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CHAPTER S08
ABD INCOME

SUBCHAPTER 10

GENERAL--ABD INCOME RULES

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GENERAL

M0810.001 INCOME AND ELIGIBILITY

A. Introduction

The following sections explain how to treat income in the Medicaid program. This chapter explains how we count income.

B. Policy Principles

1. Who is Eligible

An individual is eligible for Medicaid if the person:

- meets a category/classification; and
- meets the nonfinancial requirements; and
- meets the classification's resource limits; and
- meets the classification's income limits.

2. General Income Rules

- Count income on a monthly basis.
- Not all income counts in determining eligibility.
- If an individual's countable income exceeds a classification's monthly limit, a medically needy spenddown may be established, if appropriate.

M0810.002 INCOME LIMITS

A. Income Limits

The Medicaid classification determines which income limit to use to determine eligibility.

1. Categorically Needy

Supplemental Security Income (SSI) and State Supplement (Auxiliary Grant) recipient's money payments meet the income eligibility criteria in the ABD Categorically Needy classification.

2. Categorically Needy Non-Money Payment-Protected Cases Only

• Categorically-Needy Non-Money Payment Protected Covered Groups Which Use SSI Income Limits	
Family Unit Size	Monthly Amount
1	*$579*
2	*869*
• For individual or couple whose total food and shelter needs are contributed to him or them	
Family Unit Size	Monthly Amount
1	*$386*
2	*579.34*

3. Categorically Needy-Non Money Payment (CNNMP) - 300% of SSI

For the covered groups that use the 300% of SSI income limit, all income is counted (even excluded income) when screening at 300% of SSI. Do not count any monies which are defined as "what is not income" in S0815.000.

• Categorically Needy-Non Money Payment 300% of SSI	
Family Size Unit 1	Monthly Amount $1,737

4. Medically Needy

a. Group I		
Family Unit Size 1 2	Semi-annual $ *1,447.52* *1,843.37*	Monthly $ *241.25* *307.22*
b. Group II		
Family Unit Size 1 2	Semi-annual $ *1,670.22* *2,056.98*	Monthly $ *278.37* *342.83*
c. Group III		
Family Unit Size 1 2	Semi-annual $ *2,171.28* *2,618.02*	Monthly $ *361.88* *436.33*

5. ABD Medically Indigent

For: ABD 80% FPL, QMB, SLMB, & QI without Social Security (SS) and QDWI, effective 2/18/05; and ABD 80% FPL, QMB, SLMB, & QI with SS, effective 4/01/05

ABD 80% FPL 1 2	Annual $ 7,656 10,264	Monthly $638 856
QMB 100% FPL 1 2	Annual $ 9,570 12,830	Monthly $ 798 1,070
SLMB 120% of FPL 1 2	Annual $ 11,484 15,396	Monthly $ 957 1,283
QI 135% FPL 1 2	Annual $12,920 17,321	Monthly $1,077 1,444
QDWI 200% of FPL 1 2	Annual $19,140 25,660	Monthly $1,595 2,139

M0810.005 WHAT IS INCOME

A. Policy Principles

1. Definitions

Income is

- cash, or
- its equivalent, unless specifically listed in S0815 as not being income.

2. Amount

Sometimes income includes more or less than is actually received, for example:

- Expenses of obtaining income (less)
- Garnishment (more)
- Gross earnings, before any deductions (more).

B. References

- What is not income, S0815.001.
- Garnishment, S0810.025.
- Expenses of obtaining income, S0830.100.
- Wages, S0820.100.

S0810.007 INCOME EXCLUSIONS

A. Introduction

Medicaid eligibility is based on countable income. See S0810.300 B.1. for the definition of countable income (CI). In determining CI, consider any income exclusions.

Some exclusions totally negate the amount of income received. Other exclusions reduce the amount counted. For example, any income may be wholly excluded (not counted) if it meets the criteria for exclusion of income received infrequently or irregularly.

B. Definition

Excluded income is an amount which is income but does not count in determining eligibility.

C. Policy Principles

1. Income Exclusions under Other Federal Statutes

Some Federal laws other than the Social Security Act prohibit counting some income for Medicaid purposes. See S0830.099.

2. Exclusions under the Social Security Act

Section 1612(b) of the Social Security Act provides for several income exclusions in determining countable income for Medicaid purposes.

D. References

- Income exclusions applicable to both earned and unearned income, S0810.400.
- Earned income exclusions, S0820.500.
- Unearned income exclusions, S0830.001.
- Order of application of exclusions, S0830.100 C.

S0810.010 RELATIONSHIP OF INCOME TO RESOURCES

A. Operating Policy

In general, anything received in a month, from any source, is income to an individual, subject to the definition of income in S0810.005.

Anything the individual owned prior to the month under consideration is subject to the resource counting rules.

An item received in the current month is income for the current month only. (See exceptions to this general rule in S0810.030.) If held by the individual until the following month, that item is subject to resource counting rules (See exception in S1110.115)

B. Example

Mr. Jones receives a dividend check for $300 at the end of May. He spends $150 immediately and deposits the remaining $150 in his savings accounts. His income for May is $300. The June 1 evaluation of Mr. Jones' resources includes (for the first time) the $150 he saved.

C. References

- Definition of resources, S1110.100 B.1.
- Conversion or sale of a resource, S0815.200.
- Replacement of lost, damaged, or stolen resources, S1130.630.

S0810.015 TYPES OF INCOME

A. Policy Principles

1. Types of Income

Income is either earned or unearned, and different rules apply to each.

2. Earned Income

Earned income consists of the following types of payments:

- wages
- net earnings from self-employment
- payments for services performed in a sheltered workshop or work activities center.
- royalties earned by an individual in connection with any publication of his/her work and any honoraria received for services rendered.

3. Unearned Income

Unearned income is all income that is not earned income. Some types of unearned income are:

- annuities, pensions, and other periodic payments
- alimony and support payments
- dividends, interest, and royalties (except for royalties mentioned in 2. above)
- rents
- benefits received as the result of another's death to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the recipient
- prizes and awards

B. References

- Definition of countable income, S0810.300.
- Earned income, S0820.001.
- Unearned income, S0830.001.

M0810.020 FORMS AND AMOUNTS OF INCOME

A. Operating Policies

1. Forms of Income

Income, whether earned or unearned, may be received in the form of cash--currency, checks, money orders, or electronic funds transfers (EFT), such as:

- Social Security checks
- unemployment compensation checks
- payroll checks or currency.

2. Amounts of Income

The value of cash income is generally the amount of the currency or the face value of checks, money orders or EFT's the individual receives. There are some exceptions listed in B. below.

B. References

- Expenses of obtaining income, S0830.100.
- Determining amount of wages, S0820.100.
- Amounts withheld to recover an overpayment, S0830.110.
- Garnishment or seizure, S0810.025.
- Income exclusions, S0810.400.

S0810.025 EFFECT OF GARNISHMENT OR SEIZURE

A. Definition

A **garnishment** or **seizure** is a withholding of an amount from earned or unearned income in order to satisfy a debt or legal obligation.

B. Policy Principles

Amounts withheld from earned or unearned income to satisfy a debt or legal obligation are income for Medicaid purposes.

C. Related Policy

1. Earned Income

Wages are what an individual receives (before any deductions) for working as someone else's employee. See S0820.100.

2. Unearned Income

See S0830.115 for instructions on determining the amount of unearned income if garnishment or other withholding is involved.

S0810.030 WHEN INCOME IS COUNTED

A. Policy Principles

Generally, we count income at the earliest of the following points:

- when it is received; or,
- when it is credited to an individual's account; or
- when it is set aside for his or her use.

We determine income monthly and count it the month it is received.

B. Operating Policy

1. Exceptions

Occasionally, a regular periodic payment (e.g., wages, Title II, or VA benefits) is received in a month other than the month of normal receipt.

As long as there is no intent to interrupt the regular payment schedule, consider the funds to be income in the normal month of receipt.

The most common situations where this policy applies appear in 2. and 3. below.

2. Advance Dated Checks

When a payor advance dates a check because the regular payment date falls on a weekend or holiday, there is no intent to change the normal delivery date.

Whenever such an advance dated check is received, consider it income to the recipient in the month of normal receipt.

3. Electronic Funds Transfers (EFT)

When an individual's money goes to a bank by direct deposit, the funds may be posted to the account before or after the month they are payable.

Whenever this occurs, treat the electronically transferred funds as income in the month of normal receipt.

C. Related Policy

1. Counting Advance Dated Checks and EFT's and Resources

Such funds are first subject to evaluation as resources in the month following the month of normal receipt.

See S1130.600 for SSI and RSDI retroactive payments as resources.

2. Counting Net Earnings from Self-Employment

Counting net earnings from self-employment (NESE) varies from the general income-counting rule. NESE is allocated evenly into all months of an individual's taxable year. See S0820.200.

3. Replacement of Income Already Received

See S0815.450 if income is lost, stolen, or destroyed, and a replacement is received.

4. Recipient Returns a Check He/She Is Not Due

See S0815.460 when the recipient is aware that he/she is not due a payment and returns the money.

5. Reissued Title II Funds in Change of Payee Situations

See S1120.022 when conserved title II benefits are reissued as a result of a change in payees.

WHOSE INCOME IS IT?

S0810.120 INCOME DETERMINATIONS INVOLVING AGENTS

A. Introduction

This section deals with the actions of agents who conduct financial transactions on behalf of others, and the policies that apply in making determinations of countable income as a result of such transactions.

A Medicaid recipient may be an agent for another person **or have an agent** acting on his or her behalf. Whenever an agent takes part in a financial transaction, the EW must determine whether the transaction was conducted on the agent's behalf or on behalf of the person he or she represents.

NOTE: References in this section to a "Medicaid recipient" also include a Medicaid applicant and individuals whose income and/or resources are subject to deeming.

B. Definition

An "agent" is a person or organization acting on behalf of and/or with the authorization of another person or organization. The term "agent" applies to all individuals who act in a fiduciary capacity, whether formal or informal, regardless of their titles (representative payees, guardians, conservators, etc.)

C. Operating Policies Medicaid Recipient Is an Agent

1. General

Monies received by a Medicaid recipient in his/her capacity as an agent are not income to him/her. Regular income rules (S0810.001) apply for counting income a Medicaid recipient receives which is not paid on behalf of another.

2. Agent With Bank Account for Another

a. Account Correctly Titled
When a Medicaid recipient acts as an agent for another and the title or designation of a bank account for the other person reflects the agency relationship, deposits to the account are not income to the Medicaid recipient.

b. Account Incorrectly Titled
If the account is incorrectly titled, deposits to the account are income to the Medicaid recipient--unless the Medicaid recipient makes the deposits for another person and disburses or intends to disburse the money on the other person's behalf. (See S1120.020 for instructions concerning the treatment of resources when an agent is involved.)

3. Fees Received by an Agent

There may be situations where agents are authorized to keep a part of the funds they receive on behalf of another. **Fees**, commissions, or contributions for services rendered **are unearned income** to a Medicaid recipient acting as an agent.

4. Misuse of Benefits

A Medicaid recipient acting as an agent may misuse another's funds. Monies misused by a Medicaid recipient are unearned income in the month received unless restitution is made.

When misused funds are refunded by a Medicaid recipient acting as an agent, these funds are not counted as income to the recipient.

5. Recipient and Use of Funds From an Absent Household Member

Frequently an individual leaves home (e.g., is confined to a Medicaid facility) and all or part of his/her income is turned over to someone maintaining the home. When funds are turned over to a Medicaid recipient, the guidelines below apply for determining if the recipient is acting as an agent.

a. Absent evidence to the contrary, the Medicaid recipient is assumed to be acting as an agent if he/she alleges that the funds received are being used to maintain the home **or** on behalf of the absent household member in some other manner (e.g., paying the absent individual's life insurance premiums).

NOTE: An example of evidence contrary to the assumption in a. above is a Medicaid recipient who is living at home and who has an absent spouse in a Medicaid facility. If a certain amount of the institutionalized person's income should be "assigned" to the spouse at home and the "assigned" amount is actually made available to the Medicaid recipient, the amount of money available as cash income is unearned income to the Medicaid recipient. (The terms for this income is "spousal monthly income allowance.") In this situation, the Medicaid recipient is not acting as an agent because the money has been assigned to meet the at-home spouse's needs. If a "spousal monthly income allowance" has not been assigned from the institutionalized person's income to the at-home spouse, the presumption in a. above applies.

The amount of money used by a Medicaid recipient on behalf of the absent individual is not cash income to the Medicaid recipient.

b. If the Medicaid recipient alleges that all or part of **funds received** from an absent household member **are for the recipient's personal use**, the amount of cash income diverted to personal use is income to the Medicaid recipient.

D. Operating Policies-Medicaid Recipient has an Agent

1. General

Treat monies received by an agent acting on behalf of a Medicaid recipient as if the recipient received the monies directly. These monies are counted as income to the recipient when received by the agent, following the income-counting rules in S0810.010.

2. Misuse of Benefits by the Agent

If a Medicaid recipient's agent has been charged with misuse of funds and restitution has not been made, the **amount of funds misused by the agent is not counted as income** to the recipient. If restitution is made by the agent directly to the recipient, the amount restored is income in the month received.

E. Development and Documentation

1. General

When an agent relationship exists between a Medicaid recipient and another individual, the file must be clear as to the relationship between the two parties. In cases where the agent is chosen by a court or governmental agency, retain a copy of any documents verifying the appointment. If no document exists, contact the source of the appointment and record the information in the file. When financial transactions involving an agent take place, the file must reflect why income was or was not counted to the Medicaid recipient.

2. Fees Received By an Agent

Verify fees, commission, or contributions provided to a Medicaid recipient for services rendered as an agent. (See S0820.100 if there is an employer-employee relationship.)

3. Misuse of Benefits

Develop misuse and document case record. Adjust the Medicaid recipient's file to remove income counted which represent funds misused by the recipient's agent. If the agent restores the misused funds to the Medicaid recipient, the recipient will have income counted in the month he/she received the repaid monies.

If restitution of misused funds is made by Medicaid recipient acting as an agent, adjust the recipient's to remove income counted which represent the repaid monies.

4. Receipt of Funds From an Absent Household Member

Document the Medicaid recipient's allegation regarding the use of an absent household member's funds. If evidence is presented which rebuts the presumption that the Medicaid recipient is acting as an agent, keep a copy of the evidence in file.

F. Examples

1. Agent Uses Money for Self and on Another's Behalf

Clara Dalloway, a Medicaid recipient, is legal guardian for her elderly sister. A friend of the family gives Mrs. Dalloway $120 and tells her that a third of it is for her sister. Mrs. Dalloway keeps $80 for herself and uses the rest to buy clothing for he sister. $80 represents unearned income to Mrs. Dalloway in the form of a gift. The $40 which was paid on her sister's behalf is not income to Mrs. Dalloway because she used this money in her capacity as an agent.

2. Monies From an Absent Household Member Used to Maintain Home and for Personal Use

Christine Duncan, Medicaid recipient, rents an apartment with her cousin who goes into the hospital for an extended stay. Ms. Duncan reports to the EW that her cousin sent $200 to help with the rent and utility bills. Of the $200, Ms. Duncan needed only $175 for the household bills and used the remaining $25 to buy a birthday present for her brother. Because Ms. Duncan was acting as an agent for her cousin, the EW counts only $25 in income since she made personal use of that portion of the $200.

S0810.130 INCOME DERIVED FROM JOINT BANK ACCOUNTS

A. Introduction

This section explains how to count income in different situations involving the joint bank account of a Medicaid recipient/applicant and/or deemor.

When a Medicaid recipient or applicant has a joint bank account with another individual, **deposits made to the account by other account holders or interest posted to the account are income** to the Medicaid recipient. See B.2. below for an exception.

References in this section to a "Medicaid recipient" also include a Medicaid applicant and individuals whose income and/or resources are subject to deeming.

See S1140.205 for resource determinations involving bank accounts.

B. Operating Policies

1. General

a. **When a joint bank account is held by a Medicaid recipient and an ineligible** individual who is not a deemor, income to the Medicaid recipient includes:

- the full amount of any interest posted to the account and
- the full amount of any deposit made by a third party or by the ineligible bank account holder unless the Medicaid recipient is acting as an agent (see S0810.120 C.1.).

b. **When two or more Medicaid recipients are joint account holders,** deposits made by one individual are not income to the other. Allocate interest equally among the joint holders.

2. Rebuttal Situations

a. If a Medicaid recipient successfully **rebuts ownership of a portion of funds in a joint account** (see S1140.205 C.2.), deposits made by the other account holder are not income to the Medicaid recipient. Interest is counted to the Medicaid recipient in proportion to the percentage of funds that are a resource to the recipient.

b. If a Medicaid recipient successfully **rebuts ownership of all the funds** held in a joint bank account, deposits by the other account holders or interest posted to the account are not income to the recipient.

COMPUTING COUNTABLE INCOME

S0810.300 GENERAL

A. Introduction

An individual's monthly income is one of the factors which determines eligibility for Medicaid.

B. Definitions

1. Countable Income (CI)

CI is the amount of income that remains after:

- eliminating all amounts that are **not income** (S0815.001.); and
- applying all appropriate **exclusions** (S0810.400.)

CI is the sum of a month's countable earned and countable unearned income.

2. Countable Earned Income

Countable earned income is the amount of earned income (S0810.015 A.2.) remaining after applying all appropriate income exclusions.

3. Countable Unearned Income

Countable unearned income is the amount of unearned income (S0810.015 A.3.) remaining after applying all appropriate income exclusions.

S0810.310 HOW TO COMPUTE COUNTABLE INCOME

A. Operating Procedure

1. Evaluate Income

Evaluate all reported or estimated income for the month.

2. Determine What is Not Income

Do not consider certain kinds of payments, property, or services which are not income for Medicaid purposes. See S0815.001.

3. Deduct Income Excluded Under Other Federal Statutes

See S0830.055 for these exclusions which are not in title XVI of the Social Security Act. Exclude any of this income in determining countable income.

4. Compute Countable Unearned Income

Subtract applicable exclusions (S0830.100.) from unearned income to determine countable unearned income.

5. Compute Countable Earned Income

Subtract applicable exclusions (S0820.500.) from earned income to determine countable earned income.

6. Compute Countable Income

Add countable earned income and countable unearned income to arrive at total countable income.

B. References

- Order of application of exclusions, S0830.100 C.

INCOME EXCLUSIONS WHICH APPLY TO BOTH EARNED AND UNEARNED INCOME

S0810.400 GENERAL

A. Policy Principle

Some statutory exclusions apply only to earned income, some apply only to unearned income, and a few apply to both earned and unearned income.

B. References

The following sections address those exclusions which can apply to both earned and unearned income:

- Infrequent or irregular income exclusion, S0810.410.
- $20 per month general income exclusion, S0810.420.
- PASS exclusion, S0810.430.

S0810.410 INFREQUENT OR IRREGULAR INCOME EXCLUSION

A. Policy

1. The Exclusion

We can apply an exclusion to income which is received either infrequently or irregularly provided the total of such income does not exceed:

- $10 per month of earned income; and/or
- $20 per month of unearned income.

2. Infrequent or Irregular Income--Definition

In order for this exclusion to apply, income need only be one or the other of:

- **infrequent**--An individual receives income on an infrequent basis if he/she receives it no more than once in a calendar quarter from a single source; or
- **irregular**--An individual receives income on an irregular basis if he or she could not reasonably expect to receive it.

3. Interpretation of the Exclusion

a. **Applicable to Both Earned and Unearned Income**--This exclusion can apply to both earned and unearned income in the same month provided the total of each does not exceed the limits in 1. above. Thus it is possible to exclude as much as $30 in a month under this provision.

b. **Total Exceeds the Limit**--This exclusion does not apply to any income received on an infrequent or irregular basis if the total of such income exceeds the amounts in 1. We exclude all infrequent or irregular earned and/or unearned income or none of it, depending on the amount involved. (See G. below concerning income subject to other exclusions.)

c. **Limit as it Applies to Couples**--The dollar amount of the exclusion does not increase even if both an eligible individual and spouse (eligible or ineligible) have infrequent or irregular income.

d. **To Whom Applicable**--The exclusion is applicable to income received infrequently or irregularly by an eligible individual, eligible or ineligible spouse, and parent of blind or disabled child.

4. Unearned Income--Specific Considerations

In evaluating frequency of receipt of unearned income, we look at receipts of the same type of income from a single source.

B. Definitions

1. Single Source of Income

a. A single source of earned income is an employer, a trade, or a business.

b. A single source of unearned income is an individual, a household, an organization or an investment.

- A household in which an individual lives is a single source even if the household composition changes due to a move by the individual or by other household members (see C.2. below).
- An organization is the Federal Government, a single State or local government, a business or corporation, a charitable agency, or a similar entity which provides an individual with income.
- An investment is a single financial account, life insurance policy, rental property, or any other resource providing a return to its owner. Two separate accounts, even if with a single financial institution, are two different investments.

2. Two Payments from a Financial Institution -- Not a Single Source

An individual may occasionally receive an irregular interest payment by reason of a financial institution's own internal "housekeeping" rules. For example, a bank's rules may require an extra payment when someone closes an account or there may be a special "adjustment" payment due to a change in the accounting system or to closing the books at the end of a fiscal year. These kinds of irregular payments are from the financial institution itself and not from an individual's account with that institution. Therefore, they do not cause a regular (but infrequent) interest payment from an account to be considered "frequent" in that one quarter (see C.3. below).

NOTE: Determinations involving sources of income are only necessary when determining whether income is infrequent (see D.1. and D.2. below).

3. Types of Unearned Income

For purposes of this exclusion, types of unearned income are those listed in S0830.200 - S0830.560.

C. Example of Unearned Income

1. Regular Source Makes Unexpected Payment

An individual has a savings account that pays interest of $15 in the second month of each quarter. The interest has been routinely excluded as infrequent as the individual has no other infrequent or irregular income.

In 1989, without any advance notice to depositors, the bank changes its accounting system. As a result, in June the individual receives a $2.03 one-time payment in addition to his/her regular $15 interest payment in May.

The bank does not intend to interrupt its usual quarterly interest schedule, so the EW correctly views the one-time payment in June as being from a separate source than the regular quarterly payments; i.e., it is a bank adjustment. Therefore, the regular $15 payment is still excludable as infrequent while the unexpected $2.03 payment is irregular. The total is within the $20 limit in the month of receipt and is excludable.

D. Process--Identifying Infrequent or Irregular Income

1. Unearned Income Total cannot exceed $20 per month.

If someone receives unearned income....	**and...**	**then its receipt is...**
no more than once in a calendar quarter from a single source	_____	infrequent.
no more than once in a calendar quarter from each of several sources	it is the same type of income in each instance,	infrequent.
no more than once in a calendar quarter from each of several sources	it is a different type of income in each instance,	infrequent.
more than once in a calendar quarter from the same source	it is a different type of income in each instance,	infrequent.
more than once in a calendar quarter from the same source	it is the same type of income in each instance,	**not** infrequent.
any number of times in a month	he could not reasonably have expected or budgeted for it,	irregular.
any number of times in a month	he could reasonably have expected or budgeted for it (even if he did not know the exact amount),	**not** irregular.

2. Earned Income Total cannot exceed $10 per month

When someone receives earned income....	then its receipt is...
no more than once in a calendar quarter from a single source,	infrequent.
no more than once in a calendar quarter from each of several sources,	infrequent.
more than once in a calendar quarter from each of several sources,	**not** infrequent.
any number of times in a month and he could not reasonably have expected or budgeted for it,	irregular.
any number of times in a month and he could reasonably have expected or budgeted for it (even if he did not know the exact amount).	**not** irregular.

E. Process --Applying The Exclusion

The following process is for any earned income but only for unearned income which is not subject to other exclusions (see F. below).

When someone receives infrequent or irregular...	and...	then this exclusion...
unearned income	the total in a month does not exceed $20	applies.
unearned income	the total in a month exceeds $20,	does not apply.
earned income	the total in a month exceeds $10,	does not apply.
earned **and** unearned income	the monthly earned income total does not exceed $10 and the monthly unearned income total does not exceed $20,	applies to **both** earned and unearned income.
earned **and** unearned income	the monthly earned income total exceeds $10 but the monthly unearned income total does not exceed $20,	applies to the unearned income but not to the earned.
earned **and** unearned income	the monthly earned income total does not exceed $10 but the monthly unearned income total exceeds $20,	applies to the earned income but not to the unearned.
earned **and** unearned income	the monthly earned income total exceeds $10 and the monthly unearned income total exceeds $20,	does **not** apply.

F. Procedure

1. Initial Applications

a. **Infrequent**--If income is regular but may qualify for exclusion as infrequent, evaluate its receipt for the three months prior to the month of application.

b. **Irregular**--If income may qualify for exclusion as irregular, evaluate the predictability of its receipt beginning with the month of application.

2. All Situations

a. **Individual's Allegation**
Obtain a statement over the individual's signature concerning the type, amount, frequency, or predictability of income. The statement or similar information on the application or redetermination form, is sufficient documentation. Absent evidence to the contrary, accept the individual's allegation.

b. **Evidence Disagrees with Allegation**
If there is evidence which disagrees with the individual's allegations, develop and document under the appropriate income rules.

c. **Frequency of Receipt**Even though infrequent income has a monthly dollar limit, evaluate the frequency of receipt over a calendar quarter.

d. **Evaluating Income Received From More Than One Source--Some on a Monthly Basis, Some Only Once in a Calendar Quarter**
Compare only the income received **once in a calendar quarter** against the $10/$20 monthly limits (see e. below).

e. **Amount of Income**
- Add all of the **earned** income received on an infrequent or irregular basis and compare the total against the $10 monthly limit; and/or

- Add all of the **unearned** income received on an infrequent or irregular basis and compare the total against the $20 monthly limit.

G. Examples

1. Infrequent Income--Quarterly Income Only

a. **Situation:** The recipient owns two bank accounts, both of which pay interest only in the last month of each calendar quarter. The combined interest does not exceed $20 in the month of payment.

b. **Analysis:** Since interest on each account is received no more than once a quarter, its receipt is infrequent. Since the total of all the unearned infrequent income does not exceed $20 in a month, all the interest may be excluded under the infrequent income provision.

c. **Situation:** An individual opens up a checking account on February 27. The account pays interest on a monthly basis. The individual applies for Medicaid the next month, in March, and receives his first checking account interest payment on March 31 in the amount of $10.

d. **Analysis:** The $10 interest payment is excludable as infrequent in **March only**, since it was received only once in the January-March quarter.

The monthly interest received in April and subsequent months is not excludable as infrequent or irregular since the interest is received more often than once in a calendar quarter.

2. Infrequent/ Irregular Income-- Monthly and Quarterly Income

a. **Situation:** The recipient owns two bank accounts, a checking account that pays interest of $2 a month and a savings account that pays interest of $19 once a quarter.

b. **Analysis:** The checking account interest is received more than once a quarter and is therefore not infrequent and not excludable under this provision. The savings account interest is received only once a quarter and is, therefore, infrequent. Since the total of all the unearned infrequent income does not exceed $20 in a month, the savings account interest may be excluded under this provision.

Note that in determining whether any interest income in this situation can be excluded as infrequent, we consider only the amount of income received **once in a calendar quarter** and compare that amount to the $20 unearned income limit for the infrequent/irregular income exclusion. Accordingly, in this situation, we do **not** add the $2 monthly checking account interest to the $19 savings account interest.

Also note that if the individual in this example has no income other than the savings and checking account interest, the checking interest is excludable under the $20 general income exclusion. See S0810.420 for a discussion of the general income exclusion.

c. **Situation:** An eligible couple owns the three bank accounts which pay interest in the month of September 1992 as described below.

Type	Interest is …	Paid in 9/92
Time deposit	compounded quarterly paid annually	$10
Savings	compounded monthly, paid quarterly	$2.50
Checking	compounded daily, paid monthly	$1.50

The wife receives a monthly title II check of $150. The husband received an unexpected birthday gift of $7 in cash in 9/92 from his daughter as a birthday gift.

d. **Analysis:** The time deposit interest and savings interest are received only once (or less) per quarter. Therefore they are both infrequent. The $7 gift is irregular income. Since the total of the irregular/infrequent income received by the couple in 9/92 does not exceed $20 ($10 + $2.50 + $7), the income from these sources may be excluded.

Both the checking interest and the title II benefit are paid monthly. Therefore, neither type of income is excludable as infrequent or irregular.

NOTE: The frequency with which interest is **compounded** is not material to how often it is paid. Daily, monthly, or quarterly compounding are methods of **computing** (not paying) interest.

3. Infrequent/ Irregular Income-- Amount Exceeds Limit

a. **Situation:** The recipient owns a savings account which pays interest of no more than $8 in the first month of each quarter. Also in the first month of every quarter, the recipient's sister gives her $16 in cash to help her pay utility bills.

b. **Analysis:** Although both the income from her savings account and the income from her sister are received infrequently, the total of the infrequent income exceeds $20 in a month. Therefore, none of the income is excludable under this provision.

Note that were the sister to give the recipient $16 in the second or third month of every quarter (i.e., not in the same month the interest income is received), **both** types of income could be excluded under the infrequent income provision.

H. References

Relation of the infrequent/irregular exclusion to other income exclusions, S0830.050.

S0810.420 $20 PER MONTH GENERAL INCOME EXCLUSION

A. Policy

1. Unearned Income

We exclude the first $20 per month of any unearned income other than income based on need (IBON).

Do not increase the dollar amount of this exclusion when both an eligible individual and his/her eligible spouse have income. An eligible couple receives one $20 exclusion per month.

2. Income Based on Need

Income based on need is a benefit that uses financial need as measured by income as a factor to determine eligibility.

The $20 exclusion does **not** apply to a benefit based on need that is totally or partially funded by the Federal Government or by a nongovernmental agency.

3. Earned Income

If an individual (or couple) has less than $20 of unearned income (other than IBON) in a month and also has earned income in that month, the remainder of the $20 exclusion reduces the amount of the earned income.

B. References

- Income Based On Need (IBON), S0830.170
- Assistance Based On Need (ABON), S0830.175

S0810.430 PLAN FOR ACHIEVING SELF-SUPPORT (PASS)

A. Policy

Income, whether earned or unearned, of a blind or disabled recipient may be excluded if such income is needed to fulfill a plan for achieving self-support (PASS). The Social Security Administration determines if an SSI recipient is entitled to a PASS exclusion.

This exclusion does not apply to a blind or disabled individual age 65 or older, unless he/she was receiving SSI or State disability or blind payments for the month before he/she became age 65.

B. How PASS Works In Brief

PASS is an income and resource exclusion that allows a disabled or blind person to set aside income and/or resources for a work goal such as education, vocational training, or starting a business. Individuals can even set aside funds to purchase work-related equipment. PASS can help an individual establish or maintain SSI eligibility and can also help increase or help maintain the individual's SSI payment amount.

C. References

- IRWE and PASS exclusions both apply, S0820.545 B.3.

VERIFYING AND ESTIMATING INCOME

S0810.500 INCOME VERIFICATION

A. Policy Principles

1. Why Verification is Necessary

Medicaid does not determine Medicaid eligibility solely on the basis of statements concerning eligibility factors by applicants and recipients. We verify relevant information from independent or collateral sources, and obtain additional information as necessary to be sure that eligibility is determined correctly.

2. Applicants/ Recipient's Responsibility

A person applying for or receiving Medicaid must give the local Department of Social Services (LDSS) any requested information and show necessary documents or other evidence to establish the amount of the individual's income.

B. Operating Policy

1. Burden of Proof

Applicants and recipients (or their representative payees) are responsible for providing LDSS with proof of income and for reporting any changes in income.

2. Additional Verification Requirements

See the instructions for the particular type of income involved for additional verification requirements.

3. Initial Applications Versus Posteligibility Situations

Unless instructions dealing with particular types of income state otherwise, verification requirements for initial applications also apply in posteligibility situations.

C. References

- Estimating future wages, S0820.150.
- Verification Requirements:
  Unearned income, S0830.005.
  Wages, S0820.135.
  Self-employment, S0820.220.
  Sheltered workshop earnings, S0820.300.
  Sick pay, S0820.005.

M0810.600 PERIOD FOR WHICH AN ESTIMATE IS REQUIRED

A. Operating Policy

1. Period for Which Estimate is Required

Develop and record the best possible estimates of anticipated income, month-by-month, for the month of application or for the month of redetermination and for the next 11 months.

2. Exceptions

a. **Earlier Redetermination or Review of Income**
Some applications or cases will undergo a review of income sooner than the period mentioned in 1. above.

- **For initial applications**
  estimate future income for the month of application through the month the next review of income will be completed.

- **For redeterminations, or reviews of income,** estimate future income through the month the next review of income will be completed.

b. **Net Earnings from Self-Employment**
Estimate net earnings from self-employment on the basis of a taxable
year. See S0820.230 for more information on estimating net earnings from self-employment.

B. Documentation

If the period for estimating income is shortened because of one of the exceptions in A.2. above, show in the file the basis for using these procedures (e.g., that a critical birthday is upcoming or that an individual's estimated earned income for each month never exceeds $65).

C. Examples

1. Initial Application Deferred Development

Mr. Sam Polk files for Medicaid in March based on disability. His only income consists of rental income which varies from month-to-month. The EW obtains estimates of Mr. Polk's net rental income for the period from the month of application until a review of income will be completed (based on the EW's judgment).

2. Review of Income

Ms. Jennifer Wilks, an aged individual, undergoes a redetermination in October. Her only income consists of fluctuating wages from a part-time seasonal job. Since Ms. Wilks' job will end in January, the EW documents that and notes the case for a special review.

M0810.610 HOW TO ESTIMATE INCOME

A. Operating Policy

1. Monthly Estimates

Estimate future income monthly.

2. Fluctuating Income

When income fluctuates, use previous months' actual receipts to project future anticipated monthly income. The anticipated income should be an accurate indication of the individual's future income situation.

3. Income Expected Less Than Once a Month

Determine the specific month(s) of receipt and use the amount(s) estimated for the appropriate month(s).

4. Converting to Monthly Totals

To estimate income for Medically Needy Income evaluation convert to a monthly total, then multiply by number of months in the spenddown time frame.

- Weekly income is multiplied by 4.3,
- Biweekly income is multiplied by 2.15,
- dividing biweekly wages by 2 and multiplying by 4.3., or
- semi-monthly income multiplied by 2.

B. Operating Procedure

1. When a Change Occurs

An anticipated change in income occurs when you expect an individual's income to start, to stop, or to come in at a different rate in the future.

2. How to Develop a Change

When you anticipate an increase in income, use only that income which the individual is reasonably sure he will receive.

Except in self-employment situations (S0820.230), do not compute on the basis of an anticipated decrease in or termination of income unless that decrease or termination can be verified. Instead, tell the individual what income has been used in the computation and that he should report immediately when a decrease or termination can actually be verified so that appropriate adjustment can be made.

3. Example

Anticipated Decrease in Income
Mr. Danny Kelp, a student child, receives support payments from an absent parent. These payments are $160 a month. In March, Danny's father begins a new job which pays less money. Danny notifies his EW that, based on his father's decrease in salary, he expects his support payments to decrease to $125 a month. The EW includes $160 unearned income in Danny's countable income computation, and tells him to report immediately when it can be verified that the payments have decreased.

C. Documentation

1. What the File Must Contain	The file must contain the estimates used.
2. Who May Provide an Estimate	Estimates of income may come from the applicant/recipient, representative, worker, or deemor.
3. Resolve any Discrepancy	If information received from an employer concerning current or future rate of pay is discrepant with an estimate provided by the applicant/recipient, representative payee, worker, or deemor, you must resolve the discrepancy.
4. Additional Documentation Requirements	See the specific sections dealing with the type(s) of income involved to determine if there are additional documentation requirements.

INCOME OF MEMBERS OF RELIGIOUS ORDERS WHO TAKE A VOW OF POVERTY

M0810.700 GENERAL

A. Introduction

The policy and procedures in this section apply only to members of religious orders who have taken a vow of poverty. No other special provisions apply to Medicaid eligibility determinations for members of religious orders.

The existence of a vow of poverty is a factor in determining whether cash earnings are considered wages or net earnings from self-employment. The existence of a vow of poverty is also a factor in determining if payments made by a member to the order can be considered contributions for food, clothing, or shelter.

B. Policy

The treatment of income to members of religious orders who take a vow of poverty is determined by the source and nature of such income.

1. Earned Income -- Wages

Cash for members of religious orders who take a vow of poverty is considered wages in any of the following situations:

An individual receives compensation from the order as an active, working member of that order, whether or not the religious order has elected title II coverage.

EXAMPLE: A member of an order works at a hospital which is owned and operated by the order. The member's compensation of $150 per month from the order is earned income.

An active, working member of a religious order receives compensation for performing services from an agency of the church supervising the order or from an affiliated institution, whether or not the religious order has elected title II coverage.

EXAMPLE: A member of an order teaches at a school which is an affiliate of the order's supervising church. The school pays the member $300 per month which is turned over to the order. This amount is earned income.

A member of a religious order receives compensation from a third party for services performed as an employee.
EXAMPLE: A member of a religious order also works for a private firm which pays her $250 per month as a computer programmer. This amount is earned income.

2. Earned Income -- NESE

Remuneration for members of religious order who take a vow of poverty is considered earnings from self-employment only when a member engages in self-employment unrelated to his/her membership in the order.

EXAMPLE: A member of a religious order, who is a recognized ornithological expert, submits articles to a magazine, on a free lance basis, for publication. Any remuneration received is treated as net earnings from self-employment.

3. Unearned Income--From the Order

Any income provided by the order to a member who has taken a vow of poverty, which does not fall under 1. and 2. above, is unearned income to the member even if turned over to the order.

EXAMPLE: A cash stipend paid to an inactive member, or a payment unrelated to a member's work, that is made by the order to a member is unearned income.

Food, clothing, or shelter that is not considered part of a member's wages is in-kind support and maintenance and is not considered income.

Any income or resources turned over by the member to the order are considered to be in fulfillment of the vow of poverty and are **not** considered contributions for food, clothing, or shelter received from the order.

4. Unearned Income--From Outside the Order

Unearned income received by a member from any source other than the order (e.g., title II or VA benefits) is income to the member even if the member turns it over to the order.

C. Procedure

Use the following steps to process initial applications and post-eligibility changes involving income of members of religious orders who have taken the vow of poverty.

1. Vow of Poverty Allegation

Accept an individual's allegation that he/she has taken a vow of poverty unless there is a reason to doubt the allegation.

2. Wages--Performing Services For the Order

When a member is performing services for the order, contact the order and document the value of remuneration received in cash as wages per S0820.130.

3. Wages -- Performing Services Outside the Order

When a member is performing services for an affiliate of the order, and/or is employed by a third party, develop and document these earnings as wages per S0820.130.

4. Other Income

Apply the appropriate operating instructions pertaining to other types of earned and unearned income.

D. References

- Definition of wages, S0820.100
- NESE, S0820.200.
- Unearned income, S0830.001.
- Wage verification, S0820.130.

CHAPTER S08
INCOME
SUBCHAPTER 15

WHAT IS NOT INCOME

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WHAT IS NOT INCOME

M0815.001 WHAT IS NOT INCOME-GENERAL

A. Introduction

Some items that an individual receives are not income because they do not meet the definition of income in S0810.005 A. Other items are income but are excluded by statute (see S0830.099). In making income determinations, the eligibility worker (EW) must distinguish between an income exclusion and an item which is not income by definition. Only those items specifically listed in the law and regulations can be excluded from income.

B. Policy

An item received is not **income** if it is not cash, or its equivalent, or listed in this chapter.

An item which is not income when received by an individual, if retained until the following month, is subject to evaluation as a resource as of the first of the month after the month of receipt. (See S1110.600.)

C. Procedure

1. Is the Item Income?

In evaluating whether an item meets the definition of income, determine if it is:

- cash,
- **not** listed in this subchapter

If the item is **neither** of the above, consider it as not income.

2. Need to Document

Do not document the receipt of those items listed in this subchapter which are not income unless:

- Documentation is required by specific operating instructions elsewhere (e.g., rebates and refunds in S0815.250); or
- It is material to an eligibility computation.

D. References

- Treatment of income which is subject to garnishment, S0810.025.
- Treatment of contributions made to and benefits received from a cafeteria plan, S0820.102.

M0815.050 MEDICAL AND SOCIAL SERVICES, RELATED CASH AND IN-KIND ITEMS

A. General

Policy Principle: Medical and social services are **not income** for purposes of the Medicaid program. Under the circumstance specified in this section, cash and in-kind items received in conjunction with medical and social services are not income for Medicaid purposes.

