

October 28, 2009 Summary of Changes

Chapter	Passage	Summary
1400	1410.1709, 1430.1709, 1440.1709	Added language allowing DCF the ability to deny an individual for CSE non-cooperation without referral to CSE when the individual claims the intent not to cooperate or claims "good Cause".
1600	1640.0594	Added statement that the Long-Term Care Insurance Partnership asset disregard is protected from estate recovery.
	1640.0609.03	Clarified countable annuity policy.
1800	1820.0400, 1830.0400, 1850.0400, 1860.0400	Incorporated policy change on treatment of WIA income. Exclude all unearned WIA income for adults and all earned and unearned WIA income for children.
	1820.0401, 1830.0401, 1850.0401, 1860.0401	Incorporated policy change on treatment of WIA income. Exclude all unearned WIA income for adults and all earned and unearned WIA income for children.
	1820.0404, 1830.0404, 1850.0404, 1860.0404	Incorporated policy change on treatment of WIA income. Exclude all unearned WIA income for adults and all earned and unearned WIA income for children.
	1820.0405, 1830.0405, 1850.0405, 1860.0405	Incorporated policy change on treatment of WIA income. Exclude all unearned WIA income for adults and all earned and unearned WIA income for children.
	1810.0830	Change made to not treat SSI like other means-tested programs for the purposes of this policy.
3200	3240.0402, 3250.0402, 3260.0402	Changed the payee name for reimbursements.
	3240.0403, 3250.0403, 3260.0403	Updated the address where to submit reimbursements.
Appendix	A-34	Clarified annuity steps.

Technical changes and changes in non-substantive information may be excluded from this summary.

Listing of Amended Passages

1410.1709 Failure to Cooperate (FS)

When the parent, including a teen parent or caretaker relative refuses to provide information regarding the non-custodial parent of a child under the age of 18 residing in the home during an application or eligibility review, the eligibility specialist must:

1. review child support cooperation requirement with the individual; and
2. request that the individual sign the cooperation form, CF-ES 2640, or the Intent to Claim Good Cause form, CF-ES 2641. (No penalties are assessed if the individual refuses to sign either form but the eligibility specialist should record on CLRC that the individual refused to sign).

Note: A pregnant woman with no other deprived children is not subject to child support cooperation until the child's birth.

~~Food stamps for the non-compliant adult or teen parent will be denied unless the adult or teen parent is pregnant with no other deprived children and meets all other factors of eligibility. Food stamps for the remaining household members will be approved, if they meet all other factors of eligibility.~~

Deny food stamp assistance for the individual (adult or teen parent) subject to child support cooperation if he/she does not express an intent to claim good cause or the intent to cooperate with Child Support Enforcement and authorize benefits for the other household members, if eligible. A referral to the Department of Revenue, Child Support Enforcement Agency to establish cooperation is not necessary when the individual expresses intent not to cooperate or claim "good cause".

1430.1709 Failure to Cooperate (MFAM)

When the parent or caretaker relative refuses to provide information regarding the non-custodial parent during an application or eligibility review, the eligibility specialist must:

1. review child support cooperation requirements with the individual;
2. request that the individual sign the cooperation form, CF-ES Form 2640, or the Intent to Claim Good Cause form, CF-ES Form 2641 (No penalties are assessed if the individual refuses to sign either form, but the eligibility specialist should record on CLRC that the individual refused to sign.); and deny the application for Medicaid for the noncompliant adult unless the adult is pregnant and meets all other factors of eligibility. Medicaid for children will be approved if they meet all other factors of eligibility.

Note: If the individual who failed to cooperate was a child in a parent's grant (a teen parent), the child would not be removed from Medicaid eligibility. ~~The Temporary Cash Assistance would be closed or denied and the child's parent would not be eligible for Medicaid.~~

Deny Medicaid assistance for an adult subject to child support cooperation if he/she does not express an intent to claim good cause or the intent to cooperate with Child Support Enforcement and authorize benefits for the other household members, if eligible. A referral to the Department of Revenue, Child Support Enforcement Agency to establish cooperation is not necessary when the individual expresses intent not to cooperate or claim "good cause".

