CENTERS FOR MEDICARE & MEDICAID SERVICES

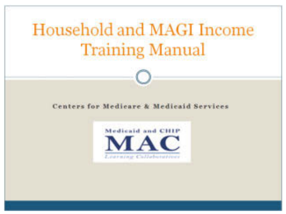
MAGI 2.0: Building MAGI Knowledge

Part 1: Household Composition

All-State SOTA
July 21, 2016
1:30-3:00 pm ET

Introduction

Setting the Stage



- In 2013, CMS developed a training manual to help states and eligibility workers understand and apply MAGI-based rules for Medicaid and CHIP.
- The manual is available at: https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/household-composition-and-income-training.zip

- Today, we share a companion to the 2013 training manual, focusing on how to apply MAGI-based rules for complex households and special populations that were not previously covered.
- To identify today's scenarios, we reviewed questions asked by states via the SPA process, individual technical assistance requests, SOTA and the Coverage Learning Collaborative.

Modified Adjusted Gross Income

Modified Adjusted Gross Income (MAGI) is a methodology, based on federal tax rules, for determining household composition and income.

MAGI-based rules are used to determine eligibility for CHIP and for most individuals in Medicaid including the following groups:

 **Children**	 **Adults age 19-64**	 **Parents and caretaker relatives**	 **Pregnant women**

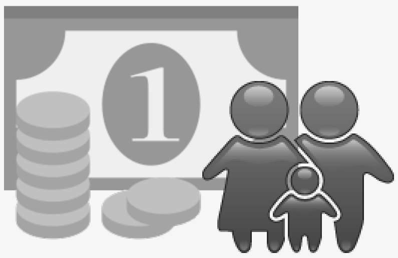
MAGI-based rules are <u>not</u> used to determine Medicaid eligibility for "MAGI-excepted" individuals, such as:

- ✓ Individuals determined eligible based on being aged, blind or disabled
- ✓ Medically needy individuals
- ✓ Populations for whom income the agency does not have to make an income determination

42 CFR 435.603(a)(2) and (j)

Two-Part SOTA Call

Determining Household Composition



Calculating Household Income

Focus of Today's Meeting

Focus of Future Meeting

Refresher on MAGI-based Household Rules

MAGI-based Household Composition

Key Questions When Applying the MAGI-based Methodology:

Does the individual expect to file taxes or expect to be claimed as a tax dependent?

Does the individual live together with a spouse?

Does the individual meet a tax dependent exception?

When an individual is not eligible for Medicaid based on MAGI, prior to determining the individual ineligible for Medicaid, states must consider all other bases of eligibility if:

(1) Potential eligibility on another basis is indicated on application or renewal, or
(2) The individual requests such consideration.

42 CFR 435.911(c)(2)

MAGI-based Household Composition

MAGI Applicant

Expects to file taxes or be claimed as a tax dependent

Does not expect to file taxes or be claimed as a tax dependent

Expected Tax Filing Status

Tax Filer or Tax Dependent:
Apply tax filer rules

Non-Filer:
Apply non-filer rules

Married living with spouse

Meets a tax dependent exception

Married Living Together or Tax Dependent Exception

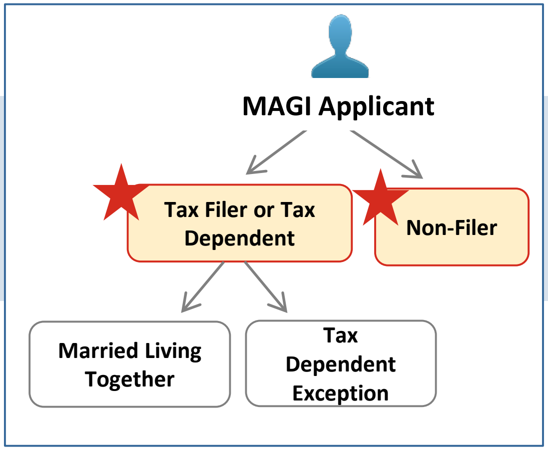
Married Living Together:
Apply tax filer rules

Include spouse in household, regardless of tax filing status

Tax Dependent Exception:
Apply non-filer rules

42 CFR 435.603

Expected Tax Filing Status



Does the individual expect to file taxes or expect to be claimed as a tax dependent?

