

Implementation Guide: Medicaid State Plan Eligibility More Restrictive Requirements than SSI under 1902(f) – 209(b) States

Contents

POLICY CITATION	2
BACKGROUND	2
Overview	2
More Restrictive Criteria	2
More Restrictive Treatment of Income	3
More Restrictive Treatment of Resources	3
Determining Income Eligibility and Spenddown of Excess Income	3
REVIEWABLE UNIT DEPENDENCIES	5
INSTRUCTIONS.....	9
A. Use of More Restrictive Requirements	9
B. Populations with More Restrictive Requirements	9
C. Types of More Restrictive Requirements Used.....	9
D. More Restrictive Requirements with Respect to Income	9
E. More Restrictive Requirements with Respect to Resources.....	10
F. More Restrictive Requirements with Respect to the Definition of Disability.....	11
G. More Restrictive Requirements with Respect to the Definition of Blindness.....	11
H. More Restrictive Requirements with Respect to the Financial Responsibility of Relatives.....	11
I. Other More Restrictive Requirements.....	11
J. Income Deductions.....	11
K. Additional Information (Optional)	12
REVIEW CRITERIA.....	12

More Restrictive Requirements than SSI under 1902(f) – 209(b) States

POLICY CITATION

Statute: 1902(f)

Regulations: 42 C.F.R. §435.121

BACKGROUND

Overview

This reviewable unit (RU) describes the more restrictive methodology applied in 209(b) states to determine Medicaid eligibility for individuals who are age 65 or older or who have blindness or a disability. The RU provides details on the more restrictive criteria and the populations subject to these criteria.

When determining eligibility for groups that are exempted from the use of modified adjusted gross income, the Medicaid statute requires states to use the rules of the most closely related cash assistance program. For individuals who are age 65 or older or who have blindness or a disability, the most closely related cash assistance program is the Supplemental Security Income (SSI) program. However, section 1902(f) of the Social Security Act (the Act) provides states the authority, under certain conditions, to apply more restrictive eligibility criteria than are used by the SSI program. States that elect this option are called 209(b) states.

The 209(b) option applies only to eligibility for individuals who are age 65 or older or who have blindness or a disability. This option does not affect eligibility for families/adults groups in any way.

Option: Populations Subject to More Restrictive Criteria. A 209(b) state may elect to impose more restrictive eligibility criteria on the following populations:

- Individuals who are age 65 or older,
- Individuals who have blindness, and
- Individuals who have a disability.

The state may apply the more restrictive eligibility criteria to one or more of these populations. For the population(s) above that are not subject to the more restrictive criteria, the state would use SSI criteria as the basis for determining financial eligibility. For example, a state may employ eligibility requirements that are more restrictive than SSI for individuals who are age 65 or older or who have a disability, but provide Medicaid to all SSI recipients who have blindness.

More Restrictive Criteria

In establishing more restrictive eligibility criteria, the following limitations apply:

1. Eligibility criteria cannot be more restrictive than the eligibility requirements in the state's Medicaid plan as of January 1, 1972.
2. The basic age eligibility requirement (age 65 or older) must be used in 209(b) states just as it is under SSI. States cannot establish a higher age standard.

3. Financial eligibility requirements may not conflict with the requirements of section 1924 of the Act, which governs the eligibility and post-eligibility treatment of income and resources of institutionalized individuals with community spouses.
4. The more restrictive criteria cannot conflict with the more liberal requirements applied by the state in accordance with 42 C.F.R. §435.601 or the more liberal requirements applied under 42 C.F.R. §435.234(c) to determine eligibility for state supplementary payments.

Within these limitations, 209(b) states can have more restrictive definitions of blindness or disability, more restrictive income and/or resource standards, and more restrictive income and/or resource methodologies than those used by the SSI program.

More Restrictive Treatment of Income

If a 209(b) state elects to apply more restrictive income requirements than SSI, these requirements may take the form of an income standard that is lower than the SSI or Optional State Supplement standard, a more restrictive income counting methodology, or both. For example, a state's income standard for its mandatory eligibility group serving individuals who are age 65 or older, or who have blindness or a disability, may be lower than the SSI federal benefit rate. Additionally, or alternatively, the state may limit its general monthly income disregard to \$10, or not apply one at all, in contrast to the \$20 general monthly income disregard applied by SSI. As described above, any such more restrictive criteria may be no more restrictive than those applied by the state under its 1972 state Medicaid plan.