1440.1709 Failure to Cooperate (MSSI)

When the parent or caretaker relative refuses to provide information regarding the noncustodial parent during an application or eligibility review, the eligibility specialist must:

1. review child support cooperation requirements with the individual;

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Listing of Amended Passages

2. request that the individual sign the cooperation form, CF-ES Form 2640, or the Intent to Claim Good Cause form, CF-ES Form 2641 (No penalties are assessed if the individual refuses to sign either form, but the eligibility specialist should record on CLRC that the individual refused to sign.); and
3. deny ~~the application for Temporary Cash Assistance if the applicant does not express an intent to claim good cause or the intent to cooperate with Child Support Enforcement.~~ the application for Medicaid for the noncompliant adult ~~will also be denied~~ unless the adult is pregnant and meets all other factors of eligibility. Medicaid for children will be approved if they meet all other factors of eligibility.

Note: If the individual who failed to cooperate was a child in a parent's grant (a teen parent), the child would not be removed from Medicaid eligibility. ~~The Temporary Cash Assistance would be closed or denied~~ and the child's parent would not be eligible for Medicaid.

Deny Medicaid assistance for an adult subject to child support cooperation if he/she does not express an intent to claim good cause or the intent to cooperate with Child Support Enforcement and authorize benefits for the other household members, if eligible. A referral to the Department of Revenue, Child Support Enforcement Agency to establish cooperation is not necessary when the individual expresses intent not to cooperate or claim "good cause".

1640.0594 Long-Term Care Insurance Partnership Payments (MSSI)

This policy applies to individuals applying for Medicaid Institutional Care Program (ICP), Home and Community Based Services, Hospice, and Program for All-inclusive Care for the Elderly.

An individual who is a beneficiary of a qualified state Long-Term Care (LTC) Insurance Partnership Policy will have a portion of their total countable assets disregarded when evaluating their Medicaid eligibility for the programs listed above. The disregarded portion is equal to the actual amount of LTC insurance partnership benefits paid out to or on behalf of the individual by the company. The asset exclusion will continue to apply for the duration of the individual's Medicaid coverage.

For example, an individual has countable assets of \$61,000 and reports that his LTC Insurance Partnership Policy paid out \$60,000 toward his nursing home bill. The individual's countable assets are reduced by \$60,000 and the remaining \$1,000 is considered countable in the eligibility determination.

The asset disregard is protected from estate recovery. Complete and send a Third Party Recovery Transmittal (CF-ES 2356) to notify ACS Recovery Services of the amount to be disregarded for estate recovery purposes.

If the individual will continue to receive the LTC insurance benefits, determine if the payments will be considered income to the individual or a third party source. If the recipient directly receives the insurance payments, follow instructions in manual passage 1840.1007 to determine if the payments are considered income to the individual. If the insurance benefits are paid to the nursing home, exclude the payments under 1840.0118 as a third party source that the provider must bill prior to billing Medicaid.

Verification Requirements:

Not all long-term care insurance policies are a qualified LTC Insurance Partnership Policy. Eligibility staff must request documentation at the time of application to verify the:

1. policy is a qualified LTC Insurance Partnership Policy, and
2. total amount of long term care benefits paid out to or for the applicant.

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Listing of Amended Passages

The insurance company may use the approved Office of Insurance Regulation Form (OIR-B2-1781) or a similar form developed by the insurance company.

1640.0609.03 Transfers to Annuities on or After 11/1/07 (MSSI)

This policy applies to ICP, institutionalized MEDS-AD, institutionalized Hospice, HCBS Programs and PACE.