Yes — Apply Tax Filer Rules

- *For tax filers*: The individual's household consists of the individual and everyone the individual expects to claim as a tax dependent
- *For tax dependents*: The individual's household is the same as the household of the tax filer claiming the individual

42 CFR 435.603(f)(1) and (f)(2)

No — Apply Non-Filer Rules

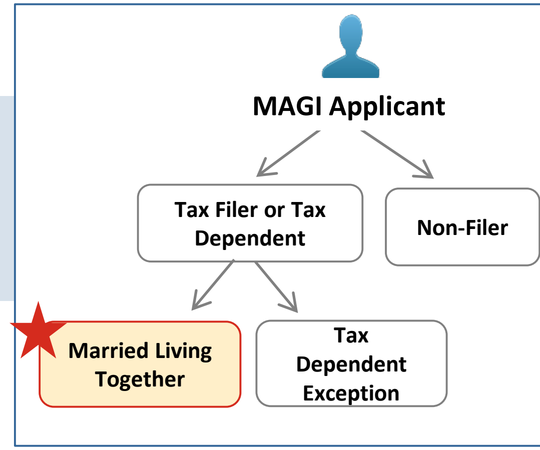
- The individual's household consists of the individual and if living with the individual:
  - The individual's spouse
  - The individual's children*
  - If the individual is a child*, the individual's parents and siblings (if the sibling is a child*)

*A child is an individual under age 19 and, if elected by the state, a full-time student aged 19 or 20.

42 CFR 435.603(f)(3)

Married Living Together

For tax filers, does the individual live together with a spouse?



Yes — Files Taxes & Married Living with Spouse

If a tax filer is married and living together with a spouse:

- Apply tax filer rules; and
- Include the spouse in the individual's household regardless of whether they expect to file jointly

42 CFR 435.603(f)(4)

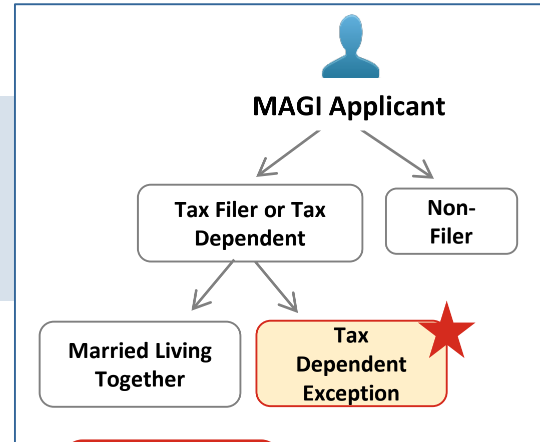
No — Files Taxes & Married But Not Living with Spouse

- *For separated spouses filing jointly:* Apply tax filer rules and include the spouse in the individual's household.
- *For separated spouses filing separately:* Apply tax filer rules and do <u>not</u> include the spouse in the individual's household.

We will return to this scenario later in the slide deck!

42 CFR 435.603(f)(1)

Tax Dependent Exception



Does the individual meet a tax dependent exception?

Yes — Tax Dependent Exception

If the individual:

- Expects to be claimed as a tax dependent by someone other than a parent; or
- Is a child* who lives with two parents and expects to be claimed as a tax dependent by one parent, but the parents (married or unmarried) do not expect to file jointly; or
- Is a child* who lives with a parent, but expects to be claimed as a tax dependent by a non-custodial parent, then

Use non-filer rules to determine the household of the tax dependent.

*A child is an individual under age 19 and, if elected by the state, a full-time student aged 19 or 20.