More Restrictive Treatment of Resources

Just as with income, if a 209(b) state elects to apply more restrictive resource requirements than SSI, these requirements may take the form of a resource standard that is lower than SSI's standard, a more restrictive resource counting methodology, or both. For example, a state's resource standard for a single individual may be lower than SSI's \$2,000 resource standard. Additionally or alternatively, a state may choose to limit SSI's resource disregard of an individual's home and all contiguous property to a limited amount of acreage. As described above, any such more restrictive criteria may be no more restrictive than those applied by the state under its 1972 state Medicaid plan.

Determining Income Eligibility and Spenddown of Excess Income

In 209(b) states, receipt of SSI does not guarantee eligibility for Medicaid. Non-209(b) states cover all SSI recipients through the mandatory eligibility group for individuals receiving SSI, which is described at 42 C.F.R. §435.120. But 209(b) states do not cover this group. Instead, they impose more restrictive criteria through the mandatory eligibility group for individuals in 209(b) states who are age 65 or older or who have blindness or disability ("the mandatory 209(b) group"). This group is described at 42 C.F.R. §435.121. A person receiving SSI can still be eligible for Medicaid in the mandatory 209(b) group, but that person must also meet the more restrictive eligibility requirements imposed by the state.

As described at 42 C.F.R. §435.121(f), when a 209(b) state uses more restrictive requirements to determine eligibility, it must also apply three special income deductions. The state must deduct:

1. SSI payments received by the individual,

2. State supplementary payments that meet the conditions specified in 42 C.F.R. §§435.232 and 435.234, and
3. Medical and remedial care expenses incurred by the individual or by a financially responsible relative.

The deduction of incurred medical expenses allows individuals aged 65 and older, and those who have blindness or a disability, to spend down excess income to become eligible for Medicaid. These spenddown requirements may differ depending on whether the state has a medically needy program for individuals who are age 65 or older or who have blindness or a disability.

States with a medically needy program: If a 209(b) state offers medically needy coverage to individuals who are age 65 or older, or who have blindness or a disability, they must allow specified groups of individuals (age 65 or older, or who have blindness or a disability) to spend down to the income standard for the mandatory 209(b) group. The specified groups are:

- SSI recipients
- Deemed SSI recipients (including adult children with disabilities)
- Eligible spouses of SSI recipients
- State supplement recipients and
- Individuals who are eligible for but not receiving a state supplementary payment.

Individuals who are age 65 or older, or who have blindness or a disability, and who do not fall into one of the categories listed above may be required to spend down excess income to the state's medically needy income standard.

States that do not have a medically needy program: 209(b) states that do not offer medically needy coverage to individuals who are age 65 or older, or who have blindness or a disability, must allow all individuals age 65 or older, or who have blindness or a disability, to spend down their excess income to the income standard for the mandatory 209(b) group.

REVIEWABLE UNIT DEPENDENCIES

Many RUs in MACPro are dependent upon other RUs. Each time a primary RU is changed, there could be an effect on other, secondary RUs which are dependent on the primary. For example, in the **Mandatory Eligibility Groups** RU, there is a question as to whether the state covers the Adult Group. If **Yes** is selected, and if a box is checked to include the Adult Group in the submission package, then the **Adult Group** RU will be included by the system in the package and the user can navigate to it to complete it. If **No** is selected, the **Adult Group** RU will not be included in the package. In this example, the **Mandatory Eligibility Groups** RU is the **Primary RU** and the **Adult Group** RU is the **Secondary RU**. The **Adult Group** RU is considered to be dependent on selections made in the **Mandatory Eligibility Groups** RU.

Whenever a change in a primary RU may affect a secondary RU, you either need to revise the secondary RU (if it is already in the package) or add the secondary RU to the package so that it can be updated in the same submission package as the primary RU.