Applicant's or Recipient's Annuity

The purchase of an annuity on or after 11/01/2007, and within the look-back period, by an individual (or his representative) will be considered a transfer of assets for less than fair compensation unless the annuity meets all of the following requirements:

1. Names the state of Florida, Agency for Health Care Administration (AHCA), as the primary beneficiary, for the total amount of medical assistance paid on behalf of the individual, except for when the individual has a spouse or minor or disabled adult child. In this case, the state shall be named as secondary beneficiary after the spouse and/or the minor or disabled child.

Note: If the spouse or minor/disabled child disposes of their primary remainder beneficiary interest for less than fair market value (for example, transferred their interest to someone who does not meet the criteria), AHCA must be named primary beneficiary or the individual will be subject to a transfer of asset penalty.
2. Is irrevocable (cannot be cashed in) and nonassignable (cannot be sold or transferred to a third party).
3. Makes payments (that include both principal and interest) to the individual in equal amounts during the term of the annuity, with no balloon or deferred payments.
4. Is actuarially sound based on the actuarial tables used by the Social Security Administration, (refer to Appendix A-14).

If the annuity meets all of the above criteria, funds in the annuity are excluded as a resource and the periodic payments are counted as income in the eligibility determination and patient responsibility.

If all of the requirements above are not met, the total amount of funds transferred into the annuity is considered a transfer without fair compensation, except when the annuity is revocable or assignable. When the annuity is revocable, count as an asset the amount the purchaser would receive from the annuity issuer if the annuity is cancelled. When the annuity is assignable, count as an asset the amount the annuity can be sold for on the secondary market.

Certain transactions that occur on or after 11/01/2007 make an annuity (including an annuity purchased before 11/01/2007) subject to the transfer of assets provisions. The transactions include such actions as additions of principal to an existing annuity or electing to annuitize an existing annuity.

Exception: Certain Individual Retirement Accounts (IRAs) or annuities that were established by an employee or their employer are not considered under the transfer of assets provisions and do not have to meet the above criteria. These include such financial vehicles as an individual retirement annuity, a simplified employee pension or a Roth IRA.

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Listing of Amended Passages

Community Spouse's Annuity

The purchase of an annuity on or after 11/01/2007 (and within the look-back period) by the community spouse of an applicant of ICP, institutionalized MEDS-AD, institutionalized Hospice, HCBS Programs and PACE will be considered a transfer of assets for less than fair compensation unless the annuity meets the criteria below:

1. Names AHCA as the primary beneficiary for the total amount of medical assistance paid on behalf of the applicant/recipient spouse, except for when the spouse has a minor or disabled child. In this case, AHCA shall be name as secondary after the minor or disabled child.
2. Is actuarially sound based on the spouse's age on the actuarial table used by the Social Security Administration (Refer to Appendix A-14).

[Community spouse annuities that are revocable or assignable shall count as an asset, in the same manner as an applicant's/recipient's annuity counts, as indicated above.](#)

Annuities purchased by the community spouse after approval of long-term care Medicaid for the applicant spouse are not evaluated for transfer of assets provisions.

Evaluating Annuities

At application, when an individual indicates ownership interest in an annuity, request a copy of the annuity contract and evaluate the annuity using the Evaluating Annuities job aid (Appendix A-34) to determine if the annuity will be subject to transfer of asset provisions. For annuities that name AHCA as beneficiary, send a copy of CF-ES 2355, Letter to Annuity Issuers (along with a copy of the contract) to the annuity company. At each annual review, send form CF-ES 2355 to the annuity issuer to solicit information about any changes that might have occurred during the year. Any time an issuer reports a change to the individual's (or spouse's) annuity, evaluate the change to determine if it subjects the annuity to transfer of asset provisions.

AHCA Notification

The Agency for Health Care Administration must be notified of annuities that name the state as beneficiary. Using Form CF-ES 2356, eligibility staff must forward a copy of each annuity that names the state as beneficiary to the following address:

ACS Recovery Services
Post Office Box 12188
Tallahassee, FL 32317-2188

When eligibility staff becomes aware of the death of an individual whose annuity was forwarded to ACS Recovery Services, eligibility staff must notify ACS of the individual's death to assist them in collecting beneficiary proceeds from the annuity.

