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## 1830.0000 Family-Related Medicaid

This chapter discusses policy for individuals whose income must be considered when completing a Family-Related Medicaid eligibility determination. Modified Adjusted Gross Income (MAGI) is an Internal Revenue Service (IRS) method for counting income that aligns financial eligibility across all Insurance Affordability Programs (IAP). Adjusted Gross Income (AGI) is gross income minus casualty losses, charitable contributions, medical and dental expenses, qualified retirement contributions and other miscellaneous itemized deductions. MAGI is equal to Adjusted Gross Income plus foreign earned income, employer contribution plans, and tax exempt interest accrued during the taxable year. Current point in time income will be used in the eligibility determination process when available.

Income is money received from any source such as wages, benefits, contributions, and rentals. If income is taxable, it is counted.

MAGI-based budget determination requires deduction of income for pretax expenses.

### **Pretax Income Exclusions**

Pretax income is excluded from gross income before taxes are deducted. Examples of “pretax income exclusions” include but not limited to:

- Some retirement plans (IRAs and 401(k) plan types)
- Life insurance
- Health Insurance premiums
- Transportation programs
- Health Savings accounts and Flexible spending accounts

Convert all pretax income exclusion amounts on the paystub/verification to a monthly amount (refer to Appendix A-37 for annual pretax income exclusion limits). Failure to deduct all pretax income exclusions will result in an incorrect calculation of income.

Note: An individual does not have to file a tax return to get pretax income excluded in a MAGI budget.

### **1830.0101 Income (MFAM)**

**Taxable Earned income** is the receipt of wages, salary, commission, or profit from an individual's performance of work or services or a self-employment enterprise.

**Taxable Unearned income** is income for which there is no performance of work or services. Taxable unearned income may include:

1. retirement, disability payments, unemployment compensation;
2. annuities, pensions, and other regular payments;
3. alimony and spousal support payments with decrees issued prior to January 01, 2019;
4. dividends, interest, and royalties;
5. prizes and awards; or
6. Social Security income.

**Excluded income** is income (earned or unearned) that is not counted when determining eligibility.

### **Pretax Income Exclusions**

Pretax income is excluded from gross income before taxes are deducted. Examples of “pretax income exclusions” include but not limited to:

1. Some retirement plans (IRAs and 401(k) plan types)
2. Life Insurance
3. Health Insurance Premiums
4. Transportation programs
5. Health Savings accounts and Flexible spending accounts

Convert all pretax income exclusion amounts on the paystub/verification to a monthly amount (refer to Appendix A-37 for annual pretax income exclusion limits). Failure to deduct all pretax income exclusions will result in an incorrect calculation of income.

Note: An individual does not have to file a tax return to get pretax income excluded in a MAGI budget.

#### **1830.0112 Payments to Joint Owners (MFAM)**

Payment to joint owners is one payment made on behalf of two or more individuals.

In the absence of specific documentation, divide the income minus allowable expenses by the number of beneficiaries to determine the income amount for each individual.

#### **1830.0116 Structured Settlements (MFAM)**

Structured settlements are settlements of tort claims involving physical injuries or physical sickness under which settlement proceeds take the form of periodic payments, including scheduled lump sum payments. The full amount of each periodic payment, including the amount attributable to earnings under the annuity contract, is excludable from the settlement recipient's income.

#### **1830.0118 Vendor Payments (MFAM)**

A vendor payment is a money payment made for the household's expenses by an individual or organization from funds not legally owed to the household. Vendor payments are excluded as income. Payments made directly to the household are not vendor payments regardless of the purpose or intent of the payment.

#### **1830.0122 Verification of Income (MFAM)**

To determine eligibility for Medicaid, verification of income will be performed by data exchange when available. An applicant's or recipient's self attestation of income is accepted if the amount stated on the application or renewal is reasonably compatible with information obtained by the Department through electronic sources. Reasonably compatible means both self attestation and electronic sources are below the applicable income standard or when the difference between both amounts is ten percent (10%) or less without regard to the income standard. If the difference is more than 10%, first ask for a reasonable explanation and, if necessary, paper documentation from the individual.

When income cannot be verified by data exchange, such as for individuals with no SSN or who have self-employment income, income must be verified by other acceptable means such as pay stubs, CF-ES 2620, etc.

A pretax income exclusion must be verified before it can be excluded in the MAGI budget. If the individual fails to provide verification determine eligibility without the exclusion. Proof for these pretax income exclusions vary based on the type of deduction and may include:

1. Bills
2. Business records
3. Receipts
4. Bank account statements
5. Paychecks, pay stubs, or employment verification records

6. Current tax returns if the amount is anticipated to be the same; and
7. Any other documents that support the expense or adjustment.

Pretax exclusions are tied to a specific income source and must be evaluated and verified at each annual review or when a change in circumstance is reported.

**1830.0200 EARNED INCOME (MFAM)**

Earned income includes all gross (before taxes or other deductions) wages and salaries including income derived from the sale of blood or plasma, tips from performance of work, wages deferred that are beyond the individual's control, Federal Work Study, National and Community Services Trust Act living allowances through the Peace Corps, VISTA, Americorps, Foster Grandparent Program, Service Corps of Retired Executives, and other volunteer programs. Wages are included as income at the time they are received rather than when earned.

Wages are considered earned income even when withheld at the request of the employee or provided as an income advance on income expected to be earned at a future date.

An individual is considered employed when engaged in a business, occupation or service and paid by another person, group of persons or company. Wages or paid salaries received after employment has ended, such as accrued vacation time, are considered earned income except for severance pay, which is unearned income.

Employer-provided sick pay is earned income as long as the individual plans to return to work after recovering and is still considered an employee. Sick pay is a continuation of salary with normal payroll deductions.

**1830.0300 SELF-EMPLOYMENT (MFAM)**

An individual who owns a business or otherwise engages in a private enterprise is considered self-employed. Income derived from self-employment is considered earned income.

This includes but is not limited to:

1. childcare;
2. sales from a franchise company;
3. picking up and selling cans;
4. farming and fishing self-employment;
5. selling newspapers;
6. income from an S corporation (The income, losses deductions, or credits are based on a partnership agreement and passed on to shareholders based on a pro rata share.); or
7. income from rental property.

**1830.0302 Costs of Self-Employment Income (MFAM)**

Net earned income from self-employment is the total gross income derived from all trades and businesses as computed under the Internal Revenue Code, less deductions allowable under the Code, attributable to such trades or businesses. It includes the individual's share of ordinary net income (or loss) from partnerships even though the partnership profits have not been distributed yet.

The assistance group is required to keep a record of business expenses incurred. Allowable costs of producing self-employment income include, but are not limited to, the following expenses:

1. identifiable costs of labor (salaries, employer's share of Social Security, group medical insurance, employee reimbursements, contract labor, commission, etc.);
2. stock, raw materials, seed and fertilizer, and feed for livestock;
3. rent and cost of normal building maintenance;
4. business telephone costs and utility expenses;
5. costs of operating a motor vehicle when required in connection with the operation of the business;
6. interest paid on debts related to the business property;
7. insurance premiums related to the business;
8. depreciation costs for owned property used in business or held to produce income;
9. travel meals, lodging and entertainment expenses away from home;
10. legal and professional fees; or
11. pension plans.

**1830.0306 Earned Income from Farming and Fishing (MFAM)**

Farming and fishing for profit is self employment. Profits from farming and fishing are earned income.

Individuals who farm and fish for self employment must provide their most recent income tax return. If there is no tax return, or the tax return is not representative of the current net income, the individual must provide bills and receipts or any other records of sales and expenses.

**1830.0316 Rental Income (MFAM)**

Rental income is any payment for using real estate or personal property less allowable expenses. Examples of rental income include payments for the use of:

1. land;
2. buildings;
3. an apartment, room, or house; or
4. machinery or equipment.

Income received from the rental of real estate is considered earned income from self employment.

**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.

All earned income received directly from an employer through participation in the Workforce Innovation and Opportunity Act (WIOA) Program is included. This includes earned income paid directly by an employer through the WIA on-the-job training program.

Unearned income from WIA is excluded. Types of payments the individual may receive that would qualify as unearned income include:

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

A child's unearned income from WIA is excluded.



**1830.0700 SUPPORT PAYMENTS (MFAM)**

Support payments are funds paid by a non-custodial parent or spouse intended for the support or maintenance of a member of the household.

Support paid by a non-custodial parent is considered child support to the child for whom the payment is intended and is excluded.

All child support received, including delinquency or arrearages, is excluded unearned income.

Payments received for a child no longer in the home is considered a contribution and is also excluded.

Spousal support or alimony is an amount of money allocated from one spouse to another by the court as a result of a divorce or separation agreement. The amount of alimony received based on decrees issued prior to January 01, 2019, minus any collection fees charged must be counted as unearned income. The amount of alimony received based on decrees issued on or after January 01, 2019, is not considered unearned income.

**1830.0800 ASSISTANCE FROM GOVERNMENT AGENCIES (MFAM)**

Assistance payments are benefits based on applicant or recipient need.

**Payments excluded as unearned income are:**

1. energy assistance such as Low Income Home Energy Assistance Program (LIHEAP) and Home Energy Assistance (HEA)
2. across-the-board rebates from utility companies
3. payments from the U.S. Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA) used to offset rent or mortgage or utility payments
4. disaster assistance payments
5. cash Severance payments, upfront diversion payments and state relocation payments
6. temporary Cash Assistance and Relative Caregiver payments
7. Supplemental Security Income (SSI)
8. Emergency Financial Assistance for Housing Program (EFAHP) payments
9. Home Care for the Elderly and Home Care for Disabled Adult payments are excluded when not specifically identified for a member of the assistance group
10. benefits withheld to recover an overpayment
11. adoption subsidies and foster care payments
12. payments from a state fund for the victims of crimes
13. guardianship assistance payments

**1830.0900 BENEFITS (MFAM)**

The gross benefit amount received is considered unearned income. Benefits are owned by the individual for whom they are intended unless the individual is not in the home and the benefits are not redirected.

**Benefits excluded as unearned income are:**

1. veterans' benefits including disability compensation and pension payments for disabilities paid either to veterans or their families
2. Workers' Compensation payments designated for medical expenses paid or deducted at the source and not controlled by the individual
3. Holocaust Victims Restitution payments made as a result of persecution, mental disability, or sexual orientation. This includes compensation for property losses.

