

## August-December 2016 Summary of Changes

<b>Chapter</b>	<b>Passage</b>	<b>Summary</b>
<b>600</b>	<b>0630.0109, 0640.0109</b>	Added organizations acting as a Designated Representative verbiage.
<b>1410</b>	<b>1410.1801</b>	Added the definition of good cause as it relates to ABAWDs. Provided clarification to align with federal regulations about who determines good cause and what constitutes good cause for ABAWDs.
	<b>1410.1802</b>	Added pending application for Supplemental Security Income (SSI) to the physically/mentally unfit exception section due to clarification from Food and Nutrition Service.
<b>1430</b>	<b>1440.1301, 1440.1302</b>	Added passage to include CF-ES 2515 verbiage.
<b>1610</b>	<b>1610.0593, 1620.0593</b>	Adding Achieving A Better Life Experience (ABLE) accounts verbiage.
<b>1630</b>	<b>1640.0314.03</b>	Update correct verbiage of "Assignment of Rights to Support" not "Assignment of Support Rights"
	<b>1640.0314.04</b>	Update correct verbiage of "Assignment of Rights to Support" not "Assignment of Support Rights" and made last sentence to fourth bullet.
	<b>1650.0593</b>	Adding Achieving A Better Life Experience (ABLE) accounts verbiage.
<b>1650</b>	<b>1650.0593, 1660.0593</b>	Adding Achieving A Better Life Experience (ABLE) accounts verbiage.
<b>2200</b>	<b>2210.0317.03</b>	Deleted language from the passage that states the CF-ES 2318 must be completed at every application/recertification.
	<b>2230.0402</b>	Deleted language about inclusion of income to relocate to an new passage about income of a standard filing unit (SFU) member.
	<b>2230.0403, 2230.0403.02</b>	Deleted passage.
	<b>2230.0403</b>	Added passage explaining when to include an SFU members countable income in the budget. This passage will become 2230.0403.

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## August-December 2016 Summary of Changes

2400	<b>2450.0000, 2450.0100, 2450.0200, 2450.0500,  2450.0201  2450.0502  2450.0207.01, 2450.0207.02 2450.0300, 2450.0301, 2450.0304, 2450.0325, 2450.0326, 2450.0327, 2450.0328, 2450.0363, 2450.0503, 2450.0504, 2450.0506, 2450.0507, 2450.0508  2450.0206  2450.0209  2450.0204</b>	<p>Added language</p> <p>Changed title align with the current budgeting methods.</p> <p>Changed title and included language to align with the current budgeting methods.</p> <p>Deleted passages.</p> <p>Changed title to include “Non-Title IV-E”.</p> <p>Changed title to include “Title IV-E”.</p> <p>Added passage explaining how to determine the gross monthly income.</p>
3000	<b>3010.0200, 3020.0200, 3030.0200, 3040.0200, 3050.0200, 3060.0200  3010.0202, 3020.0202, 3030.0202, 3040.0202, 3050.0202, 3060.0202</b>	<p>Added language that includes contracted staff and other agencies being prohibited from receiving IRS and BEERS information.</p> <p>Added language advising staff the federal policy regarding the prohibition on faxing DERS data exchanges containing IRS and BEERS information due to guidance from federal review.</p>
3200	<b>3230.0102  3230.0116  3240.0115  3240.0116</b>	<p>Added legal guardian and Power of Attorney verbiage.</p> <p>Added organizations acting as a Designated Representative verbiage</p> <p>Added organizations acting as a Designated Representative (DR) verbiage and same verbiage from MFAM passage 3230.0102 about written designation of DR.</p> <p>Added organizations acting as a Designated</p>

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## August-December 2016 Summary of Changes

	<b>3230.0118</b>	Representative verbiage.  Adding new passage for MFAM with same verbiage as MSSI passage 3240.0118.
<b>3400</b>	<b>3440.0104</b>	Passage obsolete. Written 10 days advance notice is required for Medically Needy cases whether enrolled in actual or estimated share of cost.
	<b>3440.0504</b>	Delete verbiage from third bullet "(enrolled only or enrolled and eligible)"

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August-December 2016  
Listing of Amended Passages

**0630.0109 Designated Representatives (MFAM)**

A representative may be designated by An applicant/ or recipient, their spouse, legal guardian, Power of Attorney, or a responsible member of the assistance group may appoint an individual or organization to act responsibly on their behalf in assisting with the application and redetermination of eligibility and other ongoing communication with the Department. A designated representative may be appointed or self-designated to act on behalf of the household. If the individual does not select a specific person as designated representative, determine if the self-designated representative is the most appropriate person to fulfill this responsibility. An organization cannot self-designate, but an individual employee of an organization may continue to self-designate. If the individual employee of an organization self-designates, the preferred method is to complete the CF-ES 2505 form. If this is done, only that employee may communicate with the Department and not any other employee of the organization. The designated representative is authorized in writing prior to eligibility determination or anytime during the review period. An applicant must authorize designated representatives prior to eligibility determination or anytime during the review period.

If the household member or a designated representative is not responsible, that member may not represent the household and may not designate a representative. Record the information that supports this decision.

Designated representatives assume responsibility for the accuracy of the information provided and are subject to the same disqualification penalties and possible prosecution as responsible household members.

**0640.0109 Designated Representatives (MSSI)**

An applicant/recipient, their spouse, legal guardian, Power of Attorney, or a responsible member of the assistance group may appoint an individual or organization to act responsibly on their behalf in assisting with the application and redetermination of eligibility and other ongoing communication with the Department.

