

Implementation Guide: Medicaid State Plan Eligibility Non-MAGI Methodologies

Contents

POLICY CITATION	2
BACKGROUND	2
Overview	2
Basic Financial Methodologies	2
Use of More or Less Restrictive Methodologies	3
Financial Responsibility of Relatives	4
Use of MAGI-like Methodologies.....	6
Countable Income Deductions for the Medically Needy	7
REVIEWABLE UNIT DEPENDENCIES	8
INSTRUCTIONS.....	11
A. Basic Financial Methodology	11
B. Use of Less Restrictive Methodologies	11
C. Financial Responsibility of Relatives	11
D. Family Size	12
E. Use of MAGI-like Methodologies	13
F. Countable Income Deductions for the Medically Needy.....	13
G. Additional Information (Optional).....	13
REVIEW CRITERIA.....	13

Non-MAGI Methodologies

POLICY CITATION

Statute: 1902(a)(17), 1902(f), 1902(r)(2)

Regulations: 42 C.F.R. §§435.601 and 436.601, 42 C.F.R. §§435.602 and 436.602, 42 C.F.R. §§435.831 and 436.831
20 C.F.R. §416.1100, 20 C.F.R. §416.1160

BACKGROUND

Overview

This reviewable unit (RU) describes the methodologies used to determine Medicaid financial eligibility for groups that do not use the modified adjusted gross income (MAGI) based methodology. It includes available options with regard to overall financial eligibility, family size, income and resources. The RU for each eligibility group that uses non-MAGI methodologies includes a statement referencing these methodologies and an option to view this RU upon request.

Basic Financial Methodologies

As described at section 1902(r)(2) of the Social Security Act (the Act) and 42 C.F.R. §§435.601 and 436.601, when making financial eligibility determinations for non-MAGI Medicaid eligibility groups, states generally apply the income and resource methodologies of the cash assistance program most closely categorically related to the individual's status. For individuals age 65 or older and for those who have blindness or a disability, the SSI program is the most closely related cash assistance program, except in the territories. For such individuals in the territories the most closely related cash assistance programs are the grant-in-aid programs approved under titles I, X, XIV, and XVI, and original XVI of the Act. For all other individuals (those who are of child age, pregnant, or a caretaker relative), the most closely related cash assistance program would have been the AFDC program in effect as of 1996.

SSI Financial Eligibility Methodology

As described in sections 1612 and 1613 of the Act and 20 C.F.R. Part 416 Subparts K and L, the SSI financial eligibility methodology has two principal components: income and resources.

Income is described at 20 C.F.R. §416.1102 as any item an individual receives in cash or in-kind, which can be used to meet the individual's need for food or shelter. This includes the receipt of any item which can be applied, either directly or by sale or conversion, to meet the individual's basic needs for food or shelter (including actual food or shelter). Not all income is considered countable income, and SSI rules require that certain types and amounts of income be excluded when determining financial eligibility. For example, any portion of any grant, scholarship or fellowship used to pay the cost of tuition and fees at an educational institution is excluded from income (section 1612(b)(7) of the Act).

With limited exceptions, cash or in-kind income is counted as income only in the month in which it is received by the individual. If such individual holds any portion of that income until the following month, it becomes a resource. Resources are described at 20 C.F.R. §416.1201 as cash, liquid resources that can be converted to cash within 20 days, or property that an individual owns and could convert to cash for the individual's support and maintenance. Subject to specific restrictions, resources such as an individual's home or automobile are excluded.

AFDC Financial Eligibility Methodology

In 1996, the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) eliminated the aid to families with dependent children (AFDC) program and replaced it with the block grant Temporary Assistance for Needy Families (TANF) program. However, the AFDC income and resource methodologies, which were in effect in each state on July 16, 1996, continue to be used in some cases for individuals who are exempted from MAGI.

Under the AFDC program, each state set its own need standard; i.e., financial eligibility standard. To determine eligibility, states took into consideration the needs and available income and resources of all individuals in the assistance unit. An assistance unit generally included a child and his or her parents and siblings. All income and resources were counted unless specifically excluded or disregarded. The needs, income, and resources of an individual receiving federal foster care assistance payments, for example, was excluded. An individual's home or automobile were excluded, subject to specific restrictions, and burial plots and funeral expenses were disregarded up to \$1,500 for each member of the assistance unit.