4. payments from federal income taxes for earned income tax credit and child tax credit, including any retroactive payments.
5. compensation received for permanent loss or loss of use of a part or function of your body, or for permanent disfigurement.
6. funds received by a member of the Passamaquoddy Indian Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980.
7. American Indian and Alaska Native distributions and payments: distributions from Alaska Native Corporations and Settlement Trusts; distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior; distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest; distributions resulting from real property ownership interests related to natural resources and improvements; payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom; student financial assistance provided under the Bureau of Indian Affairs education programs.

**Benefits included as unearned income are:**

1. railroad retirement payments including retirement, survivor, unemployment, sickness and strike benefits (Refer to the policy passage titled Children and Tax Dependents, within the Standard Filing Unit Chapter, for exceptions regarding when to count a child or tax dependent's income)
2. Unemployment Compensation Benefit payments
3. severance pay
4. Social Security Administration Benefits including Title II Social Security benefits (Refer to the policy passage titled Children and Tax Dependents, within the Standard Filing Unit Chapter, for exceptions regarding when to count a child or tax dependent's income)
5. annuities, pensions, retirement or disability payments

**1830.1000 DIVIDENDS AND INTEREST (MFAM)**

Dividends and interest from investments such as stocks, bonds, insurance, annuities, royalties and savings are included as unearned income.

**1830.1100 REIMBURSEMENTS (MFAM)**

Reimbursements for past or future expenses are excluded if they do not exceed actual expenses and do not represent a gain or benefit. To be excluded, these payments must be specifically intended and used for expenses other than normal living expenses.

The following types of reimbursement are excluded as income:

1. Reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act.
2. Reimbursements or flat allowances from the employer that are over and above the basic wages and used for job related expenses such as travel, per diem, uniforms, and transportation to and from the job training site.
3. Reimbursements for out-of-pocket expenses incurred by volunteers in the course of their work.
4. Medical reimbursements from Workers' Compensation benefits specifically designated for medical expenses.
5. Reimbursements by Employment and Training Programs.

**1830.1200 EDUCATIONAL SCHOLARSHIPS, FELLOWSHIPS AND GRANTS (MFAM)**

Scholarships, fellowships, grants, and Independent Living Programs (Postsecondary Educational Services and Support, Extended Foster Care, or Aftercare Services) are excluded income if the recipient is a degree candidate at an eligible educational institution to the extent it does not exceed qualified educational expenses. Qualified educational expenses include tuition and fees, course related expenses such as fees, books, supplies and equipment if required. The costs of room and board, travel, teaching or research are not qualified educational expenses. The total grant amount received by the young adult participating in one of the Independent Living Programs is excluded in all Medicaid eligibility determinations for all members.

**1830.1301 Loans (MFAM)**

All loans, including loans and mortgages from private individuals as well as commercial institutions are excluded income.

When an individual is the **borrower**, proceeds of a loan received are excluded as income.

When an individual is the **lender** the interest portion of the payment received is included and the principal portion of the payment received is excluded as income.

**1830.1303 Trusts (MFAM)**

Monies that are withdrawn from a trust fund by the assistance group are to be considered income in the month of receipt. Dividends and/or interest from the trust, which the assistance group has the option to receive or reinvest in the trust, are included as income.

**1830.1305 Prizes and Awards (MFAM)**

Cash prizes and cash awards are included as income.

An award is generally something of value received as a result of a decision or judgment of a court, board of arbitration, or similar action. Awards are almost always cash or its equivalent.

**1830.1400 LUMP SUM PAYMENTS (MFAM)**

Lump sum payments are received as non-recurring amounts of money and include but are not limited to: retroactive payments from Social Security, railroad retirement benefits, insurance settlements, and refunds of security deposits on rental property and utilities. These payments are counted as income in the month received.

## 1840.0000 SSI-Related Medicaid, State Funded Programs

Income is cash received at regular intervals from any source such as wages, benefits, contributions, and rentals. Income means all income, earned as well as unearned, from any source unless specifically excluded in this chapter.

### 1840.0100 INCOME CONCEPTS (MSSI, SFP)

This section contains a discussion of the following income concepts:

1. earned and unearned income,
2. infrequent or irregular income,
3. availability of income,
4. diversion of income,
5. third party payments,
6. deeming of income, and
7. verification of income.

### 1840.0101 Earned and Unearned Income (MSSI, SFP)

Income is classified into two categories for budgeting purposes: earned income and unearned income. All non-exempt income must be verified at application and review unless otherwise specified.

Exempt income is income (earned or unearned) that is excluded from consideration when determining eligibility or patient responsibility. Accept the individual's statement for amount and type of exempt income, unless information is questionable or verification is required.

**Earned income** is the receipt of wages, salary, commission, or profit from an individual's performance of work or services, or a self-employment enterprise.

**Unearned income** is income for which there is no performance of work or services. Unearned income may include:

1. retirement, disability payments, unemployment/workers' compensation, etc.;
2. annuities, pensions, and other regular payments;
3. alimony and support payments;
4. dividends, interest, and royalties;
5. proceeds of life insurance policies;
6. prizes and awards;
7. gifts and inheritances; and
8. SSA, SSD, and SSI.

### 1840.0102 Deductions from Gross Income (MSSI, SFP)

Some deductions withheld from gross income must be included as income. Examples of these deductions include:

1. premiums for Supplemental Medical Insurance (SMI/Medicare) from a Title II (Social Security) benefit,
2. premiums for health insurance or hospitalization,
3. premiums for life insurance,
4. federal and state income taxes,
5. Social Security taxes,
6. optional deductions,
7. a garnished or seized payment,
8. guardianship fees, and

9. child support if not redirected irrevocably from the source.

**Note:** If the naming of a guardian is a requirement to receive the income, deductions for guardianship fees are disregarded, i.e., are not counted as income. This is the only exception.

**1840.0103 Infrequent or Irregular Income (MSSI, SFP)**

Infrequent or irregular earned income not in excess of \$30 in a calendar quarter is excluded when receipt cannot be anticipated. Infrequent or irregular unearned income not in excess of \$60 in a calendar quarter is excluded when receipt can not be anticipated. This includes one-time gifts of cash for special occasions such as birthdays or Christmas from someone whose income is not included in the SFU. If the income is anticipated on a regular basis it will be included regardless of the amount.

**1840.0106 Availability of Income (MSSI, SFP)**

Some types of income are readily available to the individual and must be included; however, the individual may have limited or no access to income in certain situations. Some unavailable income may still be included as income.

**1840.0108 Available Income (MSSI, SFP)**

Income must be available to meet the SFU's needs to be considered, except in the case of lump sum income. Generally, income is considered available when it is actually available and/or when the individual has the legal ability to make the income available.

Exceptions to the policy above:

Occasionally, a regular monthly payment (e.g., Title II or VA) is received in a month other than the month of normal receipt. As long as there is no interruption in the regular payment schedule, consider the funds to be income in the normal month of receipt. Examples of this situation are as follows:

1. Advance Dated Checks - When a payor advance dates a check because the regular payment date falls on a weekend or holiday, there is no intent to change the normal delivery date. Whenever such an advance dated check goes to a bank by direct deposit, the funds may be posted to the account before or after the month they are payable.
2. Electronic Funds Transfer - When an individual's money goes to a bank by direct deposit, the funds may be posted to the account before or after the month they are payable. Whenever this occurs, treat the electronically transferred funds as income in the month of normal receipt.
3. Florida State Retirement benefits are received the last workday of the month. The payment is considered income in the following month for SSI-Related Programs.
4. Income may be unavailable due to legal restrictions or factors beyond the control of the individual. In both these situations, the eligibility specialist must request supporting evidence and make an independent assessment regarding availability based on the evidence presented. Additional guidance may be requested from the Region or Circuit Program Office, Headquarters, or Circuit Legal Counsel.

**1840.0108.03 Joint Bank Accounts (MSSI, SFP)**

When an eligible individual is a joint account holder, a deposit to the account specifically designated for any other account holder is not income to the individual.

Interest payments to the account are divided equally among the account holders. For example, if there are two owners, 50 percent of the interest paid is owned by the individual. Interest earned on bank accounts is excluded as unearned income in eligibility determination. Interest is counted as unearned income when calculating patient responsibility.

**1840.0109.01 Availability of Income for Institutional Care (MSSI)**

The following policy applies to ICP, MEDS-ICP, and Institutionalized Hospice.

The income owned solely by the community spouse is not considered when determining if the institutionalized individual's income is within program standards. Once eligibility has been determined, the community spouse's income is considered based on the following policy.

Income derived from jointly owned assets is considered available to whom it is paid unless the trust or non-trust instrument indicates otherwise. If the payment is made:

1. solely to the community spouse, the income is available only to the community spouse;
2. to both spouses, half of the income is considered available to each spouse; or
3. to the institutional spouse, the community spouse, and to others, income is considered available in proportion to each spouse's interest in the asset.

The institutionalized spouse may rebut the presumed ownership interest of non-trust assets. Trust assets are considered available according to the terms of the trust.

Income from assets included in the community spouse's asset allocation are considered available according to whom the income is paid until the asset is legally transferred to the community spouse. Once the asset is transferred to the community spouse, the income is not counted toward the institutional spouse.

**1840.0109.02 Determining Ownership of Income (MSSI, SFP)**

The individual who has title to the proceeds of a payment or property is the individual who "owns" the income.

If the income is received by an individual's legal representative or guardian, the individual still owns the income.

When a legal representative receives the income, the eligibility specialist may verify ownership through the following documents the designation on the payment, check, award letter, or other document or the title to the property.

**1840.0109.04 Availability of an Inheritance (MSSI, SFP)**

"Inheritance" is any person's rights to, or possession of, cash or property that are left to the individual at the person's death. An individual's inheritance becomes unearned income when it actually becomes available to the individual, but in no case later than when the estate is closed.

Usually the court issues an order specifying the distribution of an inheritance when closing out the estate. The individual's portion can be established by the court order.

If an inheritance is included as an asset as a result of deeming, and the individual later inherits the asset, the income from the inheritance is excluded at that time.

**1840.0110 Income Trusts (MSSI)**

The following policy applies only to the Institutionalized Care Program (ICP), institutionalized MEDS-AD, institutionalized Hospice, Home and Community Based Services (HCBS) and PACE. It does not apply to Community Hospice.