A designated representative may be appointed or self-designated to act on behalf of the household. If the individual does not select a specific person as designated representative, determine if the self-designated representative is the most appropriate person to fulfill this responsibility. An organization cannot self-designate, but an individual employee of an organization may continue to self-designate. If the individual employee of an organization self-designates, the preferred method is to complete the CF-ES 2505 form. If this is done, only that employee may communicate with the Department and not any other employee of the organization. An applicant must authorize a The designated representative is authorized in writing prior to eligibility determination or anytime during the review period. The applicant does not have to be functionally or legally incompetent to have a designated representative.

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## August-December 2016 Listing of Amended Passages

If the individual has been declared legally incompetent and has a legal guardian, the legal guardian must act as the designated representative. If the legal guardian will not cooperate or cannot be located, someone else may act as designated representative. When someone other than the legal guardian is the designated representative, send a written notice to the legal guardian advising him that a designated representative has been appointed. Maintain a copy of the written notice in the case record.

If the household member or a designated representative is not responsible, that member may not represent the SFU and may not designate a representative. Record the information that supports this decision.

Designated representatives or minors serving as designated representatives assume responsibility for the accuracy of the information provided and are subject to the same penalties and possible prosecution as responsible household members.

### **1410.1801 ABAWD Provisions (FS)**

“Time-Limited” ABAWDs are not eligible to participate in the Food Stamp Program if, during the 36-month period preceding the month of application, the individual received food stamps for any three months in which the individual was not:

1. Working 20 hours or more per week\*; or
2. Participating in an Employment program that includes work, on the job training, volunteer work, and job search less than 20 hours a week; or
3. Participating for 20 hours or more per week\*, in a combination of work and work program activities

ABAWDs are required to report whenever their work hours fall below the 20 hours per week threshold. Staff must encourage all customers who meet an FSET exemption to report when hours fall below 20 hours per week. The customer will become a time-limited ABAWD the month the hours drop below 20 hours per week.

**Note:** \* For purposes of this provision, 20 hours per week averaged monthly means 80 or more hours per month.

“Time-Limited” Able-Bodied Adults Without Dependents who have exhausted their time limit (3 months in a 36-month period) to receive food stamps will be treated as technically ineligible (Prorated) individuals for food stamps. \*The first 36-month period is January 1, 2016 through December 31, 2018. A new 36-month period will begin January 1, 2019 and expire December 31, 2021. New 36-month periods begin every third year on January 1 and end three years later on December 31.

**Note:** \* The Department will begin a new 36-month period beginning January 1, 2019.

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August-December 2016  
Listing of Amended Passages

“Good Cause” is a temporary situation that an employer would normally excuse and the individual has returned to work/work activities. This provision is limited to situations where the ABAWD was already participating in the employment and training program (E&T) but then became temporarily noncompliant and has returned to compliance.

Note: \*DCF must determine “good cause.”

**1410.1802 Exceptions from ABAWD Provisions (FS)**

The time limit does not apply and the individual is not a “time-limited” ABAWD if he or she meets any of the following exceptions to the ABAWD time limits or FSET exemptions:

1. Is under 18 years of age or over 49 years of age. A person is considered 50 on their 50th birthday.
2. Physically or mentally unfit for employment. An individual is physically or mentally unfit for employment if he or she:
  - a. Is receiving temporary or permanent disability benefits issued by governmental or private sources. Is obviously mentally or physically unfit for employment as determined by the eligibility specialist. Individuals are obviously unable to participate due to a physical or mental incapacity only if the physical or mental impairment(s) are of such severity that the individual is not only unable to do their previous work but cannot, considering education and work experience, engage in any other kind of substantial gainful work which exists in the national/state/local economy. **This includes individuals who have proof of applying for Supplemental Security Income (SSI).** The eligibility specialist is to record observations used to determine unfitness on CLRC.
  - b. If the unfitness is not obvious, it must be verified with a written or verbal statement from a physician, physician’s assistant, nurse, nurse practitioner, designated representative of the physician’s office, a licensed or certified psychologist, a social worker, or other medical personnel indicating, the individual is physically or mentally unfit for employment.
3. Is a parent (natural, adoptive, or step) or other member of the food stamp standard filing unit (SFU) with a child under age 18 in the standard filing unit, even if the member who is under 18 is not eligible for food stamps.
4. Is residing in an SFU where an SFU member is under age 18, even if the SFU member who is under 18 is not himself eligible for food stamps.

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August-December 2016  
Listing of Amended Passages

5. Is pregnant.

**1440.1301 When to Determine Need for Appropriate Placement (MSSI)**

A special determination to evaluate the individual's need for ICP or HCBS PACE must be requested by the eligibility specialist at the following times:

1. application,
2. reapplication,
3. an ex parte from Community Medicaid to Long-Term Care Medicaid (to ICP or HCBS PACE), or
4. any time that placement in a special living arrangement or facility is not made within 45 days of a physician's signature on DOEA CARES Form 603 (Notification of Level of Care).

The eligibility specialist is not required to obtain an updated level of care determination at the time of the eligibility redetermination or when there is a change of placement for the individual between two Long-Term Care Medicaid Programs (ICP or HCBS). The DOEA CARES Form 603 or Certification of Enrollment Status for Home and Community Based Services Form (CF-ES 2515) is considered in effect until such time as the eligibility specialist is notified of a change.

There are circumstances when CARES will not need to complete another full determination. However, the eligibility specialist must request a determination in all of the above circumstances and will be notified if the current documentation is still valid.

**1440.1302 Who Determines Need for Placement (MSSI)**

The agency or office responsible for determining the need for care depends on the applicant's age and what kind of facility or program is needed. After the eligibility specialist requests a determination, the specialist he must receive DOEA CARES Form 603 (Notification of Level of Care) for nursing home placement or the Certification of Enrollment Status for Home and Community Based Services (HCBS) Form (CF-ES 2515) for HCBS waivers from the responsible office to document the specific need in the case record.

**Note:** The eligibility specialist does not request level of care decisions for HCBS waivers but must receive documentation of decisions from case managers or CARES.