1. Governmental Services

Assume that government medical and social service programs which provide cash or in-kind items are authorized to provide such items only in order to provide a medical or social service. Therefore, when an individual alleges receiving cash or in-kind items from a governmental medical or social service program, develop only the source of the item, not its purpose.

2. Non-governmental Services

Do not assume, however, that cash or in-kind items provided by a nongovernmental medical or social service organization can only be for medical or social service purposes. When a nongovernmental medical or social service organization is involved, develop both the source and the purpose of the cash or in-kind item. Subsection B. through E. explain the guidelines for determining whether or not the cash or item is income.

3. Do Count-Sheltered Workshop Income And Incentive Payments

Do not apply the rules in this section to two kinds of payments which, although commonly associated with medical or social services, are income, regardless of the source of payment.

1. Remuneration for work or for activities performed as a participant in a program conducted by a sheltered workshop or work activities center is earned income. See S0820.300.

2. Incentive payments to encourage individuals to utilize specified facilities or to participate in specified medical or social service programs are unearned income, to the extent that these payments are unrestricted as to use and are not reimbursement for medical or social services already received. Accept the individual's allegation as to the purpose and the amount of the payment; however, if the person does not know this information or if there is reason to question his statement, verify the information by obtaining documentary evidence or by contacting the source of the payment.

B. Medical Services

1. General

a. Definition

Medical services are those services which are directed toward diagnostic, preventive, therapeutic, or palliative treatment of a medical condition and which are performed, directed, or supervised by a State licensed health professional. The term "medical services" also includes any room and board (i.e., food and shelter) provided during a medical confinement as well as in-kind medical items such as prescription drugs, eyeglasses, prosthetics and their maintenance, etc. For Medicaid purposes, in-kind medical items also include devices intended to bring the physical abilities of a handicapped individual to a par with a nonhandicapped unaided individual (e.g., electric wheelchairs, modified scooters). Furthermore, for Medicaid purposes, in-kind medical items include specifically trained animals (e.g., seeing eye dogs) and their maintenance (e.g., dog food). Under the definition, an automobile or van intended for street use would not be considered wholly a medical item but any modifications made to an automobile or van in order to accommodate a physically handicap individual would be a medical item and there fore the modification would not be income upon receipt. (See S1120.110. for resource guidelines.) Transportation to and from medical treatment is also considered a medical services.

b. Sources of Medical Services

Medical services may be provided directly by treatment facilities or practitioners. They may also be made available indirectly through a variety of other sources. Some examples of Federal medical services programs are Medicare and CHAMPUS (Civilian Health and Medical Plan for the Uniformed Services). Similar medical services may be provided by or made available through other Federal programs, State and local government programs, private profit and nonprofit organizations (including charities, special funds benefiting an individual or a limited group of people, and medical insurers) and private individuals.

2. Treatment of Medical Services as Income

Medical services (which include in-kind medical items) are never income regardless of the source of the service or the source of payment for the service.

When cash or an in-kind item (other than a medical item, as defined above) is received by an individual in conjunction with a medical service, see D. below in order to determine whether the item is income.

NOTE: Payments by a third party or an individual's medical insurance premiums are not considered a medical service; however, these payments are not income per S0815.400. Also, items which do not qualify as a medical service may qualify as items received in conjunction with a social service and may not be income. See D. below.

C. Social Services

1. General

For Medicaid purposes, use the following definition for a social service: A social service is any service (other than medical) which is intended to assist a handicapped or socially disadvantaged individual to function in society on a level comparable to that of an individual who does not have such a handicap or disadvantage.

Cash received from a medical or social services program or organization is **not income** under the conditions described below.

2. Several Examples of Frequently Encountered Social Services Programs

a. Title XX of the Social Security Act provides services directed at the following goals:

1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests; or preserving, rehabilitating, or reuniting families;

4) Preventing or reducing in appropriate institutional care by providing for community-based case, home-based care, or other forms of less intensive care; and

5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals for institutions.

b. Title IV-B of the Social Security Act, Child Welfare Services, provides for:

1) Public social services which supplement, or substitute for, parental care and supervision for the purpose of preventing, remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children;

2) Protecting and caring for homeless, dependent, or neglected children;

3) Protecting and promoting the welfare of children working of mothers; and

4) Otherwise protecting and promoting the welfare of children.

c. Title V of the Social Security Act, Maternal and Child Health and Crippled Children's Services, provides:

1) Services of reducing infant mortality and otherwise promoting the health of mothers and children;

2) Medical, surgical, corrective, and other services; and

3) Care and facilities for diagnosis, hospitalization, and aftercare to children who are crippled or who are suffering from conditions leading to crippling.

d. The Rehabilitation Act of 1973 provides:

1) Vocational rehabilitation services to handicapped individuals;

2) Services that may improve their ability to live with greater independence by self-sufficiency;

3) Services to the handicapped individuals who are homebound or institutionalized; and

4) Services to promote and expand employment opportunities in the public or private sectors for handicapped individuals and to place such individuals in employment.

e. Some examples of governmental programs which may provide medical and social services in combination are: programs under the Lanterman Developmental Disabilities Services Act of 1976 (California), Texas State Mental Health and Mental Retardation Programs, programs under the Pennsylvania Juvenile Act, and State alcoholism programs. Typical or nongovernmental organizations that may provide medical and social services in combination are the Salvation Army and the American Red Cross. The above is not an al-inclusive list. There are social services similar to those described above that are provided by, or made available through, other Federal, State, and local government programs, private profit and nonprofit organizations (including charities) and private individuals.

3. Several Examples of What is Not a Social Services

a. Education such as that provided by the public schools and (and essentially similar programs by private and parochial schools) is generally accepted to be in a category of its own and is not considered to be a social services.

b. Training for a specific job skill or trade (vocational training) is not a social service. Do not confuse vocational training with vocational rehabilitation. Vocational rehabilitation refers to set of social services (not income) that is directed at bringing the abilities of the handicapped up to par with those of the nonhandicapped. However, if part of the vocational rehabilitation includes vocational training, treat both as a social service (i.e., not income).

c. Governmental income maintenance programs are not considered social services programs (e.g., Aid to Families with Dependent Children, Bureau of Indian Affairs General Assistance and/or Child Welfare Assistance, State general assistance, and Veterans Administration compensation or pension benefits).

d. Provision of food, shelter, laundry and recreational facilities in any combination is not by itself a social services.

D. Cash Received in Conjunction with Medical or Social Services

Cash received from a medical or social services program or organization is **not income** under the conditions described below:

1. Governmental Medical or Social Services Program

a. Rule

Any cash (other than remuneration for sheltered employment and incentive payments) provided by a governmental medical or social services program is not income. To be considered "governmental" in this context, the program must be authorized by Federal, State or local law to make payments for medical or social services purposes. Payment from a governmental program, which is disbursed by a nongovernmental agency, is considered a payment from a governmental program for purposed of this section.

b. Development

Document the file that the source of the cash is a governmental medical or social services program. Obtain evidence from the individual that the source of the cash is a governmental medical or social services program (e.g., program identification card, notice, or award letter). If the individual has no evidence available, contact the agency or organization alleged to be providing the cash and verify it is the source of the cash.

However, if it has been established that the program's fundamental purposed is medical or social services and the program agency or organization furnishes little or no documentary evidence to the claimant, then it is not necessary to contact the agency or organization. In these circumstances, obtain a signed statement from the individual indicating the source and amount of payments or in-kind items.

When it is not obvious that the governmental program is a medical or social services program (e.g., when medical and/or social services are provided in conjunction with other assistance or unrelated activities), look to the stated fundamental purpose of the program which is the direct provider of the cash as stated in its authorizing law, statute, or ordinance. (For the purpose o this section, an intervening vendor is not considered the direct provider of the cash.) If the fundamental purpose of the governmental program is to provide medical or social service assistance, the cash is not income.

If you are unable to determine the fundamental purpose of the governmental program (e.g., the authorizing statute provides more than one purpose, one of which is not medial or social services, and it does not identify which one is the fundamental purpose), make your determination based on the particular case facts and circumstances involved. If unable to make such a determination, refer the case facts to the Regional Specialist for a decision.

2. Nongovernmental Medical or Social Services Organization

a. Cash Provided for Medical of Social Services Already Received

1) Rule

Any cash provided by a nongovernmental medical or social services organization (including medical and liability insurers) for medical or social services already received by the individual and approved by the organization is **not income**. However, if the individual alleges (or evidence indicates) the receipt of amounts in excess of the medical or social services expenses incurred, count the cash received in excess of the expenses as unearned income.

2) Development

Document the file that the source of cash is a nongovernment medical or social services organization. Look to the fundamental purpose of the organization in its articles of incorporation or certification as a nonprofit organization under section 501 (c) of the Internal Revenue Code.

Also document the file with a statement by the organization as to the purpose of providing the cash. If you verify the source of the cash is a nongovernment medical or social services organization and the purpose of the cash is to provide a medical or social services, the cash is not income.

b. Cash Provided as a Payment Restricted to Future Use

1) Rule
Any cash provided by a nongovernment medical or social services organization (including medical and liability insurers) as a payment restricted to the future purchase of a medical or social services, or related excludable in-kind items, is not income.

2) Development
Document the file that the cash is provided by a nongovernment organization in accordance with the guidelines in a.2) above. Also document the file as to the purpose of a medical or social services) and that the providing program requires followup to verify that the funds were spent for the purpose given (e.g., the provider contacts the vendor or requests a receipt).

c. Flat Rate Benefit Payments from a Insurance Policy

1) Rule
Cash from any insurance policy which pays a flat rate benefit to the recipient without regard to the actual charges or expenses incurred is income. Examples of these types of insurance policies are per diem hospitalization or disability insurance, or cancer or dismemberment policies.

2) Development
When cash from a flat rate benefit insurance policy is received by a claimant/recipient, document the file as to the source and amount of the cash.

E. In-Kind Items Received in Conjunction with Medical or Social Services

1. Government Medical or Social Services Program

a. Rule

Any in-kind items (including food, clothing, or shelter) provided by a governmental medical or social services program (e.g., recreational equipment, magazines, toiletries) are not income unless provided as a remuneration for sheltered employment or as incentive payments. Note that in-kind medical items are **never income** regardless of their source (see B. above).

To be considered "government" in this context, the program must be authorized by Federal, State or local law, statute, or ordinance to provide medical or social services.

b. Development

Unless an in-kind medical item is involved, follow the general guidelines in D.1.b) above, and document the file that the purpose of the governmental program involved is to provide medical or social services. Do not count as income any in-kind items provided by the government medical or social services program. It is not necessary to develop for the reason the in-kind items are provided when a governmental medical or social services program is involved. It is necessary only to develop the source.

In-kind medical items are **not income** regardless of their source. If an item meets the definition of an in-kind medical item as defined in B. above, no further development is needed.

2. Nongovernment Medical or Social Services Organization

a. Rule

In-kind items (other than food, clothing or shelter) provided by a nongovernmental medical or social services program (e.g., recreational equipment, magazines, toiletries) for medical or social services purposes are **not income**.

b. Development

In-kind medical items are not income regardless of their source, if an item meets the definition of an in-kind medical item as defined in B. above, no further development is needed. When other in-kind items (not including food, clothing, or shelter) are alleged to be received in conjunction with a medical or social service, document the file that the item is provided by a nongovernmental medical or social services organization for medical or social services purposes in accordance with the guidelines in D.2.a.2) above. If you verify the source of the cash is a nongovernmental medical or social services organization and the purpose of the time is to provide a medical or social services, the item is **not income.**

F. Summary of Rules on Cash and In-Kind Items Received in Conjunction With Medical or Social Services

What follows is a summary of the rules for cash received in conjunction with medical or social services.

1. Cash Received in Conjunction with Medical or Social Services

a. Any cash provided by a governmental medical or social services program is **not income.**

b. Any cash from a nongovernmental medical or social services organization is **not income** when:

1. the cash is for medical or social services already received by the individual and approved by the organization; or

2. the cash is a payment restricted to the future purchase of a medical or social service.

c. Cash from any insurance policy which pays a flat rate benefit to the recipient without regard to the actual charges or expenses incurred is **income.**

2. In-Kind Items Received in Conjunction with Medical or Social Services

a. In-kind items which meet the definition of medical services in B. above are **not income** regardless of their source.

b. Room and board providing during a medical confinement is **not income.**

c. Any in-kind items (including food, clothing, or shelter) provided by a government medical or social services program are **not income**.

d. In-kind items (other than food, clothing, or shelter) providing a nongovernment medical or social services organization for medical or social services purposes are **not income**.

M0815.150 PERSONAL SERVICES

A. Policy

A personal service performed for an individual is not income.

B. Examples

Examples of personal services for an individual which are **not income are:**

- Mowing the lawn;
- Doing housecleaning;
- Going to the grocery; and
- Babysitting.

M0815.200 CONVERSION OR SALE OF A RESOURCE

A. Policy

Receipts from the sale, exchange, or replacement of a resource are **not income** but are resources that have changed their form.

This includes any cash or in-kind items that is provided to replace or repair a resource that has been lost, damaged, or stolen

B. Reference

See S1110.600 B.4. for a complete discussion of the policy.

C. Example

Jerry Wallace sells his 1974 Plymouth Satellite for $300. The money he receives is not income but a resource which has been converted from one form (a car) to another form (cash).

M0815.250 REBATES AND REFUNDS

A. Policy

When an individual receives a rebate, refund, or other return of money he or she has already paid, the money returned is **not income.**

CAUTION: The key idea is applying this policy is a return of an individual's own money. Some "rebates" do not fit that category. For example, if a cooperative operating as a jointly-owned business pays a "rebate" as a return on a member's investment, this money is unearned income similar to a dividend. Developmental guidelines for interest and dividends are in S0830.500.

B. Procedure

1. General

Unless you have reason to question the situation, accept an individual's signed allegation that a rebate or refund of money is a return of money already paid and do not count it as income.

2. Questionable Situation

In questionable situations, make copies for the file of any documents in the individual's possession, and contact the source of the payment, etc. to verify that the payment is a return of money already paid.

C. Example

Rose Woods, an elderly recipient, pays property taxes on the home she lives in. Because of her low income, the city government returns part of Mrs. Woods' property taxes in the form of a check. This return of money already paid by Mrs. Woods is not income.

D. References

See S0830.705 for rules on the exclusion of certain taxes.

M0815.270 INCOME TAX REFUNDS

A. Policy

1. General

Any amount refunded on income taxes already paid is **not income**.

2. Tax Withheld Prior to Application Date

Income tax refunds are not income even if the income from which the tax was withheld or paid was received in a period prior to application for Medicaid.

3. Tax Refunds and Blind Work Expenses

Income tax refunds are **not income** even if the income taxes were included as work expenses of the blind.
(See S0820.535 B.3.)

M0815.300 CREDIT LIFE OR CREDIT DISABILITY INSURANCE PAYMENTS

A. Definition of Credit Life/Disability Insurance

Credit life and credit disability insurance policies are issued to or on behalf of borrowers, to cover payments on loans, mortgages, etc. in the event of death or disability. These insurance payments are made directly to loan or mortgage companies, etc. and are not available to the individual.

B. Policy

- Payments made under a credit life or credit disability insurance policy on behalf of an individual are **not income.**
- Food, clothing, or shelter received as the result of a credit life or credit disability payment is **not income.**

C. Example

Frank Fritz, a Medicaid recipient, purchased credit disability insurance when he bought his home. Subsequently Mr. Fritz was in a car accident and became totally disabled. Because of his disability, the insurance company pays off the home mortgage. Neither the payment nor the increased equity in the home is income to Mr. Fritz.

M0815.350 PROCEEDS OF A LOAN

A. Introduction

Proceeds of a loan are **not income** to the borrower because of the borrower's obligation to repay.

B. Policy

1. Loan Not Income

Money that a person borrows or money received as repayment of the principal of a loan is **not income.**

2. Loan Not Bona Fide

If a loan is not bona fide, the proceeds are unearned income in the month received.

3. Interest on a Loan

Interest received on money loaned is **income.**
(See S830.500 C.)

4. Buying on Credit

Items bought on credit are treated as though the individual were borrowing money and are not income.

C. References

- Definition of Bona Fide loan, S1120.220.A.
- Resource policy when the Medicaid applicant/recipient is the lender, S1120.220.B., S1140.300.

M0815.400 BILLS PAID BY A THIRD PARTY

A. Policy.

Payment of an individual's bills (including supplementary medical insurance under title XVIII or other medical insurance premiums) by a third party directly to the supplier is **not income.**

B. Examples

1. Third Party Payment Does Not Result in Income

Joshua Hall, a Medicaid recipient, is unable to pay his phone bill so his sister pays the phone company with her money. Neither the payment to the phone company nor the telephone service received as a result of the payment is income because it is not food, clothing, or shelter.

C. References

- Gifts received as a result of another's payments of bills, S0830.520.
- Instructions on vendor payments which are a form of certain home energy assistance or support and maintenance assistance, S830.605.

M0815.450 REPLACEMENT OF INCOME ALREADY RECEIVED

A. Policy

- If an individual's income is lost, stolen, or destroyed and the individual receives a replacement, the replacement is **not income.**
- Once a payment has been issued and treated as income in determination an individual's eligibility for Medicaid, the reissuance of that same payment is **not income.** For instance, if one member of a couple receives income and dies before the check is cashed, the reissued check is not income to the surviving spouse.
- On the other hand, if the original payment is not used to determine the surviving spouse's eligibility (e.g., because the couple is separated), the reissued check **is income** to the surviving spouse. (See S830.545 for the treatment of death benefits.)

B. References

- Income rules regarding replacement of a resource, S0815.200.
- Rules on erroneous payment which the individual returns, S0815.460.

C. Example

Bob Akers, a Medicaid recipient, received a replacement title II check after his regular monthly title II check was damaged in the mail. The replacement check is not income to Mr. Akers. (Mr. Akers income was counted the month the regular title II check was paid.)

M0815.460 RETURN OF ERRONEOUS PAYMENTS

A. Policy

A payment is **not income** when the individual is aware that he/she is not due the money and returns the check uncashed or otherwise refunds all of the erroneously received money.

B. Procedure

1. Timely Return

If the individual returns or refunds an erroneous payment in the same or following month of receipt, accept the allegation that the money was returned and do not count the erroneous payment as income.

2. Delayed Return

If there is a delay in the return of an erroneous payment beyond the month following the month of receipt:

- verify return of the payment;
- document the reason for the delay (e.g., lengthy hospital stay) and any other relevant facts; and
- record your determination in the file.

C. Example

In August, Bob Brown states that he received his regular January VA pension check of $290. However, during the latter part of January, he received another $290 VA check along with a letter explaining that his January check had been delayed due to a computer error. Mr. Brown explains that he knew the second check was a duplicate and says he had not been able to return it sooner due to illness. The EW verifies the return of the $290 check in July as well as Mr. Brown's illness. The EW then makes a determination concerning Mr. Brown's income and records it in the file.

M0815.500 WEATHERIZATION ASSISTANCE

A. Policy

Weatherization assistance (e.g., insulation, storm doors, and windows, etc.) is **not income.**

B. Reference

- Treatment of certain home energy assistance and support and maintenance assistance, S0830.605.

M0815.600 WAGE-RELATED PAYMENTS

A. Introduction

Employers make various payments on behalf of their employees which are not earnings and are not available to meet the employee's needs of food, clothing, or shelter.

B. Policy

The following payments by an employer are **not income** unless the funds for them are deducted from the employee's salary:

- funds the employer uses to purchase qualified benefits under a cafeteria plan;
- employer contributions to a health-insurance or retirement fund;
- the **employer's** share of FICA taxes or unemployment compensation taxes, in all cases;
- the **employer's** share of FICA taxes or unemployment compensation taxes paid by the employer on wages for **domestic service in the private home of the employer or for agricultural labor only**, to the extent that the employee does not reimburse the employer.

C. References

- What is income, S0810.005
- What is not income, S0815.001
- Cafeteria plans, S0820.102

CHAPTER S08
INCOME
SUBCHAPTER 20

EARNED INCOME

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EARNED INCOME

GENERAL

S0820.001 EARNED INCOME

A. Policy

1. What Constitutes Earned Income

Earned income may be received in cash and consists of:

- Wages
- Net earnings from self-employment (NESE)
- Payments for services performed in a sheltered workshop or work activities center
- Earned Income Tax Credit (EITC) payments, excluded effective January 1, 1991
- Royalties earned by an individual in connection with any publication of his/her work and any honoraria received for services rendered, effective December 1, 1991.

2. Earned Income Exclusions

Although we must know the source and amount of all earned income, we do not count all of it in determining eligibility

B. References

- Wages, S0820.100.
- NESE, S0820.200.
- Sheltered workshop payments, S0820.300
- EITC payments, S0820.400.
- EITC exclusion effective January 1, 1991, S0820.570.
- Royalties/honoraria as earned income, S0820.450.
- Earned income exclusions, S0820.500.

S0820.005 SICK PAY

A. Definition

Sick pay is a payment made to or on behalf of an employee by an employer or a private third party for sickness or accident disability.

B. Policy

Sick pay is either wages or unearned income. (Payments to an employee under a workers' compensation law are neither wages nor sick pay.)

The following chart shows how to treat sick pay .

WHEN RECEIVED	ATTRIBUTABLE TO EMPLOYEE'S OWN CONTRIBUTION	TYPE OF INCOME
More than 6 months after stopping work	N/A	Unearned Income
Within 6 months after stopping work	No	Wages
	Yes	Unearned Income

C. Procedure

1. Development

To determine the 6-month period after stopping work:

- Begin with the first day of nonwork.
- Include the remainder of the calendar month in which work stops.
- Include the next 6 full calendar months.

EXAMPLE: If an individual stops work on May 5, the 6-month period begins on May 6 and runs through November 30.

2. Verification

a. **General**
Verify sick pay which is wages by using the wage verification procedure in S0820.135.

b. **Last Day (or Month) Worked**
Verify the last day (or month) worked with the employer or knowledgeable third party.

3. Documentation

Document the file with the employer/third party's statement or record contact showing the last day (or month) worked.

D. References

- Workers' compensation, S0830.235.
- Sick pay as unearned income, S0830.543.

WAGES

S0820.100 GENERAL

A. Definition

Wages are what an individual receives (before deductions) for working as someone else's employee.

NOTE: Under certain circumstances, services performed as an employee are deemed to be self-employment rather than wages (e.g., ministers, real estate agents, sharefarmers, etc.)

B. Policy

1. Kinds of Wages

Wages may take the form of:

a. **Salaries--**These are payments (fixed or hourly rate) received for work performed for an employer.

b. **Commissions--**These are fees paid to an employee for performing a service (e.g., a percentage of sales).

c. **Bonuses--**These are amounts paid by employers as extra for past employment (e.g., for outstanding work, length of service, holidays, etc.)

d. **Severance pay--**This payment made by an employer to an employee whose employment is terminated independently of his wishes.

e. **Military basic pay--**This is the service member's wages, which is based solely on the member's pay grade and length of service. See S0830.540 C.3.

f. **Special payments received because of employment.**

g. **Sick pay received within 6 months after stopping work, which is not attributable to the employee's contribution--**See S0820.005

2. When To Count

Wages for each month count at the earliest of the following points:

- when they are received, or
- when they are credited to the individual's account, or
- when they are set aside for the individual's use.

C. Procedure

1. Assumption

- Absent evidence to the contrary, if FICA taxes have been deducted from an item, assume it meets the definition of wages.
- If FICA taxes have not been deducted from an item, determine if it is wages per S0820.102.

D. References

- Work related unearned income, S0830.530.
- Advance dated checks, S0810.030 B.2.
- Wage advances and deferred wages, S0820.115.

M0820.102 CAFETERIA PLANS

A. Definitions

A cafeteria plan is a written benefit plan offered by an employer in which:

1. Cafeteria Plans

- all participants are employees; and
- participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits.

2. Qualified Benefits

A qualified benefit is a benefit that the Internal Revenue Service (IRS), by express provision of Section 125 of Chapter 1 of the Internal Revenue Code (IRC) or IRS regulations, does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

- accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);
- group term life insurance plans (up to $50,000);
- dependent care assistance plans; and
- certain stock bonus plans under section 401(k)(2) of the IRC (but not 401(k)(1) plans).

Cash is **not** a qualified benefit.

3. Salary Reduction

A salary reduction agreement is an agreement between employer and employee whereby the employee, in exchange for the right to participate in a cafeteria plan, accepts a lower salary or forgoes a salary increase.

B. Background

1. IRS Authority

Section 125 of the IRC permits cafeteria plans.

2. Monitoring

IRS relies on employers to ensure that IRS-approved plans continue to meet the requirements of Section 125 of the IRC.

3. Funding

Most cafeteria plans are funded by salary-reduction agreements.

4. Significance for Tax Purposes

Because Section 125 of the IRC provides that qualified benefits and the amount of a salary-reduction agreement are not part of gross income, they are not subject to Social Security/Medicare and income taxes.

5. Cafeteria Plan Indicators

It can be difficult to tell whether payslip entries represent payroll deductions, which are part of gross wages, or cafeteria-plan itemizations, which are not. The following indicators suggest a cafeteria plan.

a. A payslip uses terms such as:
   - FLEX
   - CHOICES
   - Sec. 125
   - Cafe Plan

b. The Social Security/Medicare tax shown is less than the tax rate (7.65%) times the gross wages shown.
EXAMPLE: A payslip shows $402.07 gross and $26.73 withheld for Social Security/Medicare taxes, but 7.65% of $402.07 is $30.76.

NOTE: Another reason the Social Security/Medicare tax can be less is that part of the gross may not be covered wages for title II purposes. Examples include:

- earnings from noncovered employment;
- wages excluded from coverage because of quarterly or calendar-year minimums in such areas as agricultural labor, domestic employment, etc., and
- wages excluded from coverage because they are above the yearly maximum.

C. Policy

1. General

A plan is not a cafeteria plan unless it meets the requirements of Sec. 125 of the IRC.

2. Salary Reductions

Amounts used to purchase cafeteria-plan benefits under a salary-reduction agreement **are not** the employee's wages and **are not** earned income for Medicaid purposes.

3. Payroll Deductions

Payroll deductions used to purchase cafeteria-plan benefits in addition to or instead of as provided under a salary-reduction agreement **are** the employee's wags and **are** earned income.

IMPORTANT: Payslips that appear to show payroll deductions may actually show how funds from a salary reduction agreement have been allotted among qualified benefits.

4. Cash Received Under a Cafeteria Plan

a. **In Lieu of Benefits**
Cash received under a cafeteria plan in lieu of benefits is wages.

b. **Reimbursement for Expenses**
Cash received as reimbursement for qualified-benefit expenses, such as child care, is not income.

5. Qualified Benefits

Qualified benefits are neither earned nor unearned income.

D. Procedure

1. Assumption of Compliance

Assume that a cafeteria plan complies with IRS requirement, unless you become aware that IRS has determined otherwise.

2. How to Develop Cafeteria Plan Precedents

If a precedent is needed per 3. below, contact the employer (by phone, if possible) and ask if the employer offers a cafeteria plan. Proceed as follows:

a. **Employer Does Not Offer a Cafeteria Plan**

Prepare and retain in files a precedent showing:

- employer name, address, and phone number;
- name and title of person contacted; and
- a statement that the employer does not offer a cafeteria plan.

b. **Employer Offers a Cafeteria Plan**

Prepare and retain in the files a precedent showing:

- employer name, address, and phone number;
- name and title of person contacted;
- effective date of the plan;
- employee positions covered by the plan;
- benefits offered under the plan;
- which deductions on the payslips are nontaxable; and
- any additional information needed to determine countable gross wages from payslips.

NOTE: Precedents should be updated periodically.

3. Case Development and Documentation

Follow the steps below to:

- decide whether cafeteria-plan development is needed and, if so,
- establish whether a cafeteria plan is involved and, if so,
- determine countable wages.

NOTE: It is not necessary to separately document responses to the questions in the chart below, except where indicated.

STEP	ACTION
1	Are payslips available to verify wages? • If yes, go to step 2. • If no, verify wages with the employer per S0820.130. STOP.
2	Does a cafeteria-plan precedent exist for this employer? • If yes, use it to compute countable wages and go to Step 7. • If no, go to Step 3.
3	Ask the individual if he/she participates in a cafeteria plan. • **If yes or uncertain,** or there is any indicator of a cafeteria plan, such as those in B.5. above go to Step 4. • If **no**, and there is no other indication of a cafeteria plan, compute countable wages accordingly. STOP.
4	Is the employer's payroll office located in your service area? • If yes, go to Step 6. • If no, go to Step 5.
5	Request verification from the employer Upon receipt of the precedent, compute wages. Retain a copy of the precedent. Go to Step 7. **NOTE:** If a precedent cannot be established.
6	Document the case file with a statement that a precedent exists and that there is or is not a cafeteria plan.

E. Examples

1. Employee Chooses Not to Join a Cafeteria Plan

ABC, Inc. offers a cafeteria plan funded through a salary-reduction agreement. An employee who decides not to participate receives cash equal to or less than the amount the employer would have contributed as a premium on behalf of the employee. Mr. Green takes the cash. The cash is wages.

2. Salary Reduction

Mr. Black has the option of accepting a $100-a-month raise or participating in a cafeteria plan by entering into a salary-reduction agreement and allowing his employer to use $100 to help fund the plan. He enters into the salary-reduction agreement. The $100 is not part of his wages.

3. No Salary Reduction, But Contributions Allowed

The XYZ Company contributes $50 a week to fund basic benefit levels under a cafeteria plan that offers cash and a variety of insurance coverages. There is no salary-reduction agreement.

Employees who want more than the basic benefits may pay the additional cost through voluntary payroll deductions.

Mrs. Grey chooses health insurance and life insurance costing $83 per week. XYZ's $50 contribution is not wages. The $83 Mrs. Grey pays is part of her gross wages.

4. Cash in Lieu of Benefits

Same background as in 3. above. Mr. Brown selects insurance that costs $35 a week and opts for a weekly cash payment of $15 in lieu of additional coverage. XYZ's $35 contribution is not wages, but the $15 cash payment is.

5. Cash as Reimbursement for Plan-Approved Expenses

Same background as in 3. and 4. above. Mrs. White selects insurance that costs $30 a week and childcare benefits that cost $20 a week. Neither XYZ's contribution nor the reimbursements of childcare costs are wages.

S0820.115 WAGE ADVANCES AND DEFERRED WAGES

A. Definitions

1. Wage Advances

Advances are payments by an employer to an individual for work to be done in the future.

2. Deferred Wages

Wages are considered "deferred" if they are received later than their normal payment date. Types of wage payments which may be deferred include vacation pay, dismissal and severance pay, back pay, bonuses, etc.

B. Policy

1. Wage Advances

An advance is wages in the month received.

2. Deferred Wages

a. Wages that are deferred **due to circumstances beyond the control of the employee** are considered earned income when actually received.

b. Wages that are deferred **at the employee's request or by mutual agreement with the employer** are considered earned income when they would have been received had they not been deferred.

C. Procedure

1. Wage Advance

Assume that an advance on wages meets the definition of wages (as opposed to being a loan), absent evidence to the contrary. Count such advances on wages as income when received.

NOTE: Advance military pay is a cash loan. See S0830.540 B.9.

2. Deferred Wages

If the individual alleges or other evidence shows that wages were deferred, request from the employer an explanation of the reason for the deferment.

IF the employer . . .	**THEN . . .**
provides an explanation	document the file with the employer's explanation.
is uncooperative but the individual satisfactorily explains	document the file with the individual's signed statement.
is uncooperative and the individual cannot satisfactorily explain	document the file with a statement to that effect and assume that the wages were available to the employee when they would have been received had they not been deferred.

D. References

- Advance pay to members of the Uniformed Services, S0830.540 B.10.
- Loans, S0815.350.

S0820.125 WAGE VERIFICATION IS REQUIRED

A. Policy

1. When to Verify Wages

Verification of wage amounts and frequency of receipt is required whenever an individual alleges (or you believe) he received wages, sick pay, or temporary disability.

2. When Not to Verify Wages

Wage Verification Is Not Required When an Individual :

- Alleges he has not worked or received earnings (e.g., wage/sick pay) in any month from the first month of the retroactive period through the application month and you have no reason to question the allegation, or
- Is being denied Medicaid for reasons other than earnings/income.

M0820.127 PERIOD FOR WAGE VERIFICATION

Procedure

The following chart shows the period for which wages should be verified.

IF the situation is....	THEN verify
An initial application	• wages received in all retroactive months, (if a medical expense exists), • wages for the month of application, if the applicant alleges that wages have been paid. • wages received in the month of application, and • wages received after month of application but prior to processing the application **if** the applicant alleges that a change in wages has occurred. • wages used to estimate anticipated income.
A redetermination or review of income	all unverified wages through the month immediately preceding the month the redetermination or review of income is initiated, unless • employment began in current month.

NOTE: Obtain employer statement regarding wages (i.e., hourly wage, number of work hours per pay period, receipt of pay.

S0820.130 EVIDENCE OF WAGES OR TERMINATION OF WAGES

A. Policy

1. Primary Evidence of Wages

The following proofs, in order of priority, are acceptable evidence of wages:

a. Pay slips--Must contain the individual's name or Social Security number, gross wages, and period of time covered by the earnings.

b. Oral statement from employer, recorded in case record.

2. Secondary Evidence of Wages

If primary evidence is not available, the following proofs, in order of priority, are acceptable evidence of wages:

a. W-2 forms, Federal or State income tax forms showing annual wage amounts.

b. Individual's signed allegation of amount and frequency of wages.

3. Acceptable Evidence of Termination of Wages

The following proofs, in order of priority, are acceptable evidence of termination of wages:

a. Oral statement from employer, recorded in case record.

b. Written statement from employer.

c. Individual's signed allegation of termination of wages (including termination date and date last paid).

B. Procedure

1. Order of Priority

Seek type "a" evidence before type "b," etc.

2. Pay Slips

a. Stress to the individual that he/she is responsible for providing proof of wages and is expected to retain all pay stubs and provide them as requested.

b. Accept the individual's signed allegation of when earnings were received if it is not shown on the pay slip.

NOTE: If not all pay slips are available, but the wages attributable to the missing pay slip(s) can be determined by other evidence (e.g., year-to-date totals), it is not necessary to obtain the missing pay slip.

NOTE: Pay slips which do not contain all the required information may be used in conjunction with other evidence; however, any discrepancies must be resolved.

3. Employer Reports

If an employer returns a statement to the EW unsigned, do not recontact the employer for a signature unless the EW questions the statement's validity (e.g., the income verification form was handcarried to the LDSS by the applicant rather than mailed directly to the LDSS).

4. Evidence Reflects Only an Annual Wage Amount

If the evidence that can be obtained reflects only an **annual** wage amount, divide the annual amount by 12 to get monthly wage amounts.

C. References

- Military pay and allowances, S0830.540.

S0820.135 WAGE VERIFICATION

A. Procedure

1. Chart

This chart describes the procedure for verifying wages per month.

STEP	ACTION
1	Does the individual have acceptable pay slips for some or all of the period being verified? (See S0820.130 A. 1. a.) • If yes, go to Step 2. • If no, go to Step 8.
2	Were any wages deferred during the period covered by the pay slips? • If yes, go to Step 3. • If no, go to Step 4.
3	• Count deferred wages per S0820.115 B.2. • Document the file. • Go to Step 5.
4	• Count wages when received. • Go to Step 5.
5	Do the pay slips cover earnings for the entire period being verified or, if not, can the wages attributable to the missing pay slip(s) be determined by other evidence (e.g., year-to-date totals)? • If yes, go to Step 6. • If no, go to Step 7.
6	• Document the file with a copy or certification of the pay slips, and signed allegation (if necessary per S0820.130 B.2.) • STOP

A. Procedure

1. Chart (cont.)

STEP	ACTION	
7	• Document the file with a copy or certification of the pay slips, and signed allegation (if necessary per S0820.130 B.2.) • Go to Step 8 to verify any wages for which acceptable pay slips are unavailable.	
8	Phone employer to verify wages.	
	If the employer….	**THEN...**
	verifies wages and no deferred wages are involved	• count wages when received • document the file • STOP
	verifies wages and deferred wages are involved	• count deferred wages per S0820.115B.2. • count remainder of wages when received • document the file • STOP
	verifies wages but you believe an oral statement is sufficient	• go to Step 9.
	is uncooperative or unable to be reached by phone	• go to Step 9.

A. Procedure
1. Chart (cont.)

STEP	ACTION
9	Send Income Verification Form to employer. **IF the employer…** / **THEN…** verifies wages and no deferred wages are involved: • count wages when received • document the file with the Income Verification Form • STOP verifies wages and deferred wages are involved: • count deferred wages per S0820.115 B.2. • count remainder of wages when received • document the file with the Income Verification Form • STOP is uncooperative or cannot be located: go to Step 10.
10	• Obtain the individual's signed allegation of amount and frequency of wages (and Form W-2, if available). **NOTE:** If the only evidence is an individual's signed allegation of **annual** wages and/or W-2 (e.g., migrant workers), divide the annual wage amount by the number of months for which work is alleged to arrive at a "verified" wage amount to be counted for each of those months. • Count wages as alleged in this step. • Document the file with the individual's signed statement and a copy of Form W-2 (if available). • STOP

2. Evidence Lacks Credibility

If you have serious reason to question the credibility of pay slips or an oral or written statement from any employer, use other acceptable evidence of wages and document the file to reflect your decision.

S0820.150 ESTIMATING FUTURE WAGES

A. Policy

You must obtain an estimate of future wages during an initial application, redetermination, or review of income. The period for which an estimate is required is set forth in B. below.

B. Procedure-- Estimating Period

Use the following chart to determine the period for which an estimate is required.

IF the action is ...	THEN ...
an initial application	estimate future wages for the month of application and for each of the following months until next month of review. For Medically Needy evaluations, estimate future wages for the month of application and the following 5 months (or prorated spenddown period). **EXCEPTIONS:** **Earlier Review of Income**-- When a review of income will occur before the next redetermination or before the spenddown period have elapsed , estimate future wages for the month of application through the month the next review of income will be completed. **All Wages Paid for Month--**When an individual alleges that all wages for a month have been paid, verify wages for that month (S0820.127).
a redetermination or review of income	estimate future wages for the month of initiation of redetermination or review of income and for each of the remaining months until the next review or until the end of the spenddown period.

M0820.155 HOW TO ARRIVE AT AN ESTIMATE

A. Procedure--General

1. Consider Known Facts

a. Consider any **recent work history,** unless inappropriate to the current situation (e.g., work stopped due to retirement or disability).

b. Try to establish a **logical wage pattern** by reviewing with the recipient, representative, or worker the

- rate of pay,
- hours worked per week, and
- number of pay periods in each month.

c. Be alert to individuals who perform **seasonal work** (e.g., school bus drivers).

d. Take into account any Blind Work Expenses/Impairment Related Work Expenses (**BWE/IRWE)** the individual anticipates he/she will incur.

2. Obtain More Information

Contact the employer by telephone, or by mail **only if you cannot establish an estimate using 1. above.**

3. Determine Estimate

Use the information obtained above and your own judgment to determine an estimate.

To convert to monthly income:

- multiply weekly wage by 4.3; or
- multiply biweekly wage by 2.15, or
- divide biweekly wage by 2 and multiply result by 4.3; or
- multiply semi-monthly wage by 2.

B. Procedure--Anticipated Decrease in Wages

If an employed person anticipates a decrease in wages which is not supported by evidence in the file, tell the individual to inform us as soon as the decrease can be verified. We will make any adjustments at that time. An example of this situation would be a wage cutback which is still being negotiated.

Meanwhile, use your judgment in selecting the verified period on which to base the estimate. For example, it could be the total period just redetermined, or a shorter period if there has been a pertinent change in circumstances such as a transfer.

C. Procedure--Documentation

1. General

Document the file to support the estimate.

2. Estimate Not Supported by Evidence

In any case where the estimate does not fall within the range indicated by the evidence of wages on file, document the file with an explanation of the basis for the estimate.

3. Examples—Estimate Not Supported by Evidence

- A worker estimates that wages for the coming year will differ from the total verified over the past 12 months. He states he will be switched in 2 months to a shift which pays a 10 percent differential payment. Document the file with this information.

- A worker states he anticipates a cost-of-living increase in his wages. Record this fact along with any other pertinent details (such as the expected adjustment percentage and effective date) for the file.

D. References

- General instructions on estimating income, S0810.600-.620.
- Anticipated changes in income, S0810.610 B.

