served in Vietnam.
- (q) Austrian social insurance payments based, in whole or in part, on wage credits received under the provisions of the Austrian General Social Insurance Act, paragraphs 500 through 506 (as in effect October 1, 2020). These payments are to be documented and identifiable from countable insurance.
- (r) Payments made to Native Americans as listed in section IV of 20 C.F.R. 416 Subpart K Appendix (as in effect October 1, 2020).
- (s) Payments from the Ricky Ray Hemophilia Relief Fund Act of 1998 (Pub. L. No. 105-369) or payments made from any fund established pursuant to a class settlement in the case of *Susan Walker v. Bayer Corporation*, 96-C-5024 (N.D. Ill).
- (t) Accounts under the Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act of 2014 (Pub. L. No. 113-295). The following are not considered income to the account holder:
- (i) Contributions to an ABLE account by another individual or third party.
  - (ii) Interest earned on an ABLE account.
  - (iii) Distributions from an ABLE account.
- (2) Unearned income excluded by the Social Security Act, in accordance with 20 C.F.R. 416.1124 (as in effect October 1, 2020) unless otherwise noted. The exclusions listed in this paragraph are 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. 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 grows or raises if it is consumed by the household.
- (e) Assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. No. 100-707) 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 senior benefits program payments.



- (h) Foster care payments.
  
- (i) Any interest earned on an excluded burial fund 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 non-profit 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. This exclusion does not apply to income/assistance based on need that uses income as a factor of eligibility and is wholly or partially funded by the federal government or by a non-governmental agency, in accordance with 20 C.F.R. 416.1124(c)(12)(as in effect October, 1, 2020). Catholic charities and the salvation army are non-governmental agencies.
  
- (m) Unearned income used to fulfill an approved plan to achieve self-support (PASS).
  
- (n) Federal housing assistance, in accordance with 1612(b)(14) of the Social Security Act (as in effect October 1, 2020), 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 earned on an 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 (Pub. L. No. 91-646) provided to individuals displaced by or through any federal, federally-assisted, state, state-assisted, local, or locally-assisted government 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 for an individual under the age of eighteen, that is maintained by a representative payee, the sole purpose of which is to receive and maintain past-due supplemental security income (SSI) benefits which are 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 October 1, 2020).
- (u) Gifts to children with life-threatening conditions, in accordance with section 1612(b)(22) of the Social Security Act (as in effect October 1, 2020), from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, within the following limitations:
- (i) In-kind gifts not converted to cash; and
  - (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 October 1, 2020).
- (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 excluded by the Social Security Act, in accordance with 20 C.F.R. 416.1112 (as





in effect October 1, 2020) unless otherwise noted. The exclusions listed in this paragraph are 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):
  - (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 a medicaid eligibility procedure letter that includes standards and limits that have been updated due to the social security administration's cost of living adjustment (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-dollar 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 October 1, 2020).
- (7) One-half of remaining earned income in a month.
- (8) BWEs, as defined in paragraph (B) of this rule.
- (9) Earned income used to fulfill an approved plan to achieve self-support (PASS).
- (F) As a state-selected option under section 1902(r)(2) of the Social Security Act (as in effect



October 1, 2020), exclude all income received from temporary employment with the decennial census.

(G) 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.

(H) 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 eligibility for medical assistance.