42 CFR 435.603(f)(2)(i), (f)(2)(ii) and (f)(2)(iii)

No — No Exception

- Apply tax filer rules

Application of Tax Dependency Rules in Medicaid and CHIP

Question

- Are Medicaid and CHIP agencies required to determine whether a tax filer may claim another individual as a tax dependent?

Answer

- No, Medicaid and CHIP agencies are not obligated to determine whether an individual may be claimed as a tax dependent. Agencies may accept self-attestation of tax dependent status.
- The agency may request additional information if attested information appears inconsistent with tax filing rules. For example, if a tax filer expects to claim another individual with more income than the tax filer, the state may inquire further.
- Medicaid and CHIP agencies do not determine whether an individual may claim another individual as a tax dependent.
- In instances when tax dependency cannot be reasonably established, under 42 CFR 435.603(f)(5), the inclusion of such individual in the household is determined in accordance with the non-filer rules.

CMS is available to provide technical assistance.

A Look at Scenarios for Complex Households & Special Populations

Complex Households & Special Populations: Scenarios

- Institutionalized Children
- Victims of Intimate Partner Violence
- Joint Custody
- Child Tax Filer Living with Parent
- Homeless Youth
- Separated Spouses Filing Jointly

Institutionalized Children

Institutionalized Children

Current Regulations

- Current rules for tax dependents do not include an exception for children living in an institution.

Relevant Regulatory Language:

42 CFR 435.603(f)(2)
Basic rule for individuals claimed as a tax dependent. In the case of an individual who expects to be claimed as a tax dependent… the household is the household of the tax filer claiming such individual as a tax dependent, except that the household must be determined in accordance with paragraph (f)(3) of this section in the case of [a tax dependent exception].

42 CFR 435.603(f)(3)
Rules for individuals who neither file a tax return nor are claimed as a tax dependent. In the case of individuals who do not expect to file a Federal tax return and do not expect to be claimed as a tax dependent… the household consists of the individual and, if living with the individual…

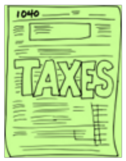
Institutionalized Children:
MAGI Determination

Scenario: Susan and Bob are married and expect to file jointly. They have a son, Ben (age 10), who is living in an institution.

Question: Who is counted in Ben's household?

- Ben (10 y/o)
- Living in an institution

Claimed as Tax Dependent



- Ben's parents expect to file jointly
- They intend to claim Ben as a tax dependent

Tax filer rules

Ben's Household = 3
(Ben + Susan + Bob)

Non-filer rules

Not Claimed as Tax Dependent

- Ben's parents expect to file jointly
- They do <u>not</u> intend to claim Ben as a tax dependent

Ben's Household = 1
(Ben)

- There are a number of factors to consider when determining whether or not to claim someone as a tax dependent, including tax benefits. It is not under the purview of the state Medicaid agency to advise applicants on how to file their taxes.
- If Ben is claimed as a tax dependent and is not eligible for MAGI Medicaid due to his parents' income, Ben may be eligible on a non-MAGI basis depending on the optional eligibility categories covered under the state plan.

Institutionalized Children:
Non-MAGI Determination

States can provide Medicaid coverage to a disabled child – regardless of the parents' income and resources – after that child has spent 30 consecutive days in the hospital. Most states already do so.

Institutionalized Children Eligible under the Special Income Level Category

States may adopt the special income level category, which serves individuals who:

- Have been institutionalized for at least 30 days,
- Meet the resource requirements for the most closely related cash assistance program, and
- Have gross income below 300% of the Supplemental Security Income (SSI) federal benefit rate.

States may, if they have not already done so, include as a covered group within this category children who are under the age of 18, 19, 20 or 21 (at state option).

For this category, eligibility is determined on a non-MAGI basis and parents' income and resources are not counted.

SSA 1902(a)(10)(A)(ii)(V); SSA 1905(a)(i)

Victims of Intimate Partner Violence

Victims of Intimate Partner Violence

Current Regulations

- Current rules do not include an exception for victims of intimate partner violence.