The following table explains the dependent relationships for the **More Restrictive Requirements than SSI under 1902(f) – (209(b) States)** RU:

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability	More Restrictive Requirements than SSI under 1902(f) – (209(b) States)	Unless Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the More Restrictive Requirements than SSI under 1902(f) – (209(b) States) RU (secondary) cannot be displayed.	If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package: <ul style="list-style-type: none"> • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.
Optional Eligibility Groups	More Restrictive Requirements than SSI under 1902(f) – (209(b) States)	Unless the Optional Eligibility Groups RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the More Restrictive Requirements than SSI under 1902(f) – (209(b) States) RU (secondary) cannot be displayed.	If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package: <ul style="list-style-type: none"> • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Optional Eligibility Groups	More Restrictive Requirements than SSI under 1902(f) – (209(b) States)	The selection of the Medically Needy Populations Based on Age, Blindness or Disability eligibility group in section B of the Optional Eligibility Groups RU (primary), affects the requirements displayed in the More Restrictive Requirements than SSI under 1902(f) – (209(b) States) RU (secondary).	<ul style="list-style-type: none"> • You must complete, save and validate the primary RU, including the selection of Medically Needy Populations Based on Age, Blindness or Disability, before you can complete the secondary RU. • Once the primary RU is approved in MACPro, it does not have to be included again in a submission package unless the medically needy election changes, in which case the secondary RU also has to be included again.
Handling of Excess Income (Spendedown)	More Restrictive Requirements than SSI under 1902(f) – (209(b) States)	Unless the Handling of Excess Income (Spendedown) RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the More Restrictive Requirements than SSI under 1902(f) – (209(b) States) RU (secondary) cannot be displayed.	<p>If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package:</p> <ul style="list-style-type: none"> • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.
More Restrictive Requirements than SSI under 1902(f) - (209(b) States)	Individuals in 209(b) States Who Are Age 65 or Older or Who Have Blindness or a Disability	Unless the More Restrictive Requirements than SSI under 1902(f) - (209(b) States) RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the Individuals in 209(b) States Who Are Age 65 or Older or Who Have Blindness or a Disability RU (secondary) cannot be displayed.	<p>If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package:</p> <ul style="list-style-type: none"> • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
More Restrictive Requirements than SSI under 1902(f) - (209(b) States)	Ticket to Work Basic	Unless the More Restrictive Requirements than SSI under 1902(f) - (209(b) States) RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the Ticket to Work Basic RU (secondary) cannot be displayed.	If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package: <ul style="list-style-type: none"> • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.
More Restrictive Requirements than SSI under 1902(f) - (209(b) States)	Ticket to Work Basic	The More Restrictive Requirements than SSI under 1902(f) - (209(b) States) RU (primary) must be approved or included in the same package in order for the user to view it from the Ticket to Work Basic RU (secondary).	Click on the <i>View...</i> link to see the most current version of the primary RU. <ul style="list-style-type: none"> • If the primary RU has been included in the package, that version will display. • If the primary RU has not been included in the package, the latest approved version will display.
More Restrictive Requirements than SSI under 1902(f) - (209(b) States)	Ticket to Work Medical Improvements	Unless the More Restrictive Requirements than SSI under 1902(f) - (209(b) States) RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the Ticket to Work Medical Improvements RU (secondary) cannot be displayed.	If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package: <ul style="list-style-type: none"> • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.
More Restrictive Requirements than SSI under 1902(f) - (209(b) States)	Ticket to Work Medical Improvements	The More Restrictive Requirements than SSI under 1902(f) - (209(b) States) RU (primary) must be approved or included in the same package in order for the user to view it from the Ticket to Work Medical Improvements RU (secondary).	Click on the <i>View...</i> link to see the most current version of the primary RU. <ul style="list-style-type: none"> • If the primary RU has been included in the package, that version will display. • If the primary RU has not been included in the package, the latest approved version will display.

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
More Restrictive Requirements than SSI under 1902(f) - (209(b) States)	Individuals in Institutions Eligible under a Special Income Level	Unless the More Restrictive Requirements than SSI under 1902(f) - (209(b) States) RU (primary) has either been approved in MACPro or is included, completed and validated in the submission package, the Individuals in Institutions Eligible under a Special Income Level RU (secondary) cannot be displayed.	If the secondary RU will not display because the primary RU is neither approved in MACPro nor included in the package: <ul style="list-style-type: none"> • Add the primary RU to the package, complete it and validate it. • Alternatively, remove the secondary RU from the package.
More Restrictive Requirements than SSI under 1902(f) - (209(b) States)	Individuals in Institutions Eligible under a Special Income Level	The More Restrictive Requirements than SSI under 1902(f) - (209(b) States) RU (primary) must be approved or included in the same package in order for the user to view it from the Individuals in Institutions Eligible under a Special Income Level RU (secondary).	Click on the <i>View...</i> link to see the most current version of the primary RU. <ul style="list-style-type: none"> • If the primary RU has been included in the package, that version will display. • If the primary RU has not been included in the package, the latest approved version will display.

