

**Par. 1.** Material Transmitted and Purpose – Transmitted with this Manual Letter are changes to Service Chapter 510-07 Healthy Steps Eligibility Factors. New language is in red and underlined and removed language has been struck through. This manual letter includes changes mandated by the Affordable Care Act. This supersedes IM #5179.

---

## **Definitions 510-07-05**

Definitions applicable to the Affordable Care Act are added to this section. These apply to **changes** in policy.

---

### Adjusted Gross Income

The amount at the bottom line of the front page of IRS Form 1040.

### Advance payments of the Premium Tax Credit (APTC)

Individuals who are not eligible for Medicaid or Healthy Steps under the Affordable Care Act may be eligible for tax credits for the health care insurance premiums they pay out of pocket.

### Affordable Care Act (ACA)

The Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, as amended by the Three Percent Withholding Repeal and Job Creation Act. Also known as Healthcare Reform.

### Federally Facilitated Marketplace (FFM)

The web portal through which Americans may choose a qualified health plan, and be assessed for possible eligibility for Medicaid, Healthy Steps or Advance Premium Tax Credits (APTC).

### MAGI-Based Methodology

The method of determining eligibility for Medicaid and Healthy Steps that generally follows Modified Adjusted Gross Income rules. It is not a line on a tax return, rather a combination of household and income rules.

### MAGI Household

A household that is required to be budgeted using MAGI methodologies. This includes the Adult Expansion Group, Parents, Caretaker Relatives and their Spouses, Children, and Pregnant Women.

### Modified Adjusted Gross Income (MAGI)

Income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in Section 36B(d)(2)(B) of the Internal Revenue Code, with exceptions. Adjusted Gross Income from Form 1040 plus tax-exempt interest, tax-exempt Social Security Benefits, and any foreign earned income excluded from taxes.

### No Wrong Door

The federal mandate that allows individuals to apply for Healthcare Coverage through any means, may be through the Federal Facilitated Marketplace, the State eligibility portal, by telephone, through the OASYS application, by FAX or in-person.

### Non-filer

An individual who neither files an income tax return nor is claimed as a dependent by another tax filer unless:

- they are claimed as a tax dependent by someone other than a spouse, or natural, adoptive or stepparent;
- they are a child under age 19 living with both parents but the parents do not file a joint return, or
- a child under age 19 who expects to be claimed by a non-custodial parent.

### Tax dependent

An individual for whom another individual claims a deduction for a personal exemption under section 151 of the Internal Revenue Code for a taxable year.

---

## **Nondiscrimination in Federally assisted Program 510-07-10-10**

The third paragraph of this section is **updated** with the correct address at the Denver regional office for filing discrimination questions and complaints.

---

The Department of Human Services makes available all services and assistance without regard to race, color, religion, national origin, age, sex, political beliefs, disability, or status with respect to marriage or public assistance, in accordance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and the North Dakota Human Rights Act of 1983. Persons who contract with or receive funds to provide services for the North Dakota Department of Human Services are obligated to abide by the provisions of these laws. The Department of Human Services makes its programs accessible to persons with disabilities. Persons needing accommodation or who have questions or complaints regarding the provisions of services according to these Acts may contact the Civil Rights Officer, North Dakota Department of Human Services, Judicial Wing, State Capitol, 600 E. Boulevard Avenue Dept. 325, Bismarck, ND 58505 or the US Department of Health and Human Services, Office for Civil Rights, Region VIII, ~~999 18<sup>th</sup> Street, Suite 417 Federal Office Building, 1961 Stout Street, Suite 1426,~~ Denver, Colorado 80202 94 or call 1-800-368-~~1019-1018~~ or ~~303-844-2024~~ (voice) or ~~303-844-3439 (TDD)~~ ~~1-800-537-7697 (TTY)~~ or ~~303-844-2025 (FAX)~~.

---

## **Improper Payments and Suspected Fraud 510-07-10-20**

Language is added to subsections 2 and 6 to include the **change** to policy to send a copy of all fraud referrals to the Medicaid Eligibility Unit in addition to the SURS unit.

---

2. Suspected insurance carrier related errors must be reported to the Surveillance Utilization Review (SURS) Unit in the Medical Services Division using SFN 20, "SURS Referral Form"; with a copy to the Medicaid eligibility unit. SFN 20 may be sent to SURS as described in 5 6 below. An example of

an insurance carrier error is, a recipient reports that the Healthy Steps insurance carrier is not covering a service that should be covered, and there is no apparent reason for the denial.

6. All recipient errors in which there is an overpayment or suspected fraud (regardless of overpayment) must be referred to the Surveillance Utilization Review (SURS) Unit in the Medical Services Division using SFN 20, "SURS Referral Form" with a copy to the Medicaid eligibility unit. SFN 20 may be sent to SURS by:
  - a. Mail: SURS, 600 East Boulevard Avenue, Department 325, Bismarck, ND 58505;
  - b. Fax: 701-328-1544; or
  - c. Email: [medicaidfraud@nd.gov](mailto:medicaidfraud@nd.gov).

Copies may be sent to the Medicaid Eligibility Unit as follows:

- a. Mail: Medicaid Eligibility Unit, 600 East Boulevard Avenue, Department 325, Bismarck, ND 58505;
- b. Fax: 701-328-5406; or
- c. Email: -Info-DHS Medicaid Policy.

---

## **Application and Decision 510-07-15**

### **Application and Review 510-07-15-05**

Language is added to subsection 1 to include the additional applications prescribed by the Affordable Care Act and modifications to treatment of reviews mandated under the Affordable Care Act. This is a **change** in policy. This supersedes IM #5179.

- 
1. Application.
    - a. Healthy Steps applications received on or after October 1, 2013 will be subject to MAGI processing if the household is requesting benefits to start January 2014. If a household requests benefits to start prior to January 1, 2014, non-MAGI processing applies. All individuals wishing

to make application on behalf of a child for Healthy Steps must have the opportunity to do so, without delay.

