

Title of Rule: MSB 14-10-28-A Revision to the Medical Assistance Eligibility Rules Concerning allowable deductions at 8.100.4.C.1.d
Rule Number: MSB 14-10-28-A
Division / Contact / Phone: Eligibility Division / Ana Bordallo / 303-866-3558

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The proposed rule changes amend 10 CCR 2505-10 § 8.100.4.C.1.d to incorporate changes to the rule mandated by the Patient Protection and Affordable Care Act of 2010 (ACA) as they pertain to Modified Adjusted Gross Income (MAGI)-based methodologies. Among these changes: revision to the current policy regarding allowable deductions to calculate Adjusted Gross Income. Currently, when determining the adjusted gross income under 8.100.4.C.1.d. the allowable deductions identified in the policy are not all applicable to determine Adjusted Gross Income. The proposed change will define what deductions are allowable as defined under title 26 U.S.C 62 to get the Adjusted Gross Income to determine eligibility for MAGI-Medical Assistance.

2. An emergency rule-making is imperatively necessary

to comply with state or federal law or federal regulation and/or

for the preservation of public health, safety and welfare.

Explain:

The rule is not in compliance with federal regulations and is giving individuals incorrect determinations based on the allowable deductions identified and cited in our current rule. Based on further clarification and research the rule will be updated to be in compliance with federal regulations for allowable deductions to calculate Adjusted Gross Income and determine correct eligibility for individuals applying for Medical Assistance.

3. Federal authority for the Rule, if any:

42 CFR 435.603(e), 26 U.S.C. 62 and 26 U.S.C 199

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2013);

Initial Review

Proposed Effective Date **12/12/2014**

Final Adoption

Emergency Adoption

12/12/2014
DOCUMENT #01

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The proposed rule will impact applicants who have countable income applying for MAGI-Medical Assistance. The benefit of allowable deductions is to help lower an applicants Adjusted Gross Income when determining eligibility.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The proposed rule will help to determine eligibility correctly by using the appropriate allowable deductions to calculate the Adjusted Gross Income, for those applicants applying for MAGI-Medical Assistance.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

Additional allowable deductions will be added to the Colorado Benefits Management System (CBMS) to calculate the adjusted gross income, which is likely to result in an increase in state expenditure via an increase in caseload. Because the Department does not currently deduct specific allowable deductions, the impact is ambiguous. However, given the nature of the deductions and the fact that some deductions are replacing others, the Department does not anticipate that the net impact will be significant. The Department will monitor the federally mandated change and will make adjustments to the budget if necessary through the normal budget process.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The change is federally required. Inactions is not an option as it would put the State at significant risk of losing federal funding.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

There are no alternatives as the changes are necessary to be in compliance with federal regulations.

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6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

There are no alternative methods for the proposed rule that were considered.

1 **8.100.4.C. MAGI Methodology for Income Calculation**

2 1. The Modified Adjusted Gross Income calculation for the purposes of determining a
3 household's financial eligibility for Medical Assistance shall consist of the following:

4 a. Gross Income: Except as otherwise provided, pursuant to 26 U.S.C. § 61 gross
5 income means all income from whatever source derived, including (but not
6 limited to) the following items:

- 7 i) Compensation for services, including fees, commissions, fringe benefits
8 and similar items;
- 9 ii) Gross income derived from business;
- 10 iii) Gains derived from dealings in property;
- 11 iv) Interest;
- 12 v) Rents;
- 13 vi) Royalties;
- 14 vii) Dividends;
- 15 viii) Alimony and separate maintenance payments;
- 16 ix) Annuities;
- 17 x) Income from life insurance and endowment contracts;
- 18 xi) Pensions;
- 19 xii) Income from discharge of indebtedness;
- 20 xiii) Distributive share of partnership gross income;
- 21 xiv) Income in respect of a decedent; and
- 22 xv) Income from an interest in an estate or trust.

23 b. Additional Income: In addition to the gross income identified in section
24 8.100.4.C.1.a., the following income is included if applicable:

- 25 i) Any tax exempt interest income
- 26 ii) Untaxed foreign wages and salaries
- 27 iii) Social Security Title II Benefits (Old Age, Disability and Survivor's
28 benefits)

29 c. Income exceptions: There are three exceptions to gross income in the MAGI
30 income calculation:

- 1 i) An amount received as a lump sum is counted as income only in the
2 month received.
- 3 ii) Scholarships, awards, or fellowship grants used for educational purposes
4 and not for living expenses.
- 5 iii) American Indian/Alaskan Native income exceptions listed at 42 C.F.R. §
6 435.603(e). 42 C.F.R. § 435.603(e) (2012) is hereby incorporated by
7 reference. The incorporation of 42 C.F.R. § 435.603(e) (2012) excludes
8 later amendments to, or editions of, the referenced material. Pursuant to
9 § 24-4-103(12.5), C.R.S., the Department maintains copies of this
10 incorporated text in its entirety, available for public inspection during
11 regular business hours at: Colorado Department of Health Care Policy
12 and Financing, 1570 Grant Street, Denver, CO 80203. Certified copies of
13 incorporated materials are provided at cost upon request.
- 14 d. Allowable Deductions: For an in depth treatment of allowable deductions from
15 gross income, please refer to 26 U.S.C. 62, which is hereby incorporated by
16 reference. The incorporation of 26 U.S.C. 62 (2014) excludes later amendments
17 to, or editions of, the referenced material. Pursuant to § 24-4-103(12.5), C.R.S.,
18 the Department maintains copies of this incorporated text in its entirety, available
19 for public inspection during regular business hours at: Colorado Department of
20 Health Care Policy and Financing, 1570 Grant Street, Denver CO 80203.
21 Certified copies of incorporated materials are provided at cost upon request. The
22 following ~~Allowable dDeductions~~ are allowed to be can be, among others, are
23 subtracted from an individual's taxable gross income, - in order to calculate the
24 Adjusted Gross Income: Standard deductions, IRA and qualified retirement plan
25 contributions, business expenses, student loan interest, mortgage interest
26 payments, one half of the self-employment tax, contributions to pre-tax
27 healthcare and other flexible spending accounts, etc. For a more in-depth
28 treatment of allowable deductions to gross income, please refer to 26 U.S.C.
29 Subtitle A, Chapter 1, Subchapter B Parts V, VI, VII and IX 26 U.S.C Subtitle A,
30 Chapter 1, Subchapter B Parts V, VI, VII and IX are hereby incorporated by
31 reference. The incorporation of 26 U.S.C Subtitle A, Chapter 1, Subchapter B
32 Parts V, VI, VII and IX (2013) excludes later amendments to, or editions of, the
33 referenced material. Pursuant to § 24-4-103(12.5), C.R.S., the Department
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37 incorporated materials are provided at cost upon request.
- 38 i) Student loan interest deductions
- 39 ii) Certain Self-employment expenses (SEP, SIMPLE and qualified plans,
40 Health insurance deductions)
- 41 iii) Certain Business expenses of reservists, performing artist, and fee-basis
42 government officials
- 43 iv) Health savings account deduction
- 44 v) Alimony paid outside the home
- 45 vi) Moving expenses

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vii) IRA deduction

viii) Penalty on early withdrawal

ix) Domestic production activities deduction

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