Relevant Regulatory Language:

42 CFR 435.603(f)(1)
Household – Basic rule for taxpayers not claimed as a tax dependent. In the case of an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and… all persons whom such individual expects to claim as a tax dependent.

42 CFR 435.603(f)(3)
Rules for individuals who neither file a tax return nor are claimed as a tax dependent. In the case of individuals who do not expect to file a Federal tax return and do not expect to be claimed as a tax dependent… the household consists of the individual and, if living with the individual…

Victims of Intimate Partner Violence

Discussion

- For victims of intimate partner violence, contacting an abusive spouse to file jointly or obtain information for a MAGI determination may pose safety and/or legal concerns.

- **Absent information to the contrary, it is reasonable to expect that a victim of intimate partner violence will either file separately from the spouse or will not file, depending on the circumstance. In either case, the abusive spouse will not be included in the victim's household because they do not expect to file jointly.**

Reasonably Predictable Changes in Income Option:
Even if the victim of intimate partner violence expects to file jointly during the current tax year, the individual's tax filing status may change in the upcoming year. If the individual indicates that it will change, CMS has determined that states can use the "reasonably predictable changes in income" option, consistent with 42 CFR 435.603(h)(3), to not include the abusive spouse in the victim's household.

Victim of Intimate Partner Violence:
Single Individual

Scenario: Shannon is a victim of intimate partner violence and no longer lives with her husband. Shannon does not expect to file jointly with her husband.

Question: Who is counted in Shannon's household?

- Shannon
- Victim of intimate partner violence
- No longer living with her spouse

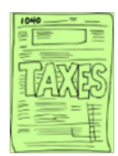
Not Filing

- Shannon does not expect to file taxes

Non-filer rules

Shannon's Household = 1 (Shannon)

Filing Separately



- Shannon expects to file separately from her spouse

Tax filer rules

Shannon's Household = 1 (Shannon)

Victim of Intimate Partner Violence:
Parent

Scenario: Jasmine and her husband have three (3) children. Jasmine is a victim of intimate partner violence. She and her children are currently living in an emergency shelter. Jasmine is unsure how she expects to file and who will claim the children.

Question: Who is counted in Jasmine's household?

Reasonable Application of the Rules

- Jasmine
- Victim of intimate partner violence

Transitional situation →

- Jasmine is unsure how she expects to file

Non-filer rules →

Jasmine's Household = 4 (Jasmine + 3 children)

- "In most cases… a child of divorced or separated parents is the qualifying child of the custodial parent." *IRS Publication 504*
- To the extent it is a transitional situation with uncertainty, the reasonable approach is to apply the non-filer rules. Under non-filer rules, the children are counted in the household of the parent with whom they are living.

Joint Custody

Joint Custody

Current Regulations

- In joint custody scenarios, it may be unclear who the “custodial” and “non-custodial” parent is, and which parent the child is “living with.”
- These are important distinctions when applying MAGI rules:
  - Tax dependents claimed by the parent identified as “non-custodial” meet a tax dependent exception.
  - When the non-filer rules are applied, the child’s household includes the parent who is “living with” the child.

Relevant Regulatory Language:

<u>42 CFR 435.603(f)(2)(iii)</u>
The household must be determined in accordance with paragraph (f)(3) of this section in the case of [a child] who expects to be claimed as a tax dependent by a non-custodial parent. For purposes of this section—
(A) A court order or binding separation, divorce, or custody agreement establishing physical custody controls; or
(B) If there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

<u>42 CFR 435.603(f)(3)</u>
Rules for individuals who neither file a tax return nor are claimed as a tax dependent. In the case of individuals who do not expect to file a Federal tax return and do not expect to be claimed as a tax dependent… the household consists of the individual and, if living with the individual…

Joint Custody

Discussion

- Utilizing information available on the single streamlined application, it is reasonable to treat the parent applying for health coverage for the child as the custodial parent, absent any information to indicate that the parent is non-custodial.