- b. An application is a written request for assistance on:
- i. SFN 405, "Application for Economic Assistance Programs ";
  - ii. SFN 502, "Application for HealthCare Coverage for Children, Families, and Pregnant Women"; (to be discontinued after 12-31-13);
  - iii. The Department's system generated "Statement of Facts"(this will no longer be used as a Medicaid application after 12-31-13);
  - iv. The Department's system generated "Application for Health Care Coverage";
  - v. The Department's online "Application for Economic Assistance Programs"; ~~or~~
  - vi. If within one calendar month of when an applicant's Healthy Steps case was closed, one of the prescribed review forms (see subsection 2(b));
  - vii. The electronic file received by the state from the Federally Facilitated Marketplace (FFM) containing the single streamlined application;
  - viii. The single streamlined application as submitted through the North Dakota client portal;
  - ix. The paper SFN 1909 "Application for Health Coverage and Help Paying Costs"; or
  - x. Telephonic applications.
- h. There is no wrong door when applying for Healthy Steps or any of the Healthcare coverages. The individual's application experience needs to be as seamless and with as few barriers as possible.
- i. North Dakota Healthy Steps applications may be received, filed and maintained at any county office within the state, based on what is most convenient for the applicant or recipient. Healthy Steps-only cases are maintained by the Healthy Steps unit at the state office.

## 2. Review.

b. A review must be completed at least annually using:

- i. SFN 502, "Application for HealthCare Coverage for Children, Families, and Pregnant Women" (for reviews completed on or after January 1, 2014, this form will be discontinued and SFN 1909, "Application for Health Coverage and Help Paying Costs" will replace it);
- ii. SFN 407, "Review for Health Care Coverage";
- iii. SFN 378, "Change Report Form";
- iv. The Department's system generated Application/Review for Health Care Coverage; ~~or~~
- v. One of the previously identified applications completed to apply for another program. ~~;~~
- vi. The online review form through OASYS; or
- vii. The streamlined review received through the state portal for MAGI reviews.

Ex-parte Reviews: ~~In unique circumstances, w-~~ When the county agency has all information needed to complete a review, and circumstances prevent a recipient or their representative from timely returning the review form, continued eligibility ~~may~~ must be established without a completed form ~~or requiring additional information from a MAGI household.~~ In circumstances in which information needed to complete a review is available through Medicaid, SNAP or TANF, that information ~~should~~ must be used without again requiring that information from the family. If all needed information is available, ~~a~~ review can ~~must~~ be completed without requiring a review form. Care must be used to ensure all needed information is on hand. An online narrative must document the completion of the Ex Parte review.

Passive Reviews: The county agency must make a review of eligibility without requiring information from the MAGI individual or MAGI household if able to do so based on reliable information available in the individual's account or other more current information available such as through any available data bases. In these cases, the

individual/household must be notified of the eligibility determination and basis and that the individual/household must inform the agency if any of the information contained in the notice is inaccurate. The individual is not required to sign and return such notice if all information in the notice is accurate.

When a MAGI household loses eligibility for failure to provide a renewal form or required information, if the renewal form is submitted within 90 days after the termination, eligibility must be reconsidered back to the termination date.

---

### **Duty to Establish Eligibility 510-07-15-20**

Language is added to this section to **clarify** that workers may not request information from the household that is already available to the worker through other sources.

It is the responsibility of the applicant or recipient to provide information sufficient to establish the eligibility of each individual for whom assistance is requested, including, but not limited to, the furnishing of a social security number, and establishing age, identity, residence, citizenship, blindness, disability, and financial eligibility.

Requesting information from an individual or household that is already available to the worker through other sources is prohibited.

No age, residence, citizenship, or other requirement that is prohibited by title XXI of the Social Security Act will be imposed as a condition of eligibility.

---

### **Decision and Notice 510-07-15-30**

An introductory paragraph is added to this section to **clarify** that clients have a choice as to how they are notified.

Applicants and recipients may choose the method by which they are notified of their eligibility status. They may choose paper, electronic, or through their portal account.

---

## Eligibility Under Healthy Steps 510-07-20

### General Information 510-07-20-05

To **clarify** policy and maintain consistency, language is changed to remove the word "state" from this section as it is no longer used.

---

Eligibility for the **State** Children's Health Insurance Program (**SCHIP**) is based on Title XXI of the Social Security Act. **SCHIP**, known as Healthy Steps in North Dakota, became effective as a separate program in this State on October 1, 1999.

---

### Individuals Covered 510-07-20-10

Subsection (2)(d) is updated to recognize the **changes** in policy mandated under ACA limiting the penalty for dropping creditable insurance to 90 days and also including additional exceptions to the penalty. Language is added as Subsection 5 to include the mandatory coverage of children who were on Medicaid as of December 31, 2013 who fail Medicaid under MAGI budgeting due to the loss of income disregards. These children must be covered for 12 months under Healthy Steps due to maintenance of effort requirements at 42 CFR 457.310. This is a **change** in policy.

---

### **This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014.**

1. Children through age 18, who meet the requirements of this program, are eligible for Healthy Steps. Coverage for eligible children who are 18 years of age continues through the last day of the month in which child turns age 19.
2. A child is not eligible for Healthy Steps if:
  - a. The child would be eligible for full Medicaid benefits (no client share (recipient liability)) in the month for which Healthy Steps eligibility is being determined; or
  - b. The child has other current creditable health insurance coverage;
  - c. Coverage is available through the child's parents' or legal guardians' employer at no additional cost; or

- d. The child had creditable health insurance coverage within the past six months, unless the coverage was terminated:
- i. Due to involuntary loss of employment; or
  - ii. Through no fault of any member of the Healthy Steps unit; or
  - iii. By a household member who is actively engaged in farming in a county which was declared a federal disaster area within the last 12 months. This information is available in the Vision tables; or
  - iv. By a parent or caretaker quitting a job with health insurance coverage to take a job without health insurance coverage; or
  - v. By a parent or caretaker quitting a job with health insurance coverage to start a new job with a waiting period for health care coverage; or
  - vi. By a parent because the monthly premium the family is responsible to pay for the health insurance exceeds, and is expected to exceed, 15% of the family's gross monthly income. The family's gross monthly income means the countable self-employment income (not including the Adjusted Gross Income Deduction), plus the gross earned and unearned incomes of all individuals in the Healthy Steps unit.

The 6 month penalty period of Health insurance is 6 months prior to the month for which eligibility is being determined.

**Example:** August application and eligibility is being determined for the benefit month of September. The six-month termination period is March 1 through August and is month specific. If insurance were dropped in March, there may be eligibility starting at the earliest for the benefit month of September.

3. Children who are eligible to receive services through Indian Health services or through Section 638 Tribal contracts can be eligible for Healthy Steps.

4. If the Department estimates that available funds are insufficient to allow plan coverage for additional applicants, the Department may take any action it deems appropriate to limit enrollment in the Healthy Steps Program, including denying applications and establishing waiting lists.

