

**Service Chapter:** Medicaid 510-03

**Effective Date:** August 12, 2024

## **Overview**

Changes made to existing countable income and income disregards. New countable income and disregards are being added. This will align with CMS requirements (SHO 19-003).

## **Description of Changes**

### **1. ACA Income Methodologies 510-03-85-13 - Change**

Adding information regarding Qualified Lottery and Gambling Winnings.

### **2. Countable Income 510-03-85-15- Change**

Updating Alimony income and Gambling winnings.

### **3. Disregarding Income 510-03-85-30 - Change**

Adding three (3) more incomes which are disregarded.

### **4. Income Deductions 510-03-85-35 – Change**

Changing wording for Moving Expenses and Alimony Paid. Removing Tuition and fee

### **5. Lottery and Gambling Winning Income Table 510-03-105-15 – New**

Adding the table to the Reference Hard Cards section.

## **Policy Section Updates**

### **1. ACA Income Methodologies 510-03-85-13**

The following income methodologies will be used in determining income eligibility for individuals eligible under ACA Medicaid:

1. Income is based on household composition, [tax filer](#) rules, and who resides with the individual.
2. Monthly income is used prospectively.
3. Current, point in time income is used—prospecting reasonable expected changes.

Married couples, who file their taxes jointly, must be included in each other's households, even if they are not residing together. This includes situations where one of [spouses](#) is incarcerated.

**Note:** The incarcerated spouse is not eligible for Medicaid.

Income of most children NOT expected to be required to file a federal income tax return is considered as follows:

1. A [tax dependent](#) CHILD's income does not count in a tax filer's parents or caretaker's household if the child is not required to file a tax return.
2. A tax dependent CHILD's income does not count in the child's household, IF the tax filer parent or tax filer caretaker is in the child's [ACA Medicaid household](#).
3. If the tax filer parent or tax filer caretaker is NOT in the child's ACA Medicaid household, the child's income DOES count in the child's household. (e.g. the child is in (non-IV-E) foster care).
4. 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 in either the tax-filer's or the child's household.

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.

Filing requirements change every year and this information may be found in the instructions for Form 1040 at <http://www.irs.gov/>.

In determining whether a child has to file income tax:

1. If a child has income other than SSA benefits, the child must file if their unearned income (excluding child support) exceeds \$1000 annually.
2. The TAXABLE portion of the child's Social Security (SSA) benefits must be considered. Normally, only 50% of the SSA benefit is subject to taxation.

SSA benefits are only taxable to the extent that 50% of the SSA benefit PLUS the individual's other income exceeds \$25,000. The child's TOTAL yearly income minus half of the SSA income would have to be more than \$25,000 to be taxable; and then only the excess over \$25,000 would be taxable.

If the child's only income were SSA income, the monthly benefit would have to be over \$4,166.67 per month to be countable, and over \$4,333.33 to require filing a tax return.

**Example:** A child, age 17, receives \$480 per month in Social Security survivor benefits. In addition, the 17 year old is employed and earns approximately \$1000 per month. The child is claimed as a dependent on his parent's tax return.

Based on the child's earned income, he is required to file a tax return. However, his SSA benefits are not taxable as his earnings of \$12,000 for the year plus 50% of the SSA benefits (\$2,880) do not exceed \$25,000.

Non-recurring and recurring lump sum payments of income not identified as Disregarded Income in section [510-03-85-30](#), count only in the month received.

#### Qualified Lottery and Gambling Winnings

Winnings received from a sweepstakes, lottery, or pool and from gambling.

1. Winnings equal or greater than \$80,000 are counted as income over multiple months for the individual receiving the winnings.
  - The lottery and gambling winnings are only counted in the month received in determining eligibility for the other household members.
2. Self-Attestation may be accepted before requesting documentation from the individual.

**Note:** Non-cash prizes are not included and continue to be counted as lump sum income in the month received.

### 3. Undue Hardship

The individual who has lost or is denied eligibility due to qualified lottery and gambling winnings may request an exemption for undue hardship.

- The department will apply a hardship exemption if the individual can demonstrate that counting the lottery or gambling winnings may deprive the individual of medical care to the extent that the individual's health or life would be endangered.
- The undue hardship request must be made within 90 days from the loss or denial of coverage.
- The request must be submitted to the Medicaid Eligibility Policy Unit who will review and determine if undue hardship exists.
- If the request is denied, the individual may request an appeal to North Dakota Health and Human Services.