- In cases when there is a discrepancy (e.g., both parents are applying separately for health coverage for the same child in the same year), the custodial parent is the parent with whom the child spends most nights, as described at 42 CFR 435.603(f)(2)(iii)(B).

- Because current regulations do not explicitly address situations where the child spends an equal number of nights with both parents, states have the flexibility to establish a reasonable approach, which must be applied uniformly to known joint custody cases. Examples may include:
  - The custodial parent is the parent who claims the child as a tax dependent
  - The custodial parent is the parent with higher income
  - The custodial parent is the parent with lower income

* The flexibility described on this slide applies only for purposes of the MAGI-based methodology; different rules may apply for other Medicaid/CHIP eligibility purposes, such as eligibility for the parent/caretaker relative group.

Joint Custody:
Scenario

Scenario: Bryan is 8 years old. Bryan's parents are divorced and share equal custody of Bryan. Bryan spends equal time with both parents (50/50). Bryan's father and mother both apply for Medicaid on behalf of Bryan. Bryan expects to be claimed as a tax dependent by his father.

Question: Who is counted in Bryan's household?

Example of a Reasonable Application of the Rules

State policy: the parent expecting to claim a child as a tax dependent is considered the custodial parent when the child spends equal nights with both parents

- Bryan (8 y/o)
- Spends equal time with both his divorced parents (50/50)
- Bryan's father expects to claim him as a tax dependent

- Bryan's father is treated as the custodial parent

Tax filer rules

Bryan's
Household = 2
(Bryan + Father)

Child Tax Filer Living with Parent

Child Tax Filer Living with Parent

Current Regulations

- Current rules refer to individual taxpayers, and do not differentiate between child and adult taxpayers.

Relevant Regulatory Language:

42 CFR 435.603(f)(1)

Household – Basic rule for taxpayers not claimed as a tax dependent. In the case of an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and… all persons whom such individual expects to claim as a tax dependent.

Child Tax Filer Living with Parent

Current Regulations, *cont.*

- Scenarios addressed in current regulations:

Child living with a parent; the child…	Is Claimed as Tax Dependent by Parent	Is Not Claimed as Tax Dependent by Parent
Files Tax Return	✔ **Clear Rules:** Parent included in the child's household *42 CFR 435.603(f)(2)*	***Current rules do not explicitly address this scenario***
Does Not File Tax Return	✔ **Clear Rules:** Parent included in the child's household *42 CFR 435.603(f)(2)*	✔ **Clear Rules:** Parent included in the child's household (i.e., non-filer rules) *42 CFR 435.603(f)(3)*

Discussion

- The intent was to align Medicaid/CHIP rules with Marketplace rules. Thus, parents living with a child are included in the child's household, regardless of the child's tax filing status.
- Due to an oversight in drafting, this clarification was not included in the regulation text.
- Although states can interpret the regulatory language literally, they have flexibility to always count the parent(s) living with a child in the child's household.

FFM Practice

- The FFM includes the parent(s) living with a child in the child's household.

Child Tax Filer Living with Parent:
Parent’s Household (Susan)

Scenario: Alex is a child (age 17) and expects to file taxes. Alex lives with her mother, Susan, who does not expect to claim her as a tax dependent.

Question: Who is counted in Susan’s and Alex’s households?

- Susan
- Lives with daughter, Alex (17 y/o)

- Susan expects to file taxes
- Susan does not expect to claim her daughter as a tax dependent

Tax filer rules

Susan’s Household = 1 (Susan)

Child Tax Filer Living with Parent:
Child's Household (Alex)

Scenario: Alex is a child (age 17) and expects to file taxes. Alex lives with her mother, Susan, who does <u>not</u> expect to claim her as a tax dependent.

Question: Who is counted in Susan's and Alex's households?