INSTRUCTIONS

A. Use of More Restrictive Requirements

There are statements which describe the basic rules regarding the use of more restrictive methodologies in 209(b) states.

B. Populations with More Restrictive Requirements

Select one or more of the three options presented (**B.1.** through **B.3.**) to describe the populations for which more restrictive requirements are used.

C. Types of More Restrictive Requirements Used

Select one or more of the six options presented to identify the areas in which more restrictive requirements are used.

- If **C.1. *The state uses more restrictive requirements with respect to income*** is selected, section **D** will be presented for you to describe the requirements.
- If **C.2. *The state uses more restrictive requirements with respect to resources*** is selected, section **E** will be presented for you to describe the requirements.
- If **C.3. *The state uses more restrictive requirements with respect to the definition of disability*** is selected, section **F** will be presented for you to describe the requirements.
- If **C.4. *The state uses more restrictive requirements with respect to the definition of blindness*** is selected, section **G** will be presented for you to describe the requirements.
- If **C.5. *The state uses more restrictive requirements with respect to the financial responsibility of relatives*** is selected, section **H** will be presented for you to describe the requirements.
- If **C.6. *The state uses other more restrictive requirements*** is selected, section **I** will be presented for you to describe the requirements.

One or more of the following sections (**D** through **I**) will be displayed depending on the selections made in section **C**.

D. More Restrictive Requirements with Respect to Income

Select one or more of the five options presented to describe the more restrictive requirements used with respect to income.

- If **D.1. *The state uses a lower income standard than the SSI...*** is selected, click the **Add Income Standard** button:
 - The screen will display four options for entering this amount.
 - Select the option that best corresponds to the state's dollar amount income standards.
 - Complete the appropriate sections within the selected option to indicate the state's income standards. See the **Income Standards Entry** implementation guide for detailed instructions for updating these fields.
 - When you have completed this screen, click on the **Save Income Standard** button. After saving the income standards they will be inserted into the **More Restrictive Requirements than SSI under 1902(f) – (209(b) States) RU**.

- If **D.2. *The state uses more restrictive income disregards or exclusions*** is selected, select one or more of the three options presented.
 - If **D.2.a. *The state uses more restrictive disregards or exclusions with respect to VA Benefits*** is selected, enter a description of the disregards or exclusions in the text box provided.
 - If **D.2.b. *The state uses more restrictive disregards or exclusions with respect to child support*** is selected, enter a description of the disregards or exclusions in the text box provided.
 - If **D.2.c. *The state uses other more restrictive disregards or exclusions*** is selected, provide additional information as follows:
 - Enter the name of the disregard or exclusion in the text box provided.
 - Enter a description of the disregard or exclusion in the text box provided.
 - To add an additional disregard or exclusion, select the **Add Other Disregard or Exclusion** link and repeat the above steps.
 - To delete a disregard/exclusion, click the **Delete** link below the disregard or exclusion's name and description.
- If **D.3. *The state uses more restrictive requirements with respect to income from self-employment*** is selected, enter a description of the requirements in the text box provided.
- If **D.4. *The state uses more restrictive requirements with respect to irregular/infrequent income*** is selected, enter a description of the requirements in the text box provided.
- If **D.5. *The state uses other more restrictive requirements with respect to income*** is selected, provide additional information as follows:
 - Enter the name of the requirement in the text box provided.
 - Enter a description of the requirement in the text box provided.
 - To add an additional requirement, select the **Add Other Requirement** link and repeat the above steps.
 - To delete a requirement, click the **Delete** link below the requirement's name and description.

E. More Restrictive Requirements with Respect to Resources

Select one or more of the five options presented to describe the more restrictive requirements used with respect to resources.

- If **E.1. *The state uses a lower resource standard than the SSI...*** is selected, enter the dollar amounts for the resource standard used for a **Single Individual** and a **Couple** in the text boxes provided.
- If **E.2. *The state uses more restrictive requirements with respect to the treatment of real property*** is selected, choose one or both of the options presented.
 - If **E.2.a. *The state uses a more restrictive requirement with respect to the treatment of home property*** is selected, enter a description of the requirements in the text box provided.
 - If **E.2.b. *The state uses other more restrictive requirements related to real property*** is selected, provide additional information as follows:
 - Enter the name of the requirement in the text box provided.