**For Applications and Reviews Received on or after October 1, 2013 for benefits starting January 1, 2014:**

1. Children through age 18, who meet the requirements of this program, are eligible for Healthy Steps. Coverage for eligible children who are 18 years of age continues through the last day of the month in which child turns age 19.
2. A child is not eligible for Healthy Steps if:
  - a. The child would be eligible for full Medicaid benefits (no client share (recipient liability)) in the month for which Healthy Steps eligibility is being determined; or
  - b. The child has other current creditable health insurance coverage; or
  - c. Coverage is available through the child's parents' or legal guardians' employer at no additional cost; or
  - d. The child had creditable health insurance coverage within the past ~~six months~~ 90 days, unless the coverage was terminated:
    - i. Due to involuntary loss of employment; or
    - ii. Through no fault of any member of the Healthy Steps unit; or
    - iii. By a household member who is actively engaged in farming in a county which was declared a federal disaster area within the last 12 months. This information is available in the Vision tables; or
    - iv. By a parent or caretaker quitting a job with health insurance coverage to take a job without health insurance coverage; or
    - v. By a parent or caretaker quitting a job with health insurance coverage to start a new job with a waiting period for health care coverage; or
    - ~~vi. By a parent because the monthly premium the family is responsible to pay for the health insurance exceeds, and is expected to exceed, 15% of the family's gross monthly income. The family's gross month income means the~~

- ~~countable self-employment income (not including the Adjusted Gross Income Deduction), plus the gross earned and unearned incomes of all individuals in the Healthy Steps unit.~~
- vii. If the child's parent is determined eligible for advance payment of the premium tax credit for enrollment in a qualified health plan (QHP) because the employer sponsored insurance (ESI) in which the family was enrolled is determined unaffordable; or
  - viii. If the premium paid by the family for coverage of the child under the group health plan exceeded 5% of household income; or
  - ix. If the cost of family coverage that includes the child exceeds 9.5% of the household income; or
  - x. By the employer who stopped offering coverage of dependents (or any coverage) under an employer-sponsored health insurance plan; or
  - xi. When the child has special health care needs; or
  - xii. Due to the death or divorce of a parent.

The ~~6-month~~ 90-day penalty period of Health insurance is ~~6-months~~ 90 days prior to the month for which eligibility is being determined.

**Example:** August application and eligibility is being determined for the benefit month of September. The ~~six-month termination~~ 90 day penalty period is ~~March June~~ through August and is month specific. If insurance were dropped in ~~March June~~, there may be eligibility starting at the earliest for the benefit month of September.

3. Children who are eligible to receive services through Indian Health services or through Section 638 Tribal contracts can be eligible for Healthy Steps.
4. If the Department estimates that available funds are insufficient to allow plan coverage for additional applicants, the Department may take any action it deems appropriate to limit enrollment in the Healthy Steps Program, including denying applications and establishing waiting lists.
5. Children who were eligible for full Medicaid benefits as of December 31, 2013, who, at their next review lost Medicaid eligibility for the sole reason of

loss of income disregards until their next review. These children are known as 'Targeted Low Income children' and must be covered under Healthy Steps until their next redetermination unless they:

- a. Lose state residence; or
- b. Have insurance coverage through a public employee's health plan.

---

## **Basic Factors of Eligibility 510-07-25**

### **Healthy Steps Unit 510-07-25-05**

Language is changed to include the **change** in policy effective 01-01-14 due to ACA.

---

**This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014.**

1. A Healthy Steps unit may be one individual, a married couple, or a family with children under twenty-one years of age, or if disabled under age eighteen, whose income is considered in determining eligibility for any member of that unit, without regard to whether the members of the unit all physically reside in the same location.
2. A parent or other caretaker of children under twenty-one years of age may select the children who will be included in the Healthy Steps unit. Anyone who is included in the unit for any month is subject to all Healthy Steps requirements, which may affect the unit. The financial responsibility of relatives must be considered with respect to all members of the assistance unit.

When a child is included in the Healthy Steps unit eligibility is pursued for the child unless:

- a. The child is or would be eligible under the Medicaid Program;
- b. The child is an ineligible alien;
- c. The child is ineligible due to having creditable health insurance coverage or having creditable health insurance coverage available;

- d. The family terminated their health insurance coverage within the last 6 months, without 'good cause'. For good cause reasons, see "Individuals Covered," 510-07-20-10.

The 6 month penalty period of Health insurance is 6 months prior to the month for which eligibility is being determined.

**Example:** August application and eligibility is being determined for the benefit month of September. The six-month termination period is March 1 through August and is month specific. If insurance were dropped in March, there may be eligibility starting at the earliest for the benefit month of September.

When a caretaker chooses not to include a child in the Healthy Steps unit, the child is not included in the unit for any other purpose (e.g. in the budget).

3. When an adult is providing care to an unrelated child of a divorced, separated, or deceased spouse, the household may include the child if the child is expected to continue to reside in the household.