__Approach 1: State always counts parent(s) living with child in child's household__

Alex's Household = 2
(Alex + Susan)

- Alex (17 y/o)
- Lives with her mother

- Alex expects to file taxes
- Alex does <u>not</u> expect to be claimed as a tax dependent

__Tax filer rules__

__Approach 2: For tax filer households, state counts parent(s) living with child in child's household if parent claims child as tax dependent__

Alex's Household = 1
(Alex)

- Situation may occur when there is a working teen living with non-working parent and in farm families.
- States have flexibility to always include Susan in Alex's household, even if Alex is not claimed as a tax dependent, because Alex is a child living with her parent.
- States have flexibility with respect to the approach that they choose. However, states need to take the same policy approach in all scenarios (i.e., states need to choose one approach or the other).

Homeless Youth

Homeless Youth

Current Regulations

- Current rules do not explicitly address homeless youth.

Relevant Regulatory Language:

42 CFR 435.603(f)(2)
Basic rule for individuals claimed as a tax dependent. In the case of an individual who expects to be claimed as a tax dependent… the household is the household of the taxpayer claiming such individual as a tax dependent, except that the household must be determined in accordance with paragraph (f)(3) of this section in the case of [a tax dependent exception].

42 CFR 435.603(f)(3)
Rules for individuals who neither file a tax return nor are claimed as a tax dependent. In the case of individuals who do not expect to file a Federal tax return and do not expect to be claimed as a tax dependent… the household consists of the individual and, if living with the individual…

Homeless Youth

Discussion

- For homeless youth, obtaining the information needed for a MAGI determination may be challenging.
- When applying for Medicaid, the homeless youth determines and communicates his/her expected tax filing status.
- **It is reasonable to expect that parents of homeless youth may not be providing support for them or claiming them as tax dependents. From the youth's perspective, he/she will not be claimed as a tax dependent by his/her parent.**

Reasonably Predictable Changes in Income Option:
Even if the homeless youth expects to be claimed as a tax dependent during the current tax year, the individual's tax filing status may change in the upcoming year. If the individual indicates that it will change, CMS has determined that states can use the "reasonably predictable changes in income" option, consistent with 42 CFR 435.603(h)(3), to not include the parent(s) in the homeless youth's household.

Homeless Youth:
Scenario

Scenario: Mark (age 16) is homeless and no longer lives with his parents.

Question: Who is counted in Mark's household?

- Mark (16 y/o)
- Homeless
- No longer living with his parents

- Mark does not expect to be claimed as a tax dependent by his parents and does not expect to file taxes

Non-filer rules

Mark's Household = 1 (Mark)

Separated Spouses Filing Jointly

Separated Spouses Filing Jointly

Current Regulations

- Current rules refer to:
  - Individual taxpayers, and
  - Married couples living together.
- Currents rules do not reference joint filers who are not living together.

Relevant Regulatory Language:

42 CFR 435.603(f)(1)
Household – Basic rule for taxpayers not claimed as a tax dependent. In the case of an **individual** who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and… all persons whom such individual expects to claim as a tax dependent.

42 CFR 435.603(f)(4)
Household – Married couples. In the case of a **married couple living together**, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return…

Separated Spouses Filing Jointly

Current Regulations, *cont.*

- Scenarios addressed in current regulations:

Married…	Living Together	Not Living Together
Filing Jointly	**Clear Rules:** Spouses count in each other's households *42 CFR 435.603(f)(4)*	***Current rules do not explicitly address this scenario***
Filing Separately	**Clear Rules:** Spouses count in each other's households *42 CFR 435.603(f)(4)*	**Clear Rules:** Spouses do not count in each other's households *42 CFR 435.603(f)(1)*

Separated Spouses Filing Jointly

Discussion

- The intent behind the final regulation published in March 2012 was to align Medicaid/CHIP rules with the Marketplace rules.
- Thus, if a married couple expects to file jointly, the intent was that spouses are included in each other's households, regardless of whether they live together and regardless of the reason for their separation (including incarceration or institutionalization).
- Because current regulations do not explicitly address this exact issue, states have the flexibility to use a different approach, in which spouses are only included in each other's households if they live together, which is consistent with traditional Medicaid rules.
- Though not required, states may want to convey their choice to CMS, especially if they count spouses together only when living together, and have it affirmed by CMS for purposes of PERM audits.