- Enter a description of the requirement in the text box provided.
 - To add an additional requirement, select the **Add Other Requirement** link and repeat the above steps.
 - To delete a requirement, click the **Delete** link below the requirement's name and description.
- If **E.3. The state uses more restrictive requirements with respect to the treatment of lump sums** is selected, enter a description of the requirements in the text box provided.
 - If **E.4. The state uses more restrictive requirements with respect to the treatment of personal property** is selected, enter a description of the requirements in the text box provided.
 - If **E.5. The state uses other more restrictive requirements with respect to resources** is selected, provide additional information as follows:
 - Enter the name of the requirement in the text box provided.
 - Enter a description of the requirement in the text box provided.
 - To add an additional requirement, select the **Add Other Requirement** link and repeat the above steps.
 - To delete a requirement, click the **Delete** link below the requirement's name and description.

F. More Restrictive Requirements with Respect to the Definition of Disability

Enter a description of the more restrictive requirements with respect to the definition of disability in the text box provided.

G. More Restrictive Requirements with Respect to the Definition of Blindness

Enter a description of the more restrictive requirements with respect to the definition of blindness in the text box provided.

H. More Restrictive Requirements with Respect to the Financial Responsibility of Relatives

Enter a description of the more restrictive requirements with respect to the financial responsibility of relatives in the text box provided.

I. Other More Restrictive Requirements

Provide additional information as follows:

- Enter the name of the requirement in the text box provided.
- Enter a description of the requirement in the text box provided.
- To add an additional disregard or exclusion, select the **Add Other Disregard or Exclusion** link and repeat the above steps.
- To delete a requirement, click the **Delete** link below the requirement's name and description.

J. Income Deductions

- There are statements regarding the use of income deductions and the use of spenddown to become categorically eligible under the Individuals in 209(b) States

Who Are Age 65 or Older or Who have Blindness or a Disability eligibility group (described in 42 C.F.R. §435.121).

For states that cover individuals who are age 65 or older, or who have blindness or a disability as medically needy:

- For each group of individuals described at **J.3.**, **J.4.**, **J.5.** and **J.6.**, select one of the options (**a.** through **c.**) to describe how OASDI benefits will be treated in calculating countable income:
 - If ***Part of the OASDI benefits is deducted from income*** is selected, choose one of the two options presented to describe the portion that is deducted.
 - If ***The amount of the deduction is:*** is selected, enter the dollar amount in the text box provided.
 - If ***The deduction is a percent of the OASDI benefits ...*** is selected, enter the percentage in the text box provided.
- If you wish to view the **Handling of Excess Income (Spendedown)** RU:
 - If the **Handling of Excess Income (Spendedown)** RU is included in this submission package, select the ***View current version of Handling of Excess Income (Spendedown)*** link to view the version included in this package.
 - If the **Handling of Excess Income (Spendedown)** RU is not included in the package, select the ***View approved version of Handling of Excess Income (Spendedown)*** link to view the approved version.
 - The appropriate **Handling of Excess Income (Spendedown)** RU will appear for viewing.
 - If the **Handling of Excess Income (Spendedown)** RU is not included in the package and there is no approved version, a screen message will appear to include the RU in the package if the ***View approved version of Handling of Excess Income (Spendedown)*** link is selected.
 - Select the ***More Restrictive Requirements under 1902(f) – (209(b) States)*** link to return to the **More Restrictive Requirements under 1902(f) – (209(b) States)** RU.

K. Additional Information (Optional)

Except in limited circumstances, this field remains blank. Please consult with CMS before adding any additional information concerning this RU.

REVIEW CRITERIA

The more restrictive methodologies entered must be sufficiently clear, detailed and complete to permit the reviewer to determine that the state’s description meets applicable federal statutory, regulatory and policy requirements.

The more restrictive methodologies may not be more restrictive than the eligibility requirements in the state’s Medicaid state plan as of January 1, 1972.

More restrictive financial eligibility requirements may not conflict with the requirements of section 1924 of the Act, which governs the eligibility and post-eligibility treatment of income and resources of institutionalized individuals with community spouses.

More restrictive criteria cannot conflict with the more liberal requirements applied by the state in accordance with 42 C.F.R. §435.601 or the more liberal requirements applied under 42 C.F.R. §435.234(c) to determine eligibility for state supplementary payments.