NET EARNINGS FROM SELF-EMPLOYMENT

S0820.200 NET EARNINGS FROM SELF-EMPLOYMENT (NESE)

Definition

NESE is the **gross income** from any trade or business **less allowable deductions** for that trade or business. NESE also includes any profit or loss in a partnership.

S0820.210 HOW TO DETERMINE NET EARNINGS FROM SELF-EMPLOYMENT (NESE)

A. Policy

1. Determining Monthly NESE

NESE is determined on a taxable year basis. Then, the yearly NESE is divided equally among the months in the taxable year to get the NESE for each month.

2. Offsetting Net Loss

Any verified net losses from self-employment are divided over the taxable year in the same way as net earnings. Then each month's net loss is deducted only from other earned income of the individual or spouse in that month.

3. Deduction for Taxable Years After 1989

For taxable years beginning after 1989, a 7.65 percent deduction is applied to net profit in determining NESE. Therefore, net profit is multiplied by .9235 to determine NESE. (See S0820.220 for where to find the correct NESE amount on the Federal income tax forms.)

NOTE: This deduction recognizes, as a business expense, part of the Social Security taxes paid. If Social Security tax is not paid (e.g., in situations involving less than $400 per year in NESE, net losses, and when no tax return was filed), the deduction does not apply.

4. Minimum/ Maximum Accounts Creditable

NESE is earned income for Medicaid purposes without regard to the minimum and maximum amounts creditable for title II coverage purposes.

5. Computing NESE

Only the actual net earnings are used in determining NESE for Medicaid.

6. Exemptions from Coverage

NESE is earned income for Medicaid purposes regardless of whether the earnings are exempt from Social Security coverage.

7. Partnership

Any distributive share (whether or not distributed) of income or loss from a trade or business carried on by a partnership is included in NESE.

B. Procedure

1. Determining Monthly NESE

Divide the entire taxable year's NESE equally among the number of months in the taxable year, even if the business:

- is seasonal;
- starts during the year;
- ceases operation before the end of the taxable year; or
- ceases operation prior to initial application for Medicaid.

2. Offsetting Net Loss

Divide any **verified** net loss for a taxable year evenly over the months in the taxable year. Subtract each resulting monthly amount from the individual's or couple's other earnings in the same month. Apply this procedure whether a couple filed a joint income tax return or separate returns, and regardless of which member of the couples listed below incurred the loss:

- an eligible couple;
- an eligible individual with an ineligible spouse;
- two parents.

3. Work Expenses

If an individual is self-employed (whether or not he/she is also a wage earner.), reduce his/her earned income by any allowable work expenses which have not already been used to compute NESE. (See S0820.545 B.1. for necessary work expense development.)

4. Withdrawals for Personal Use

When an individual alleges (or you discover) that cash or in-kind items are withdrawn from a business for personal use, proceed as follows:

a. Ask the individual whether the withdrawals were **properly accounted for** in determining NESE. That is, were they either deducted on the individual's Federal income tax return in determining the cost of goods sold or the cost of expenses incurred, or deducted on his business records?

b. Accept the individual's allegation of whether the withdrawals were properly accounted for.

IF THE WITHDRAWALS ARE…	THEN…
Properly accounted for	Do not count them again as income.
Not properly accounted for	• Ask the individual to estimate the value of the cash or in-kind withdrawals. Deduct that amount from the cost of goods sold or the cost of expenses incurred on the profit and loss statement to arrive at the proper NESE. • If the individual cannot or will not provide the profit and loss statement, but alleges an amount of NESE, add the value of the withdrawals to the individual's allegation of NESE.

C. References

- Properly essential to self-support, S1130.500.

S0820.220 HOW TO VERIFY NET EARNINGS FROM SELF-EMPLOYMENT (NESE)

A. Introduction

Acceptable evidence of NESE, in order of priority, is listed in B.1. through B.3. below. C.2. describes situations in which verification is not required.

B. Policy

The Federal income tax return contains evidence of NESE in the following schedules:

1. Federal Income Tax Return

a. **Schedule SE**

- Net earnings--Section A, line 4 or Section B, line 4.C.

  NOTE: If line 4 or 4.C. shows a positive amount of less than $400, then line 3 is used, even if the amount on line 3 is greater than $400. For example, line 3 shows $410 and line 4/4.C. shows $378. Line 3 should be used because no tax was due.

- Net loss--Section A, line 3 or Section B, line 4.C.

b. **Schedule C**--Line entitled "Net Profit or Loss."
c. **Schedule C--EZ**—Line entitled "Net Profit"
d. **Schedule F**--Line entitled "Net Profit or Loss."

2. Business Records

Business records are acceptable evidence of NESE.

3. Individual's Signed Allegation

The individual's signed allegation of NESE is acceptable evidence of NESE if no other evidence can be obtained.

C. Procedure

1. When to Verify

Verify NESE per 2. below whenever self-employment is alleged or otherwise indicated, unless the individual:

- alleges starting a new business, and that he/she was not self-employed in the prior taxable year.

- is being denied Medicaid for reasons other than income.

2. How to Verify

a. Priority Order
Attempt to secure the evidence in the order shown in B. above.

b. NESE of Less Than $400
Do not apply the 7.65 percent deduction in determining countable NESE if the NESE amount after the deduction would be less than $400.

c. Business Records

- Assume that any deductions taken on business records are allowable per IRS, absent evidence to the contrary.
- Do not apply the 7.65 percent deduction in determining countable NESE, unless you have evidence that a tax return was filed and Social Security taxes were paid on the NESE.

d. Schedule C, C-EZ or F
Do not apply the 7.65 percent deduction in determining countable NESE, unless you have evidence that Social Security taxes were paid on the NESE.

e. Individual's Signed Allegation
Do not apply the 7.65 percent deduction to the alleged amount of NESE in determining the countable NESE unless you have evidence that Social Security taxes were paid on the NESE.

4. Period for Which Verification Is Required

Follow the chart below when verification is required per 1. above.

SITUATION	VERIFICATION PERIOD
Initial Application	Verify NESE for the prior taxable year. **NOTE:** Accept the individual's signed allegation that self-employment terminated if: • the month of application is in the current taxable year, and • the individual alleges his/her self-employment ceased in the prior taxable year.
Redetermination or Review of Income	Verify all unverified NESE through the prior taxable year.

S0820.230 HOW TO ESTIMATE NESE FOR CURRENT TAXABLE YEAR

A. Procedure

1. When an Estimate Is Needed

Estimate NESE for the current taxable year for an initial application, redetermination, or review of income when an individual alleges (or you believe) he/she is (or has been) engaged in self-employment during the current taxable year.

2. Inform the Individual

Inform the individual:

- how his/her estimated NESE was determined and its effect on eligibility.
- to promptly contact the LDSS office if any change occurs which could affect the amount of his/her estimated NESE.
- to maintain business records until a Federal income tax return is available, so he/she can report any changes promptly (when any method other than the first two in the chart in 4. below is used).
- to provide a copy of his/her Federal income tax return when it becomes available.

3. Net Loss

Do not take into account an **estimated** net loss when estimating NESE for the current taxable year.

NOTE: A net loss can only be used to offset other earnings **after** it has been verified.

4. How to Estimate NESE

Use the first of the following methods in the sequence below, which is applicable.

When the estimate is obtained using business records or the individual's allegation, ask the individual if he/she plans to file a tax return.

- If **yes** and the estimated net profit is $400 or more after applying the multiplier, multiply the net profit by .9235 to determine the countable NESE estimate.
- If **yes** and the estimated net profit is less than $400 after applying the multiplier, do not apply the multiplier.
- If **no,** count the net profit as the NESE estimate. Do **not** apply the multiplier.

4. How to Estimate NESE (cont.)

WHEN TO USE	METHOD
When an individual: • has been conducting the same trade or business for several years; • has had NESE which has been fairly constant from year-to-year; and • anticipates no change or gives no satisfactory explanation of why current NESE would be substantially lower than past NESE	**Current Year's Estimate Based on Prior Year's Profit** Use the NESE from the prior year as an estimate for the current taxable year.
When an individual: • is engaged in the same business that he/she had **only** in the preceding taxable year; and • anticipates no change or gives no satisfactory explanation of why current NESE would be substantially different from what it has been in the past	**Gross-Net Ratio** • Calculate from the individual's tax return or business records the ratio between net profit and gross receipts for the last year. **EXAMPLE:** Net profit of $1,200 for $6,000 gross income or 20 percent. • Calculate from his/her records the actual gross receipts for the current taxable year and project it for the remainder of the year. **EXAMPLE:** $4,000 in current year's receipts for the first 6 months gives an assumed gross of $8,000 for the entire year. • Apply the previously calculated gross-net ratio to the current year's assumed gross to arrive at the estimated NESE. **EXAMPLE:** 20 percent of $8,000 is $1,600. **EXCEPTION:** Do not use this method for businesses which are seasonal, or have unusual income peaks at certain times of the year; go to next applicable procedure.
When an individual is engaged in a new business	**Projecting Partial Year's Profit for Whole Year** • Obtain the individual's profit and loss statement or other business records for his/her taxable year to date. • Ascertain his/her net profit to date. • Project that net profit for the entire taxable year. **EXCEPTION:** Do not use this method for businesses which are seasonal, or have unusual income peaks at certain times of the year; go to next applicable procedure.

4. How to Estimate NESE (cont.)

WHEN TO USE	METHOD
When: • an individual is engaged in a new business and records are not yet available; or • the business has been going on for some time but no records were kept	**Individual's Estimate** Use a signed allegation of the individual's best estimate.
When an individual: • alleges his/her NESE for the current year will vary from NESE for past years; and • gives a satisfactory explanation for the variation	**Current Year's Estimate Varies from Past Records** • Obtain a written statement from the individual explaining the basis for the variation. • If the individual's estimate of NESE for the current year is higher than that of the prior years, and the individual satisfactorily explains why, accept the individual's estimate of NESE. **EXAMPLE:** Individual recently added new products to his mail order sales catalog and sales have picked up dramatically. • If the individual's estimate of NESE for the current year is lower than that of prior years, and the individual satisfactorily explains why, request any relevant documentation for the file and accept the lower estimate. **EXAMPLES:** • Satisfactory Explanation--the business has suffered a heavy loss or damage due to fire, flood, burglary, serious illness or disability of the owner, or other catastrophic event. • Relevant Documentation--copies of newspaper accounts of the event, police reports, etc. **NOTE:** In some cases (e.g., downturns in the economy) there may not be any documentation of the event. In such cases, the individual's written statement explaining the basis for the variation in sufficient documentation.

5. Documentation Document the file sufficiently so that it supports the estimate made by the eligibility worker.

SHELTERED WORKSHOP OR WORK ACTIVITIES CENTER PAYMENTS

S0820.300 PAYMENTS FOR SERVICES PERFORMED IN A SHELTERED WORKSHOP OR WORK ACTIVITIES CENTER

A. Policy

Payments for services performed in a sheltered workshop or work activities center are what an individual receives for participating in a program designed to help him become self-supporting.

Payments for such services are a type of earned income.

Payments for such services are counted when received or when set aside for an individual's use.

B. Definitions

1. Sheltered Work-Shop

A sheltered workshop is a nonprofit organization or institution whose purpose is:

- to carry out a recognized program of rehabilitation for handicapped workers; and/or
- to provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

2. Work Activities Center

A work activities center is :

- a sheltered workshop, or
- a physically separated department of a sheltered workshop having an identifiable program, and separate supervision and records.

A work activities center is planned and designed exclusively to provide therapeutic activities for handicapped workers, whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

3. Therapeutic Activities

Therapeutic activities are custodial activities (such as activities where the focus is on teaching the basic skills of living), and any purposeful activity so long as work or production is not the main purpose.

C. Procedure

Follow S0820.115 - S0820.150 to develop, document, verify and estimate remuneration for services performed in a sheltered workshop or work activities center program.

NOTE: If there is any doubt that a sheltered workshop or work activities center is involved, contact the organization for verification.

For receipt of cash or items which are not remuneration for services and therefore are not earned income, see S0810.005 A. regarding whether items of this type meet the basic definition of income for Medicaid purposes. If so, develop such income as unearned income (S0830.001).

EARNED INCOME TAX CREDITS

S0820.400 EARNED INCOME TAX CREDITS

A. Definition

The earned income tax credit (EITC) is a special tax credit which reduces the Federal tax liability of certain low income working taxpayers. This tax credit may or may not result in a payment to the taxpayer. EITC payments can be received as an advance from an employer or as a refund from IRS.

B. Policy Effective January 1, 1991

Exclude from income any EITC payments received January 1, 1991 or later, either as an advance or as a refund, regardless of the tax year involved.

C. Procedure

No development necessary.

ROYALTIES AND HONORARIA

S0820.450 ROYALTIES AND HONORARIA

A. Definitions

1. Royalties

Royalties are payments to the holder of a copyright or patent. Royalties may also be paid to the owner of a mine, oil well, timber tract, or other resource, for extraction of a product, including proceeds from the direct sale of the product.

2. Honorarium

An honorarium is an honorary payment, reward, or donation usually received in consideration of services rendered (e.g., guest speaker), for which no payment can be enforced by law. However, the amount also may include payment for items other than services rendered (e.g., travel expenses and lodging).

C. Policy

1. Royalties

Royalties earned by an individual in connection with any publication of his/her work are earned income (e.g., publication of a manuscript, magazine article, artwork, etc.)

2. Honoraria

The portion of any honorarium **which is received in consideration of services rendered** is earned income. An honorarium which is **not** in consideration of services rendered (e.g., for travel expenses) is unearned income to the extent that it exceeds expense. (See S0830.100 B. for expenses of obtaining income.)

C. Procedure

1. Verification

a. Verify these payments by examining documents in the individual's possession which reflect:

- the amount of the payment,
- the date(s) received, and
- the frequency of payment, if appropriate.

b. If the individual has no such evidence in his possession, contact the source of the payment.

c. If verification cannot be obtained by the above means, accept any evidence permitted by either S0820.130 A. or S0820.220.

2. Assumption

Assume that any honoraria received is **in consideration of services rendered**, absent evidence to the contrary. Evidence to the contrary would include a statement or document indicating that part or all of the honoraria is for something other than services rendered (e.g., travel expenses or lodging).

3. Expenses of Obtaining Income

DO NOT DEDUCT any expenses of obtaining income from royalties or honoraria that are earned income. (Such expenses are deductible from royalties/honoraria that are unearned income.)

4. Documentation

Document the file by including copies of documents or indicating in the file information provided by the payment source concerning the amount and, if appropriate, frequency of payment.

D. References

- Royalties as unearned income, S0830.510.
- To determine deductible IRWE/BWE, see S0820.*535* - .565.

EARNED INCOME EXCLUSIONS

S0820.500 GENERAL

A. Policy

1. General

The source and amount of all earned income must be determined, but not all earned income counts when determining Medicaid eligibility.

2. Other Federal Laws

First, income is excluded as authorized by other Federal laws.

3. Other Earned Income

Then, other income exclusions are applied, in the following order, to the rest of earned income in the month:

a. Federal earned income tax credit payments

b. Up to $10 of earned income in a month if it is infrequent or irregular

c. Up to *$1,410* per month, but not more than *$5,670* in a calendar year, of the earned income of a blind or disabled student child

d. Any portion of the $20 monthly general income exclusion which has not been excluded from unearned income in that same month

e. $65 of earned income in a month

f. Earned income of disabled individuals used to pay impairment-related work expenses

g. One-half of remaining earned income in a month

h. Earned income of blind individuals used to meet work expenses

i. Any earned income used to fulfill an approved plan to achieve self-support.

4. Unused Exclusion

Earned income is never reduced below zero. Any unused earned income exclusion is never applied to unearned income.

Any unused portion of a monthly exclusion cannot be carried over for use in subsequent months.

5. Couples

The $20 general and $65 earned income exclusions are applied only once to a couple, even when both members (whether eligible or ineligible) have income, since the couple's earned income is combined in determining Medicaid eligibility.

B. References

For exclusions which apply to both earned and unearned income, see:

- S0810.410 for infrequent/irregular income
- S0810.420 $20 general exclusion
- S0810.430 amount to fulfill a plan for achieving self-support

For exclusions applicable only to earned income, see S0820.510 - S0820.570.

S0820.510 STUDENT CHILD EARNED INCOME EXCLUSION

A. Policy

1. General

For a blind or disabled child who is a student regularly attending school, earned income is excluded under this provision, limited to the maximum amounts shown below.

For Months a calendar year	Up to per month	But not more than in
In calendar years before 2001	$ 400	$1,620
In calendar year 2001	$1,290	$5,200
In calendar year 2002	$1,320	$5,340
In calendar year 2003	$1,340	$5,410
In calendar year 2004	$1,370	$5,520
In calendar year 2005	*$1,410*	*$5,670*

2. Qualifying for the Exclusion

The individual must be:
- a child under age 22; and
- a student regularly attending school.

3. Earnings Received Prior to Month of Eligibility

Earnings received prior to the month of eligibility do not count toward the yearly limit.

4. Future Increases

The monthly and yearly limits will be adjusted annually based on increases in the cost of living index. Under this calculation, these amounts will never be lower than the previous year's amounts. However, there may be years when no increases result from the calculation.

B. Procedure

1. Application of the Exclusion

Apply the exclusion:
- consecutively to months in which there is earned income until the exclusion is exhausted or the individual is no longer a child; and
- only to a student child's own income.

2. School Attendance and Earnings

Develop the following factors and record them:
- whether the child was regularly attending school in at least 1 month of the current calendar quarter, or expects to attend school for at least 1 month in the next calendar quarter, and
- the amount of the child's earned income (including payments from Neighborhood Youth corps, Work-Study, and similar programs).

Verify wages of a student child even if they are alleged to be $65 or less per month.

C. References

- Grants, scholarships and fellowships, S0830.455.
- Educational assistance with Federal funds involved, S0830.460.

D. Example ***(Using April 2002 Figures)***

Jim Thayer, a student child, starts working in June at a local hardware store. He had no prior earnings during the year, and he has no unearned income. Jim earns *$1,600* a month in June, July and August. In September, when he returns to school, Jim continues working part-time. He earns *$800* a month in September and October. Jim's countable income computation for June through October is as follows:

June, July and August
$*1600.00* gross earnings
- 1320.00 student child exclusion
$ 280.00
- 20.00 general income exclusion
$ *260.00*
- 65.00 earned income exclusion
$ 195.*00*
- 97.*50* one-half remainder
$ 97.*50* countable income

Jim has used up *$3,960* of his *$5,340* yearly student child earned income exclusion *($1,320* in each of the three months).

September
$800.00 gross earnings
- 800.00 student child exclusion
0 countable income

Jim has now used up *$4,760* of his *$5,340* yearly student child earned income exclusion.

October
$*800.00* gross earnings
- 580.00 student child exclusion *remaining ($5,340-$4,760=$580)*
$22*0.00*
- 20.00 general income exclusion
$*200.00*
- 65.00 earned income exclusion
$*135.00*
- 67.*50* one-half remainder
$ 67.*50* countable income

Jim has exhausted his entire *$5,340* yearly student child earned income exclusion. The exclusion cannot be applied to any additional earnings during the calendar year.

S0820.520 $65 PLUS ONE-HALF REMAINDER PER MONTH EARNED INCOME EXCLUSION

A. Policy

1. Amount Excluded $65 per month of earned income plus one-half of the remaining earned income in the month is excluded.

2. Order of Exclusion The exclusion is applied in the order shown S0820.500 A.3.

B. References IRWE exclusions, S0820.540.

S0820.535 BLIND WORK EXPENSES (BWE)

A. Definition

BWE represent any earned income of a blind person which is used to meet any expenses reasonably attributable to earning the income.

B. Policy

BWE are deducted from earned income if the blind person:

1. Eligibility Requirements

- is under age 65; or
- is age 65 or older; and
- received Medicaid due to blindness (or received payments under a former State plan for aid to the blind) for the month before attaining age 65.

2. Application of Exclusion

a. The BWE exclusion applies only to earned income. BWE in excess of the earned income an individual receives during the month are never deducted from unearned income.

b. The BWE exclusion is applied to earned income immediately after applying:

- any portion of the general income exclusion which has not been deducted from unearned income; and
- all other earned income exclusion except the exclusion of income used to fulfill an approved plan for achieving self-support (PASS).

3. Deductible Items

a. Except for items in 4. below, the cost of any work-related item paid by a blind person may be deducted as BWE, regardless of:

- any nonwork benefit that may be derived from the item; **or**
- the item's relationship to the person's blindness.

b. A blind individual can claim the amount withheld for Federal, State, and local income taxes even though other factors may affect his or her tax liability (e.g., number of dependents, business loss, etc.).

c. Examples of items which may be deductible as BWE are identified in S0820.555.

4. Nondeductible Items

The following items cannot be deducted from earned income as BWE:

- In-kind payments
- Expenses deducted under other provisions (e.g., PASS)
- Expenses which will be reimbursed
- Life maintenance expenses. Although not all inclusive, life maintenance items include the following:

  meals consumed outside of work hours;

  self-care items (including items of cosmetic rather than work-related nature);

  general educational development;

  savings plan (e.g., Individual Retirement Accounts (IRA'S) or voluntary pensions);

  life and health insurance premiums
- Items furnished by others that are needed in order to work (the value of such items is not income)
- Expenses claimed on a self-employment tax return (see S0820.545B.1 for further discussion regarding this issue)

EXAMPLE: Mrs. Terry Peters, a blind individual, works as a typist. A community organization bought her a special typewriter that she needed to perform satisfactorily on the job. The value of the typewriter is not income to Mrs. Peters, nor is it deducted as a BWE since she did not pay for it.

S0820.540 IMPAIRMENT-RELATED WORK EXPENSES (IRWE)

A. Definition

IRWE are expenses for items or services which are directly related to enabling a person with a disability to work and which are necessarily incurred by that individual because of a physical or mental impairment.

B. Policy

1. General

We may deduct IRWE to determine countable earned income in both initial applications and posteligibility situations regardless of whether we previously established the person's eligibility without considering IRWE.

2. Eligibility Requirements

A payment for a service or item is excludable as IRWE for eligibility purposes when:

- the individual:

  is disabled (but not blind); **and**

  is under age 65; **or**

  received Medicaid as a disabled individual (or received disability payments under a former State plan) for the month before attaining age 65; **and**

- the severity of the impairment requires the individual to purchase or rent items and services in order to work; **and**

- the expense is reasonable; **and**

- the cost is paid in cash (including checks or other forms of money such as money orders, credit and/or charge cards) by the individual and is not reimbursable from another source (e.g., Medicare, private insurance); **and**

- the payment is made in a month the individual receives earned income for a month in which he/she **both** worked **and** received the services or used the item; **or**

  the individual is working but makes a payment before the earned income is received.

(See S0820.560 B. for instructions on deducting expenses paid while working. See S0820.560 C. for instructions on deducting expense paid prior to work. For instructions on deducting expenses paid after work has stopped, see S0820.560 D.)

3. IRWE Used for Other Daily Activities

Any expense may meet the criteria for an IRWE even if it also is used for daily activities other than work.

4. Application of Exclusion

a. The IRWE exclusion only applies to earned income. IRWE in excess of the earned income an individual receives during the month are never deducted from unearned income. (See S0820.560 for allocating expenses.)

b. The IRWE exclusion is applied to earned income in the sequence below:

- immediately **after** deducting:

  any portion of the general income exclusion which has not been deducted from unearned income; **and**

  the $65 earned income exclusion; **and**

- immediately **before** deducting one-half of the remaining earned income.

M0820.545 WORK EXPENSES – INTERACTION WITH OTHER POLICIES

A. Introduction

This section discusses the interaction of other policies with work expenses.

B. Policy-Items Deductible Under Other Provision

1. Self-Employment

If the cost of an item has been deducted in figuring net earnings from self-employment (NESE) as described in S0820.200, it cannot be deducted as a work expense.

2. Community Residence

When an individual resides in a community residence, the individual's payments for work related attendant care can be used to reduce countable earnings.

3. PASS

a. A PASS permits an individual to set aside income and resources for a limited period of time in order to reach a work goal. (For a more comprehensive discussion on PASS, see S0810.430)

b. Income used to pay for a particular work-related item may not be excluded from countable income under the PASS and the BWE or IRWE provisions simultaneously.

c. Unlike BWE or IRWE, a PASS may be used to reduce countable unearned income and resources.

C. Policy – Deeming

In determining how much of an ineligible spouse's or parent's income is subject to deeming, earnings which are used to meet work expenses are not counted, if the ineligible spouse or parent is blind or disabled. Accept the individual's allegation of blindness or disability. Work expenses should be documented.

S0820.550 WORK EXPENSE DEVELOPMENT AND DOCUMENTATION

A. Policy

All allegations and/or evidence of BWE and IRWE must be documented in file.

B. Procedure—Documentation

Document BWE and IRWE respectively per 1. and 2. below.

1. Allegation of BWE

Document BWE as described below:

STEP	ACTION
1	Assume that any working blind individual earning income more than $65 a month has BWE. For example, most earnings are subject to income taxes which qualify as BWEs.
2	If earnings are above $65 per month, obtain an allegation from the individual that either: • claims a BWE, specifying the type and amount of expense; or • explains why he/she has no BWE.
3	Record this statement in the case record.

2. Allegation of IRWE

Document IRWE according to the following steps:

STEP	ACTION
1	Ask about IRWE when: • a disabled individual's earned income exceeds $65 in any month; or • at least one member of an ineligible couple is disabled and has earned income, and the couple's total earned income exceeds $65 in any month; or • a disabled individual has earned income of $65 or less, the individual is subject to spouse-to-spouse deeming, and the couple's total earned income exceeds $65.
2	Record the individual's response with a statement describing the IRWE claimed or that no IRWE is alleged.

3. When to Develop

Develop work expenses per 1. and 2. above when you:

- complete an initial application or a redetermination; **or**
- receive a report that the recipient has started working; **or**
- receive a report that the expenses have changed.

NOTE: A change in the amount of earnings of a blind worker implies a change in expenses since the amount of taxes deducted probably changed.

4. Allocation of Work Expenses

Document the file to support your allocation of work expenses. (See S0820.560 for instructions on allocating work expenses.)

NOTE: You may use the worksheet in S0820.565, which may be reproduced locally, to document the type and allocation of BWE.

C. Procedure—Verification

1. Evidence of BWE

a. Verifying that criteria for BWE are met

- Stop file documentation when the expense is listed on the chart in S0820.555. The items listed on the chart meet the criteria for a BWE.
- Document the file to reflect how an item is reasonably attributable to the earning of income when the item is not listed on the chart.

b. Verifying cost of BWE

- Document the file with photocopies of bills, receipts, etc., from the individual to corroborate the allegations.

  Inform every working blind individual of the requirement to maintain records of work expenses and to produce such records when requested. Explain why we need to see these records.

- Accept the individual's allegation of the expense amount when:

  bills, receipts, etc., cannot be obtained (e.g., lack of receipts for food purchased for a dog guide, meals, transportation, etc.) **and**

  the allegation appears reasonable.

  NOTE: You may use the worksheet in S0820.565 as an aid in calculating BWE.

2. Evidence of IRWE

a. Document the need for an item or service

- Refer to the chart in S0820.555 for guidance in common types of expenses deductible as IRWE.

- Accept an allegation, as **verification of need**, that a prescription drug is used to control the disabling condition, enabling the individual to function at work, when:

  there is a paid bill for the drug; and

  the information on the container indicates that:

  a physician and a licensed pharmacist were involved in providing the drug; and

  the drug is for the individual.

b. Verifying cost of an item or service

- Accept the individual's allegation as to the recurring use and cost of an IRWE when:

  at least one available receipt of documenting the cost is submitted;

  additional receipts are unavailable for the recurring expense (e.g., hearing aid batteries, incontinence pads, etc.); **and**

  the allegation of use is consistent with the nature of the expense (e.g., the individual states that he has only a couple of receipts for the box of 60 incontinence pads he buys every month as his condition requires him to use two pads a day).

3. Posteligibility Situations

a. BWE/IRWE previously developed

If BWE/IRWE were developed previously, compare the recipient's (and spouse's, if applicable) responses with information in the case record. Then, proceed as follows:

IF	AND...	THEN...
the alleged amounts and dates of work expense information agree with the verified information	no changes are alleged	no further BWE/IRWE development is necessary.
	changes are alleged	develop and verify BWE/IRWE per 1 and 2 above.
information is unverified	------	develop and verify BWE/IRWE per 1 and 2 above.

b. BWE/IRWE not previously developed

Develop and verify per 1 and 2 above.

D. Procedure--Special Considerations

1. More Than One Employer Involved

Add total earnings from all employers. Deduct combined work expenses from this total.

NOTE: There is no need to relate a specific expense to a particular source of earnings.

2. Self-Employment

Carefully review records and/or the portion of the tax return used to determine NESE per S0820.210. Check that none of the expenses deducted in determining NESE are also being claimed as work expenses.

Determine what expenses can be excluded from earned income as work expenses. If necessary, refer the individual to the Internal Revenue Service (IRS) for information about permissible self-employment deductions.

D. Procedure—Special Considerations

2. Self-Employment (cont.)

EXAMPLE: Individual is self-employed and a wage earner.

FACTS: Mr. Griffin, a blind Medicaid recipient, is self-employed selling brushes. He also works one night a week as an employee typing transcripts from recordings. Mr. Griffin's self-employment requires him to travel by cab (at a cost of $60 per month) to the brush manufacturer to pick up samples. He also must travel by cab, at a cost of $40 per month, to the office where he is employed.

CONCLUSION: You determine that the $60 monthly cab fare to pick up samples has been used in arriving at his NESE and cannot be deducted from his earned income as a work expense. You deduct as a work expense the $40 monthly cabfare for travel to and from the office where he is employed.

3. Work Expenses of a Couple

If both members of a couple are eligible and both work, deduct from the couple's earned income each individual's work expenses to the extent that they do not exceed that individual's earnings. Do not deduct excess work expenses of one member of the couple from the earned income of his or her spouse. (See B.2. above when it is necessary to document IRWE in couple's cases and S0820.545C when deeming is an issue.)

4. Estimating Future Work Expenses

a. Estimate an individual's future expenses based on expenses paid in the most recent period per S0810.600-610. This could be the period just redetermined or a shorter period if there has been a pertinent change in circumstances, such as additional expenses.

   For example, if the individual had more expenses in the last 3 months than in previous months and those expenses are expected to continue, use that amount in your determination. Consider any expected decrease in expenses (e.g., installment payments on tools that will be paid off).

b. Do not estimate an anticipated expense in the near future (e.g., purchase of more equipment) until there is proof that the expense exists. Tell the individual to let you know as soon as a new expense develops so you can make any appropriate adjustments at that time.

S0820.555 LIST OF TYPE AND AMOUNT OF DEDUCTIBLE WORK EXPENSES

The following chart provides guidance on types of expenses which are deductible as BWE, IRWE, or both, and the amount deductible. The chart is not intended to be all-inclusive. Refer to the policy discussed in S0820.535, S0820.540.

TYPE OF EXPENSES	DEDUCTIBLE AS		AMOUNT OF DEDUCTIBLE
	BWE	IRWE	
Attendant care services which are rendered in the: • home; • process of assisting an individual in making the trip to and from work; or • work setting	X	X	The amount paid.
Drugs and medical services which are essential to enable the individual to work (e.g., medication to control epileptic seizures)	X	X	The amount paid.
Expendable medical supplies Examples • Bandages • Catherers • Face masks • Incontinence pads	X	X	The amount paid. See M0820.550 C.1 and C.2.
Federal, State and local income taxes and Social Security taxes	X		The amount withheld. Assume the amount withheld reflects the individual's tax liability.
Dog Guide	X	X	The cost of purchasing the dog and all associated expenses (e.g., its food, breast straps, licenses, veterinary services, etc.)
Fees Examples: • Licensee • Professional association dues • Union dues	X		The amount paid.

TYPE OF EXPENSES	DEDUCTIBLE AS		AMOUNT OF DEDUCTIBLE
	BWE	IRWE	
Mandatory contributions Examples: • Pensions • Disability	X		The actual amount of the mandatory contribution. For example, mandatory pension contributions are considered reasonably attributable to earning incomeand, therefore, deductible. Voluntary pension contributions are considered savings plans and, as such, are life maintenance expenses and not deductible.
Meals consumed during work hours	X		The actual value of the meals whether bought during work hours or brough from home.
Medical devices Examples: • Braces • Inhalers • Pacemakers • Respirator • Wheelchair	X	X	The cost of the items plus maintenance and repair of such items whether the individual works at home or at employer's place of business.
Nonmedical equipment/services Examples: • Air cleaners • Air conditioners • Child care costs • Humidifiers • Portable room heaters • Posture chairs • Safety shoes • Tools used on the job • Uniforms	X	*	The cost of the item plus maintenance and repair of such items whether the individual works at home or at the employer's place of business. *To be deductible IRWE, the item or service must impairment-related.
Other work-related equipment/services Examples: • One-handed typewriters • Special tools designed to accommodate an individual's impairment • Telecommunications devices for the deaf • Translation of materials into braille • Typing aids (e.g., page turning devices) • Vision and sendory aids for the blind	X	X	The cost of the item plus maintenance and repair of such item whether the individual works at home or at the employer's place of business.
Physical therapy	X	X	The amount paid.

TYPE OF EXPENSES	DEDUCTIBLE AS		AMOUNT OF DEDUCTIBLE
	BWE	IRWE	
Prosthesis	X	X	The cost of the item plus maintenance and repair of such item.
Structural modifications to the individual's home to create a work space or to allow the individual to get to and from work.	X	X	The cost of the modifications.
Training to use an impairment-related item or an item which is reasonably attributed to work Examples: • Braille • Cane travel • Computer program course for a computer operator • Grammar • Stenotype instruction for a typist • Use of one-handed typewriter • Use of special equipment • Use of vision and sensory aids for the blind NOTE: Training does not include general education courses. Such courses may be excluded under a PASS.	X	X	The cost of the training plus travel expenses to and from the training facility. Compute travel expenses to and from the training facility in the same manner as transportation to and from work (shown previously in this chart)

TYPE OF EXPENSES	DEDUCTIBLE AS		AMOUNT OF DEDUCTIBLE
	BWE	IRWE	
Transportation to and from work	X		• In own vehicle the rate is 28 cents per mile. • For other than in own vehicle the actual cost of the bus, car, pool, or cabfare.
Vehicle modification	X	X	Whatever seems reasonable.

S0820.560 ALLOCATING WORK EXPENSES

A. Policy--

1. IRWE For IRWE, the instructions in this section effective November 1, 1995.

2. BWE For BWE, the instructions below that pertain to the proration of expenses paid prior to starting work or after stopping work are effective November 1, 1995.

B. Procedure-- Expenses Paid While Working

1. Expenses Paid Prior to Receipt of Income Deduct (or begin allocating) the amount paid in the first month income is received.

2. Monthly Recurring Expenses

a. **No downpayment involved**

Deduct the amount of a monthly recurring work expense in the month in which the expense is paid.

b. **Downpayment involved**

- Have the individual decide whether the downpayment is to be deducted in the month paid; **or** prorated over a consecutive 12-month period.
- If the downpayment is to be deducted in the month paid, deduct the regular recurring monthly expense when paid.

3. Other Recurring Expenses

a. **Less frequently than monthly**

Have the individual decide whether the work expense is to be deducted in the month paid or prorated for the months in the billing period.

b. **Daily/Weekly/Biweekly**

- Use the submitted receipts, bills, etc., in conjunction with any allegation obtained per S0820.550C. to determine the number of days the expense is paid each month; **and** whether the expense fluctuates or remains the same.
- Multiply the amount of the expense by the number of days the expense is paid each month if the expense remains the same.
- Add the individual amounts paid in each month if the expense fluctuates.

NOTE: If the computation is being based on the individual's allegation, assume that the expense remains the same.

4. Expense Is One-Time Payment

Have the individual decide whether the work expense is to be:

- deducted entirely in the month of payment; or
- prorated over a consecutive 12-month period beginning with the month of payment.

5. Self-Employment

Deduct the work expenses related to a self-employed activity for an individual who is blind and self-employment, provided the expenses were not used to complete the net earnings from self-employment (NESE). If it is to the person's advantage, prorate the work expenses over all the months of the tax year; otherwise, follow 1-4 above, as appropriate.

C. Procedure--Expenses Paid Prior to Work

Follow the steps below, whenever a work expense was paid before work began:

STEP	ACTION
1	Determine whether the item that was purchased: • is work-related; **and** • had a payment made on it in the 11-month period immediately preceding the first month of employment.
2	If the item meets all the criteria in step 1, go on to step 3. If not, stop. The expense cannot be deducted.
3	Determine the total amount paid towards the item during the 11 months preceding the month that work began.
4	Determine the **deductible portion** according to the following chart.

No. of Months Prior to Work That First Payment is Made	Deductible Portion of Payment
1	11/12 (.916)
2	5/6 (.833)
3	3/4 (.750)
4	2/3 (666)
5	7/12 (.581)
6	1/2 (.500)
7	5/12 (.415)
8	1/3 (.333)
9	1/4 (.250)
10	1/6 (.166)
11	1/12 (.083)

NOTE: See E. below for an example of how to use this chart.

5 Have the individual decide whether the deductible portion from step 4 is to be allocated:
- only to the first month that earned income is received; **or**
- over a consecutive 12-month period beginning with the first month that earned income is received.

NOTE: The deductible amount is **in addition to** amounts actually paid after beginning work.

D. Procedure-- Expenses Paid After Work Stops

1. Expense Paid Before Earned Income Stops

Deduct a work expense that is paid in a month after work has stopped from earned income received in a month after work has stopped only when:

- the income is based on work activity (e.g., not income received as a silent partner in a business); and
- the work activity was performed in a period when the individual required the item or service.

2. Expense Paid After Earned Income Stops

Deduct the work expense from the earned income received in the last month of work when:

- the work expense is paid in a month after the individual last worked and received earned income; and
- the payment was for an item or service used while working.

E. Procedure— Expenses Paid by Credit Card

- Treat a credit/charge care purchase as a nonrecurring expense and follow the appropriate instructions in B.4, C or D above.

  EXCEPTION: You may treat the actual payments as a recurring expense per B.2-3 above when the IRWE was the only charge on the account during the time the charge was being paid; i.e., there was a zero balance when the IRWE was charged and no other charges were made before the payments were completed.

- Apply the credit card's annual interest rate to the cost of the IRWE purchase when:

  there is already a balance on the account when the IRWE is purchased;

  another purchase is made before the IRWE charge is paid off; or

  there is the likelihood of another purchase before the IRWE charge is paid off,

- Deduct the IRWE charge amount plus the calculated interest.

F. Procedure--Documenting Allocation Decision

Obtain a signed statement to document individual's decision regarding the allocation of expenses to one month or a 12-month period **only if** it would not be discernable from the file that the method of allocation is advantageous to the individual.

G. EXAMPLES

1. IRWE Charged While Working

Mr. Applegate, a disabled Medicaid recipient who is working, charges an IRWE which costs $240 (i.e., purchase price plus applicable tax) on a credit card that has an annual interest rate of 18%. Because there was already a balance on the account prior to the IRWE purchase, you treat the IRWE as a nonrecurring expense.

You calculate the interest on the IRWE purchase to be $43.20 ($240 x 18%). You determine the deductible IRWE amount to be $283.20.

You ask Mr. Applegate whether he wants the IRWE amount deducted entirely in the month charged or prorated over a consecutive 12-month period. He decides to have it prorated. You deduct a $23.60 ($283.20/12) a month as IRWE for 12 consecutive months beginning with the month the IRWE was charged.

2. IRWE Charged Before Working

Similar circumstances to the above example, except that Mr. Applegate charges the IRWE on his credit card 6 months before he begins working.

You use the chart in C. above to determine that only $141.60 is deductible as IRWE (one-half of $283.20)

You ask Mr. Applegate whether he wishes to have the IRWE deducted in the first month he receives earned income or during the 12 month period at $11.80 a month ($141.60/12). He elects to have it deducted in the first month.

S0820.565 BWE WORKSHEET

A. When to Use B. Exhibit

The BWE worksheet in B. below may be reproduced and used to develop blind work expenses. Refer to S0820.550 and S0820.555 for detailed instructions on the type of deductible expenses and the amount of deductible.