1820.0400 WAGES RECEIVED FROM TRAINING PROGRAMS (TCA)

When the individual participates in a work or on-the-job training program that involves work for payment, the payment is included as income, unless specifically excluded in the following passages. Training allowances from Vocational and Rehabilitative Programs recognized by a government agency are also included income, unless excludable as a reimbursement. ~~For example, Regional Workforce Boards (RWB) and Workforce Investment Act (WIA) Program~~

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Listing of Amended Passages

~~payments or allowances are included income unless provided as a reimbursement or otherwise identified as excluded income (see passages 1820.0404 and 1820.0405).~~

1820.0401 Workforce Investment Act (TCA)

The following sections describe exceptions to general Workforce Investment Act (WIA) income policy that applies to TCA. ~~Other programs have no additional written policy in this area.~~

1820.0404 WIA Income for Adults (TCA)

All earned income received or anticipated to be received [directly from an employer](#) through [participation in the WIA Program](#) is included and is subject to the appropriate earned income disregard. [This includes earned income paid directly by an employer through the WIA on-the-job training program.](#)

~~Unearned income from WIA is excluded up to the difference between the CNS and the payment standard. The excess is considered as included unearned income.~~ Types of payments the individual may receive that would qualify as unearned income include:

1. need based payments,
2. cash assistance, and
3. compensation instead of wages and allowances (this includes payments received for classroom training).

1820.0405 WIA Income for Children (TCA)

~~A child's earned income from WIA is excluded for six months every calendar year. These months need not be consecutive. The exclusion rule starts over again in the next calendar year.~~

~~WIA earned income exclusions and Student Earned Income Disregards are separate and distinct. If earned income is from WIA, it does not also qualify for Student Earned Income Disregards.~~

A child's unearned income from WIA is excluded income. The parent/relative caretaker cannot be considered a child. Unearned income includes the same types of payments specified in passage 1820.0404.

1830.0400 WAGES RECEIVED FROM TRAINING PROGRAMS (MFAM)

When the individual participates in a work or on-the-job training program that involves work for payment, the payment is included as income, [unless specifically excluded in the following passages](#). Training allowances from Vocational and Rehabilitative Programs recognized by a government agency are also included income, unless excludable as a reimbursement. ~~For example, Regional Workforce Board and Workforce Investment Act (WIA) Program payments or allowances are included income unless provided as a reimbursement or otherwise identified as excluded income (see passages 1830.0404 and 1830.0405).~~

1830.0401 Workforce Investment Act (MFAM)

The following sections describe exceptions to general Workforce Investment Act (WIA) income policy that applies to MFAM.

1830.0404 WIA Income for Adults (MFAM)

All earned income received or anticipated to be received [directly from an employer](#) through [participation in the WIA Program](#) is included and is subject to the appropriate earned income disregard. [This includes earned income paid directly by an employer through the WIA on-the-job training program.](#)

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Listing of Amended Passages

Unearned income from WIA is excluded ~~up to the difference between the CNS and the payment standard. The excess is considered as included unearned income.~~ Types of payments the individual may receive that would qualify as unearned income include:

1. need based payments,
2. cash assistance, and
3. compensation instead of wages and allowances (this includes payments received for classroom training).

1830.0405 WIA Income for Children (MFAM)

A child's earned income from WIA is excluded ~~for six months every calendar year. These months need not be consecutive. The exclusion rule starts over again in the next calendar year.~~

~~WIA earned income exclusions and Student Earned Income Disregards are separate and distinct. If earned income is from WIA, it does not also qualify for Student Earned Income Disregards.~~

A child's unearned income from WIA is excluded income. The parent/relative caretaker cannot be considered a child. Unearned income includes the same types of payments specified in passage 1830.0404.