The determination will be obtained from one of the following offices:

**CARES** (Comprehensive Assessment and Review for Long Term Care Services), Department of Elder Affairs:

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August-December 2016  
Listing of Amended Passages

1. For ICP: determines Level of Care for applicant/recipients over age 21 in nursing facilities, swing beds or hospital based nursing facility beds.
2. For HCBS: determines if applicant/recipient meets waiver requirements for a specific HCBS waiver, including Channeling, Aged and Disabled Adult, Project AIDS Care, SMMC LTC, Traumatic Brain and Spinal Cord Injury, or Cystic Fibrosis.
3. For PACE: determines if the applicant/recipient meets the level of care.

**CMAT** (Children's Multidisciplinary Assessment Team), Children's Medical Services in the Department of Health:

1. For ICP: determines Level of Care for children under age 21, unless they are applicants for Project AIDS Care or Developmental Disabilities iBudget Florida Waiver.
2. For HCBS: determines if applicants meet waiver requirements for the Model waiver.

**APD** (Agency for Persons with Disabilities):

1. For Intermediate Care Facility for Developmental Disabilities: determines Level of Care for ICF/DD placement.
2. For HCBS: determines if applicant meets waiver requirements for the Developmental Disabilities, Family and Supported Living and iBudget Florida Waivers.

If the eligibility specialist is not sure who is handling this determination, or whether a determination has been requested, he should request assistance from his supervisor.

**1610.0593 Assets Excluded by Federal Law (FS)**

Items excluded by federal law as income are also excluded as assets. These items include, but are not limited to the following:

1. 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).
2. 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).
3. Disaster assistance payments (P.L. 100-707). This exclusion applies to federal disaster assistance and comparable state or local assistance.

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August-December 2016  
Listing of Amended Passages

4. Payments received under the Alaska Native Claims Settlement Act (P.L. 92-203, Section 29 and the Amendments P.L. 100-241, 2/3/88). All compensation (including cash, stock, partnership interest, land, interest in land, and other benefits) are excluded.
5. Payments received for children under the Child Nutrition Act [P.L. 89-642, section 11(b)]. Programs include the Special Milk Program, the School Breakfast Program and the WIC Program.
6. Coupons that may be exchanged for food at farmers' markets, as part of a WIC demonstration project, which are received as a result of the Child Nutrition Act of 1966 (P.L. 100-435, Section 501, 9/19/88).
7. Federal income tax returns, including refundable tax credits (EITC and Child Tax Credit) and over-withholding (tax refunds) are excluded as income and assets in the month of receipt and will continue to be excluded as an asset for 12 months from the date of receipt.
8. Educational assistance is not considered an asset. Excluded funds commingled in an account with other funds are excluded for six months from the date they were combined. Excluded funds kept in a separate account are excluded from assets for an unlimited amount of time.
9. Payments set aside as part of an SSI approved Plan for Achieving Self-Support (PASS) are excluded. These assets must be separated from other funds.
10. Monies paid as compensation to individuals or their heirs for compensation as a result of the Radiation Exposure Compensation Act (Public Law 101-426), effective October 15, 1990.
11. Assets of household members who receive SSI or TCA benefits and reside in a "mixed" food stamp household. (These members are considered categorically eligible on the factor of assets).  
  
**Note:** A "mixed" food stamp household is a household containing some SSI or TCA members and other household members who do not receive SSI or TCA.
12. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act (P.L. 91-646, Section 216).
13. Payments received as a result of the Wartime Relocation of Civilians [P.L. 100-383, Section 105(f)(2)]. This includes payments to U.S. citizens of Japanese

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August-December 2016  
Listing of Amended Passages

ancestry and permanent resident Japanese aliens or their survivors and Aleut residents of the Pribilof Islands and the Aleutian Islands West of Unimak Island.

14. Payments made to individuals because of their status as victims of Nazi persecution (P.L. 103-286).
15. Payments received under the Crime Victim Compensation Program that offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence (P.L. 103-322).
16. Payments made to individuals under the Energy Employees Occupational Illness Compensation Program (EEOICP) Act of 2000 (Public Law 106-398).
17. Payments to American Indians:
  - a. Per capita and interest payments received by the Assiniboine Tribe of the Fort Belknap Indian Community and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana) (P.L. 98-124, Section 5).
  - b. Payments received by the Blackfeet, Grosventre, and Assiniboine tribes (Montana) and the Papago (Arizona) (P.L. 97-408).
  - c. Per capita and trust funds of the Chippewas of Lake Superior (certain reservations in Michigan, Minnesota and Wisconsin) [P.L. 99-146, Section 6.(b)].
  - d. Per capita payments received by the Chippewas of Mississippi (P.L. 99-377, Section 4.b.).
  - e. Per capita and interest payments received by the Red Lake Band of Chippewas (P.L. 98-123, Section 3,10/13/83).
  - f. Payments received by the Saginaw Chippewa Indian Tribe of Michigan (P.L. 99-346, Section 6.b.2).
  - g. Payments received by the Turtle Mountain Band of Chippewas, Arizona (P.L. 97-403).
  - h. Payments received by the Confederate Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (P.L. 103-436).