Federally-facilitated Marketplace (FFM) Practice

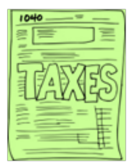
- The FFM always counts joint tax filers in each other's households.

Separated Spouses Filing Jointly:
Scenario 1 – Incarcerated Spouse

Scenario: Tim and Tina are married and they have two children together. Tim was recently incarcerated. Tina lives with the two children. Tim and Tina expect to file taxes jointly and claim their children as tax dependents.

Question: Who is counted in Tim's household?

- Tim
- Incarcerated
- Not living with his wife and two children



- Tim and Tina expect to file jointly and claim their children as dependents

Tax filer rules

Approach 1: State always counts spouses together when filing jointly

Tim's Household = 4 (Tim + Tina + 2 Children)

Approach 2: State counts spouses together only when living together *(exclude spouse in this scenario)*

Tim's Household = 3 (Tim + 2 Children)

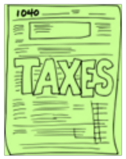
- States have flexibility with respect to the approach that they choose. However, states need to take the same policy approach for all scenarios (i.e., states need to choose one approach or the other for all spouses married filing jointly).

Separated Spouses Filing Jointly:
Scenario 2 – Institutionalized Spouse

Scenario: Katie and Charles are married and they expect to file taxes jointly. Katie is living in an institution.

Question: Who is counted in Katie's household?

- Katie
- Living in an institution



- Katie and Charles expect to file jointly

Tax filer rules

Approach 1: State always counts spouses together when filing jointly

Katie's Household = 2 (Katie + Charles)

Approach 2: State counts spouses together only when living together *(exclude spouse in this scenario)*

Katie's Household = 1 (Katie)

- States have flexibility with respect to the approach that they choose. However, states need to take the same policy approach for all scenarios (i.e., states need to choose one approach or the other for all spouses married filing jointly).

Separated Spouses Filing Jointly: Additional Consideration

Additional Consideration: Eligibility Category of the Separated Spouse

42 CFR 435.4, 435.110

- While spouses and children living apart may be included in the same MAGI household, different rules may apply for other Medicaid/CHIP eligibility purposes.
- For instance, a parent who is not living with a child cannot qualify for Medicaid as a parent/caretaker relative.
- In order to be considered under the Medicaid parent/caretaker relative eligibility category, the individual must:
  - ✓ Be a relative* of a dependent child by blood, adoption or marriage, and
  - ✓ Be living with the child, and
  - ✓ Assume primary responsibility for the child's care (as may, but is not required to, be indicated by claiming the child as a tax dependent for Federal income tax purposes).
- Incarcerated and institutionalized parents cannot be eligible as a parent/caretaker relative under 42 CFR 435.110.

**This relative must be a child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece; spouse of such parent or relative, including after marriage is terminated by death or divorce; or, other individuals a state may specify.*

Tim

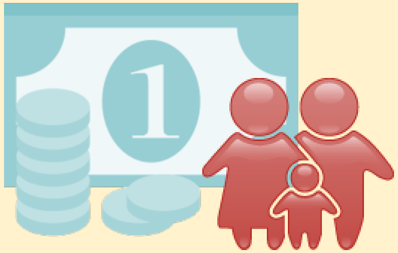
Tim is incarcerated and does not live with his wife and children.

Tim no longer qualifies for Medicaid as a parent/caretaker relative because he does not live with a dependent child. Tim may qualify under a different eligibility category.

Discussion

Questions & Discussion

Part 2: Household Income



Calculating Household Income

Focus of Future Meeting