1850.0400 WAGES RECEIVED FROM TRAINING PROGRAMS (CIC)

When the individual participates in a work or on-the-job training program that involves work for payment, the payment is included as income, [unless specifically excluded in the following passages](#). Training allowances from Vocational and Rehabilitative Programs recognized by a government agency are also included income, unless excludable as a reimbursement. ~~For example, Regional Workforce Board and Workforce Investment Act (WIA) Program payments or allowances are included income unless provided as a reimbursement or otherwise identified as excluded income (see passages 1850.0404 and 1850.0405).~~

1850.0401 Workforce Investment Act (WIA) (CIC)

The following sections describe exceptions to general WIA income policy that apply to ~~TCA, RAP, and CIC. Other programs have no additional written policy in this area.~~

1850.0404 WIA Income for Adults (CIC)

All earned income received or anticipated to be received [directly from an employer](#) through [participation in the WIA Program](#) is included and is subject to the appropriate earned income disregard. [This includes earned income paid directly by an employer through the WIA on-the-job training program.](#)

Unearned income from WIA is excluded ~~up to the difference between the CNS and the payment standard. The excess is considered as included unearned income.~~ Types of payments the individual may receive that would qualify as unearned income include:

1. need based payments,
2. cash assistance, and
3. compensation instead of wages and allowances (this includes payments received for classroom training).

1850.0405 WIA Income for Children (CIC)

A child's earned income from WIA is excluded ~~for six months every calendar year. These months need not be consecutive. The exclusion rule starts over again in the next calendar year.~~

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Listing of Amended Passages

~~WIA earned income exclusions and Student Earned Income Disregards are separate and distinct. If earned income is from WIA, it does not also qualify for Student Earned Income Disregards.~~

A child's unearned income from WIA is excluded income. The parent/relative caretaker cannot be considered a child. Unearned income includes the same types of payments specified in passage 1850.0404.

1860.0400 WAGES RECEIVED FROM TRAINING PROGRAMS (RAP)

When the individual participates in a work or on-the-job training program that involves work for payment, the payment is included as income, [unless specifically excluded in the following passages](#). Training allowances from Vocational and Rehabilitative Programs recognized by a government agency are also included income, unless excludable as a reimbursement. ~~For example, Regional Workforce Board and Workforce Investment Act (WIA) Program payments or allowances are included income unless provided as a reimbursement or otherwise identified as excluded income (see passages 1860.0404 and 1860.0405).~~

1860.0401 Workforce Investment Act (WIA) (RAP)

The following sections describe exceptions to general WIA income policy that apply to TCA, RAP, and CIC. ~~Other programs have no additional written policy in this area.~~

1860.0404 WIA Income for Adults (RAP)

All earned income received or anticipated to be received [directly from an employer through participation in the WIA Program](#) is included and is subject to the appropriate earned income disregard. [This includes earned income paid directly by an employer through the WIA on-the-job training program.](#)

~~Unearned income from WIA is excluded up to the difference between the CNS and the payment standard. The excess is considered as included unearned income.~~ Types of payments the individual may receive that would qualify as unearned income include:

1. need based payments,
2. cash assistance, and
3. compensation instead of wages and allowances (this includes payments received for classroom training).

1860.0405 WIA Income for Children (RAP)

~~A child's earned income from WIA is excluded for six months every calendar year. These months need not be consecutive. The exclusion rule starts over again in the next calendar year.~~

~~WIA earned income exclusions and Student Earned Income Disregards are separate and distinct. If earned income is from WIA, it does not also qualify for Student Earned Income Disregards.~~

A child's unearned income from WIA is excluded income. The parent/relative caretaker cannot be considered a child. Unearned income includes the same types of payments specified in passage 1860.0404.

1810.0830 Overpayments - Means-Tested Programs (FS)

When income from a means-tested program, such as Temporary Cash Assistance, is reduced due to failure on the individual's part to comply with a program requirement, the gross amount is included in the food stamp budget. The individual's failure to comply does not have to be intentional or fraudulent.