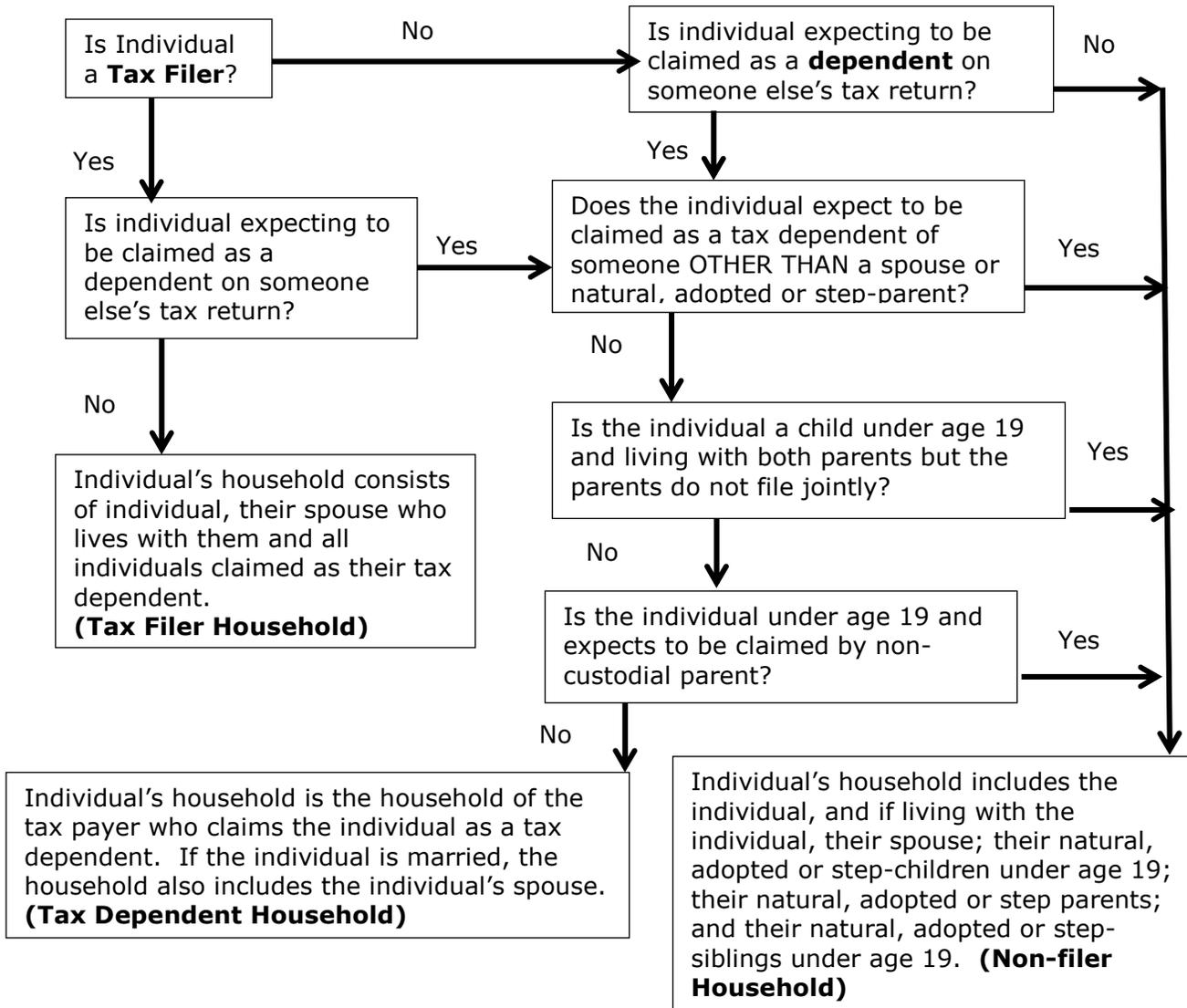
**For Applications and Reviews Received on or after October 1, 2013 for benefits starting January 1, 2014:**

1. Each individual will have his/her own Healthy Steps household determined as follows—in the following order:
  - a. Does this child expect to file taxes?
    - i. If "No", continue to step b below. In most cases, a child will not be filing taxes, so the answer to this will be "No" in the majority of Healthy Steps cases. However, there may be occasion where a child is required to file taxes.
    - ii. If "Yes" – Does the child expect to be claimed as a tax dependent by someone else?

- A. If "Yes" – Continue to step b below.
- B. If "No" – The individual's Healthy Steps household consists of the taxpayer child tax filer, the child's spouse living with the taxpayer child, and all persons whom the taxpayer child expects to claim as a tax dependent.
- b. Does the child expect to be claimed as a tax dependent?
  - i. If "No" – Continue to step c below.
  - ii. If "Yes" – Does the child meet any of the following exceptions?
    - The child expects to be claimed as a tax dependent of someone other than a spouse, or natural, adopted or step parent.
    - The child is under age 19 and is living with both parents but the parents do not file a joint tax return.
    - The child is under age 19 expects to be claimed by a non-custodial parent.
      - A. If "Yes" – continue to step c.
      - B. If "No" – the household is the household that claims the child as a tax dependent. If the child is married, the household also includes the child's spouse.
- c. For children who neither expect to file a tax return nor expect to be claimed as a tax dependent, or who meet one of the exceptions under 1(b)(ii), the household consists of the child, and if living with the child—
  - The child's spouse
  - The child's natural, adopted or step children under age 19; and
  - The child's natural, adopted or step parents, and natural, adopted or step siblings under age 19.

The following flow chart illustrates this:

**Household Determination for MAGI Individuals**



2. When a child is included in the Healthy Steps unit eligibility is pursued for the child unless:
  - a. The child is or would be eligible under the Medicaid Program;
  - b. The child is an ineligible alien;
  - c. The child is ineligible due to having creditable health insurance coverage or having creditable health insurance coverage available;
  - d. The family terminated their health insurance coverage within the last 90 days, without 'good cause'. For good cause reasons, see "Individuals Covered," 510-07-20-10.

The 90-day penalty period of Health insurance is 90 days to the month for which eligibility is being determined.

**Example:** August application and eligibility is being determined for the benefit month of September. The 90 days termination penalty period is June through August and is month specific. If insurance were dropped in June, there may be eligibility starting at the earliest for the benefit month of September.

3. Parents no longer have the option to opt-out a child starting with the benefit month of January, 2014.

## **Relative Responsibility 510-07-25-10**

Language is changed to include the **change** in policy effective 01-01-14 due to ACA.

### **For Applications and Reviews Received on or after October 1, 2013 for benefits starting January 1, 2014:**

Eligibility will be based on the MAGI methodologies. Each person is budgeted according to their tax filing status.

1. In **taxpayer** households, the taxpayer is financially responsible for themselves, their spouse, if living with them, and anyone they claim as a dependent. This is the same as their Healthy Steps household unit determination.
2. If the **taxpayer may also be claimed as a dependent**, the dependent rules are applied---

If the individual meets any of the following conditions, he/she is treated as a non-filer:

- Is the individual claimed as a dependent of someone other than a spouse, or natural, adopted or step parent?
- Is the individual living with both parents but the parents are not filing a joint return?
- Is the child to be claimed as a dependent by a non-custodial parent?

If these conditions are not met, the individual's financial responsibility is the same as the household that claims the individual as a dependent, plus the individual's spouse that lives with them. This is the same as their Healthy Steps household unit determination. The above policy also applies to individuals claimed as tax dependents.

3. If the individual is not a tax filer, nor expected to be claimed as a dependent, or meets one of the 3 bullets above, the individual is subject to the non-filer rules. Non-filers' financial responsibility is for themselves, and, if living with them, their spouse, their natural, adopted or step-children under age 19, and the individual's natural adopted or step-parents or natural adopted or step-siblings under 19.