B. Exhibit

BLIND WORK EXPENSES WORKSHEET						
NAME				SSN		
PART I	AMOUNT($) OF TAXES			PART III	TOTALS	
Month/ Year	Federal, State Local	FICA (Social Security)	Other Mandatory Deductions (e.g., mandatory pension contri-butions)	A (Add Columns Part I)	B (from Part II)	C (Combine A and B)

PART II Amount ($) by Type of Other Expenses

	Medical		Nonmedical					Total
Month/ Year	Drugs and Other Expendable Supplies	Other see* below) (List Item)	Attendant care services	Dog Guide	Food Eaten During Work Hours (e.g., lunch)	Transpor-tation To and From Work	Other (see** below) (List Item)	Add Columns and Transfers to Part III

* Other
- Medical Devices (e.g., wheelchair, respirator)
- Medical Services
- Physical Therapy
- Prostesis

** Other nomedical BWE:
- Fees (e.g., union dues, licenses)
- Modifications to vehicle and/or structure of home
- Nomedical equipment/services (e.g., uniforms, child care)
- Other work related equipment/services/ (e.g., one-handed typewriters, translations into Braille)
- Training (e.g., use of one-handed typewriter)

NOTE: The above items do not reflect an all-inclusive list of deductible expenses.

S0820.570 EARNED INCOME TAX CREDIT (EITC) PAYMENTS EXCLUSION

A. Definition

The earned income tax credit (EITC) is a special tax credit which reduces the Federal tax liability of certain low income working taxpayers. This tax credit may or may not result in a payment to the taxpayer. EITC payments can be received as an advance from an employer or as a refund from IRS.

B. Policy

Exclude from income any EITC payments received as an advance or as a refund, regardless of the tax year involved.

C. References

- EITC resource exclusion S1130.675.
- EITC, S0820.400

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UNEARNED INCOME

GENERAL

S0830.001 INTRODUCTION TO UNEARNED INCOME

A. Policy

Unearned income is all income that is not earned income.

B. Description of the Subchapter

The instructions in this subchapter apply to unearned income and unearned income exclusions.

The subchapter is organized so that payments which are similar in nature are grouped together. Unearned income exclusions and counting rules are not all in one place. Those related to a specific type of payment are discussed in sections about the payment itself.

C. References

Users should be familiar with the general income rules found in subchapters 10 and 15, particularly:

What is income (S0810.005);

What is not income (S0815.001.);

Whose income is it (S0810.120.);

When income is counted (S0810.030)

Income verification (S0810.500); and

How to estimate income (S0810.600-620).

S0830.005 GENERAL RULES FOR DEVELOPING UNEARNED INCOME

A. Procedure

Some types of income require particular development as explained in later sections in this subchapter. Apply the instructions in this subsection where no specific instructions exist.

1. Clearly Ineligible

Do not develop unearned income where the individual is clearly ineligible for a non-financial reason or excess resources.

2. File

Document the case file so that it **fully** supports every eligibility decision.

3. Allegations

Document any **material** allegation. **.**

You do not need to document an attempt to obtain information from **other sources**

5. Verification

- In general, verify the **amount, frequency** of receipt and **source** and/or type of unearned income.
- Unless required elsewhere, verify only the source and/or type of a **totally excluded** payment.
- **Request evidence first** from the recipient and then, if necessary, from other sources.

6. Evidence Not Readily Available

When evidence is not readily available, and if the individual has cooperated:

a. obtain a **signed statement** from the individual as to the amount, source and frequency of receipt of the payment;
b. **process the case** on the basis of the individual's statement if all other eligibility factors are met and there is no reason to doubt the allegation;
c. **clearly document** the file as to why the information is not readily available; and
d. obtain the evidence **postadjudicatively.**

7. Evidence In Doubt Or Contradictory

a. Request **supporting evidence** from the individual or the source of the income.
b. If all available evidence leaves a question, weigh the evidence and **make a decision**. The file must reflect the basis for this decision.

8. Classification Unknown

a. If you are unable to determine whether an item or amount should be classified as income or whether income is earned or unearned, **contact the regional office.**

9. Mailing Time

When a payment is mailed, assume that the payment is received 5 days after the payment or mailing date unless the individual alleges a different date, in which case accept any credible allegation.

B. References

Developmental rules for posteligibility situations, S0830.007

S0830.007 DEVELOPMENTAL RULES IN POSTELIGIBILITY SITUATIONS

A. Introduction

Some types of income and income exclusions have special rules that apply in posteligibility (PE) situations. For example, in the section on rental income, if a Medicaid recipient with rental income reports a new expense, the remaining income estimates may need to be recalculated.

When no specific instructions exist, however, the general rules in this subsection apply.

B. Procedure

1. General

Unless specific instructions indicate otherwise, the general rules for developing unearned income found in S0830.005 also apply in PE situations.

C. References

General rules for developing unearned income, S0830.005

Rental Income, S0830.505

S0830.010 WHEN TO COUNT UNEARNED INCOME

A. Policy -- General

Unearned income is counted as income in the earliest month it is:

- received by the individual;
- credited to the individual's account; or
- set aside for the individual's use.

B. Policy--When to Count Retroactive RSDI Benefits

Other than the following exceptions (1.- 2. below), retroactive RSDI benefits, whether paid in one lump sum or by installment, are counted as unearned income in the month payment is received.

NOTE: Reissued conserved funds, whether paid in a lump sum or in installments, are not considered unearned income in the month of reissuance since such funds were previously considered in the month of original receipt (S1120.022.B.2.).

1. Retroactive RSDI Benefits Paid By Installment When DAA is Material

Retroactive RSDI benefits must be paid in installments when paid to representative payees of individuals who are eligible because of drug addiction or alcoholism (DAA). In such cases involving DAA beneficiaries, the total of retroactive RSDI benefits paid in installment is treated as if paid in a lump sum in the usual manner. The total of such benefits paid in installments is considered unearned income in the month in which the first installment is made.

In certain posteligibility situations involving DAA beneficiaries, a subsequent amount of retroactive RSDI benefits to be paid in installments cannot be paid because the beneficiary is receiving installment payments

from a previous retroactive RSDI benefit. In such situations, the total of the subsequent retroactive RSDI amount is counted as unearned income in the month such total would have normally been paid (i.e., as if the lump sum had been paid in the usual manner.)

NOTE: For resource purposes, each installment is subject to regular resource rules in the month following receipt (see S1130.600 for exclusion of RSDI underpayments).

2. Retroactive RSDI Benefits Paid By Installment At Recipient's Request

In certain situations, SSA will agree **at the recipient's request** to pay by installment retroactive RSDI benefits that would otherwise be paid in one lump sum. In such cases, the total of retroactive RSDI benefits (except for amounts considered paid in a windfall offset period per 1. above) is counted as unearned income in the month such benefits were set aside for the individual's use.

C. References

- Counting advance dated checks and electronic fund transfers, S0810.030
- Reissuance of conserved finds, S1120.022B.2.
- Resource exclusion of RSDI underpayments, S1130.600

UNEARNED INCOME EXCLUSIONS - GENERAL

S0830.050 OVERVIEW OF EXCLUSIONS

A. Definition

An **exclusion** is an amount of income which does not count in determining eligibility.

B. Policy

Exclusions never reduce unearned income below zero. Except for the $20 general exclusion (S0810.420), no unused unearned income exclusion may be applied to earned income.

C. Procedure

First, determine whether what is received is income. Next apply any appropriate exclusions to unearned income as discussed in this subchapter.

1. Exclusions in Relation to the Infrequent/ Irregular/ Exclusion

Apply the exclusions in this subchapter separately from the infrequent or irregular exclusion (S0810.410). However, do not apply the infrequent or irregular exclusion to an amount remaining after another exclusion has been applied to a particular type of income (e.g., the remaining amount of child support after one third has been excluded).

You may apply the infrequent or irregular exclusion to an individual's total unearned income if the entire amount can be excluded under that provision.

2. Application of Other Exclusions

After applying the specific exclusions discussed in this subchapter, apply the $20 general income exclusion (S0810.420). If there is also earned income, apply the earned income exclusions after the $20 general income exclusion.

D. Reference

What is not income, S0815.001.

S0830.055 EXCLUSIONS UNDER OTHER FEDERAL STATUTES

A. Introduction

1. General

Federal statutes other than the Social Security Act sometimes provide that the Medicaid program must exclude from income (or income and resources) assistance provided under those statutes.

2. New Exclusions

Be aware that new or different assistance programs may have Federal involvement and be subject to an exclusion. (Central office does not always immediately know when exclusions are enacted if they are handled by another agency.) Follow the guidelines in B. below when a program is questionable or someone alleges a new exclusion or type of assistance.

B. Procedure - Exclusion New or Questionable

1. Contact RO

Contact the regional office (RO) if there is reason to believe an exclusion exists for a program with Federal involvement or if you learn of a new exclusion.

2. Helpful Information

The name of the local program or agency may not be sufficient information to make a determination. As possible, provide the RO with the following information:

- the name of the program and what it does;
- the public law (name and number) which authorizes the program (e.g., P.L. 99-498, the Higher Education Amendments of 1986);
- the section number(s) in the public law which pertain to the program; and
- the Federal agency which is responsible for Federal involvement in the program.

C. Reference

List of exclusions under other Federal statutes and related instructions, S0830.099.

S0830.099 GUIDE TO EXCLUSIONS

A. Introduction

The following provides a list of those instructions which address a partial or total exclusion of unearned income. Those in **bold print** involve an exclusion under another Federal statute.

B. List of Instructions About Unearned Income Exclusions

Action Programs **S0830.610**
Agent Orange Settlement Payments S0830.730

Austrian Social Insurance Payments S0830.715
BIA Student Assistance S0830.460
Child Support S0830.420
..... S0830.425
Disaster Assistance S0830.620

Educational Assistance S0830.450
Energy Assistance S0830.600
..... S0830.605

Farmers Home Administration Housing Assistance (FMHA) S0830.630
Food/Meal Programs S0830.635
Food Stamps S0830.635
Foster Grandparents Program S0830.610

General Assistance *(General Relief)* S0830.175
German Reparation Payments S0830.710
Gifts Occasioned by a Death S0830.545
Gifts of Domestic Travel Tickets S0830.521
Grants, Scholarships, and Fellowships S0830.455

HUD Subsidies S0830.630
Home Energy Assistance S0830.600
..... S0830.605
Home Produce S0830.700
Hostile Fire Pay from the Uniformed Services S0830.540
Housing Assistance S0830.630
Interest on Excluded Burial Funds S0830.501

Japanese-American and Aleutian Restitution Payments S0830.720

Low Income Energy Assistance S0830.600

Meals for Older Americans S0830.635
Milk Programs S0830.635

National Defense Student Loans (NDSL) S0830.460

Pell Grants S0830.460
Private Non-profit Assistance S0830.605

Radiation Exposure Compensation Trust Fund (RECTF) Payments S0830.740
Refunds of Taxes Paid on Real Property or Food S0830.705
Relocation Assistance S0830.655
Retired Senior Volunteer Program (RSVP) S0830.610

School Breakfasts S0830.635
School Lunches S0830.635
Senior Companion Program S0830.610
Supplemental Education Opportunity Grant (SEOG) S0830.460
Special and Demonstration Volunteer Program S0830.610
State Student Incentive Grants (SSIG) S0830.460
State Assistance Based on Need S0830.175

University Year for Action (UYA). S0830.610

Victim's Compensation Payments S0830.660
Volunteers in Service to America (VISTA) S0830.610

***Walker v. Bayer* Settlement Payments** *M0830.760*
Women, Infants, and Children Program (WIC) S0830.635

AMOUNT OF UNEARNED INCOME

S0830.100 EXPENSES OF OBTAINING INCOME

A. Definition

An **expense** as used in this section is one that is an essential factor in obtaining a particular payment(s).

B. Policy

Unearned income does not include that part of a payment which is for an essential expense incurred in getting the payment.

1. Treatment of Expenses

- From a payment received for damages in connection with an accident, we subtract **legal, medical, and other expenses** connected with the accident.

- From a retroactive check from a benefit program other than SSI, we subtract **legal fees** connected with that claim.

2. How to Deduct Expenses--General

Except as noted in 3. below, expenses are deducted from the first and any subsequent amounts of related income until you have completely eliminated all expenses.

3. Expense Money -- Assumption

You may assume that the following payments for expenses do not exceed the expenses and thus do not result in income:

- payments by a government agency for expenses related to obtaining a service or participating in a program (e.g., $10 expense money provided to jurors); and

- lump sum advances or reimbursements by employers to cover expenses of employment paid by the employee (e.g., employee receives a per diem allowance, school bus driver is paid $100 per month allowance to pay for gas and maintenance).

NOTE: See C.2. below for verification requirements when this assumption is applied.

4. Repayment of Legal Fees When Equal Access to Justice Act Payments are Involved

An attorney who receives duplicate fees under the Equal Access to Justice Act (EAJA) and section 206(b) of the Social Security Act is obligated to return the smaller fee to the recipient. Any such payment to the recipient is income, provided that the amount of the fee previously had been deducted from income.

C. Procedure

Use bills, receipts, contact with the provider, etc., to verify all essential expenses.

1. Verifying Expenses -- General

If an expense has been incurred but not paid, assume that the individual will pay the expense unless you have reason to question the situation.

NOTE: You do not need to follow up if this assumption applies.

2. Verifying Expenses -- Assumption in B.4. Applies

If the assumption in B.3. above applies, be aware that you do not need to verify expense or follow up on how the money was spent.

3. Deducting Allowable Expenses

Deduct any expenses which have been verified as essential from the first and any subsequent amount(s) of related income. Deduct even those verified expenses which the recipient has **previously** paid (e.g., a partial payment to an attorney made from the individual's savings account) as long as the expenses are essential.

NOTE: The remainder is unearned income subject to the general rules pertaining to income and income exclusions.

D. Examples -- Essential Expenses

1. Document Fees

A fee to acquire documentation to establish that an individual has a right to certain income (e.g., a fee for a birth certificate or medical examination) is an essential expense.

2. Guardianship Fees

A guardianship fee is an essential expense **only** if the presence of a guardian is a requirement for receiving the income.

NOTE: Guardianship fees are **never** an essential expense for obtaining title II or title XVI benefits because the appointment of a legal guardian is never an SSA requirement.

E. References

- Medical and social services, S0815.050.
- Receipts from the sale, exchange, or replacement of a resource, S1110.600 B.4.
- Treatment of gambling losses, S0830.525 A.

S0803.105 PAYMENTS IN FOREIGN CURRENCY

A. Introduction

Occasionally, an individual receives income tendered to him/her in a monetary unit other than U.S. dollars. This usually will be in the form of a check or a direct deposit to a bank.

B. Policy

1. Amount of Income

The U.S. dollar value of a payment made in foreign currency, less expenses, is income.

2. When Counted

We count foreign currency payments when received unless the individual alleges and can establish that the payment was received too late in the month for conversion prior to the following month.

C. Procedure

1. Verify Receipt and Amount

Use a check or documents in the individual's possession to verify receipt of a foreign payment and the amount in foreign currency. If the payment is made directly to a bank, the bank may provide a statement of the amount received.

2. Evidence Not Available

If the evidence is not readily available, or if translation of the documents would require a delay beyond the receipt of the next payment, then:

- adjudicate the case based on the individual's signed allegation (if there is not reason to doubt the allegation); and
- ask the individual to present his next check before cashing it.

3. Conversion to U.S. Dollars

Verify the exchange rate for conversion of the foreign currency into U.S. dollars using:

- A receipt for the individual's last exchange; or
- A telephone call to a local bank or currency exchange.

4. Changes in Exchange Rate

Presume that an established exchange rate remains constant until the next redetermination, at which time verify the rate again. If at this point, the exchange rate has changed, presume the change occurred in the month of verification and that it remains constant until the next redetermination.

EXCEPTION: If the individual reports that the exchange rate has changed, verify the change and adjust the income counted to reflect the new rate.

D. References

Annuities, pensions, retirement or disability payments--General, S0830.160

German reparations payments, S0830.710

S0830.110 OVERPAYMENT INVOLVED

A. Policy

1. General Rule

Unearned income includes that part of another benefit payment (such as RSDI) which has been withheld to recover a previous overpayment.

2. Exception

The amount withheld is not income when the payment is received if:

- the individual received both Medicaid and the other benefit at the time the overpayment of the other benefit occurred; **and**
- the overpaid amount was included in figuring the Medicaid eligibility at that time.
- This exception applies only if the eligible individual actually received Medicaid while the overpayment was occurring (even if the payments were erroneous). It does **not** apply if the overpayment was used to determine eligibility and the individual was determined to be ineligible.

The exception avoids counting the income twice or "double counting."

3. Which Benefits are Affected

This policy applies to the following benefits:

- annuities and pensions;
- retirement or disability benefits (including veterans' pensions and compensation);
- workers' compensation;
- social security benefits;
- railroad retirement annuities;
- unemployment insurance benefits; and
- black lung benefits.

NOTE: A reduction of title II due to workers' compensation offset or work deductions, is not an overpayment and is **not affected** by this policy.

4. Overpayment--Definition

Overpayment for purposes of this section means overpayment as defined by the entity paying the benefit and includes overpayments made to someone other than the individual whose benefits are withheld.

5. Unable to Determine Double--Counting

Unearned income does not include the amount being withheld to recover an overpayment if, after all development is completed, we are unable to determine whether the exception in A.2. above applies.

6. Multiple Overpayments

When two or more overpayments are being recovered at the same time, we assume the amounts are first withheld to repay any overpayments not subject to the exception in A.2. above. This is regardless of the chronological order in which the overpayments occurred.

B. Procedure

1. Ask About Overpayments

When someone receives benefits under a program listed in A.3. above, ask him/her whether any benefits otherwise due are being withheld to recover an overpayment.

If the answer is	Then
No	Stop. No written documentation or further development is required.
Yes	Explain the policy and exception. Ask if the Medicaid recipient/applicant was receiving Medicaid at the time of the overpayment. • If no, go to B.2. • If yes or unknown, go to B.3.

2. Medicaid Not Received at Time of Overpayment

Accept the individual's allegation that Medicaid coverage was not being received at the time of the overpayment. Obtain a signed statement that:

- Medical assistance was not being received when the overpayment occurred;
- the policy and the exception have been explained; and
- the individual understands that the amounts withheld from the other benefit are considered part of the recipient's/applicant's income.

3. Medicaid Received at Time of Overpayment (or Unknown)

If the individual alleges that medical assistance was being received at the time of overpayment, or the individual does not know, verify Medicaid coverage. Use documents in the individual's possession or contact with the appropriate office or agency to verify:

- when the overpayment occurred;
- the rate of recovery; and
- the period of time of recovery.

C. Examples

1. Exception Applies

Joe Jones received title II benefits and Medicaid beginning January 1987. In November 1988, Mr. Jones learned he was overpaid $100 on his title II claim from April 1988 through August 1988. From January 1989 through May 1989, $20 is withheld from his title II benefit to recover the overpayment. Since the overpayment was already included in unearned income, the EW does not count the $20/month being withheld from January 1989 through May 1989.

2. Overpayment Makes Person Ineligible

Alex Martin received Medicaid payments and VA benefits starting in August 1987. His monthly VA benefit increased to $300 in August 1988. The VA benefit increase, combined with other income, caused Mr. Martin to become ineligible for Medicaid beginning in August 1988. He continued to be ineligible until January 1989 when VA determined his benefit should have been $200 since August 1988. Therefore, Mr. Martin was overpaid a total of $500 by VA for August 1988 through December 1988. Mr. Martin began receiving Medicaid in January 1989. To recover the VA overpayment, Mr. Martin's VA benefit is reduced by $100/month from March 1989 through July 1989. Since Mr. Martin received no Medicaid coverage during the time he was overpaid, the $100/month withheld to recover the overpayment is included in Mr. Martin's current income.

3. Another Person's Overpayment Included in Deeming Computation

Alice Brown has been receiving Medicaid since December 1986. Carl Brown is her ineligible spouse whose income is subject to deeming. In April 1989, Mr. Brown learns he incurred a $250 title II overpayment in November 1988. SSA recovers the overpayment by withholding $50 a month from the benefits Mr. Brown receives in June 1989 through October 1989. For deeming purposes, Mr. Brown's current income does not include the $50/month withheld from his title II since it has already been used in deeming computation for a prior period.

4. Another Person's Overpayment Not Previously Used in Deeming Computation

Mary Smith has been receiving Medicaid since December 1986. Harry Smith, her ineligible spouse, was separated from Mary Smith when he died in 1989. His income was never subject to deeming. Mr. Smith incurred a $100 title II overpayment in November 1988. Since Mrs. Smith is also a title II beneficiary, SSA recovers Mr. Smith's overpayment by withholding $50 a month from Mrs. Smith's benefit in July and August 1989. Since none of Mr. Smith's income was subject to deeming when the overpayment occurred, the EW includes in Mrs. Smith's current income the $50/month withheld from her title II benefit.

D. References

For office or agency addresses see:

- OPM, S0830.220 C.4.
- VA, S0830.320.
- DOD, S0830.240 C.2.

S0830.115 GARNISHMENT OR OTHER WITHHOLDING

A. Policy

Unearned income includes amounts withheld from unearned income because of garnishment or to make certain other payments.

Unearned income includes amounts withheld from unearned income whether the withholding is:

- purely voluntary;
- to repay a debt; or
- to meet a legal obligation.

NOTE: This policy does not apply to amounts withheld to pay the expenses of obtaining the income since such amounts are not income. See S0830.100.

B. Kinds of Withholding

Some items for which amounts may be withheld but considered received are:

- Federal, State, or local income taxes;
- health or life insurance premiums;
- SMI premiums;
- union dues;
- penalty deductions for failure to report changes;
- loan payments;
- garnishments;
- child support payments (court ordered or voluntary (exception-deemors));
- service fees charged on interest-bearing checking accounts;
- inheritance taxes;
- guardianship fees if presence of a guardian is not a requirement for receiving the income (see S0830.100).

C. Procedure

Use documents in the individual's possession or contact the source of the payment to verify the amount withheld. Add the amount withheld to the amount received and consider the total as unearned income from that source.

D. Reference

Overpayment involved, S0830.110

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- union dues;
- penalty deductions for failure to report changes;
- loan payments;
- garnishments;
- child support payments (court ordered or voluntary (exception-deemors));
- service fees charged on interest-bearing checking accounts;
- inheritance taxes;
- guardianship fees if presence of a guardian is not a requirement for receiving the income (see S0830.100).

C. Procedure

Use documents in the individual's possession or contact the source of the payment to verify the amount withheld. Add the amount withheld to the amount received and consider the total as unearned income from that source.

D. Reference

Overpayment involved, S0830.110

BROAD CATEGORIES OF UNEARNED INCOME

S0830.160 ANNUITIES, PENSIONS, RETIREMENT, OR DISABILITY PAYMENTS

A. Definitions

1. Annuity

An annuity is a sum paid yearly or at other specific times in return for the payment of a fixed sum. Annuities may be purchased by an individual or by an employer. *For Medicaid purposes, an annuity is a contract reflecting payment to an insurance company, bank or other registered or licensed entity by which one receives fixed, non variable payments on an investment for a lifetime or a specified number of years. Payments received from an annuity are counted as unearned income.*

2. Pensions and Retirement Benefits

Pensions and retirement benefits are payments to a worker following his retirement from employment. These payments may be paid directly by a former employer, by a trust fund, an insurance company, or other entity.

3. Disability Benefits

Disability benefits are payments made because of injury or other disability.

B. Policy

1. General Rule

Annuities, pensions, retirement, and disability benefits are unearned income.

2. Exceptions

Certain accident disability benefit paid within the first 6 months after the month an employee last worked are earned income. For a further explanation of sickness and accident disability payments, see S0820.005.

A Qualified Domestic Relations Order (QDRO) is a court order, usually the result of a divorce or separation proceeding that changes the ownership of the pension asset and the income stream from one individual to another. To be valid, a QDRO must:1) be a decree issued by a state court; 2) provide the names and addresses of participants and the amount or percentage of the benefit; and 3) be approved by the pension plan administration.

When a QDRO splits the income between a Medicaid applicant/recipient and the spouse, count only the income that is ordered to go to the Medicaid applicant/recipient as his income. If the plan administrator has not approved the QDRO or disapproved it, the income should be calculated without regard to the court order.

C. List of Payments

The following provides a list of instructions which address particular payments:

Black Lung Benefits..... S0830.215
Foreign Payments..... S0830.105
German Reparations Payments S0830.710
Military Pensions S0830.240
Office of Personnel Management (Civil Service and
Federal Employment Retirement System) Payments..... S0830.220
Railroad Retirement Payments..... S0830.225
Title II Payments S0830.210
VA Payments S0830.300
Worker's Compensation Payments S0830.235

D. Procedure

1. Initial Applications

In initial applications, be alert for clues which may indicate a receipt of or potential eligibility for an annuity, pension, or similar payment; e.g., long employment with a particular industry or a government agency, military service, membership in a union.

2. Check Specific Instructions

Check for specific policy instructions pertaining to the payment involved. (See C. above.)

3. Overpayment Question

Ask if any benefits otherwise due are being withheld to recover an overpayment. If the answer is yes, see S0830.110.

4. Verification/ General

If there are no specific policy instructions for the payment, use award letters or other documentation in the individual's possession or contact the source to verify:

- the type, source, and amount of payment;
- if necessary, the frequency of payment.

5. Verification/ Frequency

It is not necessary to verify the frequency of the payment if you are familiar with the type of payment involved either through direct experience or a precedent.

6. Verification/ Use of Check

If the individual does not possess an award letter or other document, a **check** may be used to verify the payment amount if it is clear that the amount shown represents the gross amount.

7. Contact with the Source

If the individual has no evidence in his/her possession, contact the source of the payment.

E. References

Determining the amount of unearned income, S0830.100

Contributions by an employer into a retirement fund, S0815.600

Retirement funds as resources, S1120.210 E.

S0830.165 ASSISTANCE PROGRAMS WITH GOVERNMENTAL INVOLVEMENT -- GENERAL

A. Introduction

Federal, State, and local governments are involved in a number of programs which provide assistance (cash or in-kind goods and services) to Medicaid recipients. For Medicaid purposes, treatment of this assistance will vary depending on the nature of the program and the payment. Sections S0830.170, S0830.175 and S0830.180 provide guidelines for determining the nature of these programs and the income, if any, to count when program specific instructions do not exist elsewhere. A guide is provided in B. below.

B. Programs-Specific Instructions

Use this table to locate specific instructions pertaining to frequently encountered programs with governmental involvement.

Adoption assistance S0830.415
Action Programs S0830.610
Aid to Families with Dependent Children (AFDC) S0830.400
Bureau of Indian Affairs General Assistance (BIAGA) S0830.800
Community Services Block Grant S0830.615
Community Work Experience Program (CWEP) S0830.185
Cuban/Haitian Entrant Cash Assistance S0830.645
Disaster Assistance S0830.620
Educational Assistance S0830.450
Emergency Assistance Under Title IV A S0830.405
Federal Emergency Management Agency (FEMA) S0830.625
Food Stamps S0830.635
Foster Care S0830.410
Foster Grandparents Program S0830.610
General Assistance, Home, Relief, etc. S0830.175
Housing Assistance S0830.630
Job Training Partnership Act (JTPA) S0830.535
Low Income Home Energy Assistance Program (LIHEAP) S0830.600
Older Americans Act S0830.640
Refugee Cash Assistance S0830.645
Refugee Reception and Placement Grants S0830.650
Refugee Matching Grants S0830.650
Rehabilitation Act of 1973 ..... S0815.050
Relocation Assistance S0830.655
School Lunches S0830.635
Social Service Block Grant (Title XX) S0815.050
State Assistance Based on Need S0830.175
VA Benefits S0830.300
Work Relied (Workfare) Programs.. ..... S0830.185

S0830.170 INCOME BASED ON NEED (IBON)

A. Definition

Income based on need (IBON) is assistance:

1. provided under a program which uses income as a factor of eligibility; and

2. funded wholly or partially by the Federal government or a nongovernmental agency (e.g., Catholic Charities or the Salvation Army) for the purpose of meeting basic needs (i.e., the funds are provided specifically for a formalized program whose general purpose is similar to that of the SSI program).

EXCEPTION: State supplementary payments made to refugees are not IBON (S0830.175), despite involvement of Federal funds.

B. Policy Principle

Income based on need is counted as income dollar for dollar, unless it is totally excluded by statute (e.g., food stamps) or excluded under a PASS (S0810.430.). The $20 general income exclusion (S0810.420) does not apply to IBON.

NOTE: If a nongovernmental agency is involved, consider whether the assistance qualifies for exclusion as Home Energy Assistance and Support and Maintenance Assistance (HEA/SMA, S0830.605) or meets the definition of a social service (S0815.050).

C. Operating Procedures

NOTE: These instructions apply when there are no separate instructions pertaining specifically to the program in question.

1. Verify with the administering agency personnel and/or program descriptions that the assistance meets the definition of income based on need.

2. Verify the amount of the assistance for each month with the administering agency or through documents in the individual's possession.

3. If income based on need is paid to or on behalf of a group of people, determine one individual's income by the incremental method (i.e., the individual's income is the difference between the amount paid and the amount which would have been paid had the individual not been included).

S0830.175 ASSISTANCE BASED ON NEED (ABON)

A. Definitions

ABON is assistance:

1. Assistance Based on Need (ABON)

- provided under a program which uses income as a factor of **eligibility**; and
- funded **wholly** by a State (including the District of Columbia, Indian tribes and the Northern Mariana Islands), a political subdivision of a State, or a combination of such jurisdictions.

EXCEPTIONS: State supplementary payments, made to refugees are considered to be ABON even if the Federal government reimburses the State.

NOTE: If a program uses income to determine payment amount but not eligibility, it is not ABON (e.g., some crime victims compensation programs).

2. Federal Funds

For purposes of this section, Federal funds means monies supplied and directed by the Federal government for a specific use or specific type of program (e.g., community service block grants, Federal matching funds for AFDC). Monies not allocated for specific purposes are not considered Federal funds.

EXAMPLES: Nonspecific Funding

Revenue sharing funds are not "Federal funds" for purposes of this section and programs using these funds are considered wholly Sate funded.

B. Policy

Assistance based on need is excluded from income.

C. Procedure

1. Precedent Exists

If a precedent exists:

- **Accept** the claimant's **allegation** as to the type and source of assistance and exclude it without further development.
- **Document** the file to show that a precedent exists **only** if you use a local precedent.

2. No Precedent Exists

If a precedent does not exist:

- Use **documents** in the individual's possession or contact the administering agency to **determine** the program under which the assistance is provided.
- **Verify** with agency personnel and/or program descriptions that no

Federal or private funds are involved and that the program uses income in arriving at eligibility determinations.

- **Retain** the evidence (either written material or oral statements documented).

NOTE: If evidence establishes that the assistance is excludable under this provision, it is not necessary to verify the amount of assistance and when it was received.

- **Document the file** with copies of the original evidence, or mention that a local precedent exists.

D. References

Income based on need, S0830.170.

S0830.180 OTHER ASSISTANCE INVOLVING GOVERNMENT FUNDS

A. Policy Principle

Assistance which is neither IBON nor ABON, but which involves government funds, is subject to the general rules pertaining to income and income exclusions.

NOTE: See section S0830.625, S0830.615 and S0830.405 for examples of this type of assistance.

B. Operating Procedures

1. Determine that the assistance is neither IBON (S0830.170) nor ABON (S0830.175). Remember:

   a. assistance involving Federal funds which are not provided by the Federal government for the purpose of meeting ongoing basic needs is not IBON;

   b. State supplementary payments, including those made to refugees, are always ABON; and

   c. assistance involving funds which have been supplied and directed by the Federal government for use solely in the type of assistance provided is not ABON.

2. Determine the nature of the assistance and apply the appropriate operating instructions pertaining to income and income exclusions. Related sections include:

   S0815.050 (Medical and Social Services)
   S0810.420 ($20 General Income Exclusion)
   S0830.605 (Home Energy Assistance and Support and Maintenance Assistance)

S0830.185 WORK RELIEF (WORKFARE) PROGRAMS

A. Background

Many governmental assistance programs require that certain recipients work in exchange for the assistance provided. Most often the amount of the assistance payment is divided by the minimum wage and the recipient required to perform some service for the resulting number of hours. Usually a participant in such a work program is given money to cover any expenses incurred (e.g., carfare, special clothing, miscellaneous, etc.). Programs connected with general assistance have various locally established names. Programs connected with AFDC include the Community Work Experience Program (CWEP), and the Work Incentive Program (WIN). Programs are often run as demonstrations or pilot projects.

B. Policy Principle

The fact that an individual is required to work in exchange for an income based on need (S0830.170) or assistance based on need (S0830.175) payment does not change the nature of the payment. For Medicaid purposes, the payment in such situations is an assistance payment and is not earned income.

NOTE: Do not confuse work supplementation programs connected with AFDC with programs which require an individual to work in exchange for income based on need. Work supplementation programs pay wages which are earned income. The family may or may not receive an AFDC payment in addition to the earned income.

C. Operating Procedures

1. Verify the assistance according to the appropriate instructions. Follow the instructions in S0830.170 if IBON is involved; S0830.175 if ABON is involved; S0830.400 if AFDC is involved.

2. Assume that any expense money provided in connection with a governmental work program equals the expenses incurred and does not result in any income. Verify with the paying agency or through documents in the individual's possession that any alleged expense money is provided as such. A precedent may be used. If a precedent has been established, document the file to show this.

MAJOR BENEFIT PROGRAMS

M0830.200 BENEFITS PAID UNDER TITLE XVI OF THE SOCIAL SECURITY ACT

A. Policy Principles

Supplemental Security Income (SSI) payments are monthly unearned income. SSI monthly payments and SSI lump sum payments are totally excluded when determining financial eligibility for Medicaid.

SSI recipients who meet the more restrictive Medicaid resource criteria are eligible for Medicaid as categorically needy.

S0830.210 BENEFITS PAID UNDER TITLE II OF THE SOCIAL SECURITY ACT

A. Policy Principles

1. Retirement, survivors, and disability insurance (RSDI) monthly benefits are unearned income. Special age 72 payments are also unearned income. (See S0830.545 for treatment of lump-sum death payments.)

2. The amount of premiums deducted for Supplementary Medical Insurance (SMI) under Medicare from RSDI benefits is included in unearned income.

3. Unearned income includes the amount withheld to recover an overpayment (unless the exception in S0830.110 applies).

B. Operating Policies

1. Reductions, Deductions, and Rounding

At different points in the computation process, the title II benefit, if not already an even dime amount, is rounded to the next lower dime. The final benefit payment is then rounded to the next lower dollar. Rounding does not apply to special age 72 (Prouty) payments or transitionally insured benefits. If a beneficiary is entitled to more than one benefit (dual or triple entitlement), each benefit is rounded to the next lower multiple of a dollar.

Count as income for Medicaid purposes the amount of title II after reductions, deductions, and dollar rounding, but before the collection of any obligations of the beneficiary (e.g., SMI premium or prior overpayment).

If a monthly benefit payment has been reduced because of a workers' compensation offset, count the net amount of the benefit received (plus any SMI premium withheld) as unearned income.

2. Prior Overpayment

If all or part of a title II benefit is being withheld to recover an overpayment, count as income the amount of title II before deduction for the overpayment unless the exception in S0830.110 applies. If the exception applies (i.e., the overpayment occurred when the individual was receiving Medicaid and the overpaid amount was included in unearned income at that time), do not include the amount deducted for an overpayment in calculating countable title II income. Also do not count as income monies received as a result of a waiver approval when the money was previously withheld to recover a title II overpayment and was counted as income for Medicaid when originally withheld.

3. SMI Premiums

Do no count refunded SMI premiums as unearned income.

EXAMPLE: An individual's title II benefits for January 1987 through May 1987 are withheld because of expected work and earnings. He reports in June 1987 that he quit working in February 1987. He paid

SMI premiums for January - March 1987, April - June 1987, and July - September 1987. A title II check sent in July 1987 includes full benefits for January - June 1987 and refunds SMI premiums for August - September 1987, which will be withheld from future checks. For Medicaid purposes, the part of the check which represents full benefits for January - June 1987 is unearned income in July 1987 and the refunded SMI premiums for August - September 1987 are not income.

4. Retroactive State Buy-In

When a State "buys-in" for Medicare on behalf of an individual, a different amount of title II income may be posted because of the title II rounding provisions.

5. Underpay-ments

Title II benefits can be received in regular monthly checks (or by direct deposit) or in retroactive payments. If an individual receives a check because of an underpayment, charge the amount of the check (plus any SMI premiums withheld) as unearned income in the month received; do no look back and allocate an underpayment being made in the current month to prior months. See S0830.010 B. on counting retroactive RSDI benefits for an offset period. See S1120.022 for the treatment of reissued title II monies in change-of-payee situations.

6. Facility of Payment Provisions

When a title II auxiliary or survivor beneficiary who is subject to work deductions receives title II benefits in his name because of the facility (something that makes an operation or action easier) of payment provisions but the benefits are those of other beneficiaries, the amount of title II benefits of each of the involved beneficiaries must be determined separately. Count the benefits as income to the appropriate beneficiaries.

M0830.211 SPECIAL EXCLUSION OF TITLE II COLA FOR ABD MI

A. Policy

The cost-of-living adjustment (COLA) in the individual's Social Security Title II benefit is excluded through the month following the month in which the new federal poverty limits (FPLs) are published when determining the income eligibility of an individual in the following ABD medically indigent (MI) covered groups:

- Qualified Medicare Beneficiary (QMB
- Special Low-income Medicare Beneficiary (SLMB),
- Qualified Individual Group 1 (QI-1),
- Qualified Individual Group 2 (QI-2), or
- *ABD with Income ≤ 80% FPL (ABD 80% FPL).*

B. Procedure

Exclude the COLA in the individual's SSA Title II benefit until the first day of the second month following the publication month of the new FPL. Local agency staff are notified of the FPL publication via the Department of Social Services' Central Office broadcast system

C. Example

A QMB-only Medicaid recipient who receives SSA Title II benefits receives a COLA in the benefit amount received in January 1998. The worker does not take any action on this change in income until the

broadcast system notifies the worker of the new FPLs and their publication month. On March 26,1998, a broadcast is sent which indicates that the FPLs were published on March 9,1998. The worker recalculates the recipient's income for May 1, 1998 based on the recipient's increased Title II benefit and the new QMB income limit which was effective May 1, 1998.

S0830.215 BLACK LUNG BENEFITS

A. Introduction

1. Types of Black Lung Benefits

Black Lung (BL) benefits are paid to miners and their survivors under the provisions of the Federal Mine Safety and Health Act (FMSHA).

Benefits under **Part B** of the FMSHA are paid by the **Social Security Administration** (SSA) and benefits under **Part C** of the FMSHA are paid by the **Department of Labor** (DOL).

2. Payment Dates

In general, Part B benefits are paid on the third of the month while Part C benefits are paid on the fifteenth of the month.

3. Reduction of BL Benefits

Both Part B and Part C BL benefits are subject to offsets (e.g., workers' compensation) and can be reduced due to the recovery of an overpayment. In addition, Part C benefits may be reduced because of liens imposed by other Federal agencies (such as the Internal Revenue Service).

B. Policy

1. Unearned Income

BL benefit payments are unearned income.

2. Deductions

The amount deducted from a Part C BL benefit because of garnishment (e.g., liens imposed by other Federal agencies) is unearned income (see S0830.115). (See 0830.110 if an overpayment is involved.)

3. Countable BL Income

The amount of the BL benefit to count as income is the amount paid after application of an offset (i.e., workers compensation offset or work deductions) but before the collection of any obligations of the recipient (unless the exception in S0830.110 applies).

C. Procedure Part B

a. **Verify the receipt of Part B BL benefits**

You may use the individual's award notice or actual check.

b. Use the monthly payment amount **(MPA)** in the PAYMENT section of the Maximum Benefit Rate **(MBR) to calculate BL income**.

NOTE: The MPA is the amount paid to the individual after deduction for an offset or collection of an overpayment.

c. **Document the file** so that it is clear how countable BL income was determined.

D. Procedure Part C

a. **Verify the receipt of Part C BL benefits** with the individual's own records (such as an award notice or check), if available.

b. **Call the appropriate DOL office** if information from the applicant/recipient is unavailable or incomplete. DOL can also resolve questions about overpayments or liens.

c. **Calculate the amount of countable BL income** from the actual payment amount.

d. **Document the file** so that it is clear how countable BL income has been determined.

S0830.220 OFFICE OF PERSONNEL MANAGEMENT (CIVIL SERVICE AND FEDERAL EMPLOYEE RETIREMENT SYSTEM) PAYMENTS

A. Introduction

1. General

The Office of Personnel Management (OPM) makes U.S. Civil Service and Federal Employee Retirement System (FERS) payments because of disability, retirement, or death.