To qualify, an individual's gross income cannot exceed 300 percent of the SSI federal benefit rate (refer to Appendix A-9 for the current income standard). If an individual has income above the ICP income limit, they may become eligible for institutional care or HCBS if they set up and fund a qualified income trust. A trust is considered a qualified income trust if:

1. it is established on or after 10/01/93 for the benefit of the individual;
2. it is irrevocable;
3. it is composed only of the individual's income (Social Security, pensions, or other income sources); and
4. the trust stipulates the state will receive the balance in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on their behalf.

The eligibility specialist must forward all income trusts to their Region or Circuit Program Office for review and submission to the Circuit Legal Counsel for a decision on whether the trust meets the criteria to be a qualified income trust. Refer to Appendix A-22.1, Guidance for Reviewing Income Trusts, for instructions on processing income trust cases.

The individual (or their legally authorized representative) must deposit sufficient income into the income trust account in the month in which the income is received to reduce their countable income (the income outside the trust) to within the program income standard. The individual must make the deposit each month that eligibility is requested. This may require the individual to begin funding an executed income trust account prior to its official approval by the Circuit Legal Counsel.

Once the Circuit Legal Counsel returns the income trust transmittal through the Region or Circuit Program Office, the eligibility specialist must promptly process the Medicaid application, making sure proper notification of eligibility and patient responsibility is given.

If the Region or Circuit Program Office and the Circuit Legal Counsel determine the trust is a qualified income trust:

1. do not consider the corpus of the trust an asset to the individual for any month the qualified income trust exists and eligibility is requested;
2. do not apply penalties for transfers of income placed in a qualified income trust account provided the individual receives fair compensation;
3. do not count income deposited into the trust account as income when determining if the individual's income is less than the program income standard;
4. do not consider disbursements from the trust account to third parties as income to the individual;
5. do not count income generated by the trust account which remains in the trust as income to the individual;
6. count any payments made directly to the individual as their income; and
7. count all income going into the trust (plus any not going into the trust) in determining patient responsibility, unless protection of income for the month of admission or discharge policies apply (refer to Chapter 2600).

**Note:** The amount computed for patient responsibility exceeds the provider's Medicaid rate. The trustee of the qualified income trust must provide quarterly statements identifying the deposits made to the trust for each month.

Funds deposited into a qualified income trust are not subject to transfer penalties provided they are paid out of the trust for medical care for the individual. When such payments are made, the individual is considered to have received fair compensation for income placed in the trust account up to the amount paid for the medical care and to the extent medical care costs are at fair market value. If the individual's patient responsibility exceeds the Medicaid cost of care, the eligibility specialist must determine if fair compensation is received for income transferred into the income trust. If necessary, the eligibility specialist must refer the case to the Region or Circuit Program Office for review and clearance.

If the individual's patient responsibility is less than the Medicaid rate, the eligibility specialist does not need to look at the disbursements (unless funds are paid to the individual, in which case the funds must be counted as their income). All income must be verified at the source, including income placed into the trust.

Using Form CF-ES 2356, Third Party Recovery Transmittal, fax or send a copy of the approved qualified income trust to the AHCA Third Party Liability vendor.

When inquiries are received regarding the settlement of remaining funds in the trust after the individual's death, staff can advise callers to make checks payable to Florida Medicaid and send to the AHCA Third Party Liability vendor (refer to Form CF-ES 2356 for the mailing address). The correspondence must clearly identify the individual by including a note with the individual's full name and Social Security number or Medicaid number.

An individual may choose to revoke an income trust at the time of their discharge from a Medicaid facility if the trust document allows them to do so. If revoked, Florida Medicaid must receive reimbursement (following above instructions) prior to any other beneficiary.

#### **1840.0111 Transfer of Income (MSSI)**

The following policy applies to Institutional Care Program (ICP), institutionalized Hospice and Home Community Based Services (HCBS) and PACE. Transfer policies apply to transfers of income as well as assets. For example, if an individual receives an inheritance on or after 10/01/93, and transfers it in the month received, or if an individual transfers a stream of income, (i.e. income received on a regular basis, such as a pension) or the right to a stream of income, the transfer of asset provisions will apply and a possible period of ineligibility may be imposed. When a stream of income or the right to a stream of income is transferred make a determination of the total amount of income expected to be transferred during the individual's life, based on an actuarial projection of the individual's life expectancy, and calculate the penalty on the basis of the projected total income. Refer to transfer of assets policy in Chapter 1600.

**Note:** Transfers of income into a qualified income trust are not considered transfers without fair compensation unless the trust document does not allow monthly disbursement of all funds for the benefit of the individual.

#### **1840.0112 Payments to Joint Owners (MSSI, SFP)**

Payment to joint owners is one payment made to two or more individuals.

A document, such as a single or combined Social Security check for a couple or to a parent on behalf of two or more children, indicating the amount due each owner is generally sufficient verification of ownership.

In the absence of specific documentation, divide the income minus allowable expenses by the number of beneficiaries to determine the income amount for each individual.



**1840.0113 Allocation of Income (MSSI, SFP)**

Allocation of income is a process allowing a portion of the individual's income to be set aside to meet the needs of the spouse and/or the dependents living in the community. Allocated income includes earned and unearned income.

**1840.0117 Deeming of Income (MSSI)**

Deemed income refers to a special budgeting calculation in which a portion of an individual's income is considered available to another SFU member. Individuals whose income may be deemed differ by program. Deemed income is considered as unearned income in the budget.

For policy regarding deeming situations refer to SFU and deeming budgeting methods in Chapter 2600.

**1840.0118 Vendor Payments (MSSI, SFP)**

A vendor payment is a money payment made for SFU expenses by an individual or organization outside the SFU from funds not legally owed to the SFU. Vendor payments are excluded as income. Any expense which is entirely paid by a vendor payment (see examples in 1840.0119.01) cannot be allowed as an expense under the income disregard policy (Chapter 2400).

**Note:** There is one exception to the above rule: For OSS, if the vendor payment to the facility is more than twice the recognized cost of care, the payment is included as income to the SFU/individual.

Direct payments to a creditor or vendor on behalf of an individual are vendor payments and are excluded as available income to the individual with one exception. When a vendor payment results in the individual directly receiving income, the income is included.

Payments by credit life or credit disability insurance policies are excluded. They are paid by insurance companies directly to loan companies and mortgage companies and are not available to the individual.

**1840.0119.01 Examples of Vendor Payments (MSSI, SFP)**

Examples of vendor payments include, but are not limited to, the following:

1. rent payments made directly to the landlord by a third party;
2. rent or mortgage payments made to landlords or mortgagees by DCF, Housing and Urban Development (HUD), or by state or local housing authorities;
3. payments made directly to the utility or phone company by a third party;
4. payments by a government agency to a child care institution to provide childcare for an assistance group individual;
5. disability insurance coverage makes payments on a car due to an accident or illness of an assistance group member. The payment is not voluntary but rather is a specified part of the insurance policy.
6. legal agreement or court ordered payments that go directly to a third party rather than the assistance group; and
7. expense payments by an employer, agency, former spouse, or other person made to a third party from funds not legally owed to the assistance group.

Direct payments to the SFU by non-SFU members made directly to a member of the SFU are not vendor payments regardless of the purpose or intent of the payment.

**1840.0119.02 Medicare Part B Premiums (MSSSI, SFP)**

Premium payments for supplementary medical insurance under Title XVIII (Medicare) are not included as income when the payment is made by a third party insurer.

**1840.0119.03 Representative Payee Income (MSSSI, SFP)**

When an individual acts as a legal representative (for example, representative payee, agent, guardian, conservator) to receive and spend money on behalf of another, the money received is not available income to the individual acting as legal representative. However, if the legal representative receives a fee, commission or contribution, that amount must be considered as unearned income. The representative payee's income received from the individual's funds must be verified.

**1840.0119.04 OSS and HCDA Subsidies (MSSSI, SFP)**

Optional State Supplementation (OSS) and Home Care for the Disabled Adult (HCDA) Program payments made to help cover the expenses of the individual that are recognized in the DCF subsidy payment are considered income based on need.

These payments are not to be considered as income to the individual receiving services or to the individual providing services when determining his eligibility for Medicaid or State Funded Programs.

**1840.0123 Verification of Income (MSSSI, SFP)**

Income must be verified and documented by the source.

A verbal statement from a suitable source as to the amount of income, amount and types of any deductions, frequency of receipt, and date of anticipated increases can be accepted when documentation is not available. Examination of a check or bank deposit is not sufficient for verification, because these do not necessarily include deductions.

For SSI recipients, SDX serves as acceptable verification of both Title II and SSI benefit amounts. Verification for the SSI recipient must still be obtained. Any loss or reduction of income must be properly verified or documented and an adequate explanation concerning the loss or reduction recorded.

**1840.0200 EARNED INCOME (MSSSI, SFP)**

Earned income includes all gross (before taxes or other deductions) wages and salaries from performance of work (including wages deferred that are beyond the individual's control). Wages are included as income at the time they are received rather than when earned.

Wages are considered earned income even when withheld at the request of the employee or provided as an income advance on income expected to be earned at a future date. Advances are different from loans since they are paid in exchange for anticipated services or labor.

An individual is considered employed when engaged in a business, occupation or service for cash paid by another person, group of persons or company. Wages or paid salaries received after employment has ended are considered earned income). Examples include severance pay and payment for accrued vacation time.

Employer-provided sick pay is earned income as long as the individual plans to return to work after recovering and is still considered an employee. Sick pay is a continuation of salary with normal payroll deductions and is not to be confused with benefits, such as Workers' Compensation, that are considered unearned rather than earned income.

**1840.0204 Sale of Blood or Plasma (MSSSI, SFP)**

Income derived from the sale of blood or plasma is included as earned income.

**1840.0207 Verification of Earned Income (MSSSI, SFP)**

All non-exempt earned income must be verified at application unless otherwise specified.

All non-exempt earned income must be verified. Information that must be verified includes:

1. the first and last dates of employment,
2. the first and last day of pay,
3. gross income including overtime and tips, and
4. frequency of payment.

Acceptable forms of verification include, but are not limited to, the following:

1. W-2 forms and income tax returns for self-employed individuals,
2. wage receipts,
3. wage statements,
4. pay stubs,
5. employment verification form or written statements containing the required information,
6. collateral contact complete with contact person's name, title, and telephone number, and
7. work calendar (for tips and recording pay as received).