**This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014.**

1. No support may be required of relatives other than from spouses and from natural or adoptive parents for children under age 21, or if blind or disabled, under age 18.
2. Under North Dakota law, a stepparent has no legally enforceable obligation to support stepchildren. Therefore, the stepparent's own personal income cannot be considered available in determining Healthy Steps eligibility for the stepchildren. The natural parent, however, is legally responsible for supporting the children. The income of the natural parent cannot be first applied to the children if by doing so other members of the family are deprived of basic necessities.
3. If a child resides with a caretaker other than the parent, and the parent's whereabouts are known, an attempt must be made to obtain the parent's financial information. If the parent's income is made available, follow the

budgeting procedures outlined in section 07-50-20, Budgeting Procedures for Financially Responsible Absent Parents. If unable to obtain the information, document the efforts made, and determine the child's eligibility without the parental information.

---

## **State Residence 510-07-25-55**

This section is updated to include the **change** in policy that an individual no longer has to intend to live in North Dakota permanently or for an indefinite period. No other rules have changed in this section.

---

### **This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014.**

A child must be a resident of North Dakota to be covered under Healthy Steps. A resident of the state is an individual who is living in the state voluntarily and not for a temporary purpose. Temporary absences from the state with subsequent returns to the state, or intent to return when the purpose of the absence has been accomplished, do not interrupt continuity of residence. Residence is retained until abandoned or established in another state.

For individuals entering the state, the earliest date of residency is the date of entry. Residence may not be established for individuals who claim residence in another state.

A child may have an open Medicaid or CHIP case in the other state for a period of time after the child moves; however, most states will not cover out-of-state care. If the other state will pay for the care in North Dakota, wait to open the case until the other state stops the coverage. Likewise, when an individual leaves the state, eligibility is ended as soon as, and in accordance with, proper notice. This information must be documented in the casefile.

1. Individuals under age twenty-one:
  - a. For any individual under age twenty-one who is living independently from his parents or who is married and capable of indicating intent, the

- state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period.
- b. For any other non-institutionalized individual under age twenty-one, the state of residence is the state in which the child is living with the child's parent or another caretaker relative on other than a temporary basis. A child is normally considered to be living in the state temporarily if:
    - i. The child comes to North Dakota to receive an education, special training, or services in the Anne Carlson School, maternity homes, vocational training centers, etc. if the intent is to return to the child's home state upon completion of the education or service;
    - ii. The child is placed by an out-of-state court into the home of relatives or foster parents in North Dakota on other than a permanent basis or on other than an indefinite period; or
    - iii. The child entered the state to participate in Job Corps or other specialized services if the intent is to return to the child's home state upon completion of the activity or service.
  - c. For any institutionalized individual under age twenty-one who is neither married nor living independently, residence is that of the parents or legal guardian at the time of placement or the state of residence of the parent or legal guardian at the time of Medicaid application if the child is institutionalized in the same state. Only if the parental rights have been terminated, and a guardian or custodian appointed, may the residence of the guardian or custodian be used. If the individual has been abandoned by his parents and does not have a guardian, the individual is a resident of the state in which the individual lives.

2. Individuals age twenty-one and over:

- a. For any individual not residing in an institution, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period or is entering the state with a job commitment or seeking employment.

The state of residence, for Healthy Steps purposes, of migrants and seasonal farm workers is the state in which they are living due to employment or seeking employment.

- b. For any institutionalized individual, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period.
3. Individuals placed in out-of-state institutions by a state agency retain residence in that state regardless of the individual's indicated intent or ability to indicate intent. State residence ends, however, when the competent individual leaves the facility in which the individual was placed by the state. Providing information about another state's Healthy Steps program or about the availability of health care services and facilities in another state, or assisting an individual in locating an institution in another state, does not constitute a state placement.

State agencies include human service centers, the Division of Juvenile Services, special education, county social service offices, the Department of Human Services, and the Health Department. Tribal entities and hospital social workers or other staff are not state agencies
4. For any individual receiving a state supplemental payment, the state of residence is the state making the payment.
5. For any individual on whose behalf payments for regular foster care are made, the state of residence is the state making the payment.
6. When two or more states cannot agree which state is the individual's state of residence, the state of residence is the state in which the individual is physically present.

**For Applications and Reviews Received on or after October 1, 2013 for benefits starting January 1, 2014:**

A child must be a resident of North Dakota to be covered under Healthy Steps. A resident of the state is an individual who is living in the state voluntarily and not for a temporary purpose. Temporary absences from the state with subsequent returns to the state, or intent to return when the purpose of the absence has been accomplished, do not interrupt continuity of residence. Residence is retained until abandoned or established in another state.

For individuals entering the state, the earliest date of residency is the date of entry. Residence may not be established for individuals who claim residence in another state.

A child may have an open Medicaid or CHIP case in the other state for a period of time after the child moves; however, most states will not cover out-of-state care. If the other state will pay for the care in North Dakota, wait to open the case until the other state stops the coverage. Likewise, when an individual leaves the state, eligibility is ended as soon as, and in accordance with, proper notice. This information must be documented in the casefile.

1. Individuals under age twenty-one:

- a. For any individual under age twenty-one who is living independently from his parents or who is married and capable of indicating intent, the state of residence is the state where the individual is living with the intention to remain there. ~~permanently or for an indefinite period.~~
- b. For any other non-institutionalized individual under age twenty-one, the state of residence is the state in which the child is living with the child's parent or another caretaker relative on other than a temporary basis. A child is normally considered to be living in the state temporarily if:
  - i. The child comes to North Dakota to receive an education, special training, or services in the Anne Carlson School, maternity homes, vocational training centers, etc. if the intent is to return to the child's home state upon completion of the education or service;
  - ii. The child is placed by an out-of-state court into the home of relatives or foster parents in North Dakota on other than a permanent basis or on other than an indefinite period; or
  - iii. The child entered the state to participate in Job Corps or other specialized services if the intent is to return to the child's home state upon completion of the activity or service.

For any institutionalized individual under age twenty-one who is neither married nor living independently, residence is that of the parents or legal guardian at the time of placement or the state of residence of the parent or legal guardian at the time of Medicaid application if the child is institutionalized in the same state. Only if the parental rights have been terminated, and a guardian or custodian appointed, may the residence of the guardian or custodian be used. If the individual has been abandoned by his

parents and does not have a guardian, the individual is a resident of the state in which the individual lives.