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August-December 2016  
Listing of Amended Passages

- i. Monies paid under the White Earth Reservation Land Settlement Act of 1985 to the White Earth Band (Minnesota) of Chippewa Indians (P.L. 99-264, Section 16).
- j. Payments received from certain submarginal land held in trust for the following Indian tribes (P.L. 94-114, Section 6):
  - 1. Assiniboine and Sioux Tribes
  - 2. Blackfeet Tribe
  - 3. Cherokee Nation of Oklahoma
  - 4. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin
  - 5. Lac Courte Oreilles Band of Lake Superior Chippewa Indians
  - 6. Minnesota Chippewa Tribe
  - 7. Fort Belknap Indian Community
  - 8. Keweenaw Bay Indian Community
  - 9. Navajo Tribe
  - 10. Cheyenne River Sioux Tribe
  - 11. Crow Creek Sioux Tribe
  - 12. Devils Lake Sioux Tribe
  - 13. Lower Brule Sioux Tribe
  - 14. Oglala Sioux Tribe
  - 15. Rosebud Sioux Tribe
  - 16. Standing Rock Sioux Tribe
  - 17. Shoshone-Bannock Tribes
- k. Payments received by the heirs of deceased Indians received under the Old Age Assistance Claims Settlement Act shall not be used to deny food stamps except for the per capita shares in excess of \$2,000 (P.L. 98-500, Section 8).
- l. Per capita payments (judgement awards) of \$2,000 or less received under the Indian Judgement Fund Act (P.L. 93-134 as amended by P.L. 97-458, Section 1407, and P.L. 98-64). The asset exclusion applies to each payment made to each individual. This exclusion includes per capita payments from funds which are held in trust by the Secretary of Interior (trust fund distribution).
- m. Payments for relocation assistance received by members of the Navajo and Hopi Tribes (P.L. 93-531, Section 22).
- n. Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (P.L. 94-540).

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August-December 2016  
Listing of Amended Passages

- o. Payments received by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet pursuant to the Maine Indians Claims Settlement Act of 1980 (P.L. 96-420, Section 9c).
- p. Funds, assets or income from the Puyallup Tribe of Indians Settlement Act of 1989 [P.L. 101-41, Sections 6(b), 10(b) and 10(c)].
- q. Payments received under the Sac and Fox Indian claims agreement (P.L. 94-189).
- r. Funds of \$2,000 or less appropriated in satisfaction of judgments awarded to the Seminole Indians. Included tribes are the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole Indians of Florida (P.L. 101-277).
- s. Payments received under the Seneca Nation Settlement Act of 1990 [P.L. 101-503, Section 8.(b)].
- t. Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation, from the Indian Claims Commission (P.L. 95-433).
- u. Payments from child and family service programs under the Indian Child Welfare Act (P.L. 95-608). These programs provide a wide range of services including various types of individual, family and community assistance. Some of the provided services are homemaking, day care, recreation, home improvement, education, training, respite care and professional assistance/training in child welfare matters.

**Note:** Information about Apache is with Yakima, Assiniboine, Papago and Grosventre with Blackfeet, Maliseet with Passamaquoddy and Penobscot, Miccosukee with Seminole, Fox with Sac and Hopi with Navajo.

18. Achieving a Better Life Experience (ABLE) accounts which are established for individuals who meet the Social Security Administration's definition of disabled or the individual has a certification of disability from their physician prior to age 26. Verification must be requested if:
- a. questionable, or
  - b. value of ABLE account exceeds \$100,000, or
  - c. value of combined assets exceeds the program limit.

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August-December 2016  
Listing of Amended Passages

**1620.0593 Assets Excluded by Federal Law (TCA)**

Each program has certain assets excluded by federal law. These exclusions are discussed in this section.

The eligibility specialist must verify or document the amount of the benefit received from the following sources, since they are potential assets:

1. SSI benefits or SSI lump sum payments.
2. Assistance from a vocational rehabilitation agency within certain limitations.
3. Disaster assistance payments (P.L. 100-707). This exclusion applies to federal disaster assistance and comparable state or local assistance.
4. Emergency payments made by another agency prior to the date direct assistance is received.
5. Any grant, loan, gift or scholarship received by the individual. Effective 7/1/93, this includes financial assistance provided under programs in Title IV of the Higher Education Act and under Bureau of Indian Affairs student assistance programs. Effective 7/1/93, student financial assistance for attendance costs under the Carl D. Perkins Vocational and Applied Technology Education Act is also excluded. Attendance costs include: tuition and fees (as required by the institution of all students in the same course of study); and books, supplies, transportation, dependent care and miscellaneous personal expenses (as included in the assistance grant) for those attending on at least a half-time basis, as defined by the institution. Living expenses are not allowed as attendance costs unless the assistance grant includes funds for this purpose as part of miscellaneous personal expenses.

Funds derived from the following sources are not considered available income or assets, and it is not required that the source be verified or documented:

1. 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).
2. 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).
3. The employment related expense reimbursement received by a participant in an Employment and Training Program.

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

August-December 2016  
Listing of Amended Passages

4. Assistance payments received by households from the Low-income Home Energy Assistance Program administered by the Department of Community Affairs.
5. Any payment received by foster parents from any agency intended to provide for the needs of foster children or adults placed in their home; or adoption assistance payments for an individual whose needs are not included in the filing unit.
6. Income for children who are in the custody of the Department, which is collected by Fee Collections and placed into a Fee Collections trust account on behalf of a child, is not counted. The funds which remain in the Fee Collections trust account are not counted as an asset. The income and assets are considered unavailable and are excluded in the eligibility determination.
7. Other trust accounts belonging to the child, or on behalf of the child, must be evaluated by the eligibility specialist for consideration in the Medicaid eligibility determination. Follow trust policy contained in the ACCESS Florida Program Policy Manual, beginning with passage 1620.0575.01, for evaluation of the trust account.
8. The value of the benefits under the Food Stamp Act of 1977, as amended, the value of USDA donated foods, the value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act.
9. Any benefits received under Title VII, Nutrition Program for the Elderly of the Older Americans Act of 1965, as amended.
10. Assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
11. Any funds distributed per capita to or held in trust for members of any Indian tribe under Public Laws 92-254, 93-134 or 94-540 and initial purchases made with funds distributed under Public Law 93-134 or Public Law 98-64.
12. Any of the following distributions made to a household, individual native or descendant of a native, by a Native Corporation established by the Alaska Native Claims Settlement Act (Public Law 92-203 as amended):
  - a. Per capita payments of \$2,000 or less per year, including cash dividends on stock from a Native Corporation,