If the employee reports actual tips to the employer, the employer is the source of verification. If the actual tips are not reported to the employer, the individual should keep records on a daily basis. The tip amount reported by the employee can be accepted unless questioned.

Any document used to verify income must be copied and retained in the case record. All documents must be completed and signed by the appropriate individuals (for example, the employer).

As a part of verifying last date of employment and last day of pay, any loss of or reduction in income which occurred within the month of application and the reason for the loss or reduction, must be verified when possible. Examples of circumstances that might make verification impossible are when a business closes or when a person for whom child care was provided moves and the new address is unknown.

If documentation or verbal verification is required and is not provided within specified time limits, the assistance group must be determined ineligible for assistance. The eligibility specialist must submit a policy exception request to the Region or Circuit Program Office, or at the Region or Circuit's discretion the unit supervisor. If the individual reports an inability to secure required documentation or verification due to factors beyond their control, the Region or Circuit Program Office or the unit supervisor, if authorized by the Region or Circuit Program Office, may grant or deny the exception.

At review, previously verified income does not need to be re-verified unless the customer reports:

1. a decrease in income which results in a member of the household becoming eligible for full coverage Medicaid. For example, the loss of income will allow a household member to move from Medically Needy to Medicaid.
2. a change in countable earnings which puts an assistance group within \$50 of being ineligible for full coverage Medicaid.
3. income from a new source.
4. questionable information.

Staff should continue to use available sources at hand (data exchanges, collateral contacts from the employer, etc.) to verify income before asking a customer to provide documentation.

**Exception:** The individual's statement that his income exceeds the income standard is sufficient to deny or close medical assistance. However, medical assistance cannot be denied/closed without an ex parte determination of Medicaid eligibility.

#### **1840.0300 SELF-EMPLOYMENT (MSSI, SFP)**

An individual who owns a business or otherwise engages in a private enterprise is considered self-employed. Income derived from self-employment is considered earned income.

This includes but is not limited to:

1. babysitting,
2. sales from a franchise company,
3. picking up and selling cans,
4. farm self-employment, or
5. selling newspapers.

Refer to passages 1840.0313 through 1840.0315 to determine net income as well as verification required.

#### **1840.0313 Self-Employment Income (MSSI, SFP)**

Net earned income from self-employment is the total gross income derived from all trades and businesses as computed under the Internal Revenue Code, less deductions allowable under the code, attributable to such trades or businesses. It includes the individual's share of ordinary net income (or loss) from partnerships even though the partnership profits have not been distributed yet.

#### **1840.0314 Home Produce for Personal Consumption (MSSI, SFP)**

Home produce is farm and garden produce (such as plants, animals or their by-products) usually grown or raised by the family. Any gain made from home produce is included income, unless it is traded for another home produce item.

Excess home produce is sometimes sold for profit even though there is no true commercial farming operation. If the income is being reported on tax returns then the reported net income must be considered the net income of the individual; otherwise, accept the individual's estimate of earned income if it appears to be reasonable.

Farms operated for profit, or primarily to market produce, are commercial farming operations. For commercial farms:

1. income is subject to self-employment income policies, and
2. the amount of income included can be based on the individual's estimate of the future value of the produce.

**1840.0315 Verification of Self-Employment Income (MSSI, SFP)**

Self-employed individuals must verify earned income at application and review. In addition, these individuals must make all business records available to the eligibility specialist. Examples of business records include documentation on:

1. income tax records necessary to determine gross income and deductible expenses,
2. purchases,
3. sales,
4. salaries,
5. capital improvements,
6. utility, transportation, and other operating costs, and
7. work calendars for tips and recording pay as received.

If the individual claims to have no business records, or that the records are inaccurate, discuss with the individual their most recent representative income. CLRC should explain how the income was determined.

**1840.0400 WAGES FROM TRAINING PROGRAMS (MSSI, SFP)**

When the individual participates in a work or on-the-job training program that involves work for payment, the payment is included as income. Training allowances from Vocational and Rehabilitative Programs recognized by a government agency are also included income, unless excludable as a reimbursement. For example, the 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.

**1840.0407 Sheltered Workshop Earnings (MSSI, SFP)**

Any payments from a sheltered workshop are included as earned income. A sheltered workshop is any place where the individual receives experience or training as arranged by a state or vocational rehabilitation agency.

**Note:** Earned income disregards do not apply for ICP, Hospice, HCBS, or Institutional MEDS.

**1840.0408 Therapeutic Wages (MSSI, SFP)**

Therapeutic wages are included as earned income. Earned income disregards do not apply if the individual is institutionalized.

**1840.0500 REAL ESTATE INCOME (MSSI, SFP)**

Income from real estate includes any funds resulting from property ownership. This income can be earned or unearned.

Passages 1840.0501 - 1840.0504 describe income received from rental property, sales contracts on property, and room and board.

**1840.0501 Rental Income (MSSI, SFP)**

Rental payments are unearned income if the individual does not actively manage the property as a business. Rental income is any payment for using real or personal property less allowable expenses. Examples of rent include payments for the use of:

1. land;
2. buildings;
3. an apartment, room, or house; or
4. machinery or equipment.

**1840.0504 Computation of Rental Income (MSSSI, SFP)**

Net rental income is gross rent minus ordinary and necessary expenses paid or anticipated to be paid in the same taxable year. Ordinary and necessary expenses are those necessary for the production or collection of rental income. Expenses recognized by the IRS and paid during the same taxable year can be deducted from unearned rental income. Allowable expenses include:

1. real estate taxes,
2. interest on debts,
3. utilities,
4. maintenance,
5. repairs (i.e., minor correction to existing structure),
6. the cost of advertising for renters,
7. lawn service,
8. interest and escrow, and
9. homeowner's insurance.

Expenses of managing a rental property are allowable if the expenses are reasonable and necessary. To be considered reasonable, the charge for managing the individual's rental property is limited to 10% or less of the gross rental income, which should be the community standard charged by local real estate managers. Higher managing expenses may be allowed if the individual can present evidence (e.g., two statements from a knowledgeable source) that such charges are the standard in the particular geographic area of the property.

Unacceptable expenses include:

1. capital expenditures (i.e., an expense for an addition or increase in the value of property which is subject to depreciation for income tax purposes), and
2. the principal portion of the mortgage payment.

If it is uncertain whether an expense is allowable, contact the local IRS office for clarification.

To compute ongoing budget months when actual expenses are not yet known:

1. Include predictable, allowable expenses (for example, utilities, interest payments, real estate taxes, etc.).
2. Use the individual's most recent federal income tax return to estimate future rental expenses.
3. Count one-time allowable expenses (such as minor repairs) as allowed deductions beginning in the month following the month the expense is reported. (Remember, the expense must be paid in order to be an allowable deduction.)

**Note:** When the one-time expense exceeds the monthly rent payment, deduct the expense from the rental income in subsequent months until the expense is completely used.

To compute prior and current budget months include allowable expenses in the month paid, unless the expense exceeds the monthly rental income.

**Note:** If the one-time expense exceeds the monthly rent, deduct the expense from the rental income in subsequent months until the expense is completely used. (Expenses for current and prior months must be verified.)

**1840.0600 IN-KIND BENEFITS (MSSSI, SFP)**

Non-cash or in-kind benefits are excluded. This includes, but is not limited to:

1. meals,
2. clothing,
3. public housing (HUD),
4. produce from a garden,
5. WIC coupons, and
6. food stamps.

Passages 1840.0601 through 1840.0604 describe policy for in-kind benefits.

**1840.0601 In-Kind Benefits - Meals/Food (MSSSI, SFP)**

The following types of in-kind support are excluded:

1. free or reduced price meals and food from government agencies or schools, service facilities and other institutions recognized under a USDA Program, the Older Americans Act or DCF Program; and
2. the value of the food stamps and WIC coupon allotments.

**1840.0602 In-Kind Benefits for Disabled Veterans (MSSSI, SFP)**

The clothing allowances for veterans with prosthetic or orthopedic devices are excluded as an in-kind benefit.

**1840.0603 Medical and Social Service Programs (MSSSI, SFP)**

Medical and social service program payments or in-kind benefits are excluded. Some examples are:

1. child welfare services provided under Title IV-B of the Social Security Act;
2. Title XX services;
3. services provided under Title III of the Older Americans Act;
4. Title XIX medical assistance (Medicaid);
5. Title XVIII health insurance (Medicare);
6. services provided under the Rehabilitation Act of 1973;
7. mental health services;
8. Veterans Administration payments for aid and attendance, unreimbursed medical expenses and housebound allowances;
9. maternal and child health and crippled children's services provided under Title V of the Social Security Act; and
10. payments made to participants of the Consumer Directed Care Project.

**1840.0604 In-Kind Income for SSI Direct Assistance (MSSSI, SFP)**

Income in-kind is unearned income for SSI direct assistance, but is not used to determine eligibility for DCF Programs. It is classified either as in-kind support and maintenance (ISM) or "other" in-kind income.

ISM is food or shelter given to an individual. "Other" in-kind income is any non-ISM item not otherwise excluded that can be sold or converted to cash.

In the OSS Program, alternate living arrangements are considered as private non-medical institutions or as non-institutional care situations by SSI.

Individuals in OSS homes are not classified as living in the household of another by SSI; therefore, in-kind income is excluded by SSI.

**1840.0700 SUPPORT (MSSSI, SFP)**

Support payments are those funds paid by a legal or non-legal parent intended for the support or maintenance of a member of the SFU. This income is included as unearned income.

Examples of support payments that are included as unearned income are:

1. voluntary and court ordered child support payments received from a legal or non-legal parent;
2. monies received to pay basic living expenses; and
3. income received for additional living expenses such as recreation and transportation.

The income is considered Child Support income to the child for whom the payment is intended.

**1840.0705 Alimony (MSSSI, SFP)**

Alimony is court ordered payment by a spouse or former spouse to an individual. An individual's countable income cannot be reduced because the court has ordered part of that income to be paid to a spouse. Court ordered support received by the spouse is unearned income. This applies even if the individual is institutionalized.

A legal agreement or court order alone does not constitute income. The payment must actually be received.

**1840.0706 Child Support (MSSSI, SFP)**

Child support is payment from an absent parent to a child. One third of the child support payment for a minor child is excluded; the remainder is unearned income. Child support payments for an adult disabled child are not subject to the one-third exclusion.