2. Individuals age twenty-one and over:

- a. For any individual not residing in an institution, the state of residence is the state where the individual is living with the intention to remain there ~~permanently or for an indefinite period~~ or is entering the state with a job commitment or seeking employment.

The state of residence, for Healthy Steps purposes, of migrants and seasonal farm workers is the state in which they are living due to employment or seeking employment.

- b. For any institutionalized individual, the state of residence is the state where the individual is living with the intention to remain there permanently or for an indefinite period.

3. Individuals placed in out-of-state institutions by a state agency retain residence in that state regardless of the individual's indicated intent or ability to indicate intent. State residence ends, however, when the competent individual leaves the facility in which the individual was placed by the state. Providing information about another state's Healthy Steps program or about the availability of health care services and facilities in another state, or assisting an individual in locating an institution in another state, does not constitute a state placement.

State agencies include human service centers, the Division of Juvenile Services, special education, county social service offices, the Department of Human Services, and the Health Department. Tribal entities and hospital social workers or other staff are not state agencies

4. For any individual receiving a state supplemental payment, the state of residence is the state making the payment.
5. For any individual on whose behalf payments for regular foster care are made, the state of residence is the state making the payment.
6. When two or more states cannot agree which state is the individual's state of residence, the state of residence is the state in which the individual is physically present.

---

## **Income Consideration 510-07-40-05**

A new subsection 6 is added to indicate the **change** in policy effective for the benefit month of January 2014 to use MAGI methodologies for all new Healthy Steps applications and reviews.

---

6. MAGI methodologies must be applied for all Healthy Steps applications and reviews received on or after January 1, 2014.
- 

## **MAGI Income Methodologies 510-07-40-19**

This is a new section which implements the **change** to MAGI Income Methodologies mandated by the Affordable Care Act of 2009.

---

Effective for the benefit month of January, 2014, the following MAGI Income Methodologies will be used in determining income eligibility for the Healthy Steps Program. For benefit months prior to January 2014, please see the appropriate section under "Income" at 510-07-40.

1. Income is based on household composition and tax filer rules.
2. Monthly income is used prospectively for new applications, annualized income for ongoing cases.
3. Current, point in time income is used – prospecting reasonable expected changes.
4. A tax dependent child's income does not count in a taxpayer parent's or caretaker's household if the child is not required to file a tax return. The child's needs are included in the taxpayer's household.
  - a. If the taxpayer parent or taxpayer caretaker is in the child's Medicaid household, the child's income does not count in the child's household, either.
  - b. If the taxpayer parent or taxpayer caretaker is not in the child's Medicaid household, the child's income DOES count in the child's household.
  - c. Filing requirements change every year and this information may be found in the instructions for Form 1040 at <http://www.irs.gov>.

- d. If the child is not required to file a tax return, however, files a return in order to get a refund of taxes withheld, that child's income is not counted.
- e. If the child IS required to file a tax return, the child's income is counted in all the households in which the child is included.
5. If using an individual's federal tax return:  
MAGI Income is:  
MAGI = Adjusted Gross Income (AGI) plus:
- a. Any foreign earned income excluded from taxes  
b. Tax-exempt interest  
c. Tax-exempt Social Security income
- Minus:**
- a. Scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income.  
b. Certain distributions, payments and student financial assistance for American Indians/Alaska Natives are excluded from income.
- This MUST be updated using current data.
6. If not using an individual's federal tax return:  
MAGI Income is:
- a. Gross taxable wages (must deduct pre-tax deductions) plus  
b. Gross Interest income plus  
c. Gross Dividend income plus  
d. Taxable refunds of state or local income taxes plus  
e. Gross Alimony received plus  
f. Net Business income or loss from self-employment plus  
g. Capital Gains or losses plus  
h. Taxable amounts of IRA distributions plus  
i. Taxable Amount of Pensions and annuities plus  
j. Net rents, royalties, partnerships, S corporation or trust income plus  
k. Net farm income or loss plus  
l. Gross unemployment compensation plus  
m. Gross Social Security income plus  
n. Gross foreign earned income plus  
o. Other income
- Minus:**
- a. Educator expenses

- b. Business expenses of reservist, performing artists and fee-basis government officials
  - c. Health savings account deduction
  - d. Moving expenses
  - e. Deductible portion of self-employment tax
  - f. Contributions to Self-employed SEP, SIMPLE and qualified plans
  - g. Self-employed health insurance deduction
  - h. Penalty on early withdrawal of savings
  - i. Alimony paid
  - j. Contributions to IRA
  - k. Student loan interest deduction
  - l. Tuition and fee
  - m. Domestic production activities deduction
  - n. Scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income.
  - o. Certain distributions, payments and student financial assistance for American Indians/Alaska Natives are excluded from income.
7. The following income types are not reported on Form 1040 and are not countable income under MAGI methodologies:
- a. Child support income
  - b. Veteran's benefits (aid and attendance, homebound benefits and reimbursements for unusual medical expenses
  - c. SSI income
8. Instead of itemized disregards and deductions, a standard disregard equal to 5% of the Federal Poverty Level is allowed under MAGI Methodology.

---

## **Unearned Income 510-07-40-20**

Language is added to this section to show where to look for the policy **change** in how income is determined for Healthy Steps starting with the benefit month of January, 2014.

---

This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. For treatment of income for benefits or applications or reviews on or after January 1, 2014 please see "MAGI Income Methodologies" at 510-07-40-19.

---

### **Earned Income 510-07-40-25**

Language is added to this section to show where to look for the policy **change** in how income is determined for Healthy Steps starting with the benefit month of January, 2014.

---

This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. For treatment of income for benefits or applications or reviews on or after January 1, 2014 please see "MAGI Income Methodologies" at 510-07-40-19.

---

### **Disregarded Income 510-07-40-30**

Language is added to this section to show where to look for the policy **change** in how income is determined for Healthy Steps starting with the benefit month of January, 2014.

---

This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. For treatment of income for benefits or applications or reviews on or after January 1, 2014 please see "MAGI Income Methodologies" at 510-07-40-19.

---

### **Income Deductions 510-07-40-35**

Language is added to this section to show where to look for the policy **change** in how income is determined for Healthy Steps starting with the benefit month of January, 2014.

---

This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. For treatment of income for benefits or applications or reviews on or after January 1, 2014 please see "MAGI Income Methodologies" at 510-07-40-19.

---

## **Income Levels 510-07-40-40**

The Healthy Steps income level is updated to include the **change** from 160% to 170% FPL and also to include the annual amount. The 5% MAGI disregard is built into this table as well.