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August-December 2016  
Listing of Amended Passages

- b. Stocks (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock),
  - c. A partnership interest,
  - d. Land or interest in land (including land or interest in land received from a Native Corporation as a dividend or distribution on stock), or
  - e. An interest in a settlement trust.
13. Payments under the Experimental Housing Allowance Program under Section 23 of the U.S. Housing Act of 1937, under contracts fully executed prior to January 1, 1975.
14. Assistance provided to volunteers who participate in ACTION Programs funded under Public Law 93-113, including VISTA and other programs under Title I of that law.
15. Payments for supportive services or reimbursement for expenses made to volunteers serving as foster grandparents, senior health aides or senior companions, and to persons serving on the Service Corps of Retired Executives, Active Corps of Executives, and other programs under Titles II and III, Public Law 93-113, Section 419.
16. Federal income tax returns, including refundable tax credits (EITC and Child Tax Credit) and over-withholding (tax refunds) are excluded as income and assets in the month of receipt and will continue to be excluded as an asset for 12 months from the date of receipt.
17. Payments made pursuant to the Radiation Exposure Compensation Act, to individuals (or their survivors) who became ill or died as a result of exposure to radiation through nuclear testing or uranium mining.
18. 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 will be disregarded as income and assets in the determination of eligibility for benefits under the TCA Programs.
19. Standard filing units receiving Temporary Cash Assistance which have funds paid to a homeless shelter either by themselves or on their behalf, will have such funds excluded as a countable asset, providing that such moneys are to enable the family to pay deposits or other cost associated with moving into a stable shelter arrangement.

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August-December 2016  
Listing of Amended Passages

20. Payments received under the Crime Victim Compensation Program that offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence. (P.L. 103-322).
21. Payments made to individuals under the Energy Employees Occupational Illness Compensation Program (EEOICP) Act of 2000 (Public Law 106-398).
22. Achieving a Better Life Experience (ABLE) accounts which are established for individuals who meet the Social Security Administration's definition of disabled or the individual has a certification of disability from their physician prior to age 26. Verification must be requested if:
  - a. questionable, or
  - b. value of ABLE account exceeds \$100,000, or
  - c. value of combined assets exceeds the program limit.

**1640.0314.03 Assignment of Rights to Support Support Rights (MSSI)**

If the community spouse refuses to make available assets attributed to the institutionalized spouse, the institutionalized spouse may assign his rights of support to the state and obtain institutional care benefits. This situation may arise when assets allocated to the individual actually solely belong to the community spouse who, in turn, refuses to make them available to the individual.

The institutionalized spouse may complete CF-ES Form 2504, Assignment of [Rights to Support Support Rights](#), which allows the state to pursue recovery from the community spouse. The original copy of this form is to be sent to Headquarters Program Policy, in Tallahassee, Attention: SSI-Related Medicaid Program staff. This form is not an option that an eligibility specialist suggests to an ineligible couple, but rather a solution to an existing situation which is brought to the eligibility specialist's attention.

When all conditions in passage 1640.0314.04 are met, the allocated assets being withheld by the community spouse will no longer be considered available to the institutionalized spouse.

If the institutionalized spouse does not assign the rights of support to the state, continue to consider the assets available to the institutionalized individual.

**1640.0314.04 Undue Hardship (MSSI)**

The institutionalized spouse will not be determined ineligible based on a community spouse's assets if all of the following conditions are found to exist:

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

August-December 2016  
Listing of Amended Passages

1. The institutionalized individual is not eligible due to the community spouse's assets and the community spouse refuses to use the assets for the institutionalized spouse; and
2. The [Assignment of Rights to Support Assignment of Support Rights form \(CF-ES Form 2504\)](#) is signed; and
3. The institutionalized spouse would be eligible if only those assets to which he has access were counted; and
4. The institutionalized spouse has no other means to pay for the nursing home care.

**1640.0593 Assets Excluded by Federal Law (MSSI, SFP)**

Items excluded by federal law as income are also excluded as assets. These items include, but are not limited to the following:

1. 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).
2. 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).
3. Lump sum SSI, Social Security, are excluded for nine consecutive calendar months following the month of receipt or until funds are spent, whichever occurs first. This exclusion applies only to the extent that funds are kept separate and identifiable from other assets. Federal income tax returns, including refundable tax credits (EITC and Child Tax Credit) and over-withholding (tax refunds) are excluded as income and assets in the month of receipt and will continue to be excluded as an asset for 12 months from the date of receipt.
4. Value of any assistance paid with respect to a dwelling unit under the U.S. Housing Act of 1937, as amended; the National Housing Act; Section 101 of the HUD Act of 1965; or Title V of the Housing Act of 1949.
5. Disaster assistance payments (P.L. 100-707). This exclusion applies to federal disaster assistance and comparable state or local assistance.
6. All student financial assistance received under Title IV of the Higher Education Act of 1965, or under Bureau of Indian Affairs (BIA) student assistance programs is excluded from income and assets, regardless of use. Examples of Title IV Programs include, but are not limited to: Pell grants, State Student incentives, Academic Achievement Incentive Scholarships, Supplemental Educational Opportunities grants, Upward Bound, work-study programs.