For ICP, Hospice, HCBS and Institutional Hospice, the full amount of child support is included as unearned income.

A legal agreement or court order alone does not constitute income. The payment must actually be received.

**1840.0708 Child Support Arrearages (MSSSI, SFP)**

Payment of child support from an absent parent to a child is considered fulfillment of a legal obligation to support the child. Count gross income in the budgeting process for the payor even when child support payments are garnished or withheld from income.

An exception to the above policy in a deeming budget when an ineligible spouse, ineligible parent, ineligible child or eligible noncitizen makes the child support payments. In these cases, exclude actual child support payments made up to the amount of court ordered child support.

**1840.0709 Receipt of Child Support Arrearages (MSSSI, SFP)**

Child support arrearages payments received from an absent parent by a parent on behalf of a minor child are considered income to the minor child. Child support arrearage payments received from an absent parent by a parent on behalf of an adult child and retained by the parent are not income to the adult child. Consider child support arrearage payments retained by the parent and not given to the adult child as income to the parent.

Any portion of the arrearage payments received from the absent parent by the parent and given to the adult child would be income to the adult child in the month given.



The one-third child support exclusion does not apply to child support arrearages received by an adult child or a minor child.

#### **1840.0800 ASSISTANCE FROM GOVERNMENT AGENCIES (MSSI, SFP)**

Assistance payments are benefits based on applicant or recipient need.

For the MSSSI and SFP Programs, income tax refunds and earned income tax credits are handled as follows:

**Federal income tax refunds** are not included as income because the amount previously withheld or paid was, or would have been, counted as income as part of gross earnings. The amount of refund remaining is excluded as an asset for 12 months following the date of receipt.

**Earned income tax credit or refunds** are excluded income. These are payments from programs that are federally mandated or financed in any amount with federal funds. To qualify, the individual must receive the program payment the month before receiving the tax credit or refund. This policy also applies to individuals with income subject to deeming.

#### **1840.0801 Energy Assistance (MSSI, SFP)**

Passages 1840.0803.01 through 1840.0804 discuss energy assistance payments.

##### **1840.0803.01 LIHEAP Payments (MSSI, SFP)**

Assistance payments received by households from the Low Income Home Energy Assistance Program (LIHEAP) administered by DCF are excluded income.

##### **1840.0803.02 HEA Payments (MSSI, SFP)**

Payments received in the form of home energy assistance (HEA) are excluded if they are based on need and certified by DCF.

Across-the-board rebates from utility companies to all customers are not considered to be based on need.

The source of HEA payment must be verified.

#### **1840.0804 Emergency Energy Conservation Services (MSSI, SFP)**

The Public Services Administration furnishes financial and other assistance through nonprofit agencies for special projects that assist low income individuals in conserving energy. Income from this source is excluded, including the following benefits and services:

1. winterization (materials and labor) of old or substandard dwellings;
2. third party vendor payments for winterization when they cannot be converted to cash and they do not result in the receipt of a basic need;
3. emergency loans and grants for energy conservation devices or increased housing expenses due to an energy crisis;
4. alternate fuel supplies and any fuel vouchers or stamps;
5. alternate transportation activities designed to save fuel and assure continued access to training, education, and employment;
6. assistance to prevent fuel cutoffs including plans for crisis intervention to prevent fuel cutoffs;
7. legal or technical assistance provided to represent the interests of the poor during an energy crisis; and
8. energy related assistance to nutrition, health, and other supportive services in emergencies such as providing meals when utilities have been turned off.

Any of these types of assistance retained beyond the month of receipt must be kept separate from countable assets to be excluded.

**1840.0805 Programs Administered by HUD/FmHA (MSSI, SFP)**

Individuals generally can exclude the value of any assistance from the U.S. Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA) used to offset their rent or mortgage payments. These payments may be made to landlords or mortgagees.

**1840.0806 HUD/FmHA Utility Payments (MSSI, SFP)**

When an assistance group lives in subsidized housing, all or a portion of its rent may be paid by HUD or the Farmers Home Administration (FmHA). In this situation, a rent deduction may be claimed for the amount the assistance group actually pays. The assistance group may also qualify for a HUD or FmHA utility payment.

HUD and FmHA utility payments are excluded as income due to these payments being made for the purpose of providing energy assistance. Additionally, when a HUD/FmHA utility allowance is used to reduce the amount of rent, this type of "utility allowance" is not to be considered income.

**1840.0808 Public Housing (MSSI, SFP)**

The housing assistance provided by HUD that is excluded includes items such as:

1. rent subsidies;
2. loans for housing renovations;
3. mortgage insurance;
4. loans to elderly individuals, farmers, and developers for the construction, improvement, or replacement of farm homes and other buildings;
5. guaranteed loans and mortgages; and
6. payments to mortgage holders on behalf of tenants.

**Note:** For the OSS Program only, any funds received by the individual are included as income.

**1840.0811 Disaster Assistance (MSSI, SFP)**

Permanently exclude:

1. payments, including disaster unemployment assistance, received under the Disaster Relief Act of 1974 [P.L. 93-288, Section 312(d)], as amended by the Disaster Relief and Emergency Assistance Amendments of 1988 [P.L. 100-707, Section 105(i)] from income.
2. National Flood Insurance Program (NFIP) payments made under the National Flood Insurance Act of 1968, as amended by Public Law 109-64, enacted on September 20, 2005.

Exclude interest earned on disaster assistance payments from income.

Most Federal Emergency Management Assistance (FEMA) funds are excluded. However, some payments made to homeless people to pay for rent, mortgage, food, and utilities when there is no major disaster or emergency are not excluded under this provision.

Apply this exclusion when:

1. the president determines an emergency or major disaster exists; and
2. the individual was directly affected by the disaster; and
3. the payment is received from a disaster assistance organization or a federal, state or local government.

**1840.0813 Federal Relocation Assistance (MSSI, SFP)**

Payments from federal or federally assisted projects that acquire real property are excluded income.

The exclusion does not apply to fair market value (FMV) payments of the real property acquired by the project or agency. These funds are considered replacement of a nonliquid asset rather than income.

The relocation assistance includes payments or allowances for:

1. moving expenses;
2. losses of tangible property;
3. expenses of looking for a business or farm;
4. displacement allowances;
5. replacement of a dwelling over the original acquisition cost to the project or agency for the prior dwelling;
6. increased interest costs on a prior dwelling such as early payoff penalties;
7. expenses (other than prepaid) for closing costs on a replacement dwelling;
8. rental expenses for displaced tenants;
9. down payments on replacement housing for tenants who decide to buy;
10. mortgage insurance through federal programs; and
11. direct provision of replacement housing provided as a last resort.

**1840.0816 Foster Care Payments (MSSI, SFP)**

Foster care payments for children who are not eligible for Medicaid are excluded when the child lives with the foster parent and the child was placed by nonprofit placement or child care agency.

If these criteria are not met, foster care payments for support of the child are counted as unearned income for the child when determining the child's eligibility. This applies even if the child is placed by one agency and payments are made by:

1. a different agency;
2. by one relative to another relative; or
3. by a parent to another person.

The following must be verified in order to exclude foster care payments:

1. the name(s) of the child(ren) receiving foster care from the individual;
2. the individual's relationship, if any, to the child;
3. the name, address, and telephone number of the agency that made the placement(s);
4. the payment amount, frequency, and source; and
5. the child's residence in the foster parent's household.

**1840.0819 Developmental Disability Payments (MSSI, SFP)**

Support Independent Living Arrangement (SILA) payments from the Agency for Persons with Disabilities are excluded as income. These payments are considered assistance based on need and are paid to disabled individuals moving from group or community homes to independent living situations to assist with living expenses.

**1840.0820 Supplemental Security Income (MSSI, SFP)**

This section discusses program specific policy on the inclusion or exclusion of income received from the Supplemental Security Income (SSI) Program. SSI payments are administered by the Social Security Administration.

SSI payments are included as unearned income.

**Exception:** If the individual is admitted to a nursing facility and is applying for institutional care services, do not consider SSI payments as income to the individual the month after admission to the facility. The SSI benefits may also be excluded the month of admission if protection of income policies applies (Chapter 2600) or the stay is expected to be temporary (Chapter 1400 and Chapter 2600). Refer to Chapter 1400 for additional information regarding SSI recipients in nursing facilities.

**1840.0824 Assistance Payments Based on Need (MSSI, SFP)**

Passage 1840.0828 discusses policy on treatment of assistance payments. Income based on need, such as Temporary Cash Assistance, Refugee Assistance Program or Refugee Resettlement Match Grant payments, are included as unearned income unless specifically excluded.

In order to be excluded, assistance based on need must be:

1. provided by a public program that uses income or assets as criteria to determine assistance eligibility and amount; and
2. wholly funded by a state or political subdivision of a state, including an Indian tribe.

Assistance based on need is not deemed from an ineligible spouse to an eligible spouse for SSI cash assistance or Medicaid eligibility determination. However, if one member of the couple is Medicaid eligible (from any source) or enrolled in Medically Needy, the assistance based on need income (and any income used in that determination) is counted to the other member of the couple when determining that person's eligibility for Medicaid.

**1840.0828 Family Subsistence Supplemental Allowance (MSSI, SFP)**

A provision of the Department of Defense Act for Fiscal year 2001 requires DOD to pay certain military members and their families a Family Subsistence Supplemental Allowance (FSSA) of up to \$500 per month. The FSSA is available to military members who have completed basic training and whose gross household income is within the food stamp gross income limit for the household size. The food stamp definition of a household is also used when the FSSA is calculated. The FSSA will be counted as unearned income in the TCA, Food Stamp and Medicaid Programs.

**1840.0900 BENEFITS (MSSI, SFP)**

Section 1840.0900 (inclusive) discusses types of benefits payable to individuals and their treatment as unearned income, including benefits such as:

1. Social Security payments;
2. private benefit income such as annuities, pensions, retirement, or disability (other than SSA);
3. veterans payments;
4. Agent Orange benefits;
5. workers' compensation;
6. railroad retirement;
7. unemployment benefits;
8. striker support;
9. severance pay; or
10. death benefits.

**1840.0901 Verification of Unearned Income (MSSI, SFP)**

All non-exempt unearned income must be verified at application and review unless otherwise specified. The following sources may be used to verify unearned income:

1. BENDEX or SDX tapes,
2. SSA document (award letter TYQY),
3. VA award letter,
4. pension or award letter,
5. Unemployment Compensation award letter,
6. child support court statement and/or current statement from absent parent, and
7. bank account statements to verify monthly interest/dividend income of more than \$10. Accept the individual's statement for monthly interest/dividend income of \$10 or less. Bank account interest is included income only in patient responsibility calculations.