---

Levels of income for maintenance must be used as a basis for establishing financial eligibility for Healthy Steps. The Healthy Steps income levels represent the amount of income reserved to meet the maintenance needs of an individual or family.

The Healthy Steps Income Level is equal to one hundred and sixty percent of the poverty level for cases approved prior to January 1, 2014 and one hundred and seventy percent of the poverty level, thereafter, applicable to a family of the size involved. The family size is increased for each unborn when determining the appropriate family size. The income level is equal to one hundred and seventy-five percent of the poverty level including the MAGI disregard.

**For Applications and Redeterminations Received Prior to January 1, 2014  
for benefits to start prior to January 1, 2014:**

<b>Number of Persons</b>	<b>Monthly Income Level</b>
1	\$ 1533
2	2067
3	2603
4	3139
5	3675
6	4213
7	4749
8	5283
9	5819
10	6306
+1	536
Effective April 1, 2013	

~~for each additional household member over 10, add \$536.~~

**For Applications and Reviews Received on or after October 1, 2013 for benefits starting January 1, 2014:**

Number of Persons:	Monthly Income Level (170 FPL) :	Monthly Income Level Including Disregard (175 FPL):
1	1628	1676
2	2197	2262
3	2767	2849
4	3336	3435
5	3906	4021
6	4475	4607
7	5045	5194
8	5614	5780
9	6184	6366
10	6753	6952
+1	570	587
Effective January 1, 2014		

**Determining the Appropriate Income Level in Special Circumstances 510-07-40-45**

Language is added to this section to include the **change** that this section only applies to those cases authorized as eligible starting prior to January 1, 2014. These rules do not apply to MAGI households.

**This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. This section will not be applicable to MAGI methodologies or applications or reviews received on or after January 1, 2014.**

1. A child who is away at school is not treated as living independently, but is allowed the appropriate income level for one during all full calendar months. This is in addition to the income level applicable for the family unit remaining at home.
2. A child who is living outside of the parental home, but who is not living independently; or a spouse who is temporarily living outside of the home to attend training or college, to secure medical treatment, because of temporary work relocation required by an employer, or for other reasons beyond the control of the spouse, is allowed a separate income level during all full calendar months during which the child or spouse lives outside the home.  
  
This does not apply to situations where an individual simply decides to live separately.
3. During a month in which an individual enters a specialized facility, or leaves one to return home, the individual will be included in the family unit in the home for the purpose of determining the family size and the appropriate income level. Individuals in a specialized facility will be allowed the Healthy Steps income level for one during all full calendar months in which the individual resides in the facility.
4. During a month in which an individual with eligible family members in the home enters or leaves a Psychiatric Residential Treatment Facility (PRTF) or a nursing facility to return home, or elects to receive HCBS or terminates that election, the individual will be included in the family unit in the home for the purpose of determining the family size and the appropriate Healthy Steps income level. Individuals in a Psychiatric Residential Treatment Facility (PRTF) or a nursing facility will be allowed the Healthy Steps income level for one during all full calendar months in which the individual resides in the facility.
5. Recipients of HCBS will be allowed the Healthy Steps income level for one during all full calendar months in which the individual receives HCBS.

---

## Deeming of Income 510-07-40-50

Language is added to this section to show where to look for the policy in how income is determined for Healthy Steps starting with the benefit month of January, 2014. This is a **change** in policy.

---

This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. This section will no longer apply for applications and reviews on or after January 1, 2014. For treatment of income for benefits or for applications or reviews on or after January 1, 2014 please see "MAGI Income Methodologies" at 510-07-40-19.

Excess income of a spouse or parent may be deemed to a spouse or child, who is in the Healthy Steps unit, but who has a separate income level, to bring that spouse's or child's income up to the Healthy Steps income level. Excess income is the amount of net income remaining after allowing the appropriate disregards, deductions and Healthy Steps income level.

---

## Budgeting Procedures 510-07-50-15

1. All income of the members of the Healthy Steps unit must be considered.
2. Use prospective budgeting to determine financial eligibility for the benefit month on applications and reviews.
3. A child who is eligible for the benefit month does not need to be rebudgeted until the next review is due.
4. The same budgeting applies regardless of whether the individual lives in the individual's own home, a specialized facility, or a nursing facility.
5. Recipients with family income at or below 160% (for applications processed prior to January 1, 2014, 170% thereafter) of the poverty level can be eligible under the Healthy Steps program.
6. For applications processed prior to January 1, 2014, a child will fail Healthy Steps when expenses not allowed in the Medicaid budget test because of

verification, had they been allowed, would have caused Medicaid to pass without client share (recipient liability).

---

## **Budgeting Procedures for Financially Responsible Absent Parents 510-07-50-20**

Language is added to this section to show where to look for the policy in how income is determined for Healthy Steps starting with the benefit month of January 2014. This is a **change** in policy.

---

This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. This section will no longer apply for applications and reviews on or after January 1, 2014. For treatment of income for benefits or for applications or reviews on or after January 1, 2014 please see "MAGI Income Methodologies" at 510-07-40-19.

When a child resides with a caretaker other than the parent, and the parent's whereabouts are known, an attempt must be made to obtain the parent's income information. When the parent's income information is received, it is necessary to determine the amount of income that is available to meet the child's needs. The following steps describe the procedure.

1. Compute a Healthy Steps budget for the parent(s) and their children "living" with them, allowing the appropriate income disregards and deductions. (The child who is residing with a caretaker other than the parent is not included in the parent's budget. Refer to 07-20-10 for a description of who is considered to be "living" with the parents.) If they pass the Healthy Steps budget, document that there is no excess income available to the child for whom eligibility is being pursued. The child's case can then be processed without further computations of the parent's income.
2. If the parent's unit fails the Healthy Steps budget, the excess income from the parents' Healthy Steps budget is considered unearned income for the child and is used in the child's budget.

---

## **Budgeting Procedures When Adding and Deleting Individuals 510-07-50-25**

Language is added to this section to show where to look for the policy in how income is determined for Healthy Steps starting with the benefit month of January, 2014. This is a **change** in policy.

---

This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. This section will no longer apply for applications and reviews on or after January 1, 2014. For treatment of income for benefits or for applications or reviews on or after January 1, 2014, please see "MAGI Income Methodologies" at 510-07-40-19 and Healthy Steps Unit at 510-07-25-05.

