

# Implementation Guide: Medicaid State Plan Eligibility Less Restrictive Income Methodologies under 1902(r)(2)

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## Less Restrictive Income Methodologies Under 1902(r)(2)

### **POLICY CITATION**

**Statute:** 1902(r)(2)

**Regulation:** 42 C.F.R. §§435.601 and 436.601

### **BACKGROUND**

#### **Overview**

This screen is used by states to provide information about their use of less restrictive income methodologies under section 1902(r)(2) of the Social Security Act (the Act). It is displayed within an individual eligibility group RU when the option is selected to use less restrictive income methodologies for that group under section 1902(r)(2) of the Act. A separate screen, **Less Restrictive Resource Methodologies Under 1902(r)(2)**, is used to provide information about the use of less restrictive resource methodologies for a specific eligibility group.

Section 1902(r)(2) of the Act, as implemented at 42 C.F.R. §§435.601(d) and 436.601(d) of the federal regulations, allows states to apply income methodologies that are less restrictive than those of the supplemental security income (SSI) or AFDC programs (or the relevant territory-specific cash assistance program described under titles I, X, XIV, and XVI, and original XVI of the Act) when determining eligibility for specific Medicaid eligibility groups or for specific populations covered by an eligibility group. This means that states can elect to disregard certain amounts or types of income that the SSI or AFDC programs would count when determining eligibility. Some eligibility groups have specific limitations related to the use of less restrictive methodologies established under section 1902(r)(2) authority; any group-specific limitations are described in the implementation guide for that eligibility group.

#### **General Disregards of Income**

Using section 1902(r)(2) authority, states may elect to disregard all or a certain portion of income that would otherwise be counted when determining eligibility. If all income is disregarded, the eligibility group (or population within an eligibility group) will effectively have no income test. When disregarding a specific portion of income, the state could elect to disregard a specific dollar amount (such as \$100), a specific percentage of the federal poverty level (FPL) (such as 20 percent of the FPL), or income exceeding an income standard (such as the difference between the medically needy income limit and a percentage of the FPL).

Additionally, states may elect to disregard income from certain household members. Section 1902(a)(17), as implemented at 42 C.F.R. §435.602, defines the deeming

requirements for eligibility in a non-MAGI group and prevents the deeming of income from any individual other than a spouse or parent. However, states may utilize section 1902(r)(2) authority to disregard the income of an individual's spouse or parent, which would otherwise be counted under the requirements of 42 CFR 435.602.

### **Disregards of Specific Types of Income**

States may choose to disregard specific types of income using section 1902(r)(2) authority. For example, a state could disregard Social Security Disability Insurance (SSDI) income and interest income from savings accounts. Or a state could disregard only SSDI income or only interest income from savings accounts.

States may also choose to disregard income that is used for a particular purpose. For example, a state could establish a disregard (which could, but does not have to, be limited by dollar amount) for payments made by the household for medical expenses or toward the cost of in-home care. When such a disregard is adopted, the state may want to structure the disregard to ensure that only income actually used for that purpose is disregarded. This could be as simple as a requirement that the individual provide evidence (such as receipts for medical expenses or for in-home care) that the income in question was spent for the intended purpose.

### **Treatment of Changes in Income**

Using section 1902(r)(2) authority, states may elect to disregard changes in income that occur after a determination of eligibility and before the next scheduled redetermination. When the option is elected to disregard all changes in income between redeterminations, the state would not need to complete a redetermination of financial eligibility, as otherwise required at 42 CFR 435.916(d), when a beneficiary reports an increase in income. Such an increase would be disregarded until the next scheduled redetermination.

States may also elect to disregard specific changes in income that occur between scheduled eligibility determinations. One example of such a change is the annual cost-of-living adjustment (COLA) made to Social Security income each January. For some eligibility groups, federal law disregards COLA increases until the month following the month in which the new federal poverty levels (FPLs) are published. However, COLAs are not disregarded for all eligibility groups, so some states may wish to disregard COLA increases for these groups for a specified period of time.

### **Targeting of income disregards**

As described in the Non-MAGI Based Methodologies implementation guide, states may 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 65 years old and 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 65 years old and older and people with disabilities, a state may apply an income or resource disregard exclusively to people 65 years old and 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).

Section 1902(a)(10)(A)(ii) permits states to establish reasonable classifications of children within optional eligibility groups (including the medically needy), 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.