2. Annuitants Retired Before July 1, 1960

OPM provides annuitants under the Retired Health Benefits (RHB) program free coverage under Part B of Medicare. At the employee's option, the Part B premium may instead be paid to another health insurance plan or paid directly to the annuitant for use in purchasing health insurance coverage privately. All annuitants covered by the RHB program retired before July 1, 1960.

B. Policy

1. General Rule

U.S. Civil Service and FERS payments are **unearned income** to the entitled retiree or individual survivor.

2. Certain Disability Benefits

Certain disability benefits paid within the first 6 months after an employee last worked are earned income.

NOTE: For an explanation of benefits falling under this exception, see S0820.005.

3. Retired Health Benefit (RHB) Payments

RHB payments to annuitants are **not** income.

NOTE: An RHB payment is shown as a **positive** amount on the health benefits line of the OPM notice.

C. Procedure

1. Overpayment Question

Ask if any benefits otherwise due are being withheld to recover an overpayment. If the answer is "yes," see S0830.110.

2. Use Documents Other Than a Check

Use notices or other documents in the individual's possession (other than a check) to verify the **gross amount** of the payment.

3. Do Not Use Check Alone

Do not use a check alone to verify the amount of the payment because a check is not reliable evidence of the gross amount.

4. Contact with OPM

If the individual has no acceptable documents, write or telephone OPM. Provide the individual's name and civil service annuity claim identification number (a seven-digit number with a "CSA" or "CSF" prefix). If the claim number is not available, provide the individual's date of birth and Social Security number.

The OPM telephone number is *(888) 767-6738*. Direct written inquiries to:

U.S. Office Personnel Management
Retirement Operations Center
P.O. Box 45
Boyers, PA 16017

S0830.225 RAILROAD RETIREMENT PAYMENTS

A. Introduction

1. Categories of Payment

There are three basic categories of payments made by the Railroad Retirement Board (RRB):

- Life and survivor annuities
- Social Security benefits certified RRB
- Unemployment, sickness, and strike benefits

2. Life and Survivor Annuities

- Life annuities for retirement and disability are paid under the Railroad Retirement (RR) Act to the railroad employee and his/her spouse. Children of a living annuitant are not entitled to benefits.
- Survivor annuities are payable to widows, widowers, children, and dependent parents of railroad employees. A small number of widows receive two annuities, a regular widow's check and a check payable to them as designated survivors of retired railroad employees who elected to receive reduced benefits during their lifetimes.
- RR annuity payments are similar to Title II benefits in that a check for one month is paid the next month. Also, cost of living adjustments (COLA) for RR annuities are effective the same month as Title II COLA's.

3. Social Security Benefits Certified by RRB

SSA may authorize the payment of Social Security benefits for RR employees to RRB instead of directly to Treasury. Although RRB in these situations has responsibility for certifying Title II benefits to Treasury, they remain Title II benefits.

Individuals entitled to this type of benefit receive two award notices. The first notice, from SSA, informs the beneficiary that RRB has responsibility for making Social Security payments. The final notice, from RRB, specifies the amount of the first check.

RR annuity payments and Social Security benefits certified by RRB may be paid as a single check. In these cases, RRB may issue an interim notice before the final notice which specifies the amount of the first check.

4. Unemployment Sickness, and Strike Benefits

Unemployment, sickness, and strike benefits are computed on a daily basis with each check covering a period of up to 2 weeks. These claims are usually filed through the railroad employer or directly with RRB in Chicago.

B. Policy

1. Unearned Income

Payments made by the RRB are **unearned income.**

2. Reduction of RR Benefits

The amount deducted from a RR benefit for supplementary medical insurance (SMI) premiums is unearned income. See S0830.110 if an overpayment is involved.

3. Countable RR Income

The amount of the RR annuity to count as income is the amount before the collection of any obligations of the annuitant (unless the exception in S0830.110 applies).

C. Procedure - Life and Survivor Annuities

1. General Development -- All Cases

a. **Be alert to the possibility of the receipt of,** or potential entitlement to, **RR benefits** in every case where:

- the individual's social security number begins with a "7"
- the individual alleges or other evidence indicates railroad employment by the individual or his/her spouse.

b. **Verify** allegations of receipt of **RR annuities** by obtaining a copy of the individual's most recent award notice.

c. **If the notice is unavailable,** record in the file the information from the individual's next check.

NOTE: RR checks bear beneficiary symbols that identify the type of RR benefit involved.

D. Procedure Social Security Benefits Certified By RRB

Follow the instructions in S0830.210.B. for documentation of Social Security benefits certified by RRB. (The notice issued by RRB which specified the amount of the first check is one form of evidence.)

E. Procedure - Unemployment, Sickness, and Strike Benefits

Obtain evidence of unemployment, sickness, and strike benefits from the individual's own records, such as an award letter or actual check. If this evidence is unavailable, contact RRB headquarters in Chicago at:

Railroad Retirement Board
844 Rush Street
Chicago, IL 60611

Local RRB offices do no maintain this information.

S0830.230 UNEMPLOYMENT INSURANCE BENEFITS

A. Definition

Unemployment insurance benefits, also known as unemployment compensation, means payments received under a State or Federal unemployment law and additional amounts paid by unions or employers as unemployment benefits.

B. Policy

Unemployment insurance benefits are unearned income.

C. Procedure

1. Overpayment Question

Ask if any benefits otherwise due are being withheld to recover an overpayment. If the answer is yes, see S0830.110.

2. Verify Amount

Whenever possible, ask the individual to bring his next check or a notice into the office to verify the payment amount.

3. Determine Frequency

It is not necessary to verify the frequency if you are familiar with the frequency either through direct experience or a precedent. Document the file so that it is clear why the frequency was not verified.

4. Contact with Source

If you must contact the source, use the telephone as much as possible.

5. Payment Date

If the payment is picked up in person, accept the individual's allegation as to the day the compensation is received unless there is reason to question the allegation. If the payment is mailed, assume the payment is received 5 days after the payment mailing date unless the individual alleges it was received sooner, in which case accept the allegation.

S0830.235 WORKERS' COMPENSATION

A. Introduction

Workers' compensation (WC) payments are awarded to an injured employee or his/her survivor(s) under Federal and State WC laws, such as the Longshoremen and Harbor Workers' Compensation Act. The payments may be made by a Federal or State agency, an insurance company, or an employer.

B. Policy

1. Income

a. General

The WC payment less any expenses incurred in getting the payment is unearned income.

b. Amounts Designated for Expenses by Authorizing or Paying Agency

Any portion of a WC award payment **that the authorizing or paying agency designates** for medical expenses or legal or other expenses attributable to obtaining the WC award is not income (S0830.100). The expenses may be **past, current,** or **future**. The WC payments designated for such expenses may be received in a lump sum or as a continuing payment.

c. Other Amounts Claimed for Expenses

If an individual alleges having incurred expenses that exceed amounts designated for expenses as in b. above, or for which no amount was designated, the normal rules pertaining to the expenses of obtaining income apply (see S0830.100).

2. Resources

There is no resource exclusion that applies specifically to WC payments that have been deducted from income under b. or c. above. Normal resource rules apply to WC payments retained after the month of receipt.

C. Procedure

1. Checking for Possible WC Overpayment Withholding

Ask if any WC benefits are being withheld to recover an overpayment. If yes, see S0830.110.

2. Verifying WC Payments

If possible, use an award notice to verify WC payments. If such a notice is not available, obtain information from the Federal or State agency, insurance company, or employer. (The address of the local Federal Employee's Compensation agency or the State Workers' Compensation Office should be in the local phone directory.)

3. Verifying Amounts Designated by Authorizing or Paying Agency

If the WC award notice includes monies designated for expenses listed in B.1.b. above, but does not specify the amount designated, contact the paying agency (i.e., the Federal or State agency, insurance company, or employer) to verify the amount of the WC award that is designated for such expenses.

4. Verifying Other Amounts Claimed for Expenses

Follow the instructions in S0830.100 C. to verify expenses that exceed the designated amounts or for which no amounts are designated.

D. References

- Expenses of obtaining income, S0830.100.
- General resource rules, S1110.001.
- Liquid resources, S1110.300.

S0830.240 MILITARY PENSIONS

A. Introduction

1. General

The Air Force, Army, Marine Corps, and Navy pay military pensions to military retirees and survivors normally on the first day of the month.

2. Categories of Beneficiaries

There are three categories of beneficiaries who may be entitled to military payments:

- **RETIREE** - A person with 20 years of service who meets the requirement for entitlement;
- **ANNUITANT** - A survivor who is designated by the retiree to receive benefits upon the death of the retiree under the Retired Serviceman's Family Protection Plan **(RSFPP)**, Survivor's Benefit Plan **(SBP)**, or both;
- **ALLOTTEE** - Anyone other than an annuitant of the RSFPP or SBP who is designated to receive money out of the service member's or retiree's check. Entitlement as an allottee terminates upon the death of the retiree. However, an allottee can become an annuitant when the retiree dies.

3. Types of Annuitants

The RSFPP and SBP annuitant programs pay money to surviving spouse(s) and children.

The SBP program also pays:

- "Insurable interest" person: i.e., someone other than a surviving spouse or child that a service member designated to receive survivor benefits based on monies withheld from his or her retirement payment under the provisions of the SBP program; and
- Minimum income level widows (MIW) who are certified by the VA as having low income and are referred by the Department of Defense (DOD).

B. Policy

Military pensions are unearned income.

Payments to MIW's are income based on need not subject to the $20 general income exclusion.

C. Procedure

Obtain evidence from the individual's own records, if available.

1. General

If the individual does not have sufficient evidence, contact the appropriate Military Finance Center as shown in 2. below.

2. Contacting the Military Finance Centers

a. If information must be requested from a Military Finance Center, send a request with the individual's authorization to release the information.

b. Include the following information on the request form:

- The service member's given name, middle initial and surname;
- The service member's service identification number (if available);
- The service member's SSN;
- The annuitant's or allottee's name; and
- The annuitant's or allottee's SSN.

c. **Specify the period** for which payment information is needed and identify the pay plan (e.g., RSFPP, SBP).

d. The following is a listing of the mailing address for each Military Finance Center.

Military Service Branch	Military Finance Center Mailing Addresses
ARMY	USAFAC Director, Retired Operations Indianapolis, IN 46249 ATTN: Management Support Office
NAVY	Defense Finance Accounting Service Code 305 Navy Finance Center Anthony J. Celebrezze Building Cleveland, OH 44199
AIR FORCE	DFAF/DE/CIDM Denver, CO 80279-5000
MARINE CORPS	Marine Corps Finance Center 1500 E. Bannister Street Kansas City, MO 64197

D. References

- Income based on need, S0830.170

DEPARTMENT OF VETERANS AFFAIRS PAYMENTS

S0830.300 DEPARTMENT OF VETERANS AFFAIRS PAYMENTS

A. Introduction

The Department of Veterans Affairs (VA) has numerous programs which make payments to Medicaid recipients and their families. For Medicaid purposes, treatment of those VA payments depends on the nature of the payments. The most common types of VA payments are explained in the following sections:

- PENSION - S0830.302
- COMPENSATION - S0830.304
- EDUCATIONAL ASSISTANCE - S0830.306
- AID AND ATTENDANCE ALLOWANCE - S0830.308
- HOUSEBOUND ALLOWANCE - S0830.308
- CLOTHING ALLOWANCE - S0830.310
- PAYMENT ADJUSTMENT FOR UNUSUAL MEDICAL EXPENSES - S0830.312
- INSURANCE PAYMENTS - S0830.160 (for disability insurance) and S0830.545 (for life insurance).

B. Procedure

Explore the possibility of receipt of, or potential eligibility for, a VA payment, whenever it comes to your attention that an applicant or recipient is:

- a veteran;
- the child or spouse of a disabled or deceased service person or veteran;
- an unmarried widow or widower of a deceased service person or veteran;
- the parent of a service person or veteran who died before January 1, 1957 from a service connected cause.

NOTE: Eligibility for Other Program Benefits: The Social Security Act requires that an applicant or recipient who is potentially eligible for some VA benefits must apply for those benefits.

S0830.302 VA PENSION PAYMENTS

A. Introduction

1. Basis for Payments

Pension payments are based on a combination of service and a nonservice-connected disability or death. With a few rare exceptions noted below, VA pension payments are also based on need.

2. Payments for Dependents

VA may take dependents' needs into account in determining a pension. However, normally VA will not make a pension payments directly to a dependent during the lifetime of the veteran. Instead, the amount of the veteran's basic pension is increased if the veteran has dependents.

A VA pension payment that has been increased for dependents is an augmented VA payment. A VA pension payment made directly to the dependent of a living veteran is an apportioned payment. (See S0830.314 for a discussion of augmented and apportioned payments.)

3. Frequency

Pension payments are usually paid monthly; however, when the monthly payment due is less than $19, VA will pay quarterly, biannually or annually. VA may also make an extra payment if an underpayment is due.

4. Unusual Medical Expenses

When computing some needs-based pension payments, VA deducts unusual medical expenses from any countable income. This computation may result in an increase in a pension payment or in an extra payment. **An increase or extra payment resulting from this computation is not income**. (See S0830.312 for a discussion of VA payments resulting from unusual medical expenses.)

B. Policy

1. Basic Policy -- Needs - Based

All VA pension payments except those listed in 2. below are federally funded income based on need. As such, these payments are unearned income to which the $20 general income exclusion does not apply.

2. Policy Exceptions

a. Pension Payments Resulting from Aid and Attendance or Housebound Allowances

VA aid and attendance housebound allowances are not income. (See S0830.308.) All or part of a VA pension may be subject to this rule.

b. Pension Payments Resulting from Unusual Medical Expenses

VA payments resulting from unusual medical expenses are not income. (See S0830.312.) All or part of a VA pension payment may be subject to this rule.

c. Pensions Not Based on Need

Certain pensions paid to veterans or their dependents are not needs based. These pensions are unearned income and the $20 general exclusion (S0810.420) applies. This exception applies to pensions paid on the basis of:

- a Medal of Honor; or
- a special act of Congress.

3. Assumption

Assume that a VA pension is partly or entirely needs based unless there is evidence to the contrary.

C. Procedure

Follow the procedure below for developing and verifying VA pensions.

Step	Action
1	Screen for unusual medical expenses per S0830.312.
2	Develop for augmentation (per S0830.314) if dependents may be involved.
3	Screen for an aid and attendance or housebound allowance per S0830.308.
4	Are unusual medical expenses, augmentation, or an aid and attendance or housebound allowance at issue in the case? • If yes, go to Step 5. • If no, go to Step 6.
5	Verify the gross amount and frequency of payment. STOP.
6	Verify the gross amount and frequency of payment using (in order of priority): • a VA award letter or comparable document in the individual's possession; • a benefit check in combination with a signed statement from the individual that provides the frequency of payment and affirms that VA makes no deductions (such as insurance premiums, loan payments, and overpayment deductions); or • Verification from VA Regional Office (VARO).

D. References

- Applying Income Rules, S0810.030.

S0830.304 VA COMPENSATION PAYMENTS

A. Introduction

1. Basis for Payments

Compensation payments are based on service-connected disability or death. VA compensation payments may also be based on need.

2. Payments for Dependents

VA may take dependents' needs into account in determining a compensation payment. Compensation payments may be paid directly to dependent parents on the basis of a service-connected death.

A VA compensation payment that has been increased for dependents is an augmented VA payment. A VA compensation payment made directly to the dependent of a living veteran is an apportioned payment. (See S0830.314 for a discussion of augmented and apportioned payments.)

3. Frequency

Compensation payments are paid monthly.

4. Unusual Medical Expenses

For needs-based compensation payments, VA may deduct unusual medical expenses from any countable income. (See S0830.312.)

B. Policy

1. Surviving Parent Compensation

Compensation payments to a surviving parent of a veteran are federally funded income based on need. As such, these payments are unearned income to which the $20 general income exclusion (S0810.420) does not apply.

EXCEPTIONS: Compensation payments resulting from unusual medical expenses, aid and attendance allowances, and housebound allowances are not income (S0830.308 and S0830.312). All or part of a VA compensation payments may be subject to this rule.

2. All Other Compensation

Compensation payments to a veteran, spouse, child, or widow(er) are unearned income subject to the $20 general income exclusion (S0810.420).

EXCEPTION: Any portion of a VA compensation payment that is a VA aid and attendance allowance or housebound allowance is not income. (See S0830.308.)

C. Procedure

- Follow the pension instructions in S0830.302 C.
- Do not screen for unusual medical expenses unless a needs-based payment is involved.

S0830.306 VA EDUCATIONAL BENEFITS

A. Introduction

VA provides educational assistance under a number of different programs including vocational rehabilitation. The Medicaid income and resource policies that apply depend on the nature of the VA program.

1. General Information

a. **Period of Eligibility**--Generally, veterans have 10 years after leaving the service to complete their education and 12 years after leaving the service to complete a program of vocational rehabilitation.

b. **Frequency of Payment** -- Payments are usually made monthly only for those months the veteran is in school. If school attendance is less than full time, the payments may be made less frequently.

c. **Other Eligibles** -- Dependents and survivors of veterans may also be eligible for educational benefits.

d. **"Contributory" Programs** --Some VA educational benefits are based on contributions by the veteran. That is, the veteran contributed to the educational fund while in the service and VA matches the money when the veteran withdraws it to pursue an education. The veteran also has the right to withdraw, as a lump sum, the funds he/she contributed.

2. Specific Educational Programs

a. **Chapter 30 (Active Duty Educational Assistance Program ("new" GI Bill))** --VA makes payments under this noncontributory program to veterans who:

- entered active service on or after July 1, 1985; or
- meet the qualification in 2 c. below, serve 3 years after June 30, 1985 and have had their military pay reduced for 12 months during their active service due to the individual participating in this program.

Payments under this program are not augmented for dependents if the veteran entered active service after June 30, 1985.

b. **Chapter 31 (Training and Rehabilitation for Veterans with Service Connected Disabilities)** --- VA pays benefits under this noncontributory vocational rehabilitation program to veterans who served in the military after August 1, 1940.

Chapter 31 benefits may be augmented for dependents.

c. **Chapter 32 (Veterans Educational Assistance Program (VEAP))** -- VA pays benefits under this contributory program to veterans who entered active service between January 1, 1977 and June 30, 1985.

The benefits are not augmented for dependents.

d. **Chapter 35 (Survivors and Dependents Educational Assistance Program)** -- VA makes payments under this noncontributory program to:

- children (between ages 18 and 26) and surviving spouses of veterans who died in the service; or
- children and spouses of living veterans who are 100 percent disabled due to a service-connected injury.

NOTE: Survivors and dependents have 10 years from the date of the veteran's service-connected death or date of 100 percent disability to participate in this program.

e. **Chapter 106 (Selected Reserve Program)**--VA pays benefits under this noncontributory program to reservists who have a 6-year commitment while they are in the reserves. Payments under this program are not augmented for dependents.

B. Policy

1. What is Not Income

a. **Vocational Rehabilitation** -- Payments made as part of a VA program of vocational rehabilitation are not income (S0815.050 C.). This includes any augmentation for dependents.

b. **Withdrawal of Contributions** -- Any portion of a VA educational benefit which is a withdrawal of the veteran's own contribution is conversion of a resource and is not income (S0815.200).

2. What is Income

VA educational benefits other than those in 1.a. and b. above are unearned income. However, any portion of a grant, scholarship, or fellowship used for paying tuition, fees, or other necessary educational expenses is excluded from income (S0830.455).

NOTE: The $20 general exclusion (S0810.420) applies to VA educational assistance and the payments are subject to deeming.

3. Augmented Benefits

The policy for augmented VA benefits as explained in S0830.314 applies to augmented educational benefits.

EXCEPTION: Subsistence allowances received during vocational rehabilitation may be augmented, but the dependent's portion is not income per 1.a. above.

Only that portion of an educational payment which is income to the individual obtaining the education is subject to the exclusion for educational expenses as described in S0830.455. The augmented portion which is income to the dependent is not subject to this exclusion.

C. Procedure

Accept the following, in the order listed, as documentation of type, amount, and frequency of payments:

1. Acceptable Evidence

a. A VA award letter or comparable document in the individual's possession; or
b. Verification from the VARO.

2. Noncontrib-utory/ Contributory Programs

a. ....**Service Began Prior to January 1, 1977 or After June 30, 1985** -- If there is evidence in file that the veteran's active service began prior to January 1, 1977 or after June 30, 1985, assume that the educational benefits are paid under a noncontributory program. (A signed statement from the veteran or the veteran's surviving spouse or child is sufficient evidence of service dates).

b. **Service Began Between January 1, 1977 and June 30, 1985** -- If there is evidence that the veteran's active duty service began between January 1, 1977 and June 30, 1985, assume that the educational benefits (other than Chapter 31 benefits) paid to a veteran are paid under a **contributory** program. (A signed statement from the veteran or the veteran's surviving spouse or child is sufficient evidence of service dates). Verify the portion of any VA educational benefit that is a withdrawal of the veteran's contributions to the fund.

Verify this information with the VARO and obtain the following information:

- For each periodic payment of educational benefits, provide the dollar amount representing a return of the veteran's own contribution.

S0830.308 VA AID AND ATTENDANCE AND HOUSEBOUND ALLOWANCES

A. Introduction

VA pays an allowance to veterans, spouses of disabled veterans, and surviving spouses who are in regular need of the aid and attendance of another person or who are housebound. This allowance is combined with the individual's pension or compensation payment.

B. Policy -- Income Treatment

- VA aid and attendance and housebound allowances are not income for Medicaid purposes. (See S0815.050 for rules on medical and social services payments.)

- If the veteran pays his/her own spouse or deemor to provide medical or social services, the payment is not income to the eligible spouse or deemor.

- If a veteran without a spouse or child or a surviving spouse without a child is covered by a Medicaid plan for services furnished him/her by a nursing facility, the maximum pension that can be paid to or for the veteran or surviving spouse for any month after the month of admission to such nursing facility is $90. This reduced pension is an aid and attendance allowance in all cases, and not income.

C. Policy -- Public Income Maintenance (PIM) Payments

A VA payment consisting entirely of an aid and attendance or housebound allowance is not a PIM payment for living arrangement and deeming purposes.

D. Procedure

Contact the VARO for verification of a pension or compensation payment amount whenever the veteran, spouse or a disabled veteran, or surviving spouse;

- alleges an aid and attendance or housebound allowance; or
- is housebound; or
- is blind; or
- is unable to dress or care for him/herself; or
- is a patient in a nursing home; or
- is single and severely and permanently disabled or otherwise appears to require the assistance of someone else on a day-to-day basis.

Do not use a VA check or award letter to verify the amount of income if an aid and attendance or housebound allowance is involved. (When the VARO provides the amount of the pension or compensation payment, they will not include a household or aid and attendance allowance). Do not ask the VARO about the amount of the aid and attendance or housebound allowance because this information is not needed.

S0830.310 VA CLOTHING ALLOWANCE

A. Introduction

A lump sum clothing allowance is payable in August of each year to a veteran with a service-connected disability for which a prosthetic or orthopedic appliance (including a wheelchair) is used. The allowance is intended to help defray the increased cost of clothing due to wear and tear caused by the use of such appliances.

B. Policy

A VA clothing allowance is not income (S0815.050, Medical and Social Services).

C. Procedure

Accept the individual's allegation concerning a VA clothing allowance. No further development is required

S0830.312 VA PAYMENT ADJUSTMENT FOR UNUSUAL MEDICAL EXPENSES

A. Introduction

VA considers unusual medical expenses when determining some needs-based pension and compensation payments (S0830.302 and S0830.304). Expenses which exceed 5 percent of the maximum annual VA payment rate are considered unusual. The amount of the unusual medical expenses is deducted from countable income when computing the VA payment. As a result, the veteran, survivor, or dependent may receive a higher monthly VA payment, an extra payment, or an increase in an extra payment.

B. Policy -- Income Treatment

1. Effective July 1, 1994

VA payments resulting from unusual medical expenses are not income.

2. Prior to July 1, 1994

Any VA increase or extra payment resulting from unusual medical expenses was income.

C. Policy -- Public Income Maintenance (PIM) Payments

If a VA payment to an individual is entirely attributable to unusual medical expenses, then it is not a public income maintenance (PIM) payment for living arrangement and deeming purposes.

D. Policy Resources

Any unspent VA payments resulting from unusual medical expenses are resources if retained into the calendar month following the month of receipt.

E. Procedure -- General

1. When to Consider

Consider the issue of unusual medical expenses in all cases involving a VA payment based on need. Develop the issue only if indicated in 2. and 3. below.

2 When Not to Develop

Do not routinely develop the issue of unusual medical expenses for an ineligible spouse or parent (unless you believe the payment may be entirely attributable to such expenses per C. above).

NOTE: If the payment is entirely attributable to unusual medical expenses, other income of an ineligible spouse or parent is subject to deeming.

3. When to Develop

Develop the issue of unusual medical expenses (unless precluded by 2. above) as indicated in the chart below.

SITUATION	INDIVIDUAL IS...	ACTION NEEDED
Medicaid application filed or VA benefits begin	veteran or widow	Develop per F. below.
	VA dependent	Develop per F. below only if you believe the expenses may affect the dependent's portion per F.7. below.
Redetermination or other income review	veteran or widow	Develop per F.3 below
	VA dependent	Develop per F. below only if you believe the expenses may affect the dependent's portion per F.7. below.

F. Procedure -- Development and Documentation

1. Examine Documents

If documents show that VA considered unusual medical expenses, go to F.3. below. If not, go to F.2. below.

2. Question the Individual

Question the individual following the steps below. You need not document responses.

STEP	ACTION
1	Did the individual or any member of his/her family report any income to VA? • If yes or unknown, go to Step 2. • If no, STOP. No further action is necessary.
2	Did VA ever notify the individual (or the VA claimant) that medical expenses were considered in the VA payment? • If yes, go to F.3. below. • If no, STOP. No further action is necessary. • If unknown, go to Step 3.
3	Has the individual (or the VA claimant) ever reported medical expenses to VA?

- If yes or unknown, go to F.3. below.
- If no, STOP. No further action is necessary.

3. Contact VA

Contact the VARO:

- See S0830.320 A. for VARO addresses.
- On verification form, complete only the identifying information for the applicant and the veteran unless you are requesting other information.
- Inquire what date payments due to unusual medical expenses began.

4. Unusual Medical Expenses Involved

If VA reports payments due to unusual medical expenses:

- deduct the amount from the total VA payment to determine countable income, and adjudicate the case.

NOTE: If payments due to unusual medical expenses exceed the amount attributable to the veteran/widow(er), see 5. below.

5. Unusual Medical Expenses and Augmentation Involved

If augmentation is involved (S0830.314):

- deduct the payments due to unusual medical expenses first from the veteran/widow(er)'s portion, and
- deduct any remaining amount from the dependent's portion.

NOTE: If more than one dependent is involved, prorate the remaining amount equally among the dependents

S0830.314 AUGMENTED VA BENEFITS

A. Introduction

The Department of Veterans Affairs (VA) often considers the existence of dependents when determining a veteran's or a veteran's surviving spouse's eligibility for pension, compensation, and educational benefits. If dependents are involved, the amount of the benefit may be larger.

B. Definitions

1. Absent Dependent

An absent dependent is a dependent who does not reside with the veteran or surviving spouse. Residency is determined as of the first moment of the month.

2. Apportion-ment

Apportionment is direct payment of VA benefits to a dependent. VA decides whether and how much to pay by apportionment on a case-by-case basis. Apportionment reduces the amount of the augmented benefit payable to the veteran or surviving spouse.

3. Augmented Benefit

An augmented benefit is a benefit that is increased, or which has higher income eligibility limits, because of a dependent. An augmented VA benefit, which for Medicaid purposes includes a designated beneficiary's portion and a dependent's portion, usually is issued as a single payment to the veteran or the veteran's surviving spouse.

4. Child

For purposes of this section, a child is a son or daughter (biological, adoptive, or by marriage) who is:

- under age 18, or
- age 18-22 (inclusive) and a student, or
- age 18 or older, and disabled since before age 18.

5. Dependent

For purposes of this section, a dependent is a veteran's child or spouse (other than a surviving spouse) who is or was dependent on the veteran for financial support, as determined by VA.

6. Dependent's Portion

The dependent's portion is that part of an augmented benefit that is attributable to the dependent.

7. Designated Beneficiary

A designated beneficiary is the veteran or surviving spouse who receives an augmented benefit.

8. Designated Beneficiary's Portion

The designated beneficiary's portion is that part of an augmented benefit that is attributable to the veteran or surviving spouse.

C. Policy

1. Apportioned Benefit

A benefit paid by apportionment (per B.2. above) is VA income to the dependent to who (or for whom) it is paid. It does not constitute a support payment from the designated beneficiary.

2. Designated Beneficiary's Portion

The designated beneficiary's portion is VA income to the designated beneficiary.

3. Dependent's Portion

The dependent's portion is VA income to the dependent, provided the dependent resides with the designated beneficiary. It does not constitute a support payment from the designated beneficiary.

4. Absent Dependent's Portion--Prior to 11/17/94

An absent dependent's portion of augmented benefit received by the designated beneficiary prior to November 17, 1994 was VA income to the absent dependent, unless VA had previously denied an application for apportionment. If apportionment had been denied, the absent dependent's portion, less any amount provided by the designated beneficiary to the absent dependent, was income to the designated beneficiary.

EXAMPLE:
Susan Baker, age 17, is an absent dependent whose application for apportionment has been denied. Her father, Joseph Baker, is also a Medicaid recipient. He receives an augmented monthly VA pension of $450 on the first of each month. He has no other dependents. During 1993, Mr. Baker sends Susan $25 per month. The VA regional office (VARO) verified that Susan's portion of the VA benefit is $50. $25 is child support payment for Susan ad $425 is income for Mr. Baker.

5. Absent Dependent's Portion--Effective 11/17/94

An absent dependent's portion of an augmented VA benefit, received by the designated beneficiary on or after November 17, 1994, is **not income** to **either** the dependent or the designated beneficiary. This is true even if the designated beneficiary continues to receive the absent dependent's portion. See C.6. below for the policy on payments made to an absent dependent by the designated beneficiary.

6. Other Payments to Absent Dependents--Effective 11/17/94

A payment from a designated beneficiary to an absent dependent on or after November 17, 1994 is not VA income to the absent dependent. It is a gift, a support payment, in-kind support and maintenance, or another kind of income, unless it is not income per SI 00815.001.

EXAMPLE: Robert Jones, age 17, and his father Raymond Jones are both Medicaid recipients who do not reside together. Mr. Jones' VA pension is $450 per month, which includes a portion for Robert as his only dependent. Mr. Jones sends Robert a money order for $25 per month. The $25 is child support for Robert. The EW verified that Mr. Jones' portion of the VA benefit is $400. The $400 is VA pension based on need for Mr. Jones.

D. Procedure--Initial Application and Posteligibility Development

Use this procedure to determine how to develop for augmentation in initial applications.

Step	Action
1	If the claimant is: • a VA beneficiary (veteran or veteran's surviving spouse), go to step 2. • a VA beneficiary (spouse or child paid by apportionment per B.2. above), go to step 5. • a VA beneficiary 's spouse or child who resides with the beneficiary, go to step 4. • a VA beneficiary's spouse or child who does not reside with the beneficiary, STOP. No income development is required.
2	Ask the applicant whether the benefit includes money for any dependents. If the answer is: • **yes,** go to step 4. • **unknown,** go to step 3. • **no,** go to step 5.
3	Does the applicant have a living spouse or child (including an adult child disabled since childhood)? • If **yes,** go to step 4. • If **no,** go to step 5.
4	Verify the VA income for each month in the period covered by the application.
5	Verify pension or compensation per S0830.302 C. step 6, and educational benefits per S0830.306 C. STOP.

E. References

- Gifts, S0830.520
- Support Payments, M0830.420

M0830.320 VA REGIONAL OFFICE

A. List of VA Regional Offices This list shows the VARO mailing address for each geographic area:

STATE	ADDRESS
District of Columbia	941 North Capitol Street, NE. Washington, DC 20421
Virginia (all counties, except Fairfax, Arlington and the cities of Alexandria, Fairfax, and Falls Church which are under jurisdiction of the Washington, D.C. VA-RO)	210 Franklin Road, SW Roanoke, VA 24011

PAYMENTS FOR CHILDREN AND SPOUSES

M0830.400 AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

A. Definition

Aid to Families with Dependent Children (AFDC) is the program of payments made under Part A of Title IV of the Social Security Act except for section 406(e) of that part. (Payments under section 406(e) are emergency assistance payments and the applicable instructions appear at S0830.405.)

B. Introduction

AFDC makes a payment to a family unit rather than an individual. The payment is frequently referred to as the "grant". An individual who meets the eligibility requirements for both AFDC and SSI may choose the program under which he/she prefers to receive benefits. However, if the individual receives SSI, he/she may no longer be included in the AFDC grant.

S0830.405 EMERGENCY ASSISTANCE UNDER TITLE IV A OF THE SOCIAL SECURITY ACT

A. Background

Emergency Assistance under title IV A is provided for children, including families with children, by States and localities. Their expenditures are matched by the Federal government. Although Emergency Assistance is authorized by title IV A of the Social Security Act ("Aid to Families with Dependent Children"), it is a program separate from the income maintenance program commonly known as AFDC (S0830.400).

The Emergency Assistance Program is optional to the State. The assistance may be provided in cash or in kind and may be a loan. The assistance may include support and maintenance, social services or medical services. The program's purpose is to meet emergency or crisis needs, not ongoing basic needs, and assistance is limited to payments which are authorized during a period of 30 consecutive days in any 12-month period. Although there is an immediately available resource test for eligibility, an Emergency Assistance Program is not required to have an income test.

B. Policy Principle

Emergency Assistance is subject to the general rules pertaining to income and income exclusions. Emergency Assistance is neither IBON (S0830.170) nor ABON (S0830.175).

C. Operating Procedures

Determine the nature of the assistance and apply the appropriate operating instructions pertaining to income and income exclusions. Related sections include:

S0815.050 Medical and Social Services
S0815.350 and S1120.220. Loans
S0810.420 $20 General Income Exclusion
S1110.600.B.4. Replacement of a Resource

M0830.410 FOSTER CARE

A. Definitions

1. Foster Care

An individual is considered to be in foster care when:

- a public or private nonprofit agency places the individual under a specific placement program; and
- the placement is in a home or facility which is licensed or otherwise approved by the State to provide care; and
- the placing agency retains responsibility for continuing supervision of the need for such placement and the care provided.

NOTE: When determining the eligibility of a child in foster care refer to the Family & Children's Policy. This section (S0830.410) is to be used only when evaluating the eligibility of a provider of foster care when the provider is the applicant.

2. Foster Care Payment

For Medicaid purposes, a foster care payment is a payment made to the provider for the purpose of meeting the needs of the individual in foster care.

NOTE: An agency may make an additional payment to the foster care provider for his or her own use (e.g., an incentive or service payment not intended to support the child). While these two payments may be combined and termed the "foster care payment" by the issuing agency, only the part which is provided to meet the needs of the individual in care is the foster care payment for Medicaid purposes.

B. Policy

a. Foster Care Provider

- Foster care payments (as defined in A.2. above) are not income to the provider.
- Amounts paid to a provider of foster care in addition to the foster care payment are income to the provider.

C. Procedure

1. Foster Care Payments to Providers of Foster Care

a. **Assume that the payment made to the provider is a foster care payment** (i.e., is to meet the needs of the individual in care) and is not income to the provider, unless there is evidence to the contrary.

b. **If the provider is a Medicaid recipient or deemor and evidence indicates a payment includes additional monies above the foster care payment,** verify the purpose(s) of the payment and the amounts involved using documents in the individual's possession, or regional

precedents, or contact with the agency. Consider any payment in excess of the amount paid to meet the needs of the individual to be income to the care provider.

NOTE: This income is usually unearned income but may be earned income.

If the care provider is not self-employed and evidence indicates a payment was made for a specific service (e.g., $20 for shopping assistance), accept the care provider's signed allegation of any cost of providing the service (e.g., $5 automobile expense). Deduct the cost from the payment and consider the remainder to be unearned income.

E. References

- Forms and amounts of income, S0810.020.
- $20 general income exclusion, S0810.420.
- Medical and social services, S0815.050.
- Assistance based on need, S0830.175.
- Foster care payments made by the Bureau of Indian Affairs, S0830.810

S0830.415 ADOPTION ASSISTANCE

A. General

Adoption assistance programs provide payments and/or services for children for whom unassisted adoption is unlikely because of age, ethnic background, physical, mental or emotional disability, etc. The income of either the adopting parent, the adopted child, or both may have been considered in determining the payment. Usually, adoption assistance will be formalized in a written agreement between the adopting parents and the agency involved. Adoption assistance may be provided by public or private agencies and may be based on financial need.

Adoption assistance is provided by States under title IV-E of the Social Security Act involves Federal funds and is needs-based. Under IV-E, there is no income test for the adopting parents but the children must be those who are, or could be, eligible for AFDC or SSI prior to adoption. Therefore, there is an income test for the children who receive IV-E adoption assistance.

B. Policy Principles

1. Adoption Assistance Under Title IV-E

These individuals are eligible for Medicaid as Mandatory Categorically Needy. No further development is necessary. These individuals are automatically eligible. Refer to Family & Children's Policy.

M0830.420 SUPPORT PAYMENTS (CHILD SUPPORT, SPOUSAL SUPPORT, ALIMONY) --GENERAL

A. Policy

1. Definitions

Alimony and support payments are cash. In-kind contributions for food, clothing or shelter are not income. Support payments may be made voluntarily or because of a court order. Alimony (sometimes called "maintenance") is an allowance made by a court from the funds of one spouse to the other spouse in connection with a suit for separation or divorce.

2. Alimony, Spousal, and Other Adult Support

Alimony, spousal, and other adult support payments are unearned income.

3. Child Support Exclusion

Child support payments are unearned income; however, we exclude one-third of the amount of a payment made to or for an eligible child by an absent parent. (See B. below for definition of an absent parent for purposes of this exclusion.)

B. Definition--Absent Parent

1. General

A parent is considered absent if the parent and the child do not reside in the same household. **NOTE:** There is no connection between the terms used in this subsection and the concept of "temporary absence" for deeming purposes.

a. If the periods of living together are brief and the child remains independent or under the care and control of another person, agency, institution, or is living in the home of another, the parent is usually considered absent unless he/she retains **parental responsibility and control.**

b. A parent is not considered absent if he is away due to **employment** (except for military service), intends to resume living with the child, and retains parental control and responsibility.

c. A child (or parent) who is a **boarding student** in an educational facility is not considered absent.

C. Procedure

1. Verification of Amount and Frequency

To verify the amount and frequency of support payments use:

court records;
records of an agency through which the payments are made;
documents in the individual's possession; or
contact with the source of the payment.

If this is not successful, accept the individual's notarized statement.

2. Relationship

Accept the individual's allegation of relationship of the payer to the payee unless you doubt the allegation.

3. One Payment for Two or More Individuals

In the case of one payment for two or more individuals:

a. To determine one individual's share of a support payment made for more than one person, **look first to the legal document** setting the payments.

b. **If the legal document** addresses each person's share, divide the payment according to the terms of the document. If the payment does not equal the established support amount, contact the source of the payment to establish intent and divide the payment according to that intent. If this is unsuccessful, divide the payment proportionately.

c. If **no legal document** exists or the document does not address shares, contact the source of the payment to establish intent and allocate the support according to that intent.

d. If this is not successful, accept the individual's **signed allegation** of who the support is for and how the support is divided. If the individual does not know how the support should be divided, divide the payment equally.

D. References

Estimating income, S0810.600-.610

Support payments--AFDC involvement, S0830.425

S0830.425 SUPPORT PAYMENTS -- AFDC INVOLVEMENT

A. Introduction

As a condition of eligibility for Aid to Families with Dependent Children (AFDC), an individual is required to assign to the State any rights to support from any other person which the recipient may have in his own behalf or in behalf of any family member for whom he is applying for or receiving assistance.

B. Definition

"Support" means both child and spousal support.

C. Process -- State Progams

1. Distribution of Support

The State distributes any support it collects according to provisions in Federal law. Most often, the State will send the first $50 of support collected in a month on behalf of the AFDC family unit to that unit. (If the total support collected is less than $50, the entire amount is sent to the unit.) Any remaining amount of support is kept by the State as reimbursement of AFDC payments made to the family. If the State collects more support than it is entitled to keep as reimbursement for AFDC paid, it will forward the excess to the AFDC unit.