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

August-December 2016  
Listing of Amended Passages

7. Any portion of a grant, scholarship, loan, gift or fellowship received by an individual to pay the costs of tuition, fees or other necessary educational expenses.
8. German, Japanese, or Aleutian reparation payments.
9. Any increase in the value of excluded burial funds that are left to accumulate.
10. Netherlands reparation payments based on Nazi persecution during World War II.
11. Austrian Reparation Payments made under Sections 500-506 of the Austrian General Social Insurance Act.
12. Payments made to class members under the Factor VIII of IX Concentrate Blood Products lawsuit settlement. This exclusion applies only to the extent that funds are kept separate and identifiable.
13. Payments received under the Crime Victim Compensation Program that offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence (P.L. 103-322).
14. Payments made to individuals under the Energy Employees Occupational Illness Compensation Program (EEOICP) Act of 2000 (Public Law 106-398).
15. Achieving a Better Life Experience (ABLE) accounts which are established for individuals who meet the Social Security Administration's definition of disabled or the individual has a certification of disability from their physician prior to age 26. Verification must be requested if:
  - a. questionable, or
  - b. value of ABLE account exceeds \$100,000, or
  - c. value of combined assets exceeds the program limit.

**1650.0593 Assets Excluded by Federal Law (CIC)**

The eligibility specialist must verify or document the amount of the benefit received from the following sources, since they are potential assets:

1. SSI benefits or SSI lump sum payments.
2. Assistance from a vocational rehabilitation agency within certain limitations.

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

August-December 2016  
Listing of Amended Passages

3. Disaster assistance payments (P.L. 100-707). This exclusion applies to federal disaster assistance and comparable state or local assistance.
4. Emergency payments made by another agency prior to the date direct assistance is received.
5. Any grant, loan, gift or scholarship received by the individual. Effective 7/1/93, this includes financial assistance provided under programs in Title IV of the Higher Education Act and under Bureau of Indian Affairs student assistance programs. Effective 7/1/93, student financial assistance for attendance costs under the Carl D. Perkins Vocational and Applied Technology Education Act is also excluded. Attendance costs include: tuition and fees (as required by the institution of all students in the same course of study); and books, supplies, transportation, dependent care and miscellaneous personal expenses (as included in the assistance grant) for those attending on at least a half-time basis, as defined by the institution. Living expenses are not allowed as attendance costs unless the assistance grant includes funds for this purpose as part of miscellaneous personal expenses.

Funds derived from the following sources are not considered available income or assets, and it is not required that the source be verified or documented:

1. 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).
2. 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).
3. The employment related expense reimbursement received by a participant in employment & training.
4. Assistance payments received by households from the Low-income Home Energy Assistance Program administered by the Department of Community Affairs.
5. Any payment received by foster parents from any agency intended to provide for the needs of foster children or adults placed in their home; or adoption assistance payments for an individual whose needs are not included in the filing unit.
6. Income for children who are in the custody of the Department, which is collected by Fee Collections and placed into a Fee Collections trust account on behalf of a child, is not counted. The funds which remain in the Fee Collections trust

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

August-December 2016  
Listing of Amended Passages

account are not counted as an asset. The income and assets are considered unavailable and are excluded in the eligibility determination.

7. Other trust accounts belonging to the child, or on behalf of the child, must be evaluated by the eligibility specialist for consideration in the Medicaid eligibility determination. Follow trust policy contained in the ACCESS Florida Program Policy Manual, beginning with passage 1650.0573, for evaluation of the trust account.
8. The value of the benefits under the Food Stamp Act of 1977, as amended, the value of USDA donated foods, the value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act.
9. Any benefits received under Title VII, Nutrition Program for the Elderly of the Older Americans Act of 1965, as amended.
10. Assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
11. Any funds distributed per capita to or held in trust for members of any Indian tribe under Public Laws 92-254, 93-134 or 94-540 and initial purchases made with funds distributed under Public Law 93-134 or Public Law 98-64.
12. Any of the following distributions made to a household, individual native or descendant of a native, by a Native Corporation established by the Alaska Native Claims Settlement Act (Public Law 92-203 as amended):
  - a. per capita payments of \$2,000 or less per year, including cash dividends on stock from a Native Corporation;
  - b. stocks (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);
  - c. a partnership interest;
  - d. land or interest in land (including land or interest in land received from a Native Corporation as a dividend or distribution on stock); or
  - e. an interest in a settlement trust.
13. Payments under the Experimental Housing Allowance Program under Section 23 of the U.S. Housing Act of 1937, under contracts fully executed prior to January 1, 1975.

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

August-December 2016  
Listing of Amended Passages

14. Assistance provided to volunteers who participate in ACTION Programs funded under Public Law 93-113, including VISTA and other programs under Title I of that law.
15. Payments for supportive services or reimbursement for expenses made to volunteers serving as foster grandparents, senior health aides or senior companions, and to persons serving on the Service Corps of Retired Executives, Active Corps of Executives, and other programs under Titles II and III, Public Law 93-113, Section 419.
16. Federal income tax returns, including refundable tax credits (EITC and Child Tax Credit) and over-withholding (tax refunds) are excluded as income and assets in the month of receipt and will continue to be excluded as an asset for 12 months from the date of receipt.
17. Payments made pursuant to the Radiation Exposure Compensation Act, to individuals (or their survivors) who became ill or died as a result of exposure to radiation through nuclear testing or uranium mining.
18. 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 will be disregarded as income and assets in the determination of eligibility for benefits under the TCA Program.
19. Standard filing units receiving Temporary Cash Assistance and Medicaid which have funds paid to a homeless shelter either by themselves or on their behalf, will have such funds excluded as a countable asset, providing that such moneys are to enable the family to pay deposits or other cost associated with moving into a stable shelter arrangement.
20. Payments received under the Crime Victim Compensation Program that offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence (P.L. 103-322).
21. Payments made to individuals under the Energy Employees Occupational Illness Compensation Program (EEOICP) Act of 2000 (Public Law 106-398).
22. Achieving a Better Life Experience (ABLE) accounts which are established for individuals who meet the Social Security Administration's definition of disabled or the individual has a certification of disability from their physician prior to age 26. Verification must be requested if:
  - a. questionable, or

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

August-December 2016  
Listing of Amended Passages

- b. value of ABLE account exceeds \$100,000, or
- c. value of combined assets exceeds the program limit.