**1840.0902 Verification of Unearned Income (MSSI, SFP)**

All unearned income must be verified from the source. Bank statements are not acceptable verification for any unearned income except the interest on the bank account, as they reflect the amount of benefits received after deductions, not necessarily the amount of income which must be counted. (Data exchange is an acceptable source of unearned income verification.)

**1840.0903 Gross Benefits (MSSI, SFP)**

The gross benefit amount received, or anticipated to be received, is considered unearned income. Benefits are owned by the individual for whom they are intended unless the individual is not in the home and the benefits are not redirected. Deductions for optional items such as health insurance and Medicare premiums continue to count as income.

**1840.0904 SSA Income (MSSI, SFP)**

Benefits that are paid by SSA are unearned income. These types of benefits include Title II Social Security benefits, SSI, special age 72 payments (PROUTY), and black lung benefits.

The gross entitlement amount (prior to any deduction) is entered into the FLORIDA system on AFMI. The cents should not be dropped. (The system automatically drops the cents when calculating the budget for food stamps and SSI-Related Programs.)

For MSSSI and SFP: Social Security benefits recouped by SSA are addressed in Chapter 2400.

For treatment of lump sum payments for SSA and for SSI-Related income refer to Chapter 2600.

**1840.0905 Annuities, Pensions and Retirement Income (MSSI, SFP)**

Annuities, pensions, retirement or disability payments are all included as unearned income. These payments result from the purchase of an annuity, retirement from employment, survivor benefits for a former employee's dependents, or injury or disability, and may be made by an employer, an insurance company, or public or private fund.

**1840.0906 Veterans Benefits and Payments (MSSI, SFP)**

Veterans' compensation and pensions are based primarily on service in the armed forces and may also be made to the veterans' dependents or survivors. These payments, including stipend payments for participation in a study of Vietnam era veterans' psychological problems (P.L. 99-576) and monthly payments to veterans of the Vietnam era as a result of exposure to Agent Orange (P.L. 102-4) are counted as unearned income. The following are excluded as income:

1. Reductions in basic pay while in active duty service or selected reserve service to provide for future basic educational assistance (P.L. 99-576).
2. Payments to a natural child of a Vietnam veteran born with spina bifida, except spina bifida occulta, as a result of the exposure of one or both parents to Agent Orange (P.L. 104-204).
3. Payments to a natural child of a woman Vietnam veteran born with one or more birth defects resulting in permanent physical or mental disability (P.L. 106-419).
4. Aid and attendance, a housebound allowance and unreimbursed medical expenses for MSSSI and HCDA.

**1840.0906.01 Veterans Payments-Compensation (MSSI, SFP)**

Compensation payments are included as unearned income. Compensation benefits generally are not based on need and a \$20 general exclusion is applied.

Compensations are paid to a veteran because of a service-connected disability and are paid to a widow, widower, child, or parent of a veteran because of the service-connected death of the veteran. Death compensation and dependency and indemnity compensation (DIS) do not generate the \$20 general exclusion because they are based on need. These payments are made to parents and based on the parents' income.

All applicants who appear potentially eligible for compensation payments must apply.

**1840.0906.02 Veterans Payments-Pensions (MSSI, SFP)**

VA pensions are included as unearned income, excluding the amount of aid and attendance, housebound allowance, and unreimbursed medical expenses. Except in OSS, refer to passage 1840.0906.10 for OSS information. VA pensions generally are based on need and, therefore, do not receive the \$20 general exclusion.

Pensions are paid to veterans based on a combination of services and age (65 or older), or a non-service connected disability. Pensions are paid to a widow, widower, or child of a veteran because of the non-service connected death of a veteran.

Three types of pensions are not based on need and do receive the \$20 general exclusion. These are pensions passed as a special act of Congress, service in the Spanish-American War (April 21, 1890 - July 3, 1902), and service in the Indian Wars (January 1, 1817 - December 31, 1898).

All applicants who appear potentially eligible for a pension must apply.

**1840.0906.03 VA Dependent Allowances (MSSI, SFP)**

The VA provides dependent allowances to veterans claiming to support one or more dependents. The allowances included in the VA check designated for a dependent are only counted as income to the dependent.

**1840.0906.04 Veterans Administration Improved Pension (MSSI, SFP)**

Other than for exceptions listed in Rule 65A-1.713 F.A.C., the Department follows the SSI policy specified in 20 C.F.R. § 416.1100, including exclusionary policies regarding Veterans Administration benefits such as VA Aid and Attendance, Unreimbursed Medical Expenses, and reduced VA Improved pensions, to determine what counts as income and what is excluded as income.

The Veterans and Survivors Pension Improvement Act changed the method of determining the pension payable and pension rates effective January 1979, but the new rates of payment are not automatic. Since the new rates are not automatic, the veteran or survivor who was receiving benefits prior to January 1979 must apply to VA to establish entitlement under the Act. All individuals who apply for or receive Medicaid benefits must apply for the Veterans Administration Improved Pension Program (VAIP). An individual who receives a VA pension under the old law must apply for improved pension under the new law unless the individual's VA benefit would be lowered under the improved pension. If an individual's pension would be lower under the improved pension, he may continue to receive the pension under the old law. VAIP includes allowances for aid and attendance, housebound, and unreimbursed medical expenses.

Section 8003 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) provides for a reduction in Veterans Administration Improved Pensions (VAIP) for single veterans and surviving spouses residing in Title XIX nursing facilities who have no dependents and who are Medicaid eligible. The pension will be reduced to \$90 or less per month, which is all considered aid and attendance and is not counted as income for the eligibility determination. Also, it's not added back into the patient responsibility.

However, if the veteran is enrolled in the Medically Needy Program in the nursing home and Medicaid is not paying for nursing home care, the veteran is entitled to the full VA benefit, and must apply to receive it.

**1840.0906.05 VA Aid and Attendance (MSSI, SFP)**

The policy does not apply to OSS.

The VA provides additional compensation when the individual needs routine aid and attendance by another. This compensation may be paid to disabled veterans and to spouses, widows, widowers, and parents of veterans. Aid and attendance payments provided to an eligible individual and paid by the individual to his ineligible spouse, parent, or child living in the same household in return for taking care of him are excluded from income for deeming purposes. Aid and attendance payments made directly to the ineligible spouse, parent or child on behalf of the eligible individual are also excluded as income for deeming purposes.

**Note:** If an ineligible spouse or parent receives payments for services provided to anyone other than his eligible spouse or child, the payments are included as earned income subject to deeming to the eligible individual.

VA considers an individual in need of regular aid and attendance if the individual is categorized as one of the following:

1. blind or nearly blind,
2. a nursing home patient due to mental or physical incapacity,
3. unable to keep clean and presentable without assistance,
4. unable to dress or undress without assistance, or
5. has frequent need of adjustment of any prosthetic or orthopedic device and the adjustment cannot be made without assistance.

**1840.0906.06 VA Housebound Allowance (MSSI, SFP)**

This policy does not apply to OSS.

VA pays a housebound allowance to eligible individuals who do not qualify for regular aid and attendance payments. This allowance can be paid to a veteran or widow or a widower who receives dependency or indemnity compensation. It is excluded income.

**1840.0906.07 VA Unreimbursed Medical Expenses (MSSI, SFP)**

Other than for exceptions listed in Rule 65A-1.713 F.A.C., the Department follows the SSI policy specified in 20 C.F.R. § 416.1100, including exclusionary policies regarding Veterans Administration benefits such as VA Aid and Attendance, Unreimbursed Medical Expenses, and reduced VA Improved pensions, to determine what counts as income and what is excluded as income.

This policy does not apply to OSS.

VA provides an allowance for unreimbursed medical expenses (UME) incurred by the veteran that exceed five percent of an individual's annual income. UME is excluded income.

**1840.0906.08 VA Lump Sum Payments (MSSI, SFP)**

Lump sum payments, minus A&A, housebound, and UME, are included as unearned income in the month received. Any balance, including A&A, housebound, and UME, left as of the next month is counted as an asset.

**1840.0906.09 VA Payments in OSS (SFP)**

All VA payments, including aid and attendance, housebound, and UME are included as unearned income in OSS.

**1840.0908 Workers' Compensation Payments (MSSI, SFP)**

Workers' Compensation payments are included as unearned income.

Workers' Compensation payments are awarded to an injured employee or to the employee's survivors. Any portion of the payment designated for medical expenses paid or deducted at the source and not controlled by the individual is excluded from the income amount.

For MSSSI only, legal or related expenses pertaining to Workers' Compensation are also deducted from the income amount.

**1840.0909 Railroad Retirement Payments (MSSI, SFP)**

Retirement, survivor, unemployment, sickness and strike benefits from railroad payments are included as unearned income. Premiums for medical insurance under Medicare that may have been deducted must be added to the payment amount in determining the amount of unearned income. Entitlement or potential entitlement for railroad benefits should be suspected if the individual's SSN begins with the number "7".

The following are three different railroad retirement benefits:

1. The retirement benefit is payable only to the railroad employee or the employee's spouse. Benefits may be increased because of dependent children; however, the amount of the increase is considered income to the individual rather than the child(ren).
2. The survivor benefit is payable to widows/widowers and children or to dependent parents if no widow(er) or child qualifies.
3. Checks for unemployment, sickness, and strike benefits cover a period up to two weeks.



Retirement and survivor benefits are paid monthly. Payment received in the current month is the amount due the individual for the prior month.

Railroad retirement benefits are adjusted for cost of living at the same time as SSA. However, differences in amounts may exist due to individual case circumstances. Verification of differences should be made by reviewing an award notice. When contact with the railroad board (RRB) is necessary, contact the local RRB district office, not the RRB in Chicago.

**1840.0910 Unemployment Compensation (MSSSI, SFP)**

Payments received pursuant to a state or federal unemployment law, or paid by a union or employer are included as unearned income.

**1840.0913 Life Insurance Policy/Death Benefits (MSSSI, SFP)**

Proceeds of life insurance policies and other death benefits include lump sum death payments from SSA, the Railroad Retirement Board, and VA burial benefits.