Use of More or Less Restrictive Methodologies

While the financial methodologies of SSI, the grant-in-aid programs, and the 1996 AFDC programs provide the basis for most non-MAGI eligibility determinations, states have the option to use less restrictive, and in some cases more restrictive, income and resource methodologies when determining eligibility for certain groups.

More Restrictive Methodologies

Section 1902(f) of the Act, codified at 42 C.F.R. §435.121, gives states the option to establish a more restrictive methodology to determine financial eligibility for individuals who are age 65 or older, or who have blindness or a disability. This option, known as the 209(b) option, was enacted as part of the 1972 federal law that authorized the SSI program. This means that states can elect to count certain amounts or types of income and/or resources that would be excluded under the SSI methodology. The more restrictive criteria must have been in effect under the state's January 1, 1972 Medicaid state plan. States elect the 209(b) option in the **Eligibility Determinations of Individuals Age 65 Years or Older or Who Have Blindness or a Disability** RU, and then describe the more restrictive methodologies in the **More Restrictive Requirements than SSI Under 1902(f) – (209(b) States)** RU.

Less Restrictive Methodologies

Section 1902(r)(2) of the Act, as implemented at 42 C.F.R. §§435.601(d) and 436.601(d), allows states to establish less restrictive income and resource methodologies than those of the SSI or AFDC program when determining Medicaid eligibility for many groups covered under the state plan. Territories may use more liberal methods than those applied in their plans approved under

titles I, X, XIV, and XVI, and original XVI of the Act. The authority of section 1902(r)(2) permits states to disregard certain amounts or types of income and/or resources that the SSI program (or territory-specific cash assistance program) or the AFDC program would count when determining eligibility.

While section 1902(r)(2) of the Act applies to many non-MAGI groups, it does not apply to all of them. As a general rule, less restrictive methodologies may be applied to:

- 1) Qualified Medicare beneficiaries (QMBs), Specified Low Income Medicare Beneficiaries (SLMBs) and Qualifying Individuals (QIs);
- 2) Optional categorically needy eligibility groups;
- 3) Medically needy groups; and
- 4) The mandatory eligibility group for individuals in 209(b) states who are age 65 or older or have blindness or a disability.

States have the flexibility to apply different income and resource disregards to different eligibility groups and to different populations covered within an eligibility group. However, within each eligibility group, the less restrictive methodologies must be comparable for all persons within a population (e.g., people who are age 65 or older, people who have blindness or a disability, pregnant women, and children). For example, for an eligibility group which may serve the populations of people who are age 65 or older and people with disabilities, a state may apply an income or resource disregard exclusively to people age 65 or older in the eligibility group. But the state may not target the disregard exclusively to select members of the 65-and-older population (based on, for example, living arrangement or diagnosis). However, the statute permits states to establish reasonable classifications of children, and states may include multiple reasonable classifications within a single eligibility group. If a state does include multiple reasonable classifications of children in a single eligibility group, it may target a disregard at one reasonable classification to the exclusion of another, but it could not target the disregard at select members of a particular reasonable classification.

Additionally, states cannot apply less restrictive methodologies differently for Medicaid applicants and Medicaid recipients. Disregards authorized under section 1902(r)(2) also may not be applied to income in the post-eligibility treatment of income (PETI) process. PETI is a calculation made after eligibility is determined, and is separate from determining eligibility.

The less restrictive methodologies (specific income and resource disregards) applied to a particular eligibility group are selected and described on the eligibility group RU. Any limitations on the use of less restrictive methodologies, which are specific to a particular eligibility group, are discussed in the implementation guide pertaining to that eligibility group RU.

Financial Responsibility of Relatives

While the SSI, grant-in-aid program, and AFDC methodologies are used for determining income and resources, section 1902(a)(17) of the Act and 42 C.F.R. §§435.602 and 436.602 define the financial responsibility of relatives when determining eligibility for non-MAGI Medicaid (i.e., the deeming rules). Section 1902(a)(17)(D) of the Act prohibits states from deeming available to an applicant or recipient the financial resources of any individual who is not the applicant's or

recipient's spouse or, if the applicant or recipient is under age 21 or has a disability, the applicant's or recipient's parents. Even in circumstances in which the deeming is permitted, certain restrictions apply, as follows:

1. Such income and resources are generally counted only when the spouse or parent is living in the same household with the applicant or recipient.
2. If the applicant or recipient is a child under age 21, such income and resources of the parent are only deemed available to the child if the child would have been considered a dependent under the state's 1996 AFDC plan.
3. In states only (not territories), the spousal impoverishment rules of section 1924 of the Act apply when one spouse is living in an institution and the other spouse is living in the community. These rules are described in the **Resource Assessment and Eligibility** RU and more information can be found in the implementation guide for the **Resource Assessment and Eligibility** RU.