2. After AFDC Stops

When Medicaid recipient has been removed from the AFDC unit and is no longer included in the money payment, the assignment of rights to support for that individual is no longer valid (except with respect to any unpaid support obligation that has accrued under the assignment). Therefore, the Medicaid recipient is entitled to receive from the State his or her share of any support collected on his/her behalf. A parent of a blind or disabled child may contact the local child support enforcement agency and request direct payment of the blind/disabled child's share of any child support payment.

3. Combined Payments

A State may combine several types of payments in one check (e.g., an AFDC payment and the first $50 of a support payment).

D. Policy --

1. Retained by State

Child support collected by a State and retained as reimbursement for AFDC payments is not income to a Medicaid recipient. This is true even if the original support was collected on behalf of an SSI child.

2. $50 Pass--Through

a. Child support collected by a State and paid to an AFDC assistance unit as a $50 (or less) pass-through of child support is not income to blind/disabled child if the AFDC unit would have received the same pass-through payment with the child (i.e., the child's needs and income) removed from the AFDC family unit.

b. If the AFDC family would have received a lower pass-through amount with the blind/disabled child removed from the AFDC family unit, the difference between the pass-through amount actually paid and the pass-through amount which could have been paid had the child not been included in the AFDC family unit is income in the form of child support to the blind/disabled child (see S0830.420 and the procedures in E. below).

3. Amount in Excess of the $50 Pass--Through

a. Child support collected by a State but forwarded to an AFDC family because the support exceeds the amount which the State is entitled to keep as reimbursement for AFDC is a payment of child support.

b. A per capita portion of this payment is income in the form of child support to the blind/disabled child (S0830.420). (The per capita portion is determined by dividing the excess payment by the number of children on whose behalf the child support payment was originally made, not by the number of people in the AFDC grant.)

4. Direct Child Support

Support collected by a State on behalf of blind/disabled child and paid as a child support payment directly to the family is income in the form of child support to the blind/disabled child (see S0830.420).

NOTE: Occasionally, a State will collect support (e.g., alimony) on behalf of an adult in an AFDC family unit. Other than the one-third exclusion, this adult support is subject to the same policies as child support with AFDC involvement.

E. Procedure

1. Assumption--$50 Payment

Unless there is only one child in the family, assume that a regularly recurring payment of $50 or less made by the State AFDC agency or child support agency in addition to the regular AFDC payments is a pass-through of child support and is not income to the blind/disabled recipient (i.e., the AFDC family would receive the payment even if the AFDC agency did not consider the blind/disabled individual and/or the individual's share of the child support).

NOTE: If this assumption applies, no further development or documentation on this issue is necessary. If this assumption does not apply, (i.e., there is only one child in the household), see 3. below

2. Accept Allegations

- Accept the individual's allegation that any child support above $50 a month is retained by the State.

  NOTE: No further development or documentation of such child support is needed.

- **If there is only one child in the family**, accept the individual's allegation that a $50 pass-through of child support is received and consider this to be child support income to the child.

3. Verification When Assumptions Do Not Apply

a. Verify all State payments related to child support and not subject to the assumptions in E.2. above using documents in the individual's possession or contact with the appropriate State or local agency.

b. If the State is retaining child support paid on behalf of an blind/disabled child, remind the individual that he/she must inform us promptly if the State begins to send this child support directly to the family.

F. References

Support payments, S0830.420
AFDC payments, S0830.400

EDUCATIONAL ASSISTANCE

S0830.450 GENERAL

A. Introduction

Educational assistance is provided in many forms. For Medicaid purposes, treatment will vary depending on the nature and sometimes the use of the assistance. Educational assistance may be earned or unearned income and may be counted or excluded, B. below provides a guide to specific educational assistance instructions and related sections.

B. References

1. Specific Instructions

The following sections address specific types of educational assistance:

Department of Education or the Bureau of Indian Affairs Involved	S0830.460
Tuition, Fees, and Other Expense Amount of Grants, Scholarships, and Fellowships	S0830.455
VA Educational Benefits	S0830.306

2. Related Instructions

The following sections contain related instructions:

Student Child Earned Income Exclusion	S0820.510
Plan for Achieving Self-Support	S0810.430
Proceeds of a Loan	S0815.350
Earned Income	S0820.001

S0830.455 TUITION, FEES AND OTHER EXPENSE AMOUNTS OF GRANTS, SCHOLARSHIPS, AND FELLOWSHIPS

A. Definition

1. Grant, Scholarship, or Fellowship

Grants, scholarships, and fellowships are amounts paid by private nonprofit agencies, the U.S. Government, instrumentalities or agencies of the U.S., State and local governments, foreign governments, and private concerns to enable qualified individuals to further their education and training by scholastic or research work, etc.

2. Not a Grant, Scholarship, or Fellowship

a. Any amount provided by an individual to aid a relative, friend, or other individual in pursuing his studies where the grantor is motivated by family or philanthropic considerations is a **gift** and is not a grant, scholarship, or fellowship for purposes of this section.

b. Any amount which is **earned income** is not a grant, scholarship, or fellowship.

B. Policy

1. Exclusion

Any portion of a grant, scholarship, or fellowship used for paying tuition, fees, or other necessary educational expenses is excluded from income. This exclusion does not apply to any portion set aside or actually used for food, clothing, or shelter. (See S0830.460 if the Department of Education or BIA is involved.)

2. Allowable Expenses

It is expected that **expenses will include** carfare, stationery supplies, and impairment-related expenses necessary to attend school or perform schoolwork (e.g., special transportation to and from classes, special prosthetic devices necessary to operate school machines or equipment etc.).

3. Allowable Fees

Allowable fees will include laboratory fees, student activity fees, etc.

C. Procedure

1. Verify Nature of Assistance

Use documents in the individual's possession, contact with the institution or provider, or a precedent to verify the nature of the assistance (e.g., scholarship, grant, etc.) and then, if not totally excluded under another provision, the amount, date(s) of payment, payee, etc. (See S0830.460 if the Department of Education or the Bureau of Indian Affairs is involved.)

2. Allowable Expenses

In determining allowable expenses:

a. Use your **judgment** to determine whether payment of an expense was a necessary part of obtaining an education.
b. Use any **reasonable method** for deducting educational expenses from income.

3. Verify Expense

Use receipts, bills with cancelled checks, contact with the provider, etc., to verify expenses paid. If an expense is verified as incurred but not paid, assume the individual will pay the expense unless you have reason to question the situation. No followup is required if the assumption is applied.

4. Tolerance - Miscellaneous Expenses

A signed allegation is acceptable evidence of expenses when it is unreasonable to obtain other evidence (e.g., daily busfare, small expendable items, etc.). Do not apply this tolerance to major expenses such as tuition, fees, and books.

D. References

Department of Education or the Bureau of Indian Affairs involved, S0830.460
Veteran Administration educational benefits, S0830.306

S0830.460 DEPARTMENT OF EDUCATION OR THE BUREAU OF INDIAN AFFAIRS INVOLVED

A. Background

Federal funds or insurance are provided for a number of educational programs at middle school, secondary school, undergraduate and graduate levels under title IV of the Higher Education Act of 1965 and student assistance programs of the Bureau of Indian Affairs (BIA). Included are work-study programs, upward bound and talent search programs, as well as grants-in-aid and loans for college study.

B. Policy

1. Undergraduate College Study--Grants/Loans

Any grant, scholarship, or loan to an undergraduate student for educational purposes made or insured under any program administered by the U.S. Commissioner of Education is excluded from income and resources.

2. Financial Assistance

Any portion of student financial assistance for attendance costs received from a program funded in whole or in part under title IV of the Higher Education Act of 1965 or under BIA Student Assistance Programs is excluded from income and resources. Attendance costs are:

- tuition and fees normally assessed a student carrying the same academic workload (as determined by the institution), including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; or

- allowances for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

NOTE: This exclusion applies to the common programs of Federal financial aid for college students; e.g., Supplemental Education Opportunity Grants (SEOG), National Defense Student Loans (NDSL), Pell Grants, and State Student Incentive Grants (SSIG)

C. Procedure

1. Determine Funding

Determine whether Federal funds under a Department of Education (DE) or BIA program are involved in any educational assistance (e.g., loan, scholarship, stipend, employment under a work-study program, etc.). Use documents in the individual's possession, printed material, precedents, contact with the school or provider, etc. If such Federal funds are not involved, follow the instructions in S0830.455.

2. Undergraduate Study With DE Involvement

If Federal funds under a DE program are involved and the individual has received a grant, scholarship, or loan for **undergraduate** college study, use documents in the individual's possession, contact with the school or provider and/or precedents to verify the DE involvement and the purpose of the assistance. Totally exclude all the assistance from both income and resources. No further development is necessary.

3. Other Study With DE Involvement

In all other situations involving Federal funds under a DE program, determine if any of the funds are provided under title IV of the Higher Education Act of 1965. If not provided under title IV, follow the instructions in S0830.455. Otherwise, see 4. below.

4. BIA or Title IV Involvement

If educational assistance is provided under title IV of the Higher Education Act of 1965 or a BIA Student Assistance program:

a. **Verify** the amount of the assistance and the portion which has been provided for tuition, fees, equipment, books, supplies, transportation, and/or miscellaneous personal expenses. Also, if a portion of the assistance is provided as an allowance for books, supplies, transportation and/or miscellaneous expenses, **verify** that the student is attending the institution on at least a half-time basis. Use **documents** in the individual's possession, or **contact** with the institution.

b. **Exclude** from income and resources any verified assistance made available for tuition, fees, equipment and supplies and, the case of a student attending school on at least a half-time basis, as an allowance for books, supplies, transportation and miscellaneous personal expenses.

c. Consider any student assistance in excess of the amount made available for the purposes in 4.b. above as income and resources. For example, $400 of $500 in work-study earnings may be excluded from income and resources if a college indicates that $400 from work-study was provided for tuition, books, supplies, transportation and miscellaneous personal expenses. The remaining $100 is considered as earned income.

However, excess income may be excludable under the instructions in S0830.455 or under a plan for achieving self-support.

MISCELLANEOUS UNEARNED INCOME

M0830.500 DIVIDENDS AND INTEREST

A. Definition

Dividends and interest are returns on capital investments such as stocks, bonds, or savings accounts.

B. Policy-- Month Dividends/Interest are Unearned Income

Dividends and interest are unearned income at the earlier of the following:

- the month they are credited to an individual's account and are available for use;
- the month they are set aside for the individual's use; or
- the month they are received by the individual.

NOTE: Account service fees or penalties for early withdrawal do not reduce the amount of interest or dividend income.

C. Policy - Income Treatment

The following describes when dividends or interest are considered unearned income.

When the source of dividends or interest is a	and it ...	then ...
financial institution	credits income to a customer account,	the interest is income.
	computes or com-pounds interest or up-dates its own records **but** does not report income to a customer account,	the interest is not income.
series E/EE U.S. savings bond	was purchased by the owner; or was a gift to the owner **prior** to the expiration of the minimum retention period,	the interest is not income upon receipt or upon expiration of the minimum retention period. **Rationale:** When series E/EE bonds are redeemed, the interest is an income in the value of a resource; it is **not** income.
	was a gift to the owner **after** expiration of the minimum retention period	the bond produces income equal to the purchase price plus accrued interest through the month the individual receives it.
series H/HH U.S. savings bonds	makes a semi-annual interest payment,	the interest is income when available to the individual.
	was a gift to the owner **after** expiration of the minimum retention period,	the bond produces income equal to the purchase price plus accrued interest through the month the individual receives it.

C. Policy - Income Treatment (Cont'd)

The following describes when dividends or interest are considered unearned income.

When the source of dividends or interest is a	and it ...	then ...
life insurance policy	pay dividends;	the dividends are not income.
life insurance policy	pays interest on dividend,	the interest is income (this is the case even when the policy is not a resource; i.e., face value is under $1,500).
promissory note or other loan agreement	pays interest; or pays principal and interest in the same payment,	the interest **only** is income. **Rationale**: the principal amount represents conversion of a resource.

D. Procedure - Verification and Documentation

1. Development for Dividends and Interest

If you must develop dividends or interest, use the chart below to verify and document frequency and amount.

If the payer is a ...	and the owner ...	then....
financial institution that pays interest	has countable resources within the applicable resource limit (S1110.003),	Verify: • type of account • whether it pays interest; and if so, • the frequency and amount.
financial institution that pays interest	has countable resources in excess of the resource limit,	accept the allegations as to the three points listed above and stop development. The individual is not eligible.
	alleges joint ownership of all interest-bearing account,	see S0810.130.
promissory note or other loan agreement	alleges interest income,	verify amount and frequency of interest income with a check or notice issued by the source or an amortiza-tion table. If one of these is not available, see S0830.005 on developing unearned income. **NOTE:** If interest income is excludable because it is received infrequently or irregularly, see S0810.410.

D. Procedure - Verification and Documentation (Cont'd)

1. Development for Dividends and Interest (Cont'd)

If you must develop dividends or interest, use the chart below to verify and document frequency and amount.

If the payer is a ...	and the owner ...	then....
promissory note or other loan agreement	does not know whether interest income is received or due, or does not know the amount of interest income,	• inspect the loan agreement for the needed information; or • if necessary, consult an amortization schedule.
	has countable resources in excess of resource limit,	verify resources.
source of interest different from above	has a check or award notice from the payer,	document the file with a copy of the check or award notice.
	does not have a check or award notice.	see S0830.005 on developing unearned income.
source of dividends	has a check or dividend notice from the payer,	use the check or dividend notice from the source as verification; or if necessary, see S0830.005 on developing unearned income.
	receives payment in a form other than cash (e.g., shares of stock),	determine the value as income under instructions specific to that item.

E. Procedure - Resolving Discrepancies

Use the following procedure to resolve discrepancies when an individual disagrees with the amount and/or frequency of interest or dividend payments as shown on account records.

is...	and ...	then...
totally excludable	_____	no resolution is necessary
not totally excludable	the individual has a reasonable explanation for the discrepancy	accept his/her allegation; and • document the file with his/her signed statement.
	the individual does not have a reasonable explanation for the discrepancy	• use account records as as verification.

F. Procedure -- Projecting Future Interest/Dividend

Unless there is evidence to the contrary, **assume** that interest or dividend payments will continue at the current amount and frequency.

G. References

These are **some** (not all) of the exclusions that may apply to dividend or interest income:

- Infrequent or irregular income, S0810.410;
- Interest on and appreciation in value of excluded burial funds, S0830.501;
- Interest on disaster assistance funds, S0830.620 B.3. and
- Interest on funds to replace certain excluded resources, S1130.620-.630.

S0830.501 INTEREST AND APPRECIATION IN VALUE OF EXCLUDED BURIAL FUNDS AND BURIAL SPACE PURCHASE AGREEMENTS

A. Policy--Exclusion of Interest and Appreciation

1. The Exclusion

a. Interest earned on the value of excluded burial funds is excluded from income (and resources), if left to accumulate.

b. Interest earned on agreements representing the purchase of an **excluded burial space** is excluded from income (and resources), if left to accumulate.

2. When Exclusion Applies

This income exclusion applies only if the burial fund or space purchase agreement is excluded at the time the interest is paid.

3. Interest and Appreciation Must Be Left to Accumulate

Appreciation in value and interest must be left to accumulate to be excluded from income. If not left to accumulate (e.g., paid directly to the individual, spouse, or parent), the receipt may result in countable income.

B. Policy--Related Burial Issues

1. Nonexcluded Funds

If interest is paid on a burial fund or space purchase agreement and the fund or agreement is not excluded at the time the interest is paid, the interest is treated under interest income rules. See S0830.500.

2. Commingled Funds

When excluded funds or spaces are commingled with nonexcluded funds or spaces, only the interest on the excluded portion is excluded. See M1130.410C.

3. Irregular or Infrequent Exclusion

Effective April 1, 1990, it is not necessary to apply the irregular or infrequent income exclusion to interest earned on excluded burial funds or burial space purchase agreements.

- You must apply the irregular or infrequent exclusion to income other than that earned on excluded burial funds or burial space purchase agreements. See S0810.410.
- You should apply the specific burial funds or burial space interest exclusion as discussed in this section.

C. Procedure -- Development and Documentation of Interest Earned on Burial Funds

1. Consider Type of Contract

If funds and space items are held together in the same purchase agreement or contract, first determine which portions are funds and which are space items. See M1130.420.

2. Entire Burial Fund is Excluded

Do not document interest if entire burial fund is excluded.

3. Only a Portion of the Burial Fund is Excluded

a. Use the following procedure to determine countable interest to be counted:

STEP	ACTION
1	**Determine** total interest paid on the commingled account following development guidelines in S0830.500.
2	**Determine** the ratio of the nonexcluded portion of the fund to the excluded portion by dividing the value of the nonexcluded portion of the fund by the total value of the fund. Carry the quotient to 3 decimal places.
3	**Multiply** the decimal obtained in step 2 representing the nonexcluded portion by the total amount of interest earned on the fund. The result is the amount of interest paid on the nonexcluded portion of the fund for the period in question.

NOTE: The same action (in step 2) may be used every month as long as there are no deposits to or withdrawals from the total fund.

b. **EXAMPLE** - Computation When Only a Portion of the Burial Fund is Excluded.

Mr. Sam Rogers filed for Medicaid on January 8, 1990. His assets as of January 1, 1990 included the following:

• Savings account ($1,000 resources) ($50 interest income posted 1/1/90)	$1,050
• Irrevocable burial contract	$1,200
• Nonhome real property	$ 500
• Checking account	$ 474
	$1,974

Mr. Rogers designated $500 of his savings account for burial. His available burial fund exclusion is $1,300. ($2,500 - $1,200 irrevocable burial contract.)

Computation of countable interest using steps above:

- $500 = nonexcluded portion of funds
- Divided by $1,000 (total resources in savings account for January)
- Percentage of nonexcluded funds = 50 percent
- Total interest paid = $50
- Percentage of countable interest = 50 percent x $50 = $25 countable income for January.

4. Burial Fund Exclusion No Longer Applies

If you determine that application of the burial funds exclusion ceased during a past period, the interest paid on the burial funds in the months the burial funds are not excluded may result in countable income the month of receipt and countable resource following the month of receipt. Follow interest income development for each month that the burial funds exclusion does not apply.

D. Procedure -- Interest Earned On Burial Space Purchase Agreements

a. **Consider Type of Contract** - See C.1. above.

b. **Entire Burial Space Purchase Agreement is Excluded**
Do not document interest if entire burial fund is excluded.

c. **Only a Portion of Burial Space Purchase Agreement is Excluded**
Follow the interest computation procedures explained in C.3. above when excluded and nonexcluded burial space items are held in the same purchase agreement or contract.

M0830.505 RENTAL INCOME

A. Policy

1. Definitions

a. **Rent** is a payment which an individual receives for the use of real or personal property, such as land, housing or machinery.

b. **Net rental income** is gross rent less the ordinary and necessary expenses paid in the same taxable year.

c. **Ordinary and necessary expenses** are those necessary for the production or collection of rental income. In general, these expenses include:

- interest on debts;
- State and local taxes on real and personal property and on motor fuel;
- general sales taxes; and
- expenses of managing or maintaining property.
  See A.10. below a for more specific list.

2. Depreciation Not Deductible

Depreciation or depletion of property is not a deductible expense.

3. When to Deduct Expenses

We deduct expenses when paid, not when incurred.

4. Earned or Unearned Income

Net rental income is unearned income unless it is earned income from self-employment (e.g., someone who is in the business of renting properties).

5. Rental Deposits

Rental deposits are not income to the landlord while subject to return to the tenant. Rental deposits used to pay rental expenses become income to the landlord at the point of use.

6. Rent/Expenses Prior to Eligibility

In determining net rental income, we do not consider rents received or expenses paid in months prior to Medicaid eligibility.

7. Multiple Family Residence

In multiple family residence:

- If the units in the building are of approximately **equal size**, we prorate allowable expenses based on the number of units designated for rent compared to the total number of units.

- If the units are **not** of approximately **equal size**, we prorate allowable expenses based on the number of rooms in the rental units compared to the total number of rooms in the building. (The rooms do not have to be occupied.)

NOTE: Any expenses strictly related to a particular rental unit are deducted in total from the rent for that unit. Such expenses are not prorated

8. Rooms in Single Residence

For rooms in a single residence:

a. We prorate allowable expenses based on the **number of rooms** designated for rent compared to the number of rooms in the house.

b. We do not count **bathrooms** as rooms in the house.

c. We count **basements** and **attics** only if they have been converted to living spaces (e.g., recreation rooms).

NOTE: Any expenses strictly related to a particular rental room are deducted in total from the rent for that room. Such expenses are not prorated.

9. Land

We prorate expenses based on the percentage of total acres that is for rent.

10. Deductible Expenses

Example of deductible expenses:

- Interest and escrow portions of a mortgage payment (at the point the payment is made to the mortgage holder);

- real estate insurance;
- repairs (i.e., minor correction to an existing structure);
- property taxes;
- lawn care;
- snow removal; and
- advertising for tenants.

11. Nondeductible Expenses

Examples of nondeductible expenses:

- principle portion of a mortgage payment; and

- capital expenditures (i.e., an expense for an addition or increase in the value of property which is subject to depreciation for income tax purposes).

B. Procedures

1. Evidence

a. **Use documents** in the individual's possession (e.g., bills, receipts, etc.) to verify the gross rent and the dates received, and the expenses and the dates paid.

NOTE: The individual's most recent Federal tax return including Schedule E will be helpful in identifying past expenses and in estimating future rental income.

b. **If no documents are available**, obtain a signed statement explaining why no documents are available and providing an allegation of the gross rent and expenses paid for the period involved. **Do not** contact the tenants to verify the allegation.

c. If you are **uncertain** whether an expense is allowable (e.g., whether it is an incidental repair or a capital expenditure), contact the local Internal Revenue Service (IRS) or refer to IRS Publication 527. Document the file with the information obtained from IRS.

2. Computation

a. **Determine** gross rent received and deductible expenses month-by-month.

b. **Subtract** deductible expenses paid in a month from gross rent received in the same month.

c. If deductible expenses exceed gross rent in a month, subtract the **excess expenses** from the next month's gross rent and continue doing this as necessary until the end of the tax year in which the expense is paid.

d. If these are **still excess expenses** after applying b. above, subtract them from the gross rent received in the month prior to the month the expenses were paid and continue doing this as necessary to the beginning of the tax year involved.

NOTE: Do not carry excess expenses over to other tax years nor use them to offset other income.

3. Documenting Calculations

Document the proration of allowable expenses and the calculation of net rental income.

4. Joint Owners

Absent evidence to the contrary, apportion net rental income equally among owners. (A signed statement can be acceptable evidence if it reasonably explains why apportionment is not equal.)

If the gross rent is split between two joint owners before expenses are paid, deduct expenses paid by the Medicaid recipient from his/her portion of the gross rent.

5. Future Rental Income

a. Use evidence from the retroactive period to estimate net rental income for the next 12 months; however, deduct only **predictable expenses**, (e.g., utilities, interest payments, taxes, etc.).

b. If an **unpredictable expense** is reported at a later date (e.g., a repair), deduct it in the month paid. If the expense exceeds the rent for that month, recalculate the rest of the estimated period as necessary (see 2.b. above).

6. Interest

a. Use the individual's **amortization schedule** to determine interest expense.

b. If a **schedule is not available**, divide the yearly interest by twelve to determine monthly interest.

7. Refunds on Paid Expenses

If the Medicaid recipient receives a refund for an expense already paid (e.g., a property tax refund), recalculate his/her future net rental income for the remainder of the eligibility period.

C. Examples

1. Proration of Room Rental Expenses

Mr. Joshua Steele, a Medicaid recipient, rents out a room in his house to a cousin. The house has six rooms excluding the bathroom. Since Mr. Steele's expenses (interest on a mortgage, utilities, etc.) are for the whole house, only one-sixth of the expenses is deducted from the gross rent.

2. Rental Income Interrupted

Mrs. Anna Minnick, an Medicaid recipient, owns a multiple family residence and rents out half of it. In 9/89, her tenants leave and she receives no gross rent until 11/89 when new tenants move in. Mrs. Minnick continues to pay the mortgage and utilities on the residence during 9/89 and 10/89. The EW determines that Mrs. Minnick has excess expenses and no rental income for 9/89 and 10/89 because she received no gross rent for those months. The excess expenses are carried over into the calculation of net rental income for 11/89.

3. Gross Rent - Two Owners But Only One Owner Pays Expenses

Mrs. Kate Henning, an Medicaid recipient, owns her home jointly with her son, John. Mrs. Henning rents out a couple of rooms in her house for $350/month and gives her son half of it ($175/month). Mrs. Henning pays all the rental expenses herself. To calculate Mrs. Henning's net rental income, deduct the allowable expenses she pays (prorated, if necessary) from $175 (her portion of the gross rent).

D. References

Property essential to self-support, S1130.500.
Net earnings from self-employment, S0820.200.

E. Exhibit -Rental Income Worksheet

RENTAL INCOME WORKSHEET

Expenses	Jan/July*		Feb/August *		March/Sept *		April/Oct *		May/Nov *		June/Dec *	
	Gross	Prorated	Gross	Prorated	Gross	Prorated	Gross	Prorated	Gross	Prorated	Gross	Prorated
Rent/Mtg Ins												
Property Ins												
Insurance												
Gas/Oil												
Electricity												
Water/Sewage												
Repairs												
Other												
Other												
Other												
Total Expenses (Prorated)												
Gross Rent												
Monthly Exp (from above)	(-)		(-)		(-)		(-)		(-)		(-)	
Prior Month Excess Exp	(-)		(-)		(-)		(-)		(-)		(-)	
Subtotal												
Excess Exp From End of Tax Year	(-)		(-)		(-)		(-)		(-)		(-)	
Net Rental Income												

*NOTE: Be sure to circle the applicable mont

S0830.510 ROYALTIES

A. Policy

1. Definition

Royalties include compensation paid to the owner for the use of property, usually copyrighted material (e.g., books, music, or art) or natural resources (e.g., minerals, oil, gravel or timber). Royalty compensation may be expressed as a percentage of receipts from using the property or as an amount per unit produced.

To be considered royalties, payments for the use of natural resources also must be received:

- under a formal or informal agreement whereby the owner authorizes another individual to manage and extract a product (e.g., timber or oil), and
- in an amount that is dependent on the amount of the product actually extracted.

2. Sale of Natural Resources

An outright sale of natural resources by the owner of the land or by the owner of rights to use of the land constitutes the conversion of a resource. Proceeds from the conversion of a resource are not income.

3. Earned vs. Unearned Income

Royalties are unearned income unless they are:

- received as part of a trade or business (see S0820.200. for NESE), **or**
- received by and individual in connection with any publication of his/her work. Royalties earned by an individual in connection with any publication of his/her work are earned income (e.g., publication of a manuscript, magazine article, or artwork) (S0820.450).

4. Income or Windfall Profits Tax

Some documents concerning royalty payments will provide both a gross and a net payment amount. When the difference between the gross and the net figures is due to income taxes withheld or windfall profit tax deductions, we use the gross figure when determining income for Medicaid purposes.

5. Production or Severance Tax

When the difference between the gross and net figures represents a production or severance tax (e.g., most oil royalties will be reduced by this tax), we use the net figure when determining income for Medicaid purposes. The production or severance tax is a cost of producing the income and, therefore, is deducted from the gross income.

B. Procedure

1. Verification

a. Verify that payments received meet the definition of royalty (A.1. above) by examining the agreement between the parties involved. If the agreement is unclear, unavailable, or informal, contact the company or source of the payment.

b. Verify the amounts of royalty payments by examining documents in the individual's possession. If documents are unclear or unavailable, contact the company or source of the royalty.

c. If verification cannot be obtained by the above means, see S0830.005 A.5. - A.6. for additional verification procedures.

2. Documentation

Document the file by including copies of documents or indicating in the file information provided by the payment source concerning the nature, amount(s), month(s) of receipt, and, if appropriate, frequency of payments.

C. References

- Mineral rights, S1140.110.
- Timber rights, S1140.110.
- Definition of nonbusiness income-producing property, S1130.502.
- Conversion of a resource, S0815.200 and S1110.600 B.4.

S0830.515 AWARDS

A. Policy

1. Definition

An award is usually something received as the result of a decision by a court, board of arbitration, or the like.

2. Award As Income

An award is unearned income subject to the general rules pertaining to income and income exclusions.

B. Procedure

1. Verification

Use documents in the individual's possession or contact with the court, board, source, etc; to verify:

- the amount of the award;
- the payment date; and
- if needed, the purpose(s) of the payment (e.g., part of the payment is reimbursement for medical expenses).

2. Apply Appropriate Rules

Determine the nature of the award and apply the appropriate rules pertaining to income and income exclusions.

C. References

Expenses of obtaining income, S0830.100

M0830.520 GIFTS

A. Policy

1. Definition

- A gift is something a person receives which is **not repayment** for goods or services the person provided and is **not** given because of a **legal obligation** on the givers' part.
- To be a gift, something must be given **irrevocably** (i.e., the donor relinquishes all control).
- **"Donations"** and **"contributions"** may meet the definition of a gift.

NOTE: A gift received as the result of a death is a death benefit. See S0830.545.

2. Gift as Income

A gift is unearned income subject to the general rules pertaining to income and income exclusions.

B. Procedure

1. Apply Appropriate Rules

Determine the nature of the gift and apply the appropriate operating instructions pertaining to income and income exclusions (see C. below).

C. References

- Cash income, S0810.020 A.2.a.
- Bills paid by a third party, S0815.400
- Home energy assistance and support and maintenance assistance, S0830.605
- Infrequent or irregular income exclusion, S0810.410
- $20 general income exclusion S0810.420
- Trusts, M1120.200
- Uniform gifts to minors, S1120.205
- Gifts of domestic travel tickets, S0830.521

S0830.521 GIFTS OF DOMESTIC TRAVEL TICKETS

A. Definition

Domestic travel is travel in or between the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

B. Policy

1. Gift of Ticket Not Converted To Cash

The value of a ticket for domestic travel received by an individual, or his her spouse, or parent whose income is subject to deeming is excluded from income if:

- the ticket is received as a gift (S0830.520); and
- the ticket is not converted to cash (e.g., cashed in, sold, etc.).

2. Gift of Ticket Converted to Cash

A ticket received as a gift is treated as unearned income in the month the ticket was converted to cash.

C. Procedure

1. Obtain a Statement

Obtain the individual's signed statement as to whether the ticket has been retained, used, or converted to cash. If the ticket has been converted to cash, specify in the statement the amount of cash received. In the absence of evidence to the contrary, accept the statement as fact.

2. Ticket Used or Still Retained

Exclude from income.

3. Ticket Converted to Cash

Treat as unearned income in the month the ticket was converted to cash.

D. Reference

Gifts, S0830.520
Treatment of domestic travel tickets for resource purposes, S1120.150

S0830.525 PRIZES

A. Policy

1. Definition

A prize is generally something won in a contest, lottery or game of chance.

2. Prize As Income

A prize is unearned income subject to the general rules pertaining to income and income exclusions.

NOTE: We do not subtract gambling losses from gambling winnings in determining an individual's countable income.

3. Choice Between Cash and In-Kind Item

If an individual is offered a choice between an in-kind prize and cash, the cash offered is counted as unearned income. This is true even if the individual chooses the in-kind item and regardless of the value, if any, of the in-kind item.

B. Procedure

1. Signed Statement

When an individual reports receipt of a prize, obtain the individual's signed statement of the following:

- date the prize was received;
- type or prize received;
- individual's estimate of the value of the prize if not cash;
- amount of income tax withheld, if any; and
- source of the prize

2. Tolerance for Valuing

Accept an individual's signed estimate of the value of the prize (or actual value if cash or cash offer) unless you have reason to doubt the estimate. If you doubt the estimate, determine the item's current market value with an independent source.

3. Apply Appropriate Rules

Determine the nature of the prize and apply the appropriate operating instructions pertaining to income and income exclusions (see C. below).

C. References

- Cash income, S0810.020 A.2.a.
- Infrequent or irregular income exclusion, S0810.410
- $20 general income exclusion, S0810.420

S0830.530 WORK RELATED UNEARNED INCOME

A. Policy Principle

Unearned income is all income that is not earned income.

B. Related Policies

1. Earned Income

For policies on earned income, see S0820.000.

2. Title II Wage Exclusions

For title II wage exclusions as they related to the Medicaid program, see S0815.600.

3. Sick Pay

For treatment of sick pay, see S0830.543 and S0820.005.

C. Operating Policy

The following work related payments are unearned income:

Money paid to a resident of a public institution when no employer/employee relationship exists.

Tips under $20 per month.

Jury fees (i.e., fees paid for services, not expense money; see S0830.100 if expense money is provided).

Cash allowances for food, clothing and shelter provided to members of the Uniformed Services and their families, all types of special and incentive pay. (See S0830.540 for a description of and instructions on all aspects of compensation in the form of unearned income in the Uniformed Services.)

D. Development and Documentation

1. Individual Has Evidence

Verify the amounts of work-related payments, if possible, using papers in the individual's possession, and document the file with photocopies or document contact certifying the contents.

2. Individual Does Not have Evidence

If the individual cannot provide the required evidence:

Verify jury fees by contacting the court clerk or jury commissioner. Document the file.

Verify other work-related payments by contacting the source of payment. Document the file.

S0830.535 JOB TRAINING PARTNERSHIP ACT (JTPA)

A. Introduction

The purpose of the Job Training Partnership Act **(JTPA)** is to prepare individuals for entry into the labor force. JTPA funding is much like a block grant and programs will vary among areas within the State. JTPA payments may be called "needs-based" for JTPA purposes but are not "income based on need" or "assistance based on need" for Medicaid purposes. JTPA payments may be in cash or in kind, and participants in JTPA may receive supportive services in cash or in kind. Usually, adult participants receive **only** supportive services.

B. Policy

JTPA payments are **subject to the general rules** pertaining the income and income exclusions.

C. Procedure

1. Allegations

Accept an individual's allegation of participation in JTPA and receipt of supportive services unless there is reason to question the information.

2. Assumption

- **Assume** that supportive services such as child care, transportation, medical care, meals and other reasonable expenses, provided in cash or in kind, are **social services** and **not income**.

- Disregard the supportive services without further development or documentation.

NOTE: However, items such as salaries, stipends, incentive payments, etc., must be evaluated under the general rules of unearned and earned income.

D. References

Medical and Social Services S0815.050
Earned income, S0820.001
Blind Work Expenses, S0820.535
IRW E, S0820.540
PASS, S0810.430

M0830.540 UNIFORMED SERVICES -- PAY AND ALLOWANCES

A. Introduction

Compensation to most members of the Uniformed Services takes the form of b earned and unearned income, and often of both cash and in-kind income.

All branches of the Uniformed Services adhere to a single pay system, but that system is complex and varies significantly from branch to branch. Proper and efficient handling of cases require an understanding of:

- how the pay system works;
- what the key terms mean; and
- how Medicaid policies and procedures apply to different forms of compensation.

B. Definitions

1. Uniformed Services

The Uniformed Services are defined by law and include the:

- Army;
- Navy;
- Air Force;
- Marine Corps;
- Coast Guard;
- Reserve and National Guard components of the above;
- Public Health Service commissioned officer corps; and
- National Oceanic and Atmospheric Administration commissioned officer corps.

2. Entitlements

Entitlements are pay, allowances, and other **cash** benefits due a service member. Entitlements can include basic pay, special and incentive pay, allowances, advance pay, and reimbursements for certain work-related expenses.

3. Basic Pay

Basic (or base) pay is the service member's wage. It is based solely on the member's pay grade and length of service.

Basic pay is subject to FICA taxes as well as income tax.

4. Allowances

Allowances are **cash** benefits that compensate the service member, at least in part, for the expenses of housing, food, clothing, and special situations during periods of active duty service. Allowances are not paid for weekend drills of Reserve and National Guard components.

Allowances are not subject to FICA tax and usually are not subject to income taxes.

Often, for accounting purposes, a service branch changes a subcategory of allowance retroactively (e.g., from one type of subsistence allowance to another). The change is explained on the pay slip by showing, as an **entitlement**, the full amount due for the earlier month under the correct subcategory (e.g., leave rations). The full amount previously paid as the entitlement for the earlier month under the incorrect subcategory is shown as a **deduction** (e.g., separate rations). The amounts may be identical or different. (See D.6. for the policy governing these retroactive adjustments.)

5. Subsistence

Subsistence means food and is also referred to as rations. Service members usually receive either free rations from a service facility or an allowance for rations. (The value of free rations does not appear on pay records.)

Officers receive a subsistence allowance at a fixed monthly rate.

Enlisted persons receive an allowance based on a daily rate, so the monthly amount payable depends on the number of days in the month. The daily rate can vary depending on the availability of government dining facilities at the assigned location.

6. Quarters

Quarters are a service member's housing. Quarters sometimes are provided, free of charge or on a rental basis, by the service installation. (The value of free quarters does not appear on pay records.) Rent may be paid by payroll deduction.

Whether or not free housing is provided, the service member usually receives an allowance for quarters. The amount of this allowance can vary depending on factors such as:

- rank;
- whether the service member has a dependent (the number of dependents is irrelevant);
- whether the member lives in government housing and whether that housing is deemed substandard; and
- the location of the base.

In some cases, the service branch may pay a full quarters allowance to a service member living in free on-base housing, but then deduct the **allowance** (rather than rent) in the same month. This transaction is merely for accounting purposes and results in a zero payment transaction. What is actually received is rent-free shelter. See D.4. below for the policy governing quarters allowances paid and deducted in the same pay period.)

7. Clothing Issuances and Allowances

Clothing issuances consist of uniforms, boots, and other clothing items service members need when they enter on active duty. Whatever is received in cash is countable income. If uniform, insignia, boots, are provided, it is in-kind and not counted.

Clothing allowances are payments provided for the purchase and care of uniforms and, in some cases, civilian clothes.

a. **Officers**
Officers receive an allowance for uniforms and insignia after being commissioned and may receive periodic allowances thereafter.

b. **Enlisted Persons**
Enlisted persons receive in kind the uniforms, boots, and other clothing they need when they enter active duty. (The value of such clothing issued in kind does not appear on pay records.)

Generally, every 12 months thereafter, they receive an allowance for the care and replacement of those uniforms. The rates vary by branch of service, length of service, and sex, and they usually increase each year.

c. Special Clothing Allowances
Special clothing allowances are also paid when assignments require members to wear civilian clothes.

8. Special and Incentive Pay

Special and incentive pay is compensation to specific groups of uniformed people for inconveniences or hazards, or provides incentives for those with skills in high demand to joining or remain in the service. Special pay includes;

- enlistment and reenlistment bonuses;
- combat pay;
- flight pay;
- sea pay; and
- more than 30 additional types of pay.

Special and incentive pay is usually subject to income taxes but is not subject to FICA tax.

9. Hostile Fire Pay

Hostile fire pay is a type of special pay to a service member who is:

- subject to hostile fire or explosion of hostile mines; or
- on duty in an area in which he/she is in imminent danger of being exposed to hostile fire or explosion of hostile mines, **and**
  while on duty in that area, other service members in the same area are subject to hostile fire or explosion of hostile mines; or
- killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

10. Advance Pay

In the Uniformed Services, advance pay is a **cash loan** to be repaid in cash installments, usually by payroll deductions, rather than by future work. Advance pay is not taxed. (See S0815.350 for the treatment of loans in the Medicaid program.)

11. Allotments

Allotments are deductions, usually voluntary, from a service member's paycheck for special purposes. Allotments are often requested for purposes such as:

- payments to dependents;
- deposits to a savings account;
- charitable contributions; and
- purchasing savings bonds.

12. Pay Grade

The pay grade is an alphanumeric code designating the rank of a service member. It also indicates whether that service member is:

- an enlisted member (pay grades E-1 through E-9);
- a warrant officer (W-1 through W-4); or
- a commissioned officer (0-1 through 0-10).

Within a pay grade, pay levels vary according to the number of years of service.

13. Leave and Earnings Statement (LES)

The LES is the monthly pay slip issued to service members. Each service branch has its own version. G. below lists common abbreviations used on LES's.

C. Process--How the Pay System Works

1. Forms of Compensation

Compensation to members of the Uniformed Services take several forms, chiefly:

- basic (or base) pay;
- special and incentive pay; and
- cash allowances for, and in-kind provision of, subsistence (rations), clothing, and quarters.

2. Amount of Compensation

The amount of compensation, depending on the form it takes, can vary with rank, length of service, location of duty station, family size, and other factors.