**1660.0593 Assets Excluded by Federal Law (RAP)**

The eligibility specialist must verify or document the amount of the benefit received from the following sources, since they are potential assets:

1. SSI benefits or SSI lump sum payments.
2. Assistance from a vocational rehabilitation agency within certain limitations.
3. Disaster assistance payments (P.L. 100-707). This applies to federal disaster assistance and comparable state or local assistance.
4. Emergency payments made by another agency prior to the date direct assistance is received.
5. Any grant, loan, gift or scholarship received by the individual. Effective 7/1/93, this includes financial assistance provided under programs in Title IV of the Higher Education Act and under Bureau of Indian Affairs student assistance programs. Effective 7/1/93, student financial assistance for attendance costs under the Carl D. Perkins Vocational and Applied Technology Education Act is also excluded. Attendance costs include: tuition and fees (as required by the institution of all students in the same course of study); and books, supplies, transportation, dependent care and miscellaneous personal expenses (as included in the assistance grant) for those attending on at least a half-time basis, as defined by the institution. Living expenses are not allowed as attendance costs unless the assistance grant includes funds for this purpose as part of miscellaneous personal expenses.

Funds derived from the following sources are not considered available income or assets, and it is not required that the source be verified or documented:

1. The employment related expense reimbursement received by a participant in employment & training.
2. Assistance payments received by households from the Low-income Home Energy Assistance Program administered by the Department of Community Affairs.
3. Any payment received by foster parents from any agency intended to provide for the needs of foster children or adults placed in their home; or adoption

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

## August-December 2016 Listing of Amended Passages

assistance payments for an individual whose needs are not included in the filing unit.

4. Income for children who are in the custody of the Department, which is collected by Fee Collections and placed into a Fee Collections trust account on behalf of a child, is not counted. The funds which remain in the Fee Collections trust account are not counted as an asset. The income and assets are considered unavailable and are excluded in the eligibility determination.
5. Other trust accounts belonging to the child, or on behalf of the child, must be evaluated by the eligibility specialist for consideration in the Medicaid eligibility determination. Follow trust policy contained in the ACCESS Florida Program Policy Manual, beginning with passage 1650.0573, for evaluation of the trust account.
6. The value of the benefits under the Food Stamp Act of 1977, as amended, the value of USDA donated foods, the value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act.
7. Any benefits received under Title VII, Nutrition Program for the Elderly of the Older Americans Act of 1965, as amended.
8. Assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
9. Any funds distributed per capita to or held in trust for members of any Indian tribe under Public Laws 92-254, 93-134 or 94-540 and initial purchases made with funds distributed under Public Law 93-134 or Public Law 98-64.
10. Any of the following distributions made to a household, individual native or descendant of a native, by a Native Corporation established by the Alaska Native Claims Settlement Act (Public Law 92-203 as amended):
  - a. per capita payments of \$2,000 or less per year, including cash dividends on stock from a Native Corporation;
  - b. stocks (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);
  - c. a partnership interest;
  - d. land or interest in land (including land or interest in land received from a Native Corporation as a dividend or distribution on stock); or
  - e. an interest in a settlement trust.

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

August-December 2016  
Listing of Amended Passages

11. Payments under the Experimental Housing Allowance Program under Section 23 of the U.S. Housing Act of 1937, under contracts fully executed prior to January 1, 1975.
12. Assistance provided to volunteers who participate in ACTION Programs funded under Public Law 93-113, including VISTA and other programs under Title I of that law.
13. Payments for supportive services or reimbursement for expenses made to volunteers serving as foster grandparents, senior health aides or senior companions, and to persons serving on the Service Corps of Retired Executives, Active Corps of Executives, and other programs under Titles II and III, Public Law 93-113, Section 419.
14. Federal income tax returns, including refundable tax credits (EITC and Child Tax Credit) and over-withholding (tax refunds) are excluded as income and assets in the month of receipt and will continue to be excluded as an asset for 12 months from the date of receipt.
15. Payments made pursuant to the Radiation Exposure Compensation Act, to individuals (or their survivors) who became ill or died as a result of exposure to radiation through nuclear testing or uranium mining.
16. 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 will be disregarded as income and assets in the determination of eligibility for benefits under the TCA Program.
17. Standard filing units receiving Temporary Cash Assistance and Medicaid which have funds paid to a homeless shelter either by themselves or on their behalf, will have such funds excluded as a countable asset, providing that such moneys are to enable the family to pay deposits or other cost associated with moving into a stable shelter arrangement.
18. Payments received under the Crime Victim Compensation Program that offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence (P.L. 103-322).
19. Payments made to individuals under the Energy Employees Occupational Illness Compensation Program (EEOICP) Act of 2000 (Public Law 106-398).
20. Achieving a Better Life Experience (ABLE) accounts which are established for individuals who meet the Social Security Administration's definition of disabled or

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

August-December 2016  
Listing of Amended Passages

the individual has a certification of disability from their physician prior to age 26. Verification must be requested if:

- a. questionable, or
- b. value of ABLE account exceeds \$100,000, or
- c. value of combined assets exceeds the program limit.

**2210.0317.03 Residents of Drug and Alcohol Treatment Facilities (FS)**

Drug and alcohol treatment facilities applying for food stamps for residents will be required to provide verification they are authorized by FNS as a retailer or are licensed by the Substance Abuse and Mental Health Program, or if unlicensed meet the licensing criteria. They may either provide a copy of their license granted by the Substance Abuse and Mental Health Program, or a letter from the Substance Abuse and Mental Health Program (on ADM letterhead) stating the facility meets the criteria to obtain a license and funding, even though they choose not to be licensed or receive funding.