Option (excludes territories): Married Couples Living in an Institution. When an individual is living in an institution, the individual is not considered to be living in the same household as a parent or spouse for deeming purposes. However, in the case of spouses age 65 or older, or who have blindness or a disability, and who share the same room in a Medicaid institution, states have additional flexibility. As described at 42 C.F.R. §435.602(a)(4), states have the option to consider these couples as living together for the purpose of income and resource counting whenever it would be more advantageous for the couple. If a state elects this option, and it would be more advantageous for the couple's income and resources to be counted as two individuals living separately, then they must be counted separately.

Option (209(b) states only): Use of More Restrictive Financial Responsibility Requirements. As described in section 1902(f) of the Act and 42 C.F.R. §435.121, in determining financial eligibility for individuals who are 65 years old or older, or who have blindness or a disability, 209(b) states have the option to establish more restrictive financial methodologies, including more extensive financial responsibility requirements for relatives. These requirements cannot be more restrictive than those in effect under the state's Medicaid state plan on January 1, 1972. States elect the 209(b) option in the **Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability** RU, and then describe the more restrictive methodologies in the **More Restrictive Methodologies under 1902(f) – (209(b) States)** RU.

Family Size

Eligibility standards for certain non-MAGI groups are defined by a percentage of the federal poverty level (FPL) for a "family of the size involved." For example, section 1902(p)(1)(B) of the Act defines a qualified Medicare beneficiary as an individual whose income, as determined in accordance with section 1612 of the Act (SSI's income rules), does not exceed 100 percent of the FPL for a *family of the size involved*. This phrase is not defined in the Medicaid Act, and the relevant cash assistance programs do not necessarily provide a definition either. The SSI program, for example, does not recognize family size except through the deeming process, under which only the spouse or parents of an applicant may possibly be included. The AFDC program made determinations based on the family assistance unit, which generally included the individual and his or her parents and siblings, but may have excluded step-parents and ineligible non-citizen siblings.

Option: Defining Family Size. States have the option to create one or more definitions of family size, which may include individuals other than those counted under the SSI or AFDC methodologies, for the following eligibility groups:

- Qualified Medicare Beneficiaries (described in section 1902(a)(10)(E)(i) of the Act)
- Specified Low Income Medicare Beneficiaries (described in 1902(a)(10)(E)(iii) of the Act)
- Qualifying Individuals (described in section 1902(a)(10)(E)(iv) of the Act)
- Qualified Disabled and Working Individuals (described in section 1902(a)(10)(E)(ii) of the Act)
- Age and Disability-Related Poverty Level (described in section 1902(a)(10)(A)(ii)(X) of the Act)
- Work Incentives (described in section 1902(a)(10)(A)(ii)(XIII) of the Act)
- Family Opportunity Act Children with a Disability (described in section 1902(a)(10)(A)(ii)(XIX) of the Act)
- Individuals Receiving State Plan Home and Community-Based Services (described in 42 C.F.R. §435.219 of the regulations)

For example, a person with a disability who lives with his or her four children and whose income and resource eligibility is determined using SSI's rules could be considered, for purposes of financial eligibility in the Work Incentives eligibility group, to be in a household of five.

Use of MAGI-like Methodologies

While eligibility for most pregnant women, children, and parents and other caretaker relatives is determined using the MAGI-based methodology, section 1902(e)(14)(D)(i)(IV) of the Act and 42 C.F.R. §435.603(j) exclude certain individuals from the application of MAGI-based methodologies (e.g., those who are seeking eligibility as medically needy). In determining eligibility for these individuals, the income and resource counting methodologies of the former AFDC program have generally been applied. However, the AFDC program has long been terminated, and retaining AFDC methodologies to count income for a limited subset of pregnant women, children, and parents and other caretaker relatives could be burdensome for states. Therefore, in lieu of the AFDC methodologies, states may use a MAGI-like methodology.

The election to apply MAGI-like methodologies occurs in the RU for each applicable eligibility group, while the MAGI-like methodology itself is described in the **Non-MAGI Methodologies** RU. When this option is elected, the state follows the income counting rules of section 36B(d)(2)(B) of the Internal Revenue Code in general. However, as described above regarding the financial responsibility of relatives, the MAGI-like methodology counts only the income of the individual and his or her spouse and parent(s). The income of an individual's children, siblings, or tax dependents, which may be included in MAGI-based household income are not counted under the MAGI-like methodology. In addition, disregards authorized under section 1902(r)(2) of the Act, which cannot be applied under the MAGI-based methodologies, may be applied in MAGI-like eligibility determinations.