#### Calculating "self-employment" Income

The most recent income tax forms must be requested from individuals who are self-employed. If the individual provides their most recent income tax forms, the information will be used to determine their countable self-employment income IF it is indicative of what the income will be for the current year.

When a self-employed individual has not filed their taxes or the business is newly established, there are no federal income tax forms to use. In this situation, the household needs to submit copies of their ledgers, receipt books, etc. The [county agency](#) and self-employed individual will use the best information available to determine the countable income as defined in #1 through #8 below, minus allowable expenses identified in section [510-03-85-35](#), Income Deductions.

Net earnings or losses from self-employment as considered for income tax purposes are counted for [ACA Medicaid Households](#).

**NOTE:** Losses from self-employment can be used to offset other countable income.

1. Using the amount from the line on the income tax forms titled '[Adjusted Gross Income](#) (AGI)';
2. Subtract any amount in the line titled 'Wages, salaries, tips, etc.', as current, point in time income is used.

3. Subtract the amount in the Capital Gain line, if Capital Gains are not expected to recur. (If they are expected to recur, do not subtract them).
4. Subtract the amount in the 'Taxable refunds, credits, or offsets of state and local income taxes' line as these are ONLY countable in the month received.
5. Subtract any scholarships, awards, or fellowship grants used for education purposes and not for living expenses, IF they are included in the 'Adjusted Gross Income'.
6. Add tax-exempt interest;
7. Add tax-exempt Social Security income (determined by subtracting the taxable amount of Social Security Benefits from the total amount.)

## 2. Countable Income 510-03-85-15

The following types of income are countable when determining eligibility for ACA Medicaid:

1. Gross taxable wages, salaries, tips (must deduct pre-tax deductions)
2. Interest income, including tax exempt
3. Dividend income, including tax exempt
4. Taxable refunds of state income taxes
5. ~~Gross~~ Alimony received when alimony agreements have been finalized on or before December 31, 2018.
6. Adjusted net income or loss from self-employment
7. Net Capital Gains (capital gains minus capital losses), if expected to recur in the current year
8. Taxable amounts of IRA distributions
9. Taxable Amount of Pensions and annuities
10. Net rents, royalties, lease, partnerships, S corporation or trust income
11. Gross unemployment compensation
12. Gross Social Security income

13. Veteran's Administration (VA) Retirement Pensions
14. Gross foreign earned income
15. Child's income (See section [510-03-85-13](#), ACA Income Methodologies regarding when to count a child's income.)
16. Short Term Disability payments to replace income
17. The portion of educational scholarships, awards, and fellowship grants that is used for living expenses or other non-educational related expenses
18. Per capita payments paid from tribal casino gambling proceeds
19. Value of prizes or awards
20. Gambling winnings
  - a. Winnings less than \$80,000 are counted in the month received.
  - b. Qualified lottery and gambling winnings of \$80,000 or more, which are received in a single payout are counted not only in the month received but over a period of 120 months for the individual who has won the Qualified Lottery and gambling winnings. See Reference Hard Cards 510-03-105 and ACA Income Methodologies 510-03-85-13.
21. Alaska Permanent Funds dividends
22. Payments for work performed at sheltered workshops, (e.g. Minot Vocational Adjustment Workshop, etc.)
23. Work-Study Income reported as wages on the individuals tax return
24. Payments from a trust fund, or from other countable sources deposited into a trust account for the client's benefit count as income of the client
25. Jury duty pay not given to employer as reimbursement of wages
26. Income from a life estate
27. Value of cancelled debts
28. Other taxable income

### 3. Disregarded Income 510-03-85-30

- 57. Parent Mentor compensation of a parent or guardian of a Medicaid or CHIP eligible child who is 'trained to assist families with children who have no health insurance coverage with respect to improving the social determinants of the health of such child.
- 58. Alimony received when the alimony agreement is finalized or an existing alimony agreement is modified on or after January 1, 2019.
- 59. Discharged Student Loan Debt, normally included in MAGI-based income, for tax years 2018 – 2025 in cases of discharged debt on account of the death or permanent and total disability of a student. Debt is not included as income of the borrower.

### 4. Income Deductions 510-03-85-35

Instead of itemized disregards and deductions, a standard deduction equal to 5% of the Federal Poverty Level (FPL) is allowed under ACA Medicaid.

Note: This disregard is not deducted from income as the ACA Income Levels have been increased by 5% to allow for this disregard.

