

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)
16 DE Admin. Code 16000

PROPOSED

PUBLIC NOTICE

Excluded Income

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Delaware Social Services Manual (DSSM) regarding application of Modified Adjusted Gross Income (MAGI) methodology, specifically, to *clarify excluded income*.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Nicole.M.Cunningham@state.de.us, or by fax to 302-255-4413 by December 1, 2017. Please identify in the subject line: Excluded income.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Delaware Social Services Manual (DSSM) regarding application of Modified Adjusted Gross Income (MAGI) methodology, specifically, to clarify excluded income.

Statutory Authority

- 42 CFR 435.603(e)
- 26 U.S.C. 36B(d)(2)(B)

Background

The Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) created Section 36(B) of the Internal Revenue Code (IRC) to define household income, based on modified adjusted gross income (MAGI). MAGI is used to determine (1) penalty amounts owed if a person does not comply with the individual mandate or whether an individual is exempt from the individual mandate; (2) eligibility for and the amount of a premium credit to purchase coverage through a health insurance exchange; and (3) Medicaid income eligibility for certain populations.

Under the ACA, states were required to transition to a new income-counting rule based on MAGI to establish uniform standards for what income to include or disregard in determining Medicaid eligibility for most nonelderly and nondisabled individuals, children under the age of 18, and adults and pregnant women under the age of 65.

In 2013, the Centers for Medicare and Medicaid Services (CMS) developed a training manual to help states and eligibility workers understand and apply MAGI-based rules for Medicaid and CHIP. At that time Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) made modifications to the eligibility system, as well as eligibility policy, to meet those requirements. In September of 2016, CMS shared a companion to the 2013 training manual, providing specific language that can be used to make the income counting rules more clear for eligibility workers.

Summary of Proposal

Purpose

The purpose of this proposed regulation is to amend the Delaware Social Services Manual to reflect current policy and provide more clarity to eligibility workers regarding excluded income.

Summary of Proposed Changes

Effective for services provided on and after October 11, 2017, the Delaware Health and Social Services/Division of Medicaid and Medical Assistance (DHSS/DMMA) proposes to amend 16500.2 of the Delaware Social Services Manual (DSSM) to clarify excluded income.

Public Notice

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 447.205 and the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on December 1, 2017.

Provider Manuals Update

A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding manual updates. DMAP provider manuals and official notices are available on the Delaware Medical Assistance Provider Portal website: <https://medicaid.dhss.delaware.gov/provider>.

Fiscal Impact

The proposed regulation imposes no increase in costs on the General Fund.

AMENDED

16500.2 Excluded Income

Scholarships, awards, or fellowship grants used for education purposes and not for living expenses;

American Indian/Alaska Native income as defined in 42 CFR 435.603(e);

Child Support Received;

Gifts and loans;

Inheritance;

Supplemental Security Income (SSI);

Temporary Assistance to Needy Families (TANF) and other government cash assistance;

Veteran's benefits;

Worker's Compensation payments;

Other Non-Taxable Income.

21 DE Reg. 392 (11/01/17) (Prop.)