## INSTRUCTIONS

Certain eligibility groups have the following *Yes/No* statement: “Less restrictive methodologies are used in calculating countable income.” If *Yes* is selected, the eligibility group RU presents an *Add/Modify Less Restrictive Methodologies* button.

Clicking the button displays a selection screen that offers three options:

1. *Start with an existing set of less restrictive methodologies to use as is,*
2. *Start with an existing set of less restrictive methodologies to modify,* or
3. *Start with a blank form to enter less restrictive methodologies.*

If you select either option 2 or option 3, and click the *Describe New Methodology* button, this screen will appear for you to enter or modify a set of methodologies to be used in the eligibility group RU.

You may select one or more of the less restrictive income methodologies presented. The options are divided into different categories for ease of use. Please note that the category headings will not display in the eligibility group RU. Instructions specific to each available option are described below.

*Screen Validation:* At least one option in the screen must be selected.

### **General Disregards of Income**

- If *A specified amount of income is disregarded* is selected, enter the amount of income disregarded in the text box provided.
- If *The difference between one income standard and another is disregarded* is selected, choose one of the four options presented.
  - If *Between the following percentages of the FPL is selected*, enter the lower and upper percentages of the FPL in the text boxes provided.
  - If *Between the medically needy income limit and a percentage of the FPL* is selected, enter the percentage of the FPL in the text box provided.
  - If *Between the SSI Federal Benefit Rate and:* is selected, enter an upper income standard in the text box provided. When this option is selected, the difference between the SSI federal benefit rate and another income standard will be disregarded.
  - If *Between other income standards* is selected, enter the lower and upper income standards in the text boxes provided.
- If *A specific percent of the Federal Poverty Level* is selected, enter the percentage of the FPL in the text box provided.
- If *Income from household members is disregarded* is selected, choose one or both of the options presented.
  - For the option(s) selected, enter a description of the disregard in the text box provided.

- If ***General income disregard*** is selected, provide additional information as follows:
  - Enter the name of the general income disregard in the text box provided.
  - Enter a description of the general income disregard in the text box provided.
  - To add additional general disregards, select the ***Add Disregard Name*** link and repeat the above steps.
  - To delete a general income disregard, click the ***Delete*** link below the disregard's name and description.

## **Disregard of Specific Types of Income**

### *General Unearned Income*

- If ***The total amount of unearned income is disregarded*** is selected, enter a description of the disregard in the text box provided.
- If ***A specified amount of unearned income is disregarded*** is selected, enter the amount of the disregard and a description in the text boxes provided.
- If ***A percentage of unearned income is disregarded*** is selected, enter the percentage of unearned income disregarded and a description in the text boxes provided.

### *General Earned Income*

- If ***The total amount of earned income is disregarded*** is selected, enter a description of the disregard in the text box provided.
- If ***A specified amount of earned income is disregarded*** is selected, enter the amount of the disregard and a description in the text boxes provided.
- If ***A percentage of earned income is disregarded*** is selected, enter the percentage of earned income disregarded and a description in the text boxes provided.

### *Self-employment Income*

- If ***Less restrictive methodologies are used with respect to self-employment income*** is selected, choose one or more of the three options presented.
  - If ***A standard disregard is used instead of actual expenses....*** is selected, choose one of the two options at ***The amount of the standard disregard is,***
    - If ***A percentage of the gross receipts*** is selected, enter the percentage in the text box provided.
    - If ***A dollar amount*** is selected, enter the dollar amount in the text box provided.
- If ***Specified self-employment disregards are used*** is selected, provide additional information as follows:

- Enter the name of the self-employment disregard in the text box provided.
- Enter a description of the self-employment disregard in the text box provided.
- To add additional self-employment disregards, select the **Add Disregard Name** link and repeat the above steps.
- To delete a specified self-employment disregard, click the **Delete** link below the disregard's name and description.