Option: Definition of a Parent. When electing the MAGI-like methodologies, a state may choose to apply the same definition of a parent that is used for MAGI. As described at 42 C.F.R.

§435.603 for the MAGI-based methodology, a parent includes a natural or biological, adoptive or step parent. Alternatively, a state may retain the definition of parent that was used in its AFDC program.

Countable Income Deductions for the Medically Needy

The medically needy option allows states to provide Medicaid to individuals who meet the general eligibility requirements of a categorically needy group, but whose incomes exceed the categorical limits. When determining financial eligibility for the medically needy, 42 C.F.R. §§435.831 and 436.831 establish specific requirements for determining countable income.

In determining the eligibility of an individual who is age 65 or older, or who has blindness or a disability:

- *1634 and SSI criteria states* - the state must deduct amounts that would be deducted in determining eligibility under SSI rules. However, if the state pays optional state supplements to all individuals who are receiving SSI (or who would be eligible for SSI except for their income), the agency must also apply the deductions used to determine eligibility for the optional state supplement.
- *209b states* - the state must deduct at least amounts deducted under the Medicaid state plan in 1972, but not greater than those applied to determine eligibility for SSI or optional state supplements (except through the use of less restrictive methodologies authorized under section 1902(r)(2) of the Act).
- *Territories* – the territory must deduct amounts that would be deducted in determining eligibility under the grant-in-aid program rules.

If an individual's income, after application of the above-described deductions is still above the state's medically needy income level (MNIL), the individual may qualify through the spenddown process. The spenddown process allows individuals to qualify for Medicaid by reducing their countable income to the income eligibility standard through the subtraction of their medical expenses from countable income. For further discussion of the spenddown process, see the implementation guide for the **Handling of Excess Income (Spenddown)** RU.

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 **Non-MAGI Methodologies** 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	Non-MAGI Methodologies	<u>For States Only:</u> Unless the 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 Non-MAGI Methodologies 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
Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability	Non-MAGI Methodologies	<u>For States Only:</u> The selection of 209(b) State , or SSI Criteria or 1634 State as the basis for the eligibility determination in section A of the Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability RU (primary) affects the requirements displayed in section B of Non-MAGI Methodologies with respect to financial methodologies.	<ul style="list-style-type: none"> • You must complete, save and validate the primary RU 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 basis changes, in which case the secondary RU also has to be included again.
Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability	Non-MAGI Methodologies	<u>For States Only:</u> If 209(b) State is selected in section A of the Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability RU (primary), C.2. will display in Non-MAGI Methodologies regarding the option to apply more restrictive methodologies.	<ul style="list-style-type: none"> • If you change your election in the primary RU from 209(b) State to 1634 State or SSI Criteria State, you must include the secondary RU in the same submission package so that the option can be removed from the secondary RU. • The system will automatically remove the statement in the secondary RU after the primary RU is saved and validated.

Primary RU	Secondary RU	Nature of Dependency	Actions Needed
Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability	Non-MAGI Methodologies	For States <u>Only</u> : The selection of <i>209(b) State</i> , or <i>SSI Criteria</i> or <i>1634 State</i> as the basis for the eligibility determination in section A of the Eligibility Determinations of Individuals Age 65 or Older or Who Have Blindness or a Disability RU (primary) affects the requirements displayed in section F of Non-MAGI Methodologies with respect to deductions from countable income in determining eligibility for the medically needy.	<ul style="list-style-type: none"> • You must complete, save and validate the primary RU 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 basis changes, in which case the secondary RU also has to be included again.

INSTRUCTIONS

Where there are unique instructions for a 1634, SSI Criteria, or 209(b) state, or for a territory, the reader will be directed to the appropriate instructions.

A. Basic Financial Methodology

For States Only

- There are two statements (**A.1.** and **A.2.**) describing the basic financial methodologies applied to non-MAGI groups.

For Territories Only

- There is a statement describing the basic financial methodologies applied to non-MAGI groups.

B. Use of Less Restrictive Methodologies

- At **B.1.**, indicate, *Yes* or *No*, if the state elects to apply less restrictive income and/or resources methodologies.
 - If *Yes*, then **B.2.** has a statement that the less restrictive methodologies will be described on the RU for each applicable eligibility group.