Proceeds from such payments are counted as unearned income in the month received, after deducting any expenses paid from the proceeds for the deceased person's last illness and burial.

Last illness expenses include related hospital, medical, and nonmedical expenses. Burial expenses include the funeral, burial plot, interment expenses, and related costs.

The only exception is when the beneficiary of a life insurance policy is also the owner. In this situation the proceeds are considered to result from converting an asset and are not included as income.

**1840.0914 Energy Employees Occupational Illness Compensation Prog. (MSSSI, SFP)**

Payments made to individuals under the Energy Employees Occupational Illness Compensation Program (EEOICP) Act of 2000 (Public Law 106-398) are excluded as income.

**1840.0915 Domestic Volunteer Services Act (MSSSI, SFP)**

The following are excluded income:

1. Assistance to volunteers who participate in ACTION Programs funded under Public Law 93-113, including VISTA or AmeriCorps VISTA and other programs under Title I of that law; and
2. Payments for supportive services or reimbursement for expenses made to volunteers serving as foster grandparents, senior health aids, or senior companions, and to persons serving on the Service Corps of Retired Executives, Active Corps of Executives, and other programs under Title II and III of the act.

**1840.0915.02 Individuals Covered by Exclusions (MSSSI, SFP)**

Each of the exclusions described in the following sections covers not only an individual, but also persons whose income/assets can be deemed to the individual. Exceptions to this policy are for volunteers in ACTION Agency Programs.

**1840.0915.03 Status of Volunteers in ACTION (MSSSI, SFP)**

If a volunteer is otherwise eligible without it, ACTION Agency Program compensation is not included when determining eligibility. If a volunteer is a person who is otherwise ineligible but whose income/assets can be deemed to an individual, then:

1. the stipends the person receives are the person's income and available to be deemed; but
2. payments for supportive services or reimbursements for out-of-pocket expenses are not deemed.

**1840.0916 Older Americans Act (MSSSI, SFP)**

Under the Older Americans Act, Title V is the Community Service Employment Program. The organizations involved in this program are:

1. Experience Works;
2. National Council on Aging;
3. National Council on Senior Citizens;
4. American Association of Retired Persons;
5. U.S. Forestry Services;
6. National Association of Spanish Speaking Elderly;
7. National Urban League; and
8. National Council on Black Aging.

For MSSSI and SFP: Funds received must be included as earned income if the issuing agency considers the funds as wages. Funds must be excluded as unearned income if the issuing agency does not consider the funds as wages.

**1840.0917.01 Indian Tribe/Alaskan Native (MSSSI, SFP)**

The following are considered excluded income:

1. Per capita payments by the Blackfeet and Grosventre tribal governments to members, which resulted from judgment funds awarded to the tribes;
2. Per capita payments to members of Indian tribes who are due judgment funds according to either a plan of the Secretary of the Interior, or legislation when a plan either cannot be prepared or is not approved by Congress;
3. Receipts derived from certain trust lands and distributed to members of designated Indian tribes;
4. Per capita payments made to or held in trust for, members of the Grand River Band of Ottawa Indians; and
5. Divided payments on shares or other revenues originating from the Alaska Native Fund and tribal organizations to native Alaskans.

The following are included as income:

1. Payments of funds distributed or held in trust according to public laws enacted before October 19, 1973, unless legally specified otherwise; and
2. Receipts subject to the Mineral Leasing Act of 1920 that were distributed prior to October 1975.

**1840.0917.02 Indian Tribe/Alaska Native Claims Payments (MSSSI, SFP)**

Distributed funds received by members of Indian tribes as a result of legislation enacted prior to October 19, 1973, are included unless specifically excluded by law. After that date, receipts derived from certain trust lands and subsurface mineral rights conveyed to designated Indian tribes and distributed to tribal members are excluded.

When excluded funds are combined with non-excluded assets or converted from a liquid to a nonliquid form, the exclusion from assets no longer applies.

**1840.0918 German/Japanese/Aleutian Payments (MSSI, SFP)**

German reparation and Japanese and Aleutian restitution payments are excluded as income.

**1840.0922 Crime Victim Compensation Program (MSSI, SFP)**

Exclude payments received under this program that offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence (P.L. 103-322).

**1840.0924 Earned Income Tax Credit and Child Tax Credit (MSSI, SFP)**

Payments from federal income taxes for earned income tax credit and child tax credit, including any retroactive payments, are excluded as income in the determination of eligibility.

**1840.0932 Netherlands/Austrian Reparations Payments (MSSI, SFP)**

Netherlands reparation payments based on Nazi persecution during WWII are excluded as income. Austrian reparation payments made under Sections 500-506 of the Austrian General Social Insurance Act are excluded as income.

**1840.0933 Factor VIII or IX Concentrate Blood Products Litigation (MSSI, SFP)**

Factor VIII or IX Concentrate Blood Products Litigation involved hemophilia patients who contracted the HIV virus from contaminated blood products. Under Public Law 105-32, Section 4735, payments made to class members under this settlement are excluded as income or resources when determining either eligibility for or the amount of benefits received under the Medicaid Program. These funds are excluded as resources as long as they remain separately identifiable and not commingled with other funds.

Individuals who receive such a settlement will need to identify themselves and provide proof of this payment in order to have the income excluded. The manufacturers of the blood plasma which settlement payments may be received from are: Alpha Therapeutic Corporation, Armour Pharmaceutical Company, Baxter Healthcare Corporation, and Bayer Corporation.

While the settlement payment itself is excluded as an asset, any interest earned from these funds must be considered as income. Payments made under this settlement are counted as income and assets in the SSI Program. Individuals losing SSI eligibility due to excess income or assets should have an ex parte determination completed.

**1840.1000 DIVIDENDS AND INTEREST (MSSI, SFP)**

Dividend and interest income received on an individual's countable resources and on resources excluded due to federal law do not count as unearned income in determining if an individual's income is within the program's eligibility standards.

Count the interest and dividend income of the individual, as well as the community spouse, family member/dependent, when income diversion is involved in determining patient responsibility, unless the interest/dividends can be excluded for another reason (i.e. infrequent or irregular income excluded due to federal law).

When calculating patient responsibility interest or dividend income more than \$10 per month must be verified at application and review. Accept the individual's statement for monthly interest/dividend income of \$10 or less.

**1840.1001 Dividends and Interest on Burial Funds (MSSSI, SFP)**

Any appreciation in the value of assets designated as burial funds excluded as an asset, is also excluded as income. Similarly, any interest paid on excluded burial accounts that is left to accumulate in the account is also excluded from income. All interest and dividends left to accrue on the designated burial fund, regardless of the asset amount designated for burial, are excluded. However, any interest or dividends which are paid directly to the individual and which are set aside for burial purposes are included as unearned income, unless otherwise excluded.

**1840.1002 Interest on Time Deposits (MSSSI, SFP)**

Interest on time deposits available on demand or available only at maturity is excluded as income in the eligibility budget. Interest on time deposits count in the patient responsibility calculation when it becomes available, unless it can be excluded under a separate provision (i.e. infrequent or irregular income excluded due to federal law).

**1840.1003 Interest on Retirement Funds (MSSSI, SFP)**

If the interest earned on retirement funds can be accessed and the principal is included as an asset, the interest is excluded as unearned income to the individual. If the interest earned on retirement funds cannot be accessed, it becomes part of the fund principal and an excluded asset.

If the retirement fund is excluded as an asset because it is paying periodic payments, both the interest and principal portions of the payment are counted as unearned income to the individual in eligibility and patient responsibility calculations. In patient responsibility calculations, include the income of the eligible individual as well as the spouse, family member, or dependent if income diversion is applicable.

**1840.1004 Savings Bonds (MSSSI, SFP)**

Interest on some bonds (series E) is not available until the bond is redeemed. On other bonds, interest is paid periodically while the bond remains owned. Interest on a series H bond is paid semiannually with the first payment date six months from the date of issuance.

The interest on savings bonds is excluded as unearned income in the eligibility calculation. In patient responsibility calculations, include the interest income of the eligible individual as well as the spouse, family member, or dependent if income diversion is applicable.

**1840.1005 Stock Dividends (MSSSI, SFP)**

If a stock dividend is in the form of additional shares of stock, then the value of the additional shares is included as unearned income.

**1840.1006 Mortgages and Promissory Notes (MSSSI, SFP)**

If the mortgage or promissory note is included as an asset, the interest portion of a payment is excluded as interest income in the eligibility calculation, but is counted in the patient responsibility calculation.

If the mortgage is excluded as an asset, both the interest and principal portions of the payment are counted as unearned income in eligibility and patient responsibility calculations. In patient responsibility calculations include the income of the eligible individual, spouse, family member or dependent, if income diversion is applicable.

**1840.1007 Medical Insurance Payments (MSSI, SFP)**

Medical insurance payments made directly to an individual are income unless:

1. restrictions make them unavailable for food, clothing, and shelter;
2. restricted to the purchase or reimbursement of medical services covered by the policy;
3. payments are made directly to the hospital or nursing facility by the health insurance company; or
4. payments are from Medicaid benefits paid under the Consumer Directed Care Project.

**1840.1007.01 Long Term Insurance (LTC) payments**

Cash received in conjunction with medical services may or may not be considered as income. There are many types of insurance available, and each policy is reviewed to determine whether or not payments received should be included in the Medicaid eligibility and patient responsibility budgets.

1. Flat Rate Payments: Cash from an insurance policy which pays a flat rate benefit to the client without any regard for actual per diem charges or expenses incurred is considered income. If the insurance policy pays an individual a fixed amount daily regardless of the actual daily facility charges, it is considered a flat rate payment and included as income. The payments from a flat rate policy are not restricted for payment of medical expenses as a set amount is paid even if it exceeds the actual charges. Payments from a flat rate LTC insurance policy paid to a provider is countable income to an individual, as the payments continue to be made without regard to the charges or expenses the individual is incurring.
2. Reimbursements: Cash received to reimburse an individual for actual medical expenses incurred is not considered income, even if the individual choose to receive the payment directly instead of assigning it to a provider. Refer to section 1840.1100 for further information on reimbursements.

For further information regarding third party payments, refer to Chapter 3200.

**1840.1009 Annuities and Other Retirement Funds (MSSI, SFP)**

Refer to Chapter 1600 for retirement fund policy and for transfers to retirement funds. Refer to passage 1840.1003 for how to consider interest earned on retirement funds.