1. Budgeting procedures when adding individuals to the case. Individuals who meet all non-financial eligibility criteria may be added as follows:
  - a. Newborns born in families that already have children enrolled in Healthy Steps can be added to the Healthy Steps case effective with the date of their birth, but not prior to the case eligibility period. A budget test is not computed to determine eligibility at the time the newborn is added to Healthy Steps.
  - b. A child returning to or entering a household in which there is only an open Healthy Steps case can be added to the case effective the month following the month the action to add is taken. The request to add the child must be made no later than the end of the month following the month the child entered the household (after that point the child is no longer considered to be returning to or entering the household, but is an existing household member). A budget test is not computed to determine eligibility at the time the child is added to Healthy Steps.
  - c. A child who is an existing household member in a household in which there is only an open Healthy Steps case must first be tested for Medicaid before the child can become Healthy Steps eligible. If the child is not Medicaid eligible or is Medicaid eligible with a client share (recipient liability), the child must pass the Healthy Steps budget in order to become eligible for Healthy Steps. A new application is required in this situation.

- d. A child returning to or entering a household in which there is both an open Medicaid and an open Healthy Steps case must first apply for and be tested for Medicaid before the child can become Healthy Steps eligible. If the child is not Medicaid eligible or is Medicaid eligible with a client share, the child must pass the Healthy Steps budget in order to become eligible for Healthy Steps.
2. Budgeting procedures when deleting individuals from a case. When a member of an existing unit is expected to leave the unit during the benefit month, that person may remain as a member of the unit until the end of the benefit month.

---

### **Budgeting Procedures for Stepparents 510-07-50-30**

Language is added to this section to show where to look for the policy in how income is determined for Healthy Steps starting with the benefit month of January 2014. This is a **change** in policy.

---

This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. This section will no longer apply for applications and reviews on or after January 1, 2014. For treatment of income for benefits or for applications or reviews on or after January 1, 2014 please see "MAGI Income Methodologies" at 510-07-40-19 and Healthy Steps Unit at 510-07-25.

Under North Dakota law, a stepparent has no legally enforceable obligation to support stepchildren. Therefore, the stepparent's own personal income and assets cannot be considered available in determining Healthy Steps eligibility for the stepchildren. The natural parent, however, is legally responsible for supporting the children. The income of the natural parent cannot be first applied to the children if by doing so other members of the family are deprived of basic necessities. To determine eligibility when both the stepparent and natural parent have income, the Eligibility Worker must first apply the stepparent's net income against the appropriate income level for the stepparent, spouse and the stepparent's children or children born of this marriage. If the stepparent's income is adequate to meet their needs, the natural parent's net income may then be considered in relation to the needs of the children for whom application is being made. If the stepparent has no income, or if it is sufficient to meet only a portion of the needs of those for whom the stepparent is legally responsible, the natural parent's net income shall

first be allocated to the remaining unmet needs of those persons (that the natural parent is legally responsible for) before being considered available to the children in determining Healthy Steps eligibility.

If the stepparent refuses to provide income, all of the natural parent's income is used to determine the children's need and the natural parent's needs cannot be met.

In double stepparent cases (each spouse has children from a previous relationship) the parents are first budgeted in the unit with their spouse and common children. Any income of the common children is first used to meet the needs of the budget unit of the parents and common children. The budget units unmet needs are then split evenly between the parents, and the parents' income is used to meet the remaining unmet needs. If one parent does not have sufficient income to meet their half of the unmet need, the remaining need for the budget unit can be met with the other parent's income. Any excess income from each parent is then deemed to meet the needs of their own (not common) child(ren).

---

## **Budgeting Procedures for Unmarried Parents with Children 510-07-50-35**

Language is added to this section to show where to look for the policy in how income is determined for Healthy Steps starting with the benefit month of January, 2014. This is a **change** in policy.

---

[This section applies to individuals who applied for and were found eligible for Healthy Steps prior to January 1, 2014. This section will no longer apply for applications and reviews on or after January 1, 2014. For treatment of income for benefits or for applications or reviews on or after January 1, 2014 please see "MAGI Income Methodologies" at 510-07-40-19 and Healthy Steps Unit at 510-07-25-05.](#)

When budgeting for children whose parents are living together, but are not married:

1. If paternity has not been legally established, but the father's name is on the birth certificate or he has signed the "North Dakota Acknowledgment of Paternity" form, SFN 8195, with a revision date of 4/98 or later, the income of the father must be used to determine Healthy Steps eligibility.
2. If paternity has not been legally established, and the father's name does not appear on the birth certificate or he has not signed the "North Dakota Acknowledgement of Paternity" form, SFN 8195, with a revision date of 4/98 or later, the income of the father will not be used to determine eligibility.
3. When the only child in common is an unborn and the prospective parents are unmarried but living together, the unborn's father should be added to the case as of the month in which he joins the household or when paternity is established, whichever is later.

---

## Healthy Steps Co-Payments and Premium Rates 510-07-55

### Co-payments 510-07-55-05

This section is updated to reflect the **changes** in the prescription co-pays effective July 1, 2013.

---

Recipients eligible for Healthy Steps are responsible to pay co-payments in the amount of as follows:

- \$2.00 for each generic prescription;
- \$5.00 for each preferred brand prescription;
- \$10.00 for each non-preferred prescription;
- \$5.00 for each emergency room visit; and
- \$50.00 for each hospital admission.
- Federal law prohibits American Indian/Alaska Native individuals from paying co-payments.

For each eligibility period, a maximum family co-payment will be determined. The maximum co-payment is equal to 5% of the family's gross countable income for the 12-month eligibility period. When the family has paid co-payments equal to the family maximum, they must submit verification to the department or county agency. The department will inform the Insurance Carrier that the family is no longer responsible for co-payments for the remainder of the eligibility period.

If the family paid co-payments in excess of the maximum, the department will issue a refund to the family for the difference between the maximum and what the family paid.

**Example:** A family with three children is eligible for Healthy Steps from March 2005 through February 2006. Gross countable income for this period is \$15,545. 5% of \$15,545, or \$777.25, is the maximum co-payment amount. The family submits receipts for payment of co-payments in November 2005 totaling \$795.00. Beginning in December 2005 through February 2006 (the remainder of the eligibility period), this family is not responsible to pay any further co-payments. Also, the department will issue the family a refund of \$17.75.

---

Par. 2. **Effective Date** -- This manual letter is effective for the benefit month of **October 2013 except as indicated.**