3. Paydays

a. First-of-Month Payday

All branches of the Uniformed Services pay full-time service members on the first day of the month for work performed in the previous calendar month.

b. **Mid-Month Payday**

All service branches (other than the Public Health Service) offer full-time members a mid-month payment as partial payment of the net amount due for the full calendar month. The mid-month payment is optional or standard, depending on the service branch:

- Army and Air Force -- Optional
  Navy, Marine Corps, Coast Guard, and National Oceanic and Atmospheric Administration (NOAA) – Standard

c. **Casual Pay**
While away from base, a service member can receive payment of pay and allowances due for the current month. This casual pay is issued at odd times of the month. Casual pay is not an entitlement. It is a manner of paying compensation that is already due.

d. **Reserve and National Guard Paydays**
Part-time service members are paid at different times depending on their periods of service.

4. Apportionment Between Paydays

a. **First-of-Month Payday**

The first-of-month payment represents all net compensation due for the work month less the amount paid earlier in the pay period.

b. **Mid-Month Payday**
The amount paid mid-month (if any) varies according to the rules of the service branch and rank of the service member, as illustrated in the following chart:

SERVICE BRANCH	**AMOUNT PAID MID-MONTH**	
	BASIC PAY, SPECIAL PAY AND ALLOWANCES (EXCEPT SUBSISTENCE)	**SUBSISTENCE ALLOWANCE**
Air Force Navy Marine Corps Coast Guard NOAA	One-half of net amount due for work month.	**Enlisted Persons:** Total of daily rates for 1st through 15th days of work month. **Officers:** One-half of amount due for work month.
Army	Optional percentage (up to 50%) of net amount paid for the month **before** the work month	

5. Pay Slips

The service branches issue a **single** pay slip each month on or after the first-of-month payday. That pay slip shows the gross amount due for the full calendar month and the net amount issued on each payday of the month.

D. Policy

1. Basic Pay

Only basic pay constitutes wages.

2. Special Pay and Allowances

All special pay and allowances, except hostile fire pay, are countable unearned income to the service member.

3. Hostile Fire Pay

Hostile fire pay is excluded from income. Any unspent hostile fire pay becomes a resource if retained into the following month and not otherwise excluded. See B.9. above for the definition of hostile fire pay.

4. Quarters Allowances

A quarters allowance is not income if:

- the service member lives in free on-base housing, **and**
- the allowance is paid and deducted in the same pay period. (See B.6. above and D.5. below.)

5. Overpayments

a. Basic Pay

An overpayment of basic pay (wages) is income when received. Any amount deducted to recover a wage overpayment is not wages, regardless of when the overpayment occurred.

See B.10. for a discussion of advance pay.

b. Allowances and Special Pay

An overpayment of an allowance or special pay, other than hostile fire pay, is countable income when received. Any amount deducted to recover an overpayment of an allowance or special pay is also income, unless double counting would result (the allowance or special pay has been previously counted AND Medicaid eligibility established). Apply the policy in S0830.110 (regarding overpayments from other benefit programs) to amounts deducted to recover overpayments of allowances and special pay.

See 6. below for the policy on retroactive adjustments of allowances and

See B.10. for a discussion of advance pay.

6. Retroactive Adjustments

A retroactive adjustment in the **type** of pay or allowance, even if the change affects the amount due, is not an overpayment. Such retroactive adjustments are usually made in full in a single month. (B.4. above describes how these adjustments appear on the pay slips.) Only the **net** amount paid for a month in a category of allowance or special pay (e.g., all subsistence **entitlements** less all subsistence **deductions**) is income for the month.

See 5. above for the policy on overpayments.

E. Procedure

1. General

a. Request LES's from the applicant or service member. If LES's are unavailable, make oral or written contact with the employer, per 5. and 6. below. If all else fails, take the service member's signed allegation, and proceed as explained in 7. below.

Except as provided in 7. below, you need not document the reason for using one verification method rather than another.

b. Ask the service member to estimate the amount and expected payment date of future clothing allowances.

NOTE: Clothing allowances usually are paid annually.

c. Keep in mind the need to consider retroactive adjustments of pay and allowances per D.6. above when determining countable income.

2. Pay Slips—General

Whenever possible, use the individual's copy of an LES to verify the gross pay for a work month, including both earned and unearned income.

NOTE: In most cases, two checks are issued to pay the amounts due for the month, and these checks are issued in different months, as explained in C.3. above.

Determine how much earned and unearned income is countable for each payday. Use the charts in 3. and 4. below unless evidence indicates another method would be more appropriate. If you use another method, document the reason in file. Carry all calculations three digits to the right of the decimal point.

See 4. below for an example of the use of an LES in dividing gross pay between paydays. See 0830.541C. for an example of the use of a worksheet to perform these calculations.

3. Pay Slips—Army and Officers

Use this chart to determine how much earned and unearned income from Army or officer pay is countable for each payday.

STEP	ACTION
1	Divide the mid-month payment by the total net pay for the work month to calculate the fraction of pay and allowances paid mid-month.
2	Multiply the result of step 1 by the basic pay for the work month to calculate wages paid mid-month.
3	Subtract the result of step 2 from the basic pay for the work month to calculate wages paid the first of the next month.
4	Add up all other pay and allowances for the work month.
5	Multiply the result of step 1 by the result of step 4 to calculate the amount of unearned income paid mid-month.
6	Subtract the result of step 5 from the result of step 4 to calculate the amount of unearned income paid the first of the next month.

4. Pay Slips--Non-Army, Non -Officer—Example

Use this chart to determine how much earned and unearned income from non-Army and non-officer is countable for each payday.

To see the procedure illustrated, refer to the example in the right column of the chart below (and in the completed worksheet in S0830.541C.), which is based on the following case facts:

- Karen Dean is an Medicaid recipient married to Ken Dean, an enlisted person in the Air Force.
- The couple lives in off-base housing.
- Mr. Dean is paid twice a month. Mr. Dean's LES for October 1992 shows the following (gross) entitlements:

  base pay -- $808.80
  quarters -- $253.20
  rations -- $166.47
  variable housing allowance (VHA) --$34.14

- The LES shows a mid-month (October 15) net payment of $564.02 and a first-of-month (November 1) net payment of $569.39.

NOTE: In the example, the results of steps 8 and 13 below provide the gross wages and unearned income paid October 15. The results of steps 9 and 14 provide the gross wages and unearned income paid November 1.

E. Procedure—

4. Pay Slips-- Non-Army, Non-Officer -- Example (cont.)

STEP	ACTION	EXAMPLE
1	Divide the total subsistence (i.e., rations) allowance for the work month by the number of days in the calendar month of work to calculate the daily subsistence rate.	$ 166.470 ÷ 31 $ 5.370
2	Multiply the result of step 1 by 15 days (regardless of the number of days in the work month) to calculate the subsistence allowance paid mid-month.	$ 5.370 x 15 $ 80.550
3	Subtract the result of step 2 from the total subsistence allowance for the work month to calculate the subsistence allowance paid the first of the next month.	$ 166.470 - 80.550 $ 85.920
4	Subtract the result of step 2 from the net amount paid mid-month to calculate the total nonsubsistence pay (i.e., special pay and allowances for quarters and clothing) issued mid-month.	$ 564.020 - 80.550 $ 483.470
5	Subtract the result of step 3 from the net amount paid first-of-month to calculate the total nonsubsistence pay for the work month.	$ 569.390 - 85.920 $ 483.470
6	Add the result of steps 4 and 5 to calculate the total net nonsubsistence pay for the work month.	$ 483.470 + 483.470 $ 966.940
7	Divide the result of step 4 by the result of step 6. The result is the fraction of basic pay, special pay, and nonsubsistence allowances paid mid-month.	$ 483.470 ÷ 966.940 $ .500
8	Multiply the result of step 7 by the basic pay for the work month to calculate wages paid mid-month.	$ 808.800 x .500 $ 404.400
9	Subtract the result of step 8 from the basic pay for the work month to calculate wages paid the first of the next month.	$ 808.800 ÷ 404.400 $ 404.400
10	Add up all Quarters Allowance: other pay and VHA: allowances for work month, except for subsistence.	$ 253.200 + 34.140 $ 287.340
11	Multiply the result of step 7 by the result of step 10 to calculate the nonsubsistence unearned income paid mid-month.	$ 287.340 ÷ .500 $ 143.670

E. Procedure Pay Slips—Non-Army, Non-Officer -- Example (cont.)

12	Subtract the result of step 11 from the result of step 10 to calculate the nonsubsistence unearned income paid the first of the next month.	$ 287.340 - 143.670 $ 143.670
13	Add the results of steps 2 and 11 to calculate the total unearned income paid mid-month.	$ 80.550 + 143.670 $ 224.220
14	Add the result of steps 3 and 12 to calculate the total unearned income paid the first of the next month.	$ 85.920 + 143.670 $ 229.590

5. Oral Statement of Employer

If LES's are not available, verify, if possible, the amounts of pay and allowances by telephone contact with the service member's Pay and Finance Office. Document the information.

6. Written Information from Employer

If LES's are not available and telephone contact with the employer is not productive, request pay information in writing as follows:

a. Request Information From Military Installation
- Request information from the Pay and Finance Office of the service installation to which the service member is attached.
- Ask the installation for copies of LES's for needed months in the period under review.
- Provide the installation with the beginning and ending dates of service if the member is no longer on active duty.
- Determine monthly income per 2.-4. above.

b. Member's Installation Will Not Provide Information
- Request the information from the national Pay and Finance Center for the member's branch of service. (Reserve components, other than the National Guard, are part of their service branches.)

NOTE: Since responses from the national centers often take 30-45 days, make requests to them only when the service member's base will not cooperate.

7. Signed Allegation

If other methods (2., 5., and 6. above) of verifying basic pay, special pay, and allowances are unproductive, document the file accordingly. Take the service member's signed allegation of the amounts along with any available supporting evidence.

F. References

- Advance dated paychecks, S0810.030.
- Allotments sent to dependents, S0810.120.
- Estimating future pay and allowances, S0810.600.-620.
- Evidence not readily available, S0830.005A.6.
- Uniformed services monthly Income Worksheet, S0830.541.

G. List of Common Abbreviations On LES's

CATEGORY	ABBREVIATIONS	MEANING
Clothing	BCRA CLOTHING ALW CMA CRA FCRA SCRA UNIF	clothing allowances
Quarters	ASHA AVHA BAQ FSBAQ INADQTR OHA RENT COL SHA TLA VHA	advance housing allowances basic allowance for quarters family separation BAQ inadequate quarters allowance overseas housing allowance payroll deduction for rent station housing allowance temporary lodging allowance variable housing allowance
Special Pay	DIVE EB FDP HDIP HFP HSTL PROPAY SRB VRB	special pay for diving enlistment bonus foreign duty pay hazardous duty pay hostile fire pay superior performance pay reenlistment bonuses

G. List of Common Abbreviations On LES's (cont.)

CATEGORY	ABBREVIATIONS	MEANING
Subsistence	BAS	basic allowance for subsistence
	EMR	rations allowances
	FLD RAT	
	FLDRE	
	LR	
	LV RATS	
	RATS-LV	
	RATS-SEP	
	SEP RATS	
	SR	
Miscellaneous	ACLVN	accrued leave (unearned income)
	ACLVT	accrued leave (basic pay)
	AP (APA)	advance pay (and allowances)
	BP	basic pay
	DLA	dislocation allowance
	EOM	end-of-month payment (actually paid on the first day of the next month)
	FSA	family separation allowance
	MALT	monetary allowance in lieu of transport
	MM MID-MO PMT	mid-month payment
	SGLI	Servicemen's Group Life Insurance
	USSH	U.S. Soldiers' Home (charitable deduction)

H. List of National Pay and Finance Centers

SERVICE BRANCH	FACILITY ADDRESS
Air Force	Documentation Branch Directorate of Resource Management Building 444 HQ Air Force Accounting Finance Denver, CO 80279
Air National Guard	The Adjutant General, VA Attn: Executive Support Staff Officer for Air 401 E. Main Street Richmond, VA 23219
Army	USAFAC, CMDR Social Security Sections Centralized Pay Operations Fort Benjamin Harrison Indianapolis, IN 46249-0865
Army National Guard	The Adjutant General, VA 401 E. Main Street Richmond, VA 23219
Coast Guard	Commandant U.S. Coast Guard Washington, DC 20593
Marine Corps	Centralized Pay Division Marine Corps Finance Center 1500 East Bannister Road Kansas City, MO 64197
National Oceanic and Atmospheric Administration	Commissioned Personnel Division NCI Rockwall Building, Room 115 Department of Commerce, NOAA Rockville, MD 20852
Navy	Navy Finance Center Anthony J. Celebrezze Building Cleveland, OH 44199
Public Health Service	U.S. Public Health Service Employment Operations Branch Commissioned Personnel Division Park Lawn Building, Room 4-35 5600 Fishers Lane Rockville, MD 20852

S0830.541 UNIFORMED SERVICES -- WORKSHEETS

A. Introduction

Form SSA-3991 and form SSA-3992 guide the user through the calculation of monthly earned and unearned income using a leave and earnings statement (LES), as explained in S0830.540 E. Use of these worksheets is optional.

B. Procedure

1. Heading

Enter the names, Social Security number, and page number at the top of the form.

Then **enter the consecutive LES work months** (i.e., the calendar months and years of work).

2. Section I

Enter the verified amounts of pay from the LES for each work month requested. If using the SSA-3992, also enter the number of days in each calendar month of work.

NOTE: The "Net Pay First-of-Month" entry refers to the **second** regular payment for the work month, usually issued on the first day of the following month.

3. Section II

Perform the calculations (described in the first column) within each of the columns headed by a work month. Carry each result to 3 decimal places, dropping the fourth digit, if any.

4. Section III

a. **Enter the same months** at the top of the "Received in" columns as were entered in the "LES Work Month" columns.

b. **Enter the amounts from the requested cells in Section II (and from the previous worksheet used, if any).**

NOTE: In Section III, all cell names in column 1 that begin with "4" are carry-over amounts from the last column of a previous worksheet.

c. **Total the entries** to obtain countable earned and unearned income for each month.

C. Exhibits

If you choose to use either the SSA-3991 or the SSA-3992, you must reproduce the appropriate exhibit below; the forms will not be available by order.

The completed example below illustrates use of the SSA-3992 in the situation described in S0830.540. E.4.

C. Exhibits (Cont.)

UNIFORMED SERVICES MONTHLY INCOME WORKSHEET (All Army and Officers)				
Applicant/Recipient A/N				
Service Member Page _____ Of _____				
	LES Work Month 1 _____/_____	LES Work Month 2 _____/_____	LES Work Month 3 _____/_____	LES Work Month 4 _____/_____
Section I: Pay Amounts from the LES				
Basic Pay	1A	2A	3A	4A
Total Allowances and Special Pay	1B	2B	3B	4B
Net Pay Midmonth	1C	2C	3C	4C
Net Pay First-of-Month	1D	2D	3D	4D
Section II: Calculations (Carry to 3 decimal places.)				
C + d	1E	2E	3E	4E
C ÷ E	1F	2F	3F	4F
A x F	1G	2G	3G	4G
A - G	1H	2H	3H	4H
B x F	1J	2J	3J	4J
B - J	1K	2K	3K	4K

Section III: Countable Income by Month of Receipt

Received in Month 1 _____/_____	Received in Month 2 _____/_____	Received in Month 3 _____/_____	Received in Month 4 _____/_____
EARNED INCOME	EARNED INCOME	EARNED INCOME	EARNED INCOME
4H*:	1H:	2H:	3H:
+ 1G :	+ 2G:	+ 3G:	+ 4G:
Total:	Total:	Total:	Total:
UNEARNED INCOME	UNEARNED INCOME	UNEARNED INCOME	UNEARNED INCOME
4K*:	1K:	2K:	3K:
+ 1J :	+ 2J:	+ 3J:	+ 4J:
Total:	Total:	Total:	Total:
*Carried over from column 4 of prior worksheet.			

Form SSA-3991

C. Exhibits (Cont.)

UNIFORMED SERVICES MONTHLY INCOME WORKSHEET (Non-Army, Non-officers)

Applicant/Recipient **A/N**

Service Member **Page _____ Of _____**

	LES Work Mth 1 _____/_____	LES Work Mth 2 _____/_____	LES Work Mth 3 _____/__	LES Work Mth 4 _____/__
Section I: Pay Amounts from the LES				
Basic Pay	1A	2A	3A	4A
Total Subsistance	1B	2B	3B	4B
Total Nonsubsistance Allowance & Special Pay	1C	2C	3C	4C
Net Pay Midmonth	1D	2D	3D	4D
Net Pay First-of-Month	1E	2E	3E	4E
Number of Days in Month	1F	2F	3F	4F
Section II: Calculations (Carry to 3 decimal places.)				
B ÷ F	1G	2G	3G	4G
G x 15	1H	2H	3H	4H
B - H	1J	2J	3J	4J
D - H	1K	2K	3K	4K
E - J	1L	2L	3L	4L
K + L	1M	2M	3M	4M
K ÷ M	1N	2N	3N	4N
A x N	1P	2P	3P	4P
A - P	1Q	2Q	3Q	4Q
C x N	1R	2R	3R	4R
C - R	1S	2S	3S	4S

Section III: Countable Income by Month of Receipt

Received in Month 1 /	Received in Month 2 /	Received in Month 3 /	Received in Month 4 /
EARNED INCOME	EARNED INCOME	EARNED INCOME	EARNED INCOME
4Q*:	1Q:	2Q*:	3Q:
+ 1P :	+ 2P:	+ 3P:	+ 4P:
Total:	Total:	Total:	Total:
UNEARNED INCOME	UNEARNED INCOME	UNEARNED INCOME	UNEARNED INCOME
4J*:	1J:	2J:	3J:
+ 4S*:	+ 1S:	+ 2S:	+ 3S:
+ 1H :	+ 2H:	+ 3H:	+ 4H:
+ 1R :	+ 2R:	+ 3R:	+ 4R:
Total:	Total:	Total:	Total:

*Carried over from column 4 of prior worksheet.

Form SSA-3992

C. Exhibits (Cont.)

UNIFORMED SERVICES MONTHLY INCOME WORKSHEET (Non-Army, Non-officers)				
Applicant/Recipient Karen Dean A/N				
Service Member Ken Dean Page _____ Of _____				
	LES Work Mth 1 10 /93	LES Work Mth 2 _____/_____	LES Work Mth 3 _____/_____	LES Work Mth 4 _____/_____
Section I: Pay Amounts from the LES				
Basic Pay	1A 808.80	2A	3A	4A
Total Subsistance	1B 166.47	2B	3B	4B
Total Nonsubsistance Allowance & Special Pay	1C 287.34	2C	3C	4C
Net Pay Midmonth	1D 564.02	2D	3D	4D
Net Pay First-of-Month	1E 569.39	2E	3E	4E
Number of Days in Month	1F 31	2F	3F	4F
Section II: Calculations (Carry to 3 decimal places.)				
B ÷ F (166.47 ÷ 31)	1G 5.370	2G	3G	4G
G x 15 (5.370 x 15)	1H 80.550	2H	3H	4H
B - H (166.47 - 80.550)	1J 85.920	2J	3J	4J
D - H (564.02 - 80.550)	1K 483.470	2K	3K	4K
E - J (569.39 - 85.920)	1L 483.470	2L	3L	4L
K + L (483.470 ÷ 483.70)	1M 966.940	2M	3M	4M
K ÷ M (483.470 ÷ 966.940)	1N 0.500	2N	3N	4N
A x N (808.80 x 0.500)	1P 404.400	2P	3P	4P
A - P (808.80 - 404.400)	1Q 404.400	2Q	3Q	4Q
C x N (287.34 x (0.500)	1R 143.670	2R	3R	4R
C - R (287.34 - 143.670)	1S 143.670	2S	3S	4S

Section III: Countable Income by Month of Receipt

Received in Month 1	Received in Month 2	Received in Month 3	Received in Month 4
10/93	11/93	/	/
EARNED INCOME	EARNED INCOME	EARNED INCOME	EARNED INCOME
4Q*: --	1Q : 404.400	2Q*:	3Q:
+ 1P: 404.400	+ 2P: --	+ 3P:	+ 4P:
Total: 404.400	Total: 404.400	Total:	Total:
UNEARNED INCOME	UNEARNED INCOME	UNEARNED INCOME	UNEARNED INCOME
4J*: --	1J: 85.920	2J:	3J:
+ 4S*: --	+ 1S: 143.670	+ 2S:	+ 3S:
+ 1H: 80.550	+ 2H: --	+ 3H:	+ 4H:
+ 1R: 143.670	+ 2R: --	+ 1R:	+ 4R:
Total: 224.220	Total: 229.590	Total:	Total:

*Carried over from column 4 of prior worksheet.

S0830.543 SICK PAY AS UNEARNED INCOME

A. Policy

Any payments on account of sickness and accident disability paid more than 6 months after work stopped because of that sickness or disability are unearned income.

B. References

1. Earned or Unearned?

For detailed guidelines for determining whether sick pay is earned or unearned income, see S0820.005.

2. Amount of Income

For instructions on the amount of unearned income sick pay that is countable to the individual, see S0830.100.

M0830.545 DEATH BENEFITS

A. Definitions

A death benefit is something received as the result of another's death. Examples of death benefits include:

- proceeds of life insurance policies received due to the death of the ... insured;
- lump sum death benefits from SSA;
- RR burial benefits;
- VA burial benefits;
- inheritances in cash or non cash;
- cash given by relatives, friends, or a community group to "help out" with expenses related to the death.

NOTE: Recurring survivor benefits such as those under title II, private pension programs, etc. are not death benefits.

B. Policy Principle--

Death benefits provided to an individual are income to such individual to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the individual.

Last illness and burial expenses include: related hospital and medical expenses; funeral, burial plot, and interment expenses; and other related expenses.

C. Operating Policy—Life Insurance Proceeds

A life insurance policy may have been a resource in the past (i.e., the cash surrender value was a resource), at the time of the insured's death that particular resource ceases to exist. The insurance proceeds received as a result of the death are not a converted resource (i.e., the proceeds represent the death benefit payable not a return of the cash surrender value).

D. Operating Procedure

1. Identifying Death Benefits

The Medicaid application and redetermination forms do not ask specifically about death benefits. Be alert for situations where further questioning about death benefits is advisable.

2. Verifying Expenses

Verify all last illness and burial expenses. If verification (e.g., bills, receipts, contact with provider, etc.) cannot be obtained, accept the individual's signed allegation. If an expense has been incurred but not paid, assume the individual will pay the expense unless you have reason to question the situation. No followup is required if the assumption is applied.

Use your judgment to determine whether an expense is reasonably related to the last illness and burial. It is expected that related expenses may include such items as: new clothing to wear to the funeral; food for visiting relatives; taxi fare to and from the hospital and funeral home; etc.

3. Amount of Death Benefits

Accept the individual's signed allegation of the amount of death benefits and when received unless you have reason to doubt the allegation.

4. Income From Death Benefits

To determine the income derived from death benefits, subtract the total expenses from the total death benefits. Count the income in the month the death benefit(s) is received. If death benefits are received in more than one month, assume that the funds first received are the first spent. For example, if the death benefits are $1,000 received in January and $1,000 in February and the allowable expenses are $1,500, count the remaining $500 as income in February.

M0830.550 INHERITANCES

A. Policy

1. Definitions

An **inheritance** is cash, a right, or a noncash item(s) received as the result of someone's death.

2. Inheritance as Income

An inheritance is a **death benefit**. See M830.545.

NOTE: Until an item or right has a value (i.e., can be used to meet the heir's need for food, clothing, or shelter), it is neither income nor a resource. The inheritance is income in the first month it has a value and can be used, if it meets the definition of income. (See S0810.005 A.)

3. Inheritance Already a Resource

An inheritance is not income to an individual if the inheritance is something which was considered that individual's resource (either as a member of an eligible couple or through deeming of resources) immediately before the death.

NOTE: The proceeds of a life insurance policy were **not** a resource before the death. (See M830.545 D.)

B. Procedure

1. General

Follow the instructions at M0830.545 pertaining to death benefits.

2. Establishing Date of Receipt

Individual State laws establish when an inheritance is received.

If it is not specified in state law when an inheritance is "received", assume the individual derives no income until the earliest of:

- the date the individual alleges receiving the inheritances (using a signed statement from the individual or documents in the individual's possession); or
- the date the estate is closed (which may be determined by contacting the court or an attorney involved in the closing of the estate).

3. Amount Received

a. Verify the amount or value of the inheritance using:

- **documents** in the individual's possession;
- a **court order** closing the estate;
- a copy of the **will**; or
- an **estimate** from a knowledgeable source, if real property involved.

b. Based on what the inheritance is, apply the appropriate instructions for valuing what was received. Depending upon what has been received, some instructions will be found in S0810 (Income) and some in S1120.001. (Resources). See C. below.

C. References

Trusts, M1120.200

Types of liquid resources, S1110.305

Inheritance and unprobated estates, M1120.215

Real property, M1130.100.

Personal property--household goods and personal effects, M1130.430

Personal property--automobile, M1130.200

EXCLUSIONS INVOLVING ASSISTANCE PROGRAMS

S0830.600 LOW INCOME ENERGY ASSISTANCE

A. Introduction

Through a block grant, the Federal Government provides funds to States for energy assistance (including weatherization) to low income households. This assistance may be provided by a variety of agencies (e.g., state or local welfare offices, community action agencies, special energy agencies, etc.) and known by a variety of names (e.g., HEAP, Project Safe, etc.) It is most often provided in a medium other than cash (e.g., voucher, two-party check, direct payment to vendor, etc.) but may be in cash.

B. Policy

Home energy assistance payments or allowances provided under subchapter II of chapter 94, title 42 of the U.S. Code (Low-Income Energy Assistance) are excluded from income and resources.

C. Procedure

Use documents in the individual's possession, contact with the provider or agency involved, or a precedent to verify that assistance from a particular program is provided under the Federal Low-Income Home Energy Assistance Program or "LIHEAP". Once this is verified, no further development or documentation is necessary.

D. References

Home energy assistance and support and maintenance assistance, S0830.605.

S0830.605 HOME ENERGY ASSISTANCE AND SUPPORT AND MAINTENANCE ASSISTANCE (HEA/SMA)

A. Background

The legislative intent of this exclusion was to address charitable efforts by the community to help Medicaid recipients.

NOTE: See S0830.600 for instructions pertaining to energy assistance provided under Federal programs.

B. Policy — Definitions

1. Appropriate State Agency

The **appropriate State agency** is the agency designated by the chief executive officer of the State to handle the State responsibilities with regard to the home energy assistance and support and maintenance (HEA/SMA) exclusion. In Virginia it is the Department of Social Services.

2. Based on Need

For purposes of this exclusion, **based on need** means that the provider of the assistance:

- does not have an express obligation to provide the assistance ;
- states the aid is given for the purpose of support and maintenance assistance or for home energy assistance (e.g., vouchers for heating/cooling bills, storm door); and
- provides the aid for an Medicaid applicant/recipient, a member of the household in which a Medicaid applicant/recipient lives, or a Medicaid applicant/recipient ineligible spouse, or parent.

3. Private Nonprofit

A private nonprofit agency is a religious, charitable, educational, or other organization **such as** described in section 501(c) of the Internal Revenue Code of 1954. (Actual tax exempt certification by IRS is not necessary.)

4. Rate-of-Return Entity

A rate-of-return entity is an entity (generally a utility company) whose revenues are primarily received from the entity's charges to the public for goods or services and such charges are based on rates regulated by a State or Federal governmental body.

5. Support and Maintenance Assistance (SMA)

Support and maintenance assistance (SMA) is in-kind support and maintenance, or cash provided for the purpose of meeting food, clothing, or shelter needs. It includes home energy assistance.

NOTE: Remuneration for work is not assistance.

6. Home Energy Assistance (HEA)

Home energy assistance is any assistance related to meeting the costs of heating or cooling a home. It includes such items as payments for utility service or bulk fuels, assistance in kind such as portable heaters, fans, blankets, storm doors, or other items which help reduce the costs of heating and cooling such as conservation or weatherization materials and services.

C. Policy Exclusion

1. Certification

a. General

Home energy or support and maintenance assistance is excluded from income if it is certified in writing by the appropriate State agency to be both based on need and:

- provided **in kind** by a private nonprofit agency; or
- provided **in cash or in kind** by a supplier of home heating oil or gas, a rate-of-return entity providing home energy, or a municipal utility providing home energy.

b. State Certification: Individual or Blanket

State certification may be in the form of an individual certification of a particular case, or a **"blanket"** certification of a program or organization. A blanket certification serves as a precedent for assistance from the certified agency or program.

2. Recipient of Assistance

The exclusion applies to such assistance provided for:

- Medicaid applicant/recipient;
- a member of the household in which Medicaid applicant/recipient lives; or
- Medicaid applicant's/recipient's spouse, or parent(s).

D. Procedure

1. General

At times, the interaction of the private and public sectors and various funding sources may make it difficult to determine whether income received may be excluded under these instructions. Exclude assistance on the basis of the individual's allegation and a State certification precedent without further development unless you have reason to question the situation.

2. Statement Required-Income

Obtain a signed statement which identifies:

- the HEA or SMA received;
- when the HEA or SMA was received;
- who received the HEA or SMA; and
- the source of the HEA or SMA.

3. Certification Before Assistance

- Certification may be made before any assistance is actually provided.
- Exclude assistance which might meet the requirements for State certification pending certification.
-

4. Certification Precedent Established

If a precedent has been established, document the file to state that a precedent exists unless the certification is listed in regional instructions. Exclude the income on the basis of the claimant's/recipient's allegation. (See D.2. above for documentation of the allegation.)

5. Certification Precedent not Established

a. **Exclude** any HEA/SMA assistance which might meet the requirements for State certification.

b. **Contact** the RO unless instructed to do otherwise by regional instructions.

c. **Provide** the name of the individual who allegedly received the assistance, and the alleged amount and/or form, date and/or frequency and source of the assistance.

d. **Do not** contact the State agency directly unless you have been instructed to do so by the RO

E. References

S0830.625, Federal Emergency Management Agency (FEMA) emergency food distribution and shelter programs.

S0830.610 ACTION PROGRAMS/DOMESTIC VOLUNTEER SERVICES

A. Introduction

The Federal government through the ACTION, the Federal domestic volunteer agency, is involved in a number of volunteer service programs including:

- Volunteers in Service to America (VISTA);
- University Year for ACTION (UYA);
- Special and Demonstration Volunteer Programs;
- Retired Senior Volunteer Program (RSVP);
- Foster Grandparent Program;
- Senior Companion Program.

B. Policy

1. General Exclusion

Payments to volunteers under chapter 66 of title 42 of the U.S. Code Domestic Volunteer Services (ACTION programs) are excluded from income and resources.

2. Exception

Payments are not excluded if the Director of the ACTION agency determines that their value, adjusted to reflect the hours served, is equivalent to or greater than the minimum wage in effect under the Fair Labor Standards Act of 1938 or the minimum wage under the applicable State law, whichever is greater.

NOTE: See assumption in C.3. below. To date, the Director of Action has not made the above determination and the ACTION agency does not foresee that such a determination will ever be made.

C. Procedure

1. Assume Excluded

Assume that all payments made by ACTION programs are excludable.

2. Verify Program

Use documents in the individual's possession, contact with the program or agency involved or a precedent to verify that a program is one of those listed in A. above or is otherwise funded by or according to agreement with the Federal government under an ACTION program.

3. Accept Allegation

Accept an individual's allegation of participation in an ACTION program and exclude any payments from income and resources without further development or documentation.

S0830.615 COMMUNITY SERVICE BLOCK GRANTS

A. Background

The Department of Health and Human Services makes community service block grants to States to provide a broad range of services and activities to assist low-income individuals and alleviate the causes of poverty in a community. States may subsequently make grants or enter into contracts with private nonprofit organizations or political subdivisions.

B. Policy--Principle

Assistance involving community service block grants is subject to the general rules pertaining to income. It is neither IBON (S0830.170) nor ABON (S0830.175).

C. Operating Procedures

Determine the nature of the assistance and apply the appropriate operating instructions pertaining to income and income exclusions. Related sections include:

S0815.050, Medical and Social Services
S0830.605, Home energy Assistance and Support and Maintenance Assistance
S0810.420, $20 General Income Exclusion

M0830.620 DISASTER ASSISTANCE--PRESIDENTIALLY-DECLARED DISASTER

A. Background

1. General

This section addresses presidentially-declared disasters. There are no specific instructions or exclusions addressing other disasters.

2. Declaration

At the request of a State governor, the President may declare a major disaster when the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and local governments, and Federal assistance is needed. Disasters include such things as hurricanes, tornadoes, floods, earthquakes, volcano eruptions, landslides, snowstorms, drought, etc.

3. Source

Assistance provided to victims of a presidentially-declared disaster includes assistance from:

- Federal programs and agencies;
- joint Federal and State programs;
- State or local government programs;
- private organizations (e.g., the Red Cross).

B. Policy

1. Support and Maintenance Other Than Repair or Replacement of Property

The value of support and maintenance in cash or in kind is excluded from countable income if:

a. the individual lived in a household which he or she (or he/she and another person) maintained as his/her or their home at the time a catastrophe occurred in the area; and

b. the President declared the catastrophe a major disaster for purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (formerly the Disaster Relief Act of 1974); and

c. the individual stopped living in his/her home because of the catastrophe and began to receive support and maintenance within 30 days after the catastrophe; and

d. the individual receives support and maintenance while living in a residential facility maintained by another person. A residential facility is to be interpreted broadly, including a private household, a shelter, or any other temporary housing arrangement resorted to because of the disaster.

2. Other Disaster Assistance

Assistance (other than support and maintenance described in B.1. above) received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or any other Federal statute because of a catastrophe which the President declares to be a major disaster, is excluded from countable income. This includes assistance to repair or replace the individual's own home or other property, and disaster unemployment assistance.

3. Interest Earned

Any interest earned on assistance described in B.2. above is excluded from countable income.

C. Process--Verification of Presidential Declaration

A declaration by the President of a major disaster will be public information, i.e., newspaper, television, radio, and printing in the Federal Register. The Office of the ARC, Programs for the area is responsible for confirming a presidential declaration of a major disaster and the geographic area involved and communicating this information.

D. Procedure

1. Presidential Declaration - Documentation

When a residentially-declared disaster has been verified, document the following:

a. that it is declared to be a major disaster by the President in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

b. the geographic areas included in the declared disaster area;

c. the fact that the Medicaid applicant/recipient lived in the declared disaster area and was affected by the disaster; and

d. the exact date(s) on which the disaster occurred.

NOTE: If a precedent has been established, only document the fact that the Medicaid applicant/recipient lived in the disaster area and was affected by the disaster.

2. Support and Maintenance

a. Absent evidence to the contrary:

- **Accept** an individual's allegation that he was affected by the disaster and that he is receiving support and maintenance on a temporary basis as a result.
- **Assume** that a living arrangement change due to a disaster is temporary.

b. **Be alert** to situations where an individual reports a change in circumstances (living arrangements, receipt of household items, cash receipts, etc.) which has been brought about by a disaster, but the individual has not reported involvement in the disaster.

3. Verification of Assistance Other Than Support and Maintenance

Use documents in the individual's possession, or contact with the source to verify that assistance, other than support and maintenance subject to the exclusion in B.1. above, is provided under a Federal statute and because of the disaster.

E. Reference

Disaster assistance (exclusion from resources), S1130.620.

S0830.625 FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) EMERGENCY FOOD DISTRIBUTION AND SHELTER PROGRAMS

A. Background

Through a national board chaired by the Federal Emergency Management Agency (FEMA) and local boards, funds are provided to private nonprofit organizations and State and local governmental entities for the purpose of providing emergency food and shelter to needy individuals. The entity receiving these funds decides how they will be best used (e.g., to buy beds and blankets, to stock a soup kitchen or to pay an individual's rent). The Federal funds are not provided to meet ongoing basic needs.

B. Policy Principle

Assistance involving FEMA funds is subject to the general rules pertaining to income and income exclusions. It is neither IBON (S0830.170) nor ABON (S0830.175).

C. Operating Procedures

Determine the nature of the assistance and apply the appropriate operating instructions pertaining to income and income exclusions. Related sections include:

S0815.050 (Medical and Social Services)
S0830.605 (Home Energy Assistance and Support and Maintenance Assistance)
S0810.420 ($20 General Income Exclusion)

NOTE: Assistance involving FEMA funds is most often provided in kind by private nonprofit organizations and with State certification will qualify for exclusion as HEA/SMA (see S0830.605).

S0830.630 FEDERAL HOUSING ASSISTANCE

A. Introduction

The Federal Government through the Office of Housing and Urban Development (HUD) and the Farmers Home Administration (FMHA) provides many forms of housing assistance including:

- Subsidized housing (e.g., public housing, reduced rent, cash towards utilities, etc.);
- loans for renovations;
- loans for construction, improvement, or replacement of farm homes and other buildings;
- mortgage or investment insurances;
- guaranteed loans and mortgages.

This assistance may be provided directly by the Federal Government or through other entities such as local housing authorities, nonprofit organizations, etc.

B. Policy

1. Exclusion

The value of any assistance paid with respect to a dwelling unit is excluded from income and resources if paid under:

- the United States Housing Act of 1937 (section 1437 et seq. of 42 U.S.C.)
- the National Housing Act (section 1701 et seq. of 12 U.S.C.)
- section 101 of the Housing and Urban Development Act of 1965 (section 1701s of 12 U.S.C., section 1451 of 42 U.S.C.);
- title V of the Housing Act of 1949 (section 1471 et seq. of 42 U.S.C.); or
- section 202(h) of the Housing Act of 1959.

C. Procedure

1. Assumption

Assume that any housing assistance in which HUD or FMHA is involved is subject to the exclusion in B. above.

NOTE: "Section 8" housing is HUD housing assistance.

2. Allegation Acceptable

Accept an individual's allegation about receipt of housing assistance with HUD or FMHA involvement.

3. HUD or FMHA Involvement Unknown

If an individual alleges receipt of housing assistance and it is not known whether HUD or FMHA is involved, use documents in the individual's possession, contact with the appropriate housing authority, or a precedent (see Note below) to verify whether HUD or FMHA is involved.

NOTE: A precedent may be used to establish HUD or FMHA involvement when it has been verified that a project provides only HUD or FMHA assistance.

4. State, Local or Indian Assistance

In some cases, States, Indian tribes, or local housing authorities may control public housing and provide assistance without Federal involvement. See the instructions listed below for pertinent instructions for this and other non-Federal housing assistance.

D. References

Assistance programs with governmental involvement--general S0830.165
Home energy assistance and support and maintenance assistance, S0830.605

S0830.635 FOOD PROGRAMS WITH FEDERAL INVOLVEMENT

A. Policy

1. Food Stamp Program

The value of the food under the food stamp program to any household is excluded from income and resources.

2. School Lunch Programs

The value of any assistance to children under chapter 13 of title 42 of the U.S. Code, School Lunch Programs, is excluded from income and resources.

3. Child Nutrition Programs

The value of any assistance to children (e.g., school breakfasts, WIC Program, Milk Programs) under chapter 13A of title 42 of the U.S. Code, Child Nutrition, is excluded from income and resources.

4. Nutrition Programs for Older Americans

The value of any assistance (other than a wage or salary) provided by any project under chapter 35 of title 42 of the U.S. Code, Programs for Older Americans, is excluded from income.

S0830.640 PROGRAMS FOR OLDER AMERICANS

A. Introduction

The Federal Government through the Administration on Aging is involved in a variety of programs for older Americans. The programs may be operated by State or local governments or community organizations. Some types of programs are:

- health services;
- nutrition services (see S0830.635);
- legal assistance; and
- community service employment.

B. Policy

1. Wage or Salary

A wage or salary paid under chapter 35 or title 42 of the U.S. Code, Programs for Older Americans, is earned income subject to the general Medicaid policies on earned income.

2. Not a Wage or Salary

Anything provided under chapter 35 of title 42 of the U.S. Code, Programs for Older Americans, other than a wage or salary is excluded from income.

C. Procedure

1. Verify Program

Use documents in the individual's possession, contact with the provider or a local council on aging, or a precedent to verify that the program is funded by the Federal Government under chapter 35 of "The Older Americans Act" and whether a wage or salary is paid.

2. Wage or Salary

See S0820.100.

3. Not a Wage or Salary-Accept Allegation

Accept the individual's allegation of receipt of anything other than a wage or salary and exclude it without further development unless you have reason to question the allegation.

