

Title of Rule: Revision to the Medical Assistance Rule Concerning the Use of Private Disability Income, Section 8.100.4.C.
Rule Number: MSB 15-05-27-B
Division / Contact / Phone: Eligibility Division / Geoffrey Oliver / 303-866-2686

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 change amends 10 CCR 2505-10, Section 8.100.4.C, to reflect changes in the use of private disability income in MAGI methodology determination process for all applicants and MAGI based beneficiaries.

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:

3. Federal authority for the Rule, if any:

Section 1902(e)(14) of the Social Security Act

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2014);
25.5-4-105.

Initial Review **07/10/2015**
Proposed Effective Date **10/01/2015**

Final Adoption **08/14/2015**
Emergency Adoption

DOCUMENT #04

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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.

Individuals who reported a taxable private disability income amount that is less than their total private disability and who could be eligible for benefits from MAGI based programs will be more likely to be found eligible for Medical Assistance because their income will be less than if their total private disability was taken into consideration.

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

Individuals who have private disability and have reported that a portion of that private disability is not taxable income will be more likely to be approved for MAGI based programs because the non-taxable portion of their private disability will not be countable income. This should increase the number of approvals for MAGI based programs. Individuals who are currently beneficiaries of a MAGI or non-MAGI based programs and have private disability should not lose their eligibility for Medical Assistance. Some individuals who are enrolled in CHP+ and have private disability insurance may be found eligible for Medicaid instead of CHP+ based upon their reported taxable private disability.

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.

The costs of the proposed changes are indeterminate. The change only affects clients that have private disability income that have been determined eligible for MAGI populations. The majority of clients with a disability should be determined eligible for a non-MAGI population. The Department believes that very few individuals with private disability income would be determined eligible under a MAGI population. For this reason, costs of this change are expected to be nominal.

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

Implementation is necessary to comply with Federal requirements

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

There are no alternatives to achieve the proposed rule.

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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; ~~and-~~

23 xvi) Taxable private disability.

24 b. Additional Income: In addition to the gross income identified in section
25 8.100.4.C.1.a., the following income is included if applicable:

26 i) Any tax exempt interest income

27 ii) Untaxed foreign wages and salaries

28 iii) Social Security Title II Benefits (Old Age, Disability and Survivor's
29 benefits)

- 1 c. Income exceptions: There are three exceptions to gross income in the MAGI
2 income calculation:
- 3 i) An amount received as a lump sum is counted as income only in the
4 month received.
- 5 ii) Scholarships, awards, or fellowship grants used for educational purposes
6 and not for living expenses.
- 7 iii) American Indian/Alaskan Native income exceptions listed at 42 C.F.R. §
8 435.603(e). 42 C.F.R. § 435.603(e) (2012) is hereby incorporated by
9 reference. The incorporation of 42 C.F.R. § 435.603(e) (2012) excludes
10 later amendments to, or editions of, the referenced material. Pursuant to
11 § 24-4-103(12.5), C.R.S., the Department maintains copies of this
12 incorporated text in its entirety, available for public inspection during
13 regular business hours at: Colorado Department of Health Care Policy
14 and Financing, 1570 Grant Street, Denver, CO 80203. Certified copies of
15 incorporated materials are provided at cost upon request.
- 16 d. Allowable Deductions: For an in depth treatment of allowable deductions from
17 gross income, please refer to 26 U.S.C. 62, which is hereby incorporated by
18 reference. The incorporation of 26 U.S.C. 62 (2014) excludes later amendments
19 to, or editions of, the referenced material. Pursuant to § 24-4-103(12.5), C.R.S.,
20 the Department maintains copies of this incorporated text in its entirety, available
21 for public inspection during regular business hours at: Colorado Department of
22 Health Care Policy and Financing, 1570 Grant Street, Denver CO 80203.
23 Certified copies of incorporated materials are provided at cost upon request. The
24 following deductions are allowed to be subtracted from an individual's taxable
25 gross income, in order to calculate the Adjusted Gross Income including (but not
26 limited to):
- 27 i) Student loan interest deductions
- 28 ii) Certain Self-employment expenses (SEP, SIMPLE and qualified plans,
29 and health insurance deductions)
- 30 iii) Deductible part of self-employment tax
- 31 iv) Health savings account deduction
- 32 v) Certain Business expenses of reservists, performing artist, and fee-basis
33 government officials
- 34 vi) Certain reimbursed expenses of employees
- 35 vii) Moving expenses
- 36 viii) IRA deduction
- 37 ix) Penalty on early withdrawal
- 38 x) Domestic production activities deduction
- 39 xi) Alimony paid outside the home