In addition, the following deductions can be allowed from income under ACA Medicaid:

- 1. Pre-tax deductions (from the gross pay listed on paystubs)
- 2. [Adjusted Gross Income](#) deductions from gross income that are used in determining the countable Adjusted Gross Income for tax purposes (Listed on the Form 1040 in the 'Adjusted Gross Income' section)
  - a. Educator expenses
  - b. Business expenses of reservist, performing artists and fee-basis government officials
  - c. Health savings account deduction

- d. Moving expenses (only for active duty members of the military who are ordered to move or change duty station)
- 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 when alimony agreements have been finalized on or before December 31, 2018.
- j. Contributions to IRA
- k. Student loan interest deduction
- ~~l. Tuition and fee~~
- m. Domestic production activities deduction

When determining income using the Federal Income Tax forms, amounts for the above deductions can only be allowed IF they have not been allowed when determining the Adjusted Gross Income.

### 5. Lottery and Gambling Winnings Income Table 510-03-105-15

From \$	To \$	# Months Counted for Medicaid
1	79,999	1
80,000	89,999	2
90,000	99,999	3
100,000	109,999	4
110,000	119,999	5
120,000	129,999	6
130,000	139,999	7
140,000	149,999	8
150,000	159,999	9



From \$	To \$	# Months Counted for Medicaid
160,000	169,999	10
170,000	179,999	11
180,000	189,999	12
190,000	199,999	13
200,000	209,999	14
210,000	219,999	15
220,000	229,999	16
230,000	239,999	17
240,000	249,999	18
250,000	259,999	19
260,000	269,999	20
270,000	279,999	21
280,000	289,999	22
290,000	299,999	23
300,000	309,999	24
310,000	319,999	25
320,000	329,999	26
330,000	339,999	27
340,000	349,999	28
350,000	359,999	29
360,000	369,999	30
370,000	379,999	31
380,000	389,999	32
390,000	399,999	33
400,000	409,999	34
410,000	419,999	35

From \$	To \$	# Months Counted for Medicaid
420,000	429,999	36
430,000	439,999	37
440,000	449,999	38
450,000	459,999	39
460,000	469,999	40
470,000	479,999	41
480,000	489,999	42
490,000	499,999	43
500,000	509,999	44
510,000	519,999	45
520,000	529,999	46
530,000	539,999	47
540,000	549,999	48
550,000	559,999	49
560,000	569,999	50
570,000	579,999	51
580,000	589,999	52
590,000	599,999	53
600,000	609,999	54
610,000	619,999	55
620,000	629,999	56
630,000	639,999	57
640,000	649,999	58
650,000	659,999	59
660,000	669,999	60
670,000	679,999	61

From \$	To \$	# Months Counted for Medicaid
680,000	689,999	62
690,000	699,999	63
700,000	709,999	64
710,000	719,999	65
720,000	729,999	66
730,000	739,999	67
740,000	749,999	68
750,000	759,999	69
760,000	769,999	70
770,000	779,999	71
780,000	789,999	72
790,000	799,999	73
800,000	809,999	74
810,000	819,999	75
820,000	829,999	76
830,000	839,999	77
840,000	849,999	78
850,000	859,999	79
860,000	869,999	80
870,000	879,999	81
880,000	889,999	82
890,000	899,999	83
900,000	909,999	84
910,000	919,999	85
920,000	929,999	86
930,000	939,999	87

From \$	To \$	# Months Counted for Medicaid
940,000	949,999	88
950,000	959,999	89
960,000	969,999	90
970,000	979,999	91
980,000	989,999	92
990,000	999,999	93
1,000,000	1,009,999	94
1,010,000	1,019,999	95
1,020,000	1,029,999	96
1,030,000	1,039,999	97
1,040,000	1,049,999	98
1,050,000	1,059,999	99
1,060,000	1,069,999	100
1,070,000	1,079,999	101
1,080,000	1,089,999	102
1,090,000	1,099,999	103
1,100,000	1,109,999	104
1,110,000	1,119,999	105
1,120,000	1,129,999	106
1,130,000	1,139,999	107
1,140,000	1,149,999	108
1,150,000	1,159,999	109
1,160,000	1,169,999	110
1,170,000	1,179,999	111
1,180,000	1,189,999	112
1,190,000	1,199,999	113

From \$	To \$	# Months Counted for Medicaid
1,200,000	1,209,999	114
1,210,000	1,219,999	115
1,220,000	1,229,999	116
1,230,000	1,239,999	117
1,240,000	1,249,999	118
1,250,000	1,259,999	119
1,260,000	or higher	120