For 209(b) States Only

- **B.3.** has statements about the application of more restrictive financial eligibility requirements to individuals who are age 65 or older or who have blindness or disability.
- **B.4.** has a statement that the more restrictive requirements are described in the **More Restrictive Methodologies under 1902(f) – (209(b) States)** RU.

C. Financial Responsibility of Relatives

For States Only

- **C.1.** has a statement regarding restrictions in counting only the income and resources of a spouse or parent who is living with the individual in the same household, except as described in **C.1.a.i.** and **C.1.a.ii.**
 - At **C.1.a.i.**, select one of the two options to indicate how the income and resources of spouses will be treated when they share the same room in an institution.
 - **C.1.a.ii.** has a statement about the application of the requirements of section 1924 of the Act where applicable.
 - **C.1.b.** has a statement about counting the income and resources of parents and spouses when determining eligibility for individuals under age 21.

For 209(b) States Only

- At **C.2.**, there is a statement that the state may apply more restrictive requirements for relative responsibility when determining financial eligibility for individuals who are age 65 or older or who have blindness or a disability.

For Territories Only

- **C.1.** has a statement regarding restrictions in counting income from other individuals.
 - **C.1.a.** has a statement about inclusion of the income and resources of a spouse or parent who is living with the individual in the same household.
 - **C.1.b.** has a statement about counting the income and resources of parents and spouses when determining eligibility for individuals under age 21.

D. Family Size

- **D.1.** has three statements (**D.1.a.** through **D.1.c.**) about the family size of an individual for whom SSI income and resource methodologies are used.
- **D.2.** has a statement about the family size of an individual for whom AFDC income and resource methodologies are used.
- At **D.3.**, indicate, *Yes* or *No*, if the state defines family size for one or more of the FPL eligibility groups listed at **D.3.a.** through **D.3.h.** to include others beyond those identified in **D.1.** and **D.2.**
 - If *Yes* is selected at **D.3.**, choose one or more of the eligibility groups listed at **D.3.a.** through **D.3.h.**
 - At **D.4.** *The state uses the same definition of family size for the selected FPL eligibility groups*, select *Yes* or *No* to indicate if the state uses the same definition of family size for the group(s) selected in **D.3.**
 - If *Yes* is selected at **D.4.**, at **D.5.** choose one of the two options (**D.5.a.** or **D.5.b.**) defining family size.
 - If **D.5.a.** *Family is defined as the individual...* is selected, an optional description may be entered in the text box provided.
 - If **D.5.b.** *The state uses another definition of family* is selected:
 - Provide the name of the definition and a description in the text boxes provided.
 - If there is more than one other definition, select the *Add Other Definition link* and repeat the above steps,
 - To delete a previously added definition, click the *Delete* link below the definition's name and description.
 - If *No* is selected at **D.4.**, at **D.5.** choose one of the two options (**D.5.a.** or **D.5.b.**) defining family size for each eligibility group selected in **D.3.**
 - If **D.5.a.** *Family is defined as the individual...* is selected, an optional description may be entered in the text box provided.
 - If **D.5.b.** *The state uses another definition of family* is selected:
 - Provide the name of the definition and a description in the text boxes provided.
 - If there is more than one other definition, select the *Add Other Definition link* and repeat the above steps,

- To delete a previously added definition, click the *Delete* link below the definition's name and description.

E. Use of MAGI-like Methodologies

- At **E.1.**, indicate *Yes* or *No*, if the state uses MAGI-like methodologies.
- If *Yes* is entered at **E.1.**,
 - There are two statements (**E.2.** and **E.3.**) describing MAGI-like methodologies.
 - At **E.3.a.**, indicate *Yes* or *No*, if the agency elects to use the MAGI definition of parent when considering the financial responsibility of relatives.
 - There are three statements (**E.3.b.** through **E.3.d.**) further describing the use of MAGI-like methodologies.

F. Countable Income Deductions for the Medically Needy

For States Only

- Section **F.** has two statements (**F.1.** and **F.2.**) about countable income deductions for the medically needy.

For Territories Only

- **F.1.** has a statement about countable income deductions for the medically needy.

G. 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

If D. 5.a is selected for the definition of family size, and an optional description is entered, the additional clarification of family size must be clear and reasonable.

If D. 5.b. is selected for the definition of family size, the name(s) and description(s) of the other definition of family size must be clear and reasonable.