**1840.1010 Home Equity Plans (MSSI, SFP)**

Individuals may convert the value of their home into cash through a variety of loan types. If the plan creates a debt against the home, equity is reduced.

Home Equity Conversion (HEC) Plans are designed to allow homeowners to convert the value of their homes into cash without being forced to leave their homes. Under these plans, the home is either mortgaged or sold to a financial institution (or an individual) in exchange for a regular cash payment or line of credit which, the homeowner receives as long as he lives in the home. Following is a list of possible HEC arrangements: reverse mortgages, sale-leaseback, time sale and deferred payment loans.

Individuals can also access the value of their home through a home equity loan or home equity line of credit. A home equity line of credit only reduces equity if the credit is accessed and payments are received.

Generally, the proceeds from all of the above arrangements are considered loans and are not considered as income to the individual in the month of receipt. If the proceeds are retained into the following month, they must be evaluated as an asset. Refer to loan policy in 1640.0560.01.

Funds from a loan that are given away in the month of receipt are potential transfers and are subject to transfer penalties if fair compensation is not received.

Some HEC plans may allow for the purchase of annuities and pay interest. Annuity payments and interest payments are unearned income and must be evaluated as such. Refer to 1640.0609.03 for all annuities purchased on or after November 1, 2007.

#### **1840.1011 Royalties (MSSI, SFP)**

Royalties are payments to the holder of a patent or copyright, to the owner of a mine, for the duplication of a writing, for the use of an invention, for the extraction of a product, and similar items. If the royalties are earned from a royalty related trade or business, they are included as earned income.

The amount withheld for income taxes is included in the amount considered income. A production or severance tax, as with most royalties, is deductible from the gross amount of the royalty.

#### **1840.1013 Capital Gains on Retirement Accounts (MSSI, SFP)**

The terms "short-term gains" and "long-term gains" actually refer to "capital gains". Capital gains are defined as profits from the sale of an investment at a higher price than the purchase price.

Sometimes the individual is making decisions about buying and selling stock. In other cases, like a mutual fund, the fund manager makes the buying and selling decisions independent of the individual stock owners. Capital gains are shown on the individual's statement.

The capital gains outside a tax-sheltered account (meaning outside a deferred compensation account or 401 (k)) are reported to the IRS. Although the individual must report capital gains to the IRS, for Medicaid purposes, any capital gains realized become part of the resource and should not be considered income to the individual.

#### **1840.1100 REIMBURSEMENTS (MSSI, SFP)**

Reimbursements for past or future expenses are excluded if they do not exceed actual expenses and do not represent a gain or benefit. To be excluded, these payments must be specifically intended and used for expenses other than normal living expenses.

Any part of the reimbursement amount that exceeds the actual expense is included as income. However, reimbursements are not considered to exceed actual expenses, unless the amount is excessive.

Reimbursements for normal household living expenses such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit and, therefore, are included as income.

The following types of reimbursement are excluded as income:

1. reimbursement from the Uniform Relocation Assistance and Real Property Acquisition Policy Act;
2. reimbursements or flat allowances from the employer that are over and above the basic wages and used for job related expenses such as travel, per diem, uniforms, and transportation to and from the job training site;
3. reimbursements for out-of-pocket expenses incurred by volunteers in the course of their work;
4. medical reimbursements from Workers' Compensation benefits specifically designated for medical expenses;

5. reimbursements by Employment and Training Programs; and
6. reimbursements for actual medical expenses incurred, even if payments are made directly to the provider.

**1840.1103 Work Related Unearned Income (MSSSI, SFP)**

Work related unearned income is any reimbursement for services rendered that is not considered to be wages. When reimbursements are not considered wages they are included as unearned income.

Examples include:

1. monies paid to an inmate of a public institution where no employer/employee relationship exists;
2. jury fees; and
3. active duty military personnel clothing allowances, quarters (housing allowances), and food rations.

**1840.1104 BAQ and BAS Payments (MSSSI, SFP)**

BAQ and BAS payments are included as unearned income except when the service member lives in free on-base housing and the allowance is both paid and deducted in the same pay period. In this instance, the allowance is not considered income. The leave and earnings statement (LES) is needed for verification.

**1840.1105 Non-Governmental Medical or Social Services (MSSSI, SFP)**

Cash provided by any non-governmental medical or social services program as reimbursement for services purchased by the individual, or as payment restricted to the future purchase of a service, when the service is approved by the services program, is excluded as income.

**1840.1200 STUDENT LOANS, GRANTS, AND SCHOLARSHIPS (MSSSI, SFP)**

These sources generally apply to students attending a college or other institution of higher education beyond the high school level.

All student financial assistance received under Title IV of the Higher Education Act of 1965, Bureau of Indian Affairs (BIA) student assistance programs, and Independent Living Programs (Postsecondary Educational Services and Support, Extended Foster Care, or Aftercare Services) are excluded from income and assets, regardless of use.

Examples of Title IV programs include, but are not limited to:

1. Pell grants,
2. State Student incentives,
3. Academic Achievement Incentive scholarships,
4. Upward Bound, and
5. Work-Study Programs.

For other grants, scholarships, gifts or fellowships, apply the following policies:

1. Any portion of a grant, scholarship, gift or fellowship used for paying tuition, fees or other necessary educational expenses is excluded from income. This exclusion does not apply to any portion used for food, clothing, or shelter expenses.
2. Any portion of a grant, scholarship, gift or fellowship that is not used for tuition, fees, or other necessary educational expenses is income in the month received.

Examples of necessary educational expenses include books, supplies, laboratory fees, student activity fees, carfare, and impairment-related expenses necessary to attend school or perform schoolwork (e.g. special transportation to and from classes, special prosthetic devices necessary to operate school machines or equipment etc.).

#### **1840.1205 Grants, Scholarships, or Fellowships (MSSI, SFP)**

Not all educational monies are received as grants, scholarships, gifts or fellowships; therefore, these sources of income are included:

1. Tuition and subsistence allowances to members of the Armed Forces of the U.S. who are students at an educational institution operated by the U.S., such as the U.S. Naval Academy and the U.S. Military Academy;
2. Retainer payments and subsistence allowances to students under the Reserve Officer's Training Corps (ROTC);
3. Any amount paid or allowed an individual for pursuit of studies or research when the amount represents payments for services subject to the direction or supervision of the grantor or used primarily for the benefit of the grantor; and
4. Grants-in-aid with a work requirement, and any grants requiring performance of work before, during, or after pursuit of study or research.

#### **1840.1206 Verification of Educational Income (MSSI, SFP)**

All student income from educational grants, gifts, scholarships, and loans must be verified if questionable. Case record documentation must include the name of the educational institution and the amounts, dates of payment, and payee, of any grants, gifts, scholarships and loans.

The eligibility specialist may obtain this information by using documents in the individual's possession or by phoning the school or loan office or the grantor of the educational income. The eligibility specialist must record the name, position, and phone number of the person providing the information.

A written agreement with the lending institution or grantor of the educational income that is signed by the individual and contains the necessary dates and amounts will also serve as documentation.

#### **1840.1300 INCOME FROM OTHER SOURCES (MSSI, SFP)**

This section presents the application of policy for other sources of income.

##### **1840.1301 Loans (MSSI, SFP)**

All loans including loans from private individuals as well as commercial institutions are excluded income if there is an intent to repay.

When an individual is the **borrower**:

Proceeds of a valid loan received by the borrower are not income in the month of receipt. If the loan is determined not to be valid, the proceeds are considered income in the month received. The amount remaining from the loan in the month following receipt is considered as an asset to the borrower.

When an individual is the **lender**:

If the loan is determined to be valid and negotiable, the loan is a countable asset; only the interest portion of the payment received is excluded as income to the lender. The principal portion of the payment is conversion of an asset, not income. If the loan is determined to be



not valid and not negotiable the loan is not a countable asset, the entire payment received (principal and interest) is counted as income.

**Note:** Loans signed before March 1, 2005 may be excluded as income producing property. When a loan is excluded from countable assets under income producing property policy, the entire payment received (principal and interest) is counted as income.

#### **1840.1302 Contributions (MSSI, SFP)**

All direct money payments from any source that represent gain or benefit to the individual are included as unearned income.

A contribution is cash received by any member of the standard filing unit. A contribution may be received on a one-time basis or on regular or irregular intervals.

An allowance is considered a contribution when paid to an individual by a person outside the individual's standard filing unit. This would apply to money from a non-legal father when there is a legal father.

The individual must provide verification of the amount received as a gift or contribution. When written verification is unavailable, documentation must include the following information:

1. date verbal verification received,
2. source of verification,
3. source of funds,
4. date made, and
5. amount.

Standard verbal verification policy applies. If the individual is unable to obtain verification, discuss with the individual. The eligibility specialist should then use the best information available and record this in CLRC.

#### **Contributions to a Facility:**

For OSS, contributions made to the facility on behalf of the individual are not considered as income as long as the payment is made directly to the facility and does not exceed four times the recognized cost of care.

**Note:** Social Security does consider contributions as income (in-kind support and maintenance) to determine the amount of an SSI payment. If an OSS applicant/recipient's SSI is decreased, rejected or terminated because of contributions to the facility, the OSS payment cannot be increased to offset the SSI reduction.

#### **1840.1303 Trusts (MSSI, SFP)**

A trust is a right of property held by one party for the benefit of another. The person for whose benefit the trust is created is the beneficiary. If the beneficiary has a right to the income from the principal of the trust, then it is counted as unearned income as it becomes available. If the beneficiary has no right to the income from the principal of the trust and the income is added to the principal, then the earnings from the principal are not considered income.

Refer to passages 1640.0576.01 - 1640.0576.11 for specific information regarding availability of trusts as an asset.

#### **1840.1304 Gifts (MSSI, SFP)**

A gift may be excluded if it is infrequent or irregular. To be a gift, an item must meet the following requirements:

1. must be given irrevocably;
2. must not be compensation or return for services or other consideration; and
3. must be given without legal obligation on the part of the donor.

**1840.1305 Prizes and Awards (MSSI, SFP)**

Cash prizes and cash awards are included as income unless they can be excluded as infrequent or irregular.

An award is generally something of value received as a result of a decision or judgment of a court, board of arbitration, or similar action. Awards are almost always cash or its equivalent.

If a prize or award is not substantial, then the eligibility specialist must consider whether it may be excluded from income as infrequent/irregular income.