#### *Other Types of Income*

- If **Census Bureau wages are disregarded** is selected, enter a description of the disregard in the text provided.
- If **Interest is disregarded** is selected, enter a description of the disregard in the text box provided.
- If **Dividends are disregarded** is selected, enter a description of the disregard in the text box provided.
- If **Training allowances and expenses are disregarded** is selected, enter a description of the disregard in the text box provided.
- If **Room and/or board from a person living in the individual's home is disregarded**, enter a description of the disregard in the text box provided.
- If **A less restrictive methodology is used with respect to lump sum income** is selected, choose one or more of the four options presented.
  - If **Disregarded as income in the month of receipt** is selected, enter a description of the disregard in the text box provided.
  - If **Disregarded as income for every month following the month of receipt** is selected, enter a description of the disregard in the text box provided.
  - If **Disregarded as income in the month of receipt and every month following** is selected, enter a description of the disregard in the text box provided.
  - If **Specified methodology for the treatment of lump sums as income** is selected, provide additional information as follows:
    - Enter the name of the specified methodology in the text box provided.
    - Enter a description of the specified methodology in the text box provided.
    - To add an additional specified methodology for the treatment of lump sum income, select the **Add Methodology Name** link and repeat the above steps.
    - To delete a specified methodology for the treatment of lump sums as income, click the **Delete** link below the methodology's name and description.
- If **Assistance is disregarded when received by the household from state-funded programs** is selected, provide additional information as follows:

- Enter the name of the state-funded program in the text box provided.
- Enter a description of the disregard in the text box provided.
- To add an additional disregard select the **Add Program Name** link and repeat the above steps.
- To delete a disregard related to assistance from a state-funded program, click the **Delete** link below the program name and description.
- If **Income is disregarded when used for payments made by the household** is selected, choose one or more of the seven options presented.
  - If **Toward expenses related to efforts to become independent** is selected, enter a description of the disregard in the text box provided.
  - If **Toward medical expenses** is selected, enter a description of the disregard in the text box provided.
  - If **Toward the cost of in-home care** is selected, enter a description of the disregard in the text box provided.
  - If **Toward the cost of child care** is selected, enter a description of the disregard in the text box provided.
  - If **Toward the cost of spousal support paid outside the home** is selected, enter a description of the disregard in the text box provided.
  - If **Specified payments made by the household** is selected, provide additional information as follows:
    - Enter the name of the payment type in the text box provided.
    - Enter a description of the disregard in the text box provided.
    - To add an additional disregard, select the **Add Payment Name** link and repeat the above steps.
    - To delete a disregard related to a specified payment made by the household, click the **Delete** link below the payment type name and description.
  - If **Specified type of income is disregarded** is selected, provide additional information as follows:
    - Enter the name of the income type that is disregarded in the text box provided.
    - Enter a description of the disregard in the text box provided.
    - To add additional disregards of specific types of income, select the **Add Income Name** link and repeat the above steps.
    - To delete a specified type of income disregard, click the **Delete** link below the income type name and description.

### **Treatment of Changes in Income**

- If **All income increases are disregarded between redeterminations** is selected, enter a description of the disregard in the text box provided.
- If **Specific income changes are disregarded between redeterminations** is selected, choose one or both options.

- If *Income increases due to the cost of living...are disregarded* is selected, enter a description of the disregard in the text box provided.
- If *Specified income changes are disregarded* is selected, provide additional information as follows:
  - Enter the name of the disregard in the text box provided.
  - Enter a description of the disregard in the text box provided.
  - To add additional income change disregards, select the **Add Disregard Name** link and repeat the above steps.
  - To delete a specific income change disregard, click the **Delete** link below the disregard's name and description.
- If *Specified less restrictive methodologies are used for the treatment of changes in income* is selected, provide additional information as follows:
  - Enter the name of the less restrictive methodology in the text box provided.
  - Enter a description of the less restrictive methodology in the text box provided.
  - To add additional less restrictive methodologies, select the **Add Methodology Name** link and repeat the above steps.
  - To delete a specified less restrictive income methodology, click the **Delete** link below the methodology's name and description.

### **Other Less Restrictive Methodologies**

- If *The following less restrictive methodologies are used* is selected, provide additional information as follows:
  - Enter the name of the less restrictive methodology in the text box provided.
  - Enter a description of the less restrictive methodology in the text box provided.
  - To add additional less restrictive methodologies, select the **Add Methodology Name** link and repeat the above steps.
  - To delete a less restrictive methodology, click the **Delete** link below the methodology's name and description.

### **REVIEW CRITERIA**

*The less 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 selections entered must not conflict with one another. For example, if "All income is disregarded" is selected, "A specified amount of income is disregarded" may not also be selected.*