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Listing of Amended Passages

If the individual is able to verify the recoupment is due to an agency error, the net income amount will be budgeted.

For purposes of this policy only, do not treat Supplemental Security Income (SSI) like a means-tested program. When income from SSI is withheld to recover an overpayment, exclude the portion withheld as income.

3240.0402 Reimbursement (MSSI)

If an individual receives medical care that is not covered by Medicaid, the state does not have the right to third party payment for that care.

If an individual receives medical care that is paid or will be paid by Medicaid, any third party payment received by the Medicaid provider is to be reimbursed to the state up to the amount paid by Medicaid.

If an individual receives direct reimbursement for medical care paid by Medicaid, the individual is required to reimburse the state. This is done by endorsing the check from the insurance company to [Agency for Health Care Administration Florida Medicaid](#) or by sending a check or money order to [Agency for Health Care Administration Florida Medicaid](#).

3240.0403 Eligibility Specialist Given Reimbursement (MSSI)

If the individual gives the reimbursement to the eligibility specialist, the eligibility specialist must submit the reimbursement to:

[ACS Recovery Services Agency for Health Care Administration \(AHCA\)](#)
~~Division of Health Purchasing~~
~~Medicaid – Third Party Recovery~~
P.O. Box 12188 12900
Tallahassee, FL 32317-2188 2900; and

Attach a cover memo that includes the following information: the individual's name, Medicaid identification number, and hospital admission date or date of service(s) if outpatient case.

3250.0402 Reimbursement (CIC)

If an individual receives medical care that is not covered by Medicaid, the state does not have the right to third party payment for that care.

If an individual receives medical care that is paid or will be paid by Medicaid, any third party payment received by the Medicaid provider is to be reimbursed to the state up to the amount paid by Medicaid.

If an individual receives direct reimbursement for medical care paid by Medicaid, the individual is required to reimburse the state. This is done by endorsing the check from the insurance company to [Agency for Health Care Administration Florida Medicaid](#) or by sending a check or money order to [Agency for Health Care Administration Florida Medicaid](#).

3250.0403 Eligibility Specialist Given Reimbursement (CIC)

If the individual gives the reimbursement to the eligibility specialist, the eligibility specialist must submit the reimbursement to:

[ACS Recovery Services Agency for Health Care Administration \(AHCA\)](#)
~~Division of Health Purchasing~~

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~~Medicaid – Third Party Recovery~~
P.O. Box ~~12188 12900~~
Tallahassee, FL 32317-~~2188 2900~~; and

Attach a cover memo that includes the following information: the individual's name, Medicaid identification number, and hospital admission date or date of service(s) if outpatient case.

3260.0402 Reimbursement (RAP)

If an individual receives medical care that is not covered by Medicaid, the state does not have the right to third party payment for that care.

If an individual receives medical care that is paid or will be paid by Medicaid, any third party payment received by the Medicaid provider is to be reimbursed to the state up to the amount paid by Medicaid.

If an individual receives direct reimbursement for medical care paid by Medicaid, the individual is required to reimburse the state. This is done by endorsing the check from the insurance company to [Agency for Health Care Administration Florida Medicaid](#) or by sending a check or money order to [Agency for Health Care Administration Florida Medicaid](#).

3260.0403 Eligibility Specialist Given Reimbursement (RAP)

If the individual gives the reimbursement to the eligibility specialist, the eligibility specialist must

Submit the reimbursement to:

[ACS Recovery Services](#) ~~Agency for Health Care Administration (AHCA)~~
~~Division of Health Purchasing~~
~~Medicaid – Third Party Recovery~~
P.O. Box ~~12188 12900~~
Tallahassee, FL 32317-~~2188 2900~~; and

Attach a cover memo that includes the following information: the individual's name, Medicaid identification number, and hospital admission date or date of service(s) if outpatient case.