D. References

ACTION programs (e.g., foster grandparents, retired senior volunteer program, senior companion program), S0830.610

Food programs with Federal involvement, S0830.635

S0830.645 REFUGEE CASH ASSISTANCE, CUBAN AND HAITIAN ENTRANT CASH ASSISTANCE, AND FEDERALLY REIMBURSED GENERAL ASSISTANCE PAYMENTS TO REFUGEES

A. Background

Refugee Cash Assistance and Cuban Haitian Entrant Cash Assistance and federally funded programs which make ongoing needs-based payments to refugees during their first 18 months in the United States.

B. Policy Principles

1. Refugee Cash Assistance, Cuban and Haitian Entrant Cash Assistance and federally reimbursed general assistance payments to refugees are federally funded income based on need and, unless excluded under a PASS (S0810.430), are counted as income. The $20 general income exclusion (S0810.420) does not apply to this income.

2. A payment under one of these programs is always considered to be a cash payment.

C. Operating Procedures

If a payment is made under one of these programs to a family unit or a group of people, the amount of the grant attributable to one individual in the family is determined by the incremental method (i.e., the income is the difference between the amount paid and the amount which would have been paid had the individual not been included).

S0830.650 REFUGEE RECEPTION AND PLACEMENT GRANTS AND REFUGEE MATCHING GRANTS

A. Background

Federal funds are provided to national voluntary refugee resettlement agencies such as Catholic Charities or the Hebrew Immigrant Aid Society, which provides services (including food, clothing and shelter) related to initial resettlement of new refugees. Assistance involving these funds will usually be received during the first 30 days after the refugee arrives in this country.

Refugee reception and placement grants are provided by the Department of State. Refugee matching grants are provided by the Department of Health and Human Services.

B. Policy Principle

Assistance involving a refugee reception and placement grant or a refugee matching grant is subject to the general rules pertaining to income and income exclusions.

NOTE: Assistance involving a refugee reception and placement grant or a refugee matching grant is not federally funded income based on need (S0830.170). However, do not confuse this assistance with Refugee Cash Assistance, Cuban and Haitian Entrant Cash Assistance, and federally reimbursed general assistance. The latter three types of assistance are provided by governmental entities rather than the voluntary agencies and pertinent instructions are found in S0830.645.

C. Operating Procedures

Consider the assistance to be provided and funded by the voluntary agency. Determine the nature of the assistance and apply the appropriate operating instructions pertaining to income and income exclusions. Related instructions include:

S0815.050 (Medical and Social Services)
S0830.605 (Home Energy Assistance and Support Maintenance Assistance)
S0810.420 ($20 General Income Exclusion)

S0830.655 RELOCATION ASSISTANCE

A. Kinds of Relocation Assistance

Relocation assistance is provided to persons displaced by projects which acquire real property. The following types of reimbursement, allowances, and help are provided:

- moving expenses;
- reimbursement for losses of tangible property;
- expenses of looking for a business or farm;
- displacement allowances;
- amounts required to replace a dwelling which exceed the agency's acquisition cost for the prior dwelling;
- compensation for increased interest costs and other debt service costs of replacement dwelling (if it is encumbered by a mortgage);
- expenses for closing costs (but not prepaid expenses) on replacement dwelling (if it encumbered by a mortgage);
- rental expenses for displaced tenants;
- amounts for downpaymets on replacement housing for tenants who decide to buy;
- mortgage insurance through Federal programs with waiver of requirements of age, physical condition, personal characteristics, etc., which borrowers must usually meet; and
- direct provision of replacement housing (as a last resort).

B. Policy - Federal or Federally Assisted Project

1. Exclusion

Relocation assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (subchapter II, chapter 61, title 42 of the U.S. Code) is excluded from income.

2. Applicability

This exclusion applies to relocation assistance provided to persons displaced by any Federal or federally-assisted project. Any Federal assistance is sufficient to bring into play the Federal statutes controlling acquisition of real property, requiring that relocation assistance be available and excluded from income.

3. Exception: Revenue Sharing

If the only Federal assistance is revenue sharing, this exclusion does not apply, since such funds are considered to belong to the governmental unit which received them from the Federal Government. However, the exclusion in C. below may apply.

C. Policy - State, Local, or State - Assisted/Locally Assisted Project

1. Exclusion

Relocation assistance provided by a State or local government or through a State-assisted or locally-assisted project, which is the same type of assistance described in A. above (i.e., comparable to relocation assistance provided under the statute shown in B.1. above) is excluded from income.

2. Applicability

This exclusion applies to relocation assistance provided by persons displaced by any State, local, or State-assisted/locally-assisted project.

D. Procedure

Verify that the project which displaces the individual has governmental involvement. This can be done by using documents in the individual's possession, contacting the provider or entity involved in the project, or using a precedent. Once verified, accept the individual's signed statement of the assistance without further development or documentation.
NOTE: If the individual retains relocation assistance beyond the month of receipt, see S1130.670B.

E. References

- Treatment of resources excluded by other Federal statutes, S1130.640.
- Treatment of resources excluded as relocation assistance, S1130.670.

S0830.660 VICTIMS COMPENSATION PAYMENTS

A. Policy

Any payment received from a fund established by a State to aid victims of crime is excluded from income.

B. Procedure

1. Verification

Verify that the compensation came from a State-established fund to aid victims of crime. This can be done by using documents in the individual's possession, contacting the provider or using a precedent. Once verified, accept the individual's allegation of amounts and date of receipt and exclude the payment without further development.

NOTE: If the individual retains compensation payments beyond the month of receipt, see S1130.665 for additional verification requirements.

C. References

- Exclusion from resources of crime victim's compensation payments, S1130.665.

OTHER UNEARNED INCOME EXCLUSIONS

S0830.700 HOME PRODUCE FOR PERSONAL CONSUMPTION

A. Definition Home produce is food which a person catches in the wild or raises.

B. Policy

1. Home Produce Which is Consumed Home produce is excluded from income if it is consumed by the individual or his or her household.

2. Home Produce Which is Sold The proceeds from the sale of home produce are earned or unearned income according to the chart below:

If the activity is	and the individual is	and the income was derived from land the income from which is...	then the value received is.....
not a trade or business	N/A	N/A	unearned income
A trade or business	not an Indian	N/A	net earnings from self-employment (NESE)
	an Indian	exempt from income tax by reason of a Federal statute or treaty	unearned income
		not exempt from income tax by reason of a Federal statute or treaty	NESE

C. Procedure

1. Assumption About Use Assume that any home produce which an individual alleges will be used for personal or household consumption will be so used.

2. Amount of Home Produce Traded or Sold is Small If the produce is basically raised for home consumption rather than as a business and the amount of produce traded or sold is small (e.g., extra eggs, home-canned beans, etc.), assume that the production costs equaled the value of what was received. No income is derived from such a trade or sale.

3. Accept Allegation Accept an individual's allegations concerning the raising, catching, and consuming of home produce unless you have reason to question the allegation.

4. Documentation If you apply an assumption from 1. or 2. above, document the allegation only. No further development or documentation is needed.

S0830.705 REFUNDS OF TAXES PAID ON REAL PROPERTY OR FOOD

A. Policy Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased is excluded from income.

B. Procedure Accept an allegation that a refund of this nature has been received and exclude the income without further development unless you have reason to question the allegation (e.g., the program making the refunds is unknown, the amount of the refund appears inordinate, etc.).

C. Reference Income tax refunds, S0815.270.

S0830.710 GERMAN REPARATIONS PAYMENTS

A. Introduction German reparations payments are made under the Republic of Germany's Federal Law for Compensation of Nationalist Socialist Persecution ("German Restitution Act") to certain survivors of the Holocaust. The payments may be made periodically or as a lump sum.

B. Policy Reparations payments received from the Federal Republic of Germany are excluded from income. These payments are excluded prior to application of the $20 general income exclusion.

C. Procedure If an individual reports receiving German reparations payments, accept a signed allegation of the amount(s) involved and the date(s) these payments were received. No further development or documentation is needed.

D. Reference Exclusion of German reparations payments from resources, S1130.610.

S0830.715 AUSTRIAN SOCIAL INSURANCE PAYMENTS

A. Background

The nationwide class action lawsuit, *Bondy v. Sullivan,* involved Austrian social insurance payments which were based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act (GSIA). These paragraphs grant credits to individuals who suffered a loss (i.e., were imprisoned, unemployed, or forced to flee Austria) during the period from March 1933 to May 1945 for political, religious, or ethnic reasons. (The GSIA does not specify what entity, e.g., the government or an employer, must be responsible for the loss in order for the credits to be granted.) Not all Austrian social insurance payments are based on Paragraphs 500-506.

B. Policy

1. Income Rule

Austrian social insurance payments based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act are not counted as income. Austrian social insurance payments not based, in whole or in part, on wage credits granted under Paragraphs 500-506 are counted as income for Medicaid purposes.

2. Interest Income

Interest earned on Austrian social insurance payments retained as resources is counted as income. Interest earned on these payments may be excludable under another provision; e.g., as infrequent or irregular.

C. Description of Award Notices

Austrian pension insurance agencies issue many types of award notices. Some notices contain information about wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act. The notices are written in German, and anywhere in the notice, the following language may appear:

DIE BEGUENSTIGUNGSVORSCHRIFTEN FUER GESCHAEDIGTE AUS POLITISCHEN ODER RELIGIOESEN GRUENDEN ODER AUS GRUENDEN DER ABSTAMMUNG WURDEN ANGEWENDET (§500FF ASVG);

TRANSLATION: "The regulations which give preferential treatment for persons who suffered because of political or religious reasons or reasons of origin were applied (§500ff ASVG)."

D. Procedure

Use this chart to determine whether or not to count Austrian social insurance payments as income.

STEP	ACTION
1	Does the individual have an award notice from an Austrian pension insurance agency? If yes, go to step 2. If no, go to step 4.
2	Does the notice include the German phrase from C. above? If yes, retain a copy of the notice for the file. Go to step 3. If no, retain a copy of the notice for the file. Go to step 4.
3	• Do **not** count the payment as income. • STOP.
4	Does the individual allege that the payment is based, in whole or in part, on wage credits under Paragraph 500-506 of the Austrian General Social Insurance Act? If **yes,** document the allegation. Go back to step 3. If **no**, document the allegation. Go to step 6. If **unknown**, go to step 5.
5	Does the individual allege being imprisoned, unemployed or forced to flee Austria during the period 1933 - 1945 because of political or religious reasons? **NOTE:** The individual need not specify which entity caused the loss. If **yes**, document the allegation. Go back to step 3. If **no**, document the allegation. Go to step 6.
6	• Count the payment as unearned income. • Follow verification requirements in S0830.005 and S0830.105. If verification is not readily available, accept the individual's signed statement as to the amount, source, and frequency of the payment. • STOP.

E. References

- General rules for developing unearned income, S0830.005
- Payments in foreign currency, S0830.105
- Dividends and interest, S0830.500
- German reparations payments, S0830.710
- Treatment of Austrian social insurance payments as resources, S1130.615
- Excluded funds commingled with nonexcluded funds, S1130.700

S0830.720 JAPANESE-AMERICAN AND ALEUTIAN RESTITUTION PAYMENTS

A. Policy

Restitution payments made by the U.S. Government to individual Japanese-Americans or the spouse or parent of an individual of Japanese ancestry (or, if deceased, to their survivors) and Aleuts who were interned or relocated during World War II are excluded from income and resources. Also, restitution payments from the Canadian Government to individual Japanese-Canadians who were interned or relocated during World War II are excluded from income and resources.

B. Procedure

Use documents in the individual's possession to verify the nature of these payments. Accept the individual's signed allegation of the amount and date of receipt if this is not evident from the documents.

If the individual alleges receiving restitution payments from the U.S. Government but has no documents which verify this, obtain verification from the:

Office of Redress Administration
U.S. Department of Justice
P. O. Box 66260
Washington, DC 20035-6260

Provide the individual's name, address, date of birth and Social Security number in the request accompanied by signed authorization from the individual for release of information.

If the individual alleges receiving restitution payments from the Canadian Government but has not documents which verify this, ask if the individual was imprisoned, relocated, deported, or deprived of other rights in Canada during the period December 1941 to March 1949 because of their Japanese ancestry.

If the answer is "yes," exclude the payment. If the answer is "no," count the payment as income.

C. Reference

Funds commingled, S1130.700

S0830.725 NETHERLANDS WUV PAYMENTS TO VICTIMS OF PERSECUTION

A. Background

The Dutch government, under the Netherlands' Act on Benefits for Victims of Persecution 1940-1945 (Dutch acronym, WUV), makes payments to both Dutch and non-Dutch individuals who, during the German and Japanese occupation of the Netherlands and Netherlands East Indies (now the Republic of Indonesia) in World War II, were victims of persecution because of their race, religion, beliefs, or homosexuality and, as a result of that persecution are presently suffering from illnesses or disabilities. Payments under this Act began January 1, 1973 and include four categories of benefits: periodic income payments, compensation for non-definable disability expenses (Dutch acronym, NMIK), reimbursement of persecution related disability expenses, and partial compensation for persecution related disability expenses.

B. Policy

WUV payments are excluded from income. Interest earned on unspent WUV payments is not excluded.

C. Procedure

Use documents in the individual's possession to verify that the payment is a Netherlands WUV payment. If the individual has no documentation or there is reason to question the source of the payments, obtain verification from:

Consulate General of the Netherlands
Attn: WUV Department
Suite 509
3460 Wilshire Blvd.
Los Angeles, CA 90010-2270
(213) 480-1471 (9:00 - 12:30 Pacific Time)

If you will also be developing a resource exclusion for retained WUV payments, see S1130.605 for instructions on verifying dates and amounts of payments.

D. References

Exclusion of Netherlands WUV Payments From Resources, S1130.605.

S0830.730 AGENT ORANGE SETTLEMENT PAYMENTS

A. Background

Agent Orange settlement payments made in connection with the case of **In re Agent Orange Product Liability Litigation** come from a fund created by manufacturers of Agent Orange who agreed to pay into a settlement fund. Payments began in March 1989. Qualifying veterans will receive at least one payment a year for the life of the program. Qualifying survivors of deceased veterans will receive a single lump sum payment.

B. Policy

Effective January 1, 1989, payments made from the Agent Orange settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from income and resources.

S0830.740 RADIATION EXPOSURE COMPENSATION TRUST FUND (RECTF) PAYMENTS

A. Background

Fallout emitted during the U.S. Government's atmosphere nuclear testing in Nevada during the 1950's and during a brief period in 1962 exposed some individuals to doses of radiation that put their health at risk. In addition, some individuals employed in uranium mines during the period January 1, 1947 to December 31, 1971 were exposed to large doses of radiation Public Law Fund 101-426 created the Radiation Exposure Trust Fund (RECTF) and authorizes the Department of Justice (DOJ) to make compensation payments to individuals (or their survivors) who were found to have contracted certain diseases after the exposure. The payments will be made as one-time lump sum. Generally, the exposure occurred in parts of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming.

B. Policy

1. RECTF Payments

Payments from RECTF are excluded from income.

2. Interest on Unspent RECTF Funds

Interest earned on unspent RECTF funds **is counted as income.**

C. Procedure

Use documents in the individual's possession to verify that the payment is from the RECTF. Accept the individual's signed allegation of the amount and date of receipt if it is not evident from the documents.

If the individual has no documents or there is reason to question the source of the payments, obtain verification from:

The Radiation Exposure Compensation Program
U.S. Department of Justice
P. O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146

Use the individual's name and Social Security number (SSN) as identifying information when writing to the DOJ. When writing on behalf of a survivor, also include the survivor's name and SSN. Include an authorization from the individual for release of the information.

D. Reference

Exclusion of Radiation Exposure Compensation Trust Fund payments from resources, S1130.680.

M0830.760 WALKER V. BAYER SETTLEMENT PAYMENTS

A. Policy

Section 4735 of the Balanced Budget Act of 1997 (P.L. 105-33) states that payments described in this subsection from the settlement of the Susan Walker v. Bayer Corp., et.al., class action lawsuit are NOT counted as income in determining eligibility for Medicaid. Payments described in this subsection are:

a. payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corp., et.al., 96-C-5024 (N.D.III.); and

b. payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement of Walker v. Bayer Corp., et.al., and that is signed by all affected parties on or before the later of

- *December 31, 1997, or*
- *the date that is 270 days after the date on which such release is first sent to the persons to whom the payment is to be made.*

Any interest earned on these funds is NOT excluded. Any interest earned on these funds must be evaluated as unearned income in the month of receipt and as a resource thereafter.

B. Procedure

Information received by claimants in this lawsuit shows that claimants can choose to receive the payment in one of three ways - in a lump sum, a structured settlement, or a special needs trust. Regardless of which form the individual chooses, the payment(s) are excluded if the above requirements are met.

Verify the source of the funds from a letter from the individual's attorney or a copy of the check which identifies the payor as a Walker v. Bayer settlement account.

SPECIAL CONSIDERATIONS FOR NATIVE AMERICANS

S0830.800 BUREAU OF INDIAN AFFAIRS GENERAL ASSISTANCE

A. Definition

Bureau of Indian Affairs General Assistance (BIA GA) is a federally funded program administered by the Bureau of Indian Affairs (BIA) through its local agency or a tribe. The program makes periodic payments to needy Indians.

B. Policy

BIA GA payments are federally funded income based on need and, therefore, count as income. The $20 per month general income exclusion does not apply.

C. Procedure

Develop BIA GA payments using the instructions and development guidelines for AFDC payments in S0830.400 D. except contact the local agency administering the BIA GA program.

S0830.810 BUREAU OF INDIAN AFFAIRS ADULT CUSTODIAL CARE AND CHILD WELFARE ASSISTANCE PAYMENTS

A. Introduction

Bureau of Indian Affairs (BIA) Adult Custodial Care (ACC) and Child Welfare Assistance (CWA) payments are made on behalf of both institutionalized and noninstitutionalized recipients. BIA foster care payments are made under the ACC and CWA programs.

B. Policy

1. Noninstitutionalized Recipients

BIA ACC and CWA payments (other than foster care assistance) made to noninstitutionalized individuals are federally funded income based on need and, therefore, count as income.

2. Foster Care

BIA foster care assistance is considered a social service and, therefore, is not income for Medicaid purposes.

C. References

- Definition of foster care, S0830.410
- Income Based on need, S0830.170
- Social Services, S0815.050

S0830.820 INDIVIDUAL INDIAN MONEY ACCOUNTS

A. Introduction

No special policy applies to Individual Indian Money (IIM) accounts. Regular income and resources rules concerning restricted and unrestricted accounts apply. The following material is provided for informational purposes only.

IIM accounts are similar to regular bank accounts. Funds retained in an IIM account may earn interest. The BIA area office or agency on the reservation administers these accounts which are either restricted or unrestricted. A restricted account may be converted to an unrestricted account or vice versa, but only with BIA approval.

B. Definitions

1. Restricted IIM Account

A restricted IIM account requires BIA authorization for the individual to make a withdrawal.

2. Unrestricted IIM Account

An unrestricted account does not require BIA authorization for the individual to make a withdrawal.

C. List of IIM Deposit Sources

The following are typical sources of deposits to IIM accounts. The following list is not all-inclusive:

- Money distributed from tribal funds;
- Proceeds from trust sources;
- Proceeds from the sale or conversion of trust capital assets;
- Proceeds from an inheritance interest in trust lands;
- Per capita payments from judgments of the Indian Claim

Commission;

- Proceeds from the sale of crops, livestock, or other personal property held in trust;
- Restricted funds pursuant to a specific plan approved by the Federal Government;
- Benefits from Federal agencies due minors and incompetents who have neither guardians nor payees;
- Lease income.

D. Procedures

Use the following guidelines, when necessary, to develop IIM accounts.

REMINDER: Regular income and resources rules apply to the development of IIM accounts.

As necessary, use information in the recipient's possession, or determine through contact with BIA.

If an account has been converted from restricted to unrestricted or vice versa, note the beginning and ending dates for each period.

E. Examples

These examples show how regular income and resources rules apply to IIM accounts.

Example 1 - Restricted Account

In March, Mr. Strong's $2,200 annual individual Indian trust income payment is deposited, as required by BIA, into the restricted IIM account. The same month, his title II check of $250 is also directly deposited into that account. Because Mr. Strong's title II check was available to him in March (though he opted to have it deposited into his restricted account), regular income rules require treating the $250 as unearned income for that month. If retained in the restricted account, the title II benefits are not a resource.

Under P.L. 103-66, $2,000 of lease income would be excluded per S0830.850. However, per S1140.200, none of the lease income is income when deposited or a resource when retained in the IIM account since Mr. Strong does not have direct control of the funds.

In April, the BIA releases $200 to Mr. Strong. Per S0810.030 A., $200 is counted as unearned income for the month of April since the nonexcludable $200 of the $2,200 lease income was then available to him. Per S1130.700 B.2., the EW assumes that the nonexcludable lease income funds are withdrawn first, leaving as much of the excludable funds in the account as possible.

Example 2 - Unrestricted Account

In May, a $150 per capita payment from locally managed tribal funds is deposited into Mr. Thornton's unrestricted IIM account. Development reveals that these funds were not held in trust by the Secretary of the Interior and, therefore, are not excluded from income and resources. The $150 counts as income to Mr. Thornton in May, per S0810.030 A., and counts as a resource, to the extent retained, in June per S1120.005 B.2. In June, Mr. Thornton withdraws the money from his account. The $150 is a conversion of a resource in June per S0815.200, and is therefore not counted as income for that month.

F. References

- When income is counted, S0810.030
- What is income, S0810.005
- What is not income, S0815.001
- Conversion of a resource, S0815.200
- Definition of resources, S1110.100
- Checking and savings accounts, S1140.200
- Comingled funds, S1130.700

S0830.830 INDIAN-RELATED EXCLUSIONS ACCOUNTS

A. Introduction

For Medicaid purposes, many Federal statutes provide for the exclusion from income and resources of certain payments made to members of Indian tribes and groups. Some statutes pertain to specific tribes or Indian groups while others apply to certain types of payments. Some statutes that predate the SSI program provide that some payments made under those acts shall not be considered as income or resources when determining eligibility for assistance under the Social Security Act.

B. Definition Per Capita Payments

Per capita payments are payments that are made according to the number of individual in a specific group and in which each individual shares equally.

C. Policy - Type of Payment

The following statutes provide that certain **types of payments** made to members of Indian tribes are excluded from income **and** resources (1.-4., below), or **only** from income (5., below).

1. Indian Judgment Funds Distribution Act—Public Law (P.L.) 93-134

Effective October 19, 1973, per capita distribution payments to members of Indian tribes who are due judgment funds, according to a plan of the Secretary of the Interior (or legislation, when a plan cannot be prepared or is not approved by the Congress) are excluded from income and resources. This does not include payments of funds distributed or held in trust (i.e., in the possession or care of a trustee) according to public laws enacted before October 19, 1973.

2. Distribution of Indian Judgment Funds—P.L. 97-458

Effective January 12, 1983, Indian judgment funds held in trust (i.e., in the possession or care of a trustee) or distributed per capita, pursuant to an approved plan, or their availability, are excluded from income and resources Indian judgment funds include interest and investment income accrued while the funds are held in trust. Initial purchases made with distributed judgment funds are excluded from resources.

3. Per Capita Act — P.L. 98-64

Effective August 2, 1983, per capita distributions of all funds held in trust by the Secretary of the Interior to members of Indian tribe are excluded from income and resources.

NOTE: Any local tribal funds that a tribe distributes to individuals on a per capita basis, but which have not been held in trust by the Secretary of the Interior (e.g., tribally managed gaming revenues) are **not** excluded from income and resources under this provision.

4. Alaska Native Claims Settlement Act (ANCSA) — P.L. 100-241

Effective February 3, 1988, the following items received from a native corporation are excluded from income and resources:

- cash received from a native corporation (including cash dividends on stock received from a native corporation) to the extent it does not exceed $2,000 per individual per year;
- stock (including stock issued or distributed by a native corporation as a dividend or distribution on stock);
- a partnership interest;
- land or an interest in land (including land or an interest in land received from a native corporation as a dividend or distribution on stock);
- an interest in a settlement trust.

The ANCSA also provides that up to $2,000 in retained distribution from a native corporation may be excluded from resources for each year beginning with 1988.

5. Payments From Individual Interests in Trust or Restricted Lands — P.L. 103-66

Effective January 1, 1994, up to $2,000 per year received by Indians that is derived from individual interests in trust or restricted lands is excluded from income. (See S0830.850.)

NOTE: Interests of individual Indians in trust or restricted lands are excluded from resources (S1130.150.)

D. Policy — Payments to Specific Indian Tribes and Groups

The following statutes provide that certain payments made to members of **specific Indian tribes and groups** and excluded from income and resources.

1. Distribution of Per Capita Funds — P.L. 85-794

Effective August 28, 1958, per capita payments to members of the **Red Lake Band of Chippewa Indians** from the proceeds of the sale of timber and lumber on the Red Lake Reservation are excluded from income and resources.

2. Distribution of Judgment Funds — P.L. 92-254

Effective March 18, 1972, per capita distribution payments by the **Blackfeet and Gros Ventre** tribal governments to members, which resulted from judgment funds to the tribes, are excluded from income and resources.

3. Distribution of Claims Settlement Funds — P.L. 96-531 and 96-305

Effective December 22, 1974, settlement fund payments to members of the **Hopi and Navajo Tribes,** and the availability of such funds, are excluded from income and resources.

4. Receipts from Lands Held in Trust for Indian Tribes — P.L. 94-114

Effective October 17, 1975, receipts derived from the following trust lands and distributed to members of designed Indian tribes are excluded from income and resources.

The first four Indian groups had lands conveyed with mineral rights prior to P.L. 94-114; that law conveyed the rest of the lands to the remaining Indian groups.

Indian Group	Conveyance Statue	State
Seminole Indians	P.L. 84-736 (70 Stat 581) (July 20, 1956)	Florida
Pueblos of Zia and Jemez	P.L. 84-926 (70 Stat 941) (August 2, 1956)	New Mexico
Stockbridge Munsee Indian Community	P.L. 92- 480 (86 Stat 795) (October 9, 1972)	Wisconsin
Burns Indian Colony	P.L. 92-488 (86 Stat 806) (October 13, 1972)	Oregon

Indian Group	Lands Conveyed Reservation	Lands Conveyed By P.L. 94-114	State
Assiniboine and Sioux Tribe	Fort Peck	LI-MT 6 Fort Peck	Montana
Bad Rive Band of the Lake Superior Tribe of Chippewa Indians	Bad River	LI-WI 8 Bad River	Wisconsin
Blackfeet Tribe of Montana	Blackfeet	LI-MT 9 Blackfeet	Montana
Cherokee Nation of Oklahoma	None	LI-OK 4 Delaware LI-OK 5 Adair	Oklahoma
Cheyenne River Sioux Tribe	Cheyenne River	LI-SD 13 Cheyenne Indian	South Dakota
Crow Creek Sioux Tribe	Crow Creek	LI-SD 10 Crow Creek	South Dakota
Devil's Lake Sioux Tribe	Fort Totten	LI-ND 11 Fort Totten	North Dakota
Fort Belknap Indian Community	Fort Belknap	LI-MT 8 Fort Belknap	Montana
Keweenaw Bay Indian Community	L' Anse	LI-MI 8 L' Anse	Michigan
Lac Courte Oreilles Band of Lake Superior Chippewa Indians	Lac Courte Oreilles	LI-WI 9 Lac Courte	Wisconsin
Lower Brule Sioux Tribe	Lower Brule	LI-SD 10 Lowers Brule	South Dakota
Minnesota Chippewa Tribe	White Earth	LI-MN 6 Twin Lakes LI-MN 15 Flat Lake	Minnesota
Navajo Tribe	Navajo	LI-NM 18 Gallup Two Wells	New Mexico
Oglala Sioux Tribe	Pine Ridge	LI-SD 7 Pine Ridge	South Dakota
Rosebud Sioux Tribe	Rosebud	LI-SD 8 Cutmeat LI-SD 9 Antelope	South Dakota
Shoshone-Bannock Tribe	Fort Hall	LI-ID 2 Fort Hall	Idaho
Standing Rock Sioux Tribe	Standing Rock	LI-ND 10 Standing Rock	North Dakota
		LI-SD 10 Standing Rock	South Dakota

5. Distribution of Judgment Funds — P.L. 94-189	Effective December 31, 1975, judgment fund distributed per capita to, or held in trust for, members of the **Sac and Fox Indian Nation,** and the availability of such funds, are excluded from income and resources.
6. Distribution of Judgement Funds — P.L. 94-540	Effective October 18, 1976, judgment funds distributed per capita to, or held in trust for, members of the **Grand River Band of Ottawa Indians,** and the availability of such funds, are excluded from income and resources.
7. Distribution of Judgment Funds — P.L. 95-433	Effective October 10, 1978, any judgment funds distributed per capita to members of the **Confederated Tribes and Bands of the Yakima Indian Nation** or the **Apache Tribe of the Mescalero Reservation** are excluded from income and resources.
8. Receipts from Lands Held in Trust — P.L. 95-498	Effective October 21, 1978, receipts derived from trust lands awarded to the **Pueblo of Santa Ana** and distributed to members of that tribe are excluded from income and resources.
9. Receipts from Lands Held in Trust — P.L. 95-499	Effective October 21, 1978, receipts derived from trust lands awarded to the **Pueblo of Zia** and distributed to members of that tribe are excluded from income and resources.
10. Distribution of Judgment Funds — P.L. 96-318	Effective August 1, 1980, any judgment funds distributed per capita or made available for programs for members of the **Delaware Tribe of Indians** and the absentee **Delaware Tribe of Western Oklahoma** are excluded from income and resources.
11. Maine Indian Claims Settlement Act — P.L. 96-420	Effective October 10, 1980, all funds and distributions to members of the **Passasmaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians** under the Maine Indian Claims Settlement Act, and the availability of such funds, are excluded from income and resources.
12. Distribution of Judgment Funds — P.L. 97-95	Effective December 17, 1981, any distributions of judgment funds to members of the **San Carlos Tribe of Arizona** are excluded from income and resources.
13. Distribution of Judgment Funds — P.L. 97-371	Effective December 20, 1982, any distributions of judgment funds to members of the **Wyandot Tribe of Indians of Oklahoma** are excluded from income and resources.
14. Distribution of Judgment Funds — P.L. 97-372	Effective December 20, 1982, distributions of judgment funds to members of the **Shawnee Tribe of Indians (Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, and the Cherokee Band of Shawnee descendants)** are excluded from income and resources.
15. Distribution of Judgment Funds — P.L. 97-376	Effective December 21, 1982, judgment funds distributed per capita or made available for programs for members of the **Miami Tribe of Oklahoma** and **the Miami Indians of Indiana** are excluded from income and resources.

16. Distribution of Judgment Funds — P.L. 97-402

Effective December 31, 1982, distributions of judgment funds to members of the **Clallam Tribe of Indians of the State of Washington (Port Gamble Indian Community, Lower Elwha Tribal Community, and the Jamestown Band of Clallam Indians)** are excluded from income and resources.

17. Distribution of Judgment Funds — P.L. 97-403

Effective December 31, 1982, judgment funds distributed per capita or made available for programs for mmbers of the **Pembina Chippewa Indians (Turtle Mountain Band, Chippewa Cree Tribe, Minnesota Chippewa Tribe, and Little Shell Band of Chippewa Indians of Montana)** are excluded from income and resources.

18. Distribution of Judgment Funds — P.L. 97-408

Effective January 8, 1983, per capita disributions of judgment funds to members of the **Gros Ventre and Assiniboine Tribes of Fort Belknap Indian Community, and the Papago Tribe of Arizona,** are excluded from income and resources.

19. Distribution of Judgment Funds — P.L. 97-436

Effective January 8, 1983, up to $2,000 of per capita distributions of judgment funds to members of th **Conferated Tribes of the Warm Springs Reservation** are excluded from income and resources.

20. Distribution of Judgment Funds — P.L. 98-123

Effective October 13, 1983, judgment funds distributed to the **Red Lake Band of Chippewa Indians** are excluded from income and resources.

21. Distribution of Claims Settlement Funds — P.L. 98-124

Effective October 13, 1983, funds distributed per capita or family interest payments for members of the **Assiniboine Tribe of the Fort Belknap Indian Community of Montana and the Assiniboine Tribe of the Fort Peck Indian Reservation of Montana** are excluded from income and resources.

22. Distribution of Claims Settlement Funds — P.L. 98-432

Effective September 28, 1984, judgment funds and income therefrom distributed to members of th **Shoalwate Bay Indian Tribe** are excluded from income and resources.

23. Distribution of Claims Settlement Funds — P.L. 98-500

Effective October 19, 1984, all distributions to heirs of certain deceased Indians under the Old Age Assistance Claims Settlement Act are excluded from income and resources.

24. Distribution of Judgment Funds — P.L. 98-602

Effective October 30, 1984, judgment funds distributed per capita or made available for any tribal program, for members of the **Wyandotte Tribe of Oklahoma** and the **Absentee Wyandottes,** are excluded from income and resources.

25. Distribution of Judgment Funds — P.L. 99-130

Effective October 28, 1985, per capita and dividend payment distributions of judgment funds to members of the **Santee Sioux Tribe of Nebraska**, the **Flandreau Santee Sioux Tribe,** and the **Prairie Island Sioux, Lower Sioux,** and **Shakopee Mdewakanton Sioux Communities of Minnesota** are excluded from income and resources.

26. Distribution of Judgment Funds — P.L. 99-146	Effective November 11, 1985, funds distributed per capita or held in trust for members of the **Chippewas of Lake Superior** and the **Chippewas of the Mississippi** are excluded from income and resources.
27. Distribution of Claims Settlement Funds — P.L. 99-264	Effective March 24, 1986, distributed of claims settlement funds to members of the **White Earth Band of Chippewa Indians** as allottees, or their heirs, are excluded from income and resources.
28. Distribution of Judgment Funds — P.L. 99-346	Effective June 30, 1986, payments or distributions of judgment funds, and the availability of any amount for such payments or distributions, to members of the **Saginaw Chippewa Indian Tribe of Michigan** are excluded from income and resources.
29. Distribution of Judgment Funds — P.L. 99-377	Effective August 8, 1986, judgment funds distributed per capita or held in trust for members of the **Chippewas of Lake Superior and the Chippewas of the Mississippi** are excluded from income and resources.
30. Distribution of Judgment Funds — P.L. 100-139	Effective October 26, 1987, judgment funds distributed to members of the **Cow Creek Band of Umpqua Tribe of Indians** are excluded from income and resources
31. Aleutian and Pribilof Islands Restitution Act — P.L. 100-383	Effective August 10, 1988, per capita restitution payments made to eligible **Aleuts** who were relocated or interned during World War II are excluded from income and resources. See S0830.720.
32. Distribution of Claims Settlement Funds — P.L. 199-411	Effective August 22, 1988, per capita payments of claims settlement funds to members of the **Coushatta Tribe of Louisiana** are excluded from income and resources.
33. Hoopa-Yurok Settlement Act —P.L. 100-580	Effective October 31, 1988, funds distributed per capita for members of the **Hoopa Valley Indian Tribe and the Yurok Indian Tribe** are excluded from income and resources.
34. Distribution of Judgment Funds — P.L. 100-581	Effective November 1, 1988, judgment funds held in trust by the United States, including interest and investment income accruing on such funds, and judgment funds made available for programs or distributed to members of the **Wisconsin Band of Potawatomi (Hannahaville Indian Community and Forest County Potawatomi)** are excluded fro income and resources.
35. Distribution of Money and Land — P.L. 101-41	Effective June 21, 1989, all funds assets, and income from the trust fund transferred to the member of the **Puyallup Tribe** under the Puyallup Tribe of Indians Settlement Act of 1989 are excluded from income and resources.

36. Distribution of judgment Funds — P.L. 101-277

Effective April 30, 1990, judgment funds distributed per capita, or held in trust, or made available for programs, for members of the **Seminole Nation of Oklahoma, the SeminoleTribe of Florida,** and **Miccosukee Tribe of Indians of Florida,** (plus any interest and investment income accruing on the funds held in trust), and the availability of those funds, are excluded from income and resources.

37. Distribution of Settlement Funds — P.L. 101-503

Effective November 3, 1990, payments, funds, distributions, or income derived from them under the **Seneca Nation** Settlement Act of 1990 ar excluded from income and resources.

38. Distribution of Settlement Funds — P.L. 101-618

Effective November 16, 1990, per capita distributions of settlement funds under the **Fallon Paiute Shoshone Indian Tribes** Water Rights Settlement Act of 1990 are excluded from income and resources.

E. Procedure

If there is an allegation or other indication that an individual received excluded judgment funds or settlement fund distributions, per capita payments, land, or receipts from land, follow these procedures.

1. Verification of Tribe Membership

As necessary, verify that the individual is a member of the relevant tribe by contact with BIA or tribal authorities.

2. Payment/ Distribution Development

Develop the identity and amount of excludable payment or distribution by contact with BIA or tribal authorities or use of a precedent file. Trust Property Income (TPI) reports may also be available form BIA, which list to whom restricted individual Indian property is assigned, and show if lease or grazing rights payments are not paid through BIA or the tribe. If land is distributed, identify the location of the land as recorded by deed or other legal conveyance. (Additional contacts with the Bureau of Land Management may be necessary to develop land information.)

3. Documentation

Document the file using the method(s) below as needed:

- Document case record for verifications made over the phone with the tribal authorities or the BIA area office.
- Income report or comparable document from the BIA, the tribe's governing body, or its official financial representatives.
- Signed statement from the tribal authorities, the BIA area offices, or Bureau of Land Management.

F. References

- Aleutian restitution payment, S0830.720
- BIA student assistance program, S0830.460
- Certain stock in Alaska regional or village corporations, S1120.105
- Commingled funds S1130.700
- Indian trust or restricted funds, S1130.150

S0830.840 ALASKA NATIVE CLAIMS SETTLEMENT ACT EXCLUSIONS

A. Policy

1. Current Exclusions--Effective February 3, 1988

P.L. 100-241 provided Medicaid income and resource exclusions to Alaska Natives and their descendants. The following items received from a Native Corporation, are excluded from income and resources for Medicaid purposes:

- cash received from a native corporation (including cash dividends on stock received from a native corporation) to the extent it does not exceed $2,000 per individual per year;
- stock (including stock issued or distributed by a native corporation as a dividend or distribution on stock);
- a partnership interest;
- land or an interest in land (including land or an interest in land received from a native corporation as a dividend or distribution on stock);
- an interest in a settlement trust.

S0830.850 EXCLUSION OF INCOME FROM INDIVIDUAL INTERESTS IN INDIAN TRUST OR RESTRICTED LANDS

A. Introduction

Native American income derived from tribal trust lands is excluded by federal statutes (see S0830.830 B). Individual interests of Native Americans in trust or restricted lands are excluded from resources (see S1130.150). The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66), enacted August 10, 1993, further provides for an exclusion of income derived from those individual interests in Indian trust or restricted lands for purposes of determining Medicaid eligibility.

This income (often called individual Indian trust or lease income) generally comes from interests in lands that were allotted to individual Indians many years ago. The income generated by those interests may be quite small since many of the original interests in allotted lands have fractionated over time, e.g., due to inheritance by multiple heirs over several generations.

B. Policy

Up to $2,000 per year in payments derived from individual interests in Indian trust or restricted lands is excluded from income. Such payments include any interest which accrues on funds while held by B/A and before being distributed or credited to an individual's account.

This exclusion applies to the income of an ineligible spouse or ineligible parent(s) in the deeming process.

For purposes of applying the $2,000 annual exclusion, for both eligibles and deemors, only payments received in months of the Medicaid individual's eligibility count toward the $2,000 annual exclusion.

C. Procedure--Development and Documentation

Verify and document income derived from individual interests in trust or restricted lands per S0830.820 E.

If that income exceeds $2,000 per calendar year, determine the month that the $2,000 annual exclusion was exceeded, and count the excess as unearned income in the months received.

EXAMPLE: During a redetermination interview, Mr. Elwell, a member of the Yakima Indian Tribe, reports receiving accumulated lease payments of $2,800 in 1994 from his individual interests in allotted Indian grazing lands. He alleges receiving $1,000 in March, $700 in June and $ 1,100 in October. Review of case records shows that the payments for March and June were reported timely, but Mr. Elwell was ineligible for Medicaid in June due to receipt of earned income. The eligibility worker (EW) excludes the payment received in March and $1,000 of the payment received in October, and does not consider the $700 received in June. The EW determines unearned income of $100 for October, the month the $2,000 annual exclusion was exceeded.

D. References

- Other Indian related exclusion, S0830.830
- Resource exclusion of individual Indian interests in trust or restricted lands, S1130.150
- Rental Income, S0830.505