The eligibility specialist must verify the treatment program is a publicly operated or a private non-profit program. If the nonprofit status was established during the licensing process, the statement of the licensing agency can be considered proof of nonprofit status. If the licensing agency has not made a nonprofit determination for the treatment program, IRS proof of nonprofit status will be required unless the treatment program is operated by a religious group or organization. Since religious groups and organizations are assumed to be nonprofit, a statement from the minister or a member of the board of the organization is sufficient proof of nonprofit status.

By the seventh of each calendar month each treatment and rehabilitation center shall provide DCF with a copy of the residential treatment facility food stamp certification form (CF-ES 2318), listing current residents who are receiving substance abuse services. The report must also list any residents who are no longer receiving services, or have been discharged by the facility. The certification form must be signed by the facility director. ~~The food stamp certification form (CF-ES 2318) must also be completed and signed by the facility director at application and each recertification.~~ To ensure the accuracy of the reporting, each Region or Circuit will conduct an on-site review annually. If any discrepancies are discovered, a follow-up review must be conducted within three months.

For simplified reporting AGs, consider information from the facility as verified upon receipt when the Department is notified that a resident no longer resides there. Close the AG if the new address is not known. If the address is known, change the address, remove the authorized representative and keep the case open.

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

August-December 2016  
Listing of Amended Passages

**2230.0402 Parents and Other Caretaker Relatives (MFAM)**

In order to be eligible for Medicaid, ~~a parent or other caretaker relative who is within the specified degree of relationship, must live with a child.~~ to derive their Medicaid eligibility. The child does not have to be a tax dependent of the adult parent or other caretaker relative to be potentially eligible. ~~Include all countable income of the parent or other caretaker relative when they are a member of the SFU.~~

Note: A parent or other caretaker relative who is ineligible for Medicaid because of having been sanctioned due to failure to comply with CSE requirements or other technical factors must continue to have their income included.

**2230.0403 Children and Tax Dependents (MFAM)**

~~The MAGI-based income of an individual who is included in the household of their parent (biological, adopted or step) and is not expected to be required to file a tax return for the tax year, is not included in household income no matter if the individual decides to file a tax return.~~

~~The MAGI-based income of a tax dependent (does not have to be a child) who is not expected to be required to file a tax return for the tax year, is not included in the household income of the tax filer (or other dependents) no matter if the individual decides to file a tax return.~~

**2230.0403.02 Including Sibling Income in SFU (MFAM)**

~~The sibling(s) living in the home included in the tax filing group of the child for whom assistance is requested must have income included.~~

**2230.0403 Income of SFU Members Included (MFAM)**

After determining the SFU for each individual, include all countable income of every individual included in the SFU.

Include all countable income of individuals not considered to be children living with their parent or not tax dependents, such as parents, caretaker relatives and their spouses.

~~Note: A spouse cannot be a tax dependent of the other spouse.~~

Examples:

- When an individual lives with their parent, and is expected to be required to file a tax return (income above the threshold), include all countable income of the individual in all AGs in which the individual is either counted (CA, CC) or eligible (EA, EC).
- If the tax dependent for whom eligibility is being determined does not have a parent to child relationship with the tax filer, include all countable income of the

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

August-December 2016  
Listing of Amended Passages

tax dependent, without regard to an income threshold (requirement to file a tax return).

- When determining the eligibility of the tax filer that does not have a parent to child relationship to the tax dependent, include all countable income of the tax dependent expected to be required to file a tax return (income above the threshold). (This includes all AGs in which the tax dependent is a counted member).

Exceptions:

- When an individual lives with their parent, and is not expected to be required to file a tax return (income below the threshold), do not budget any of the individual's countable income for any assistance groups (AGs) in which the individual is either counted (CA, CC) or eligible (EA, EC).
- When determining the eligibility of the tax filer that does not have a parent to child relationship with the tax dependent, exclude all countable income of the tax dependent not expected to be required to file a tax return (income below the threshold). (This includes all AGs in which the tax dependent is a counted member, except their own AG).

## **2450.0000 Child In Care**

The sections below discuss income budgeting methodologies.

Once the ~~eligibility specialist has determined the individual's assets (Chapter 1600) and income (Chapter 1800) according to policy, various budgets and tests must be executed to determine or redetermine eligibility.~~ To determine how to calculate benefits, Chapter 2600 must be used.

## **2450.0100 INCOME LIMITS (CIC)**

Eligibility for Medicaid is determined by comparing the individual's countable income to the income limits. The income limits compared to the SFU's countable income to determine eligibility for assistance vary by coverage group. Refer to Appendix A-5 and A-7 for the standard tables.

## **2450.0200 BUDGETING (CIC)**

Budgeting processes determine how benefits will be calculated, by program, for the month. ~~Benefits for all programs are budgeted prospectively. Prospective budgeting is explained in passage 2450.0201.~~

## **2450.0201 Prospective Budgeting Period (CIC)**

~~Prospective budgeting is a method by which Eligibility and benefit levels are is based on the assistance group's composition, technical factors, and income circumstances as~~

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

## August-December 2016 Listing of Amended Passages

they exist in the month for which benefits are being calculated. This can be either a past, current or future month. When budgeting prospectively for a future month, the estimated anticipated income and circumstances may be based on what occurred in prior months if those months are considered representative of the assistance group's continued situation. Prospective ~~B~~udgeting may also be based on the amount the individual can anticipate to receive. When a budget is completed for a month that has already passed, the actual income and circumstances are used. A ~~past month is defined as any month prior to the month of the interview. All assistance groups are subject to prospective budgeting.~~

### **2450.0204 Determining Monthly Income (CIC)**

Several factors are involved in determining a gross amount of monthly income to be budgeted. These are anticipating and projecting income, averaging income, and converting the income to a monthly amount.

When income is received more often than monthly, it will be converted to a monthly amount. When averaging income, use the most recent consecutive four weeks or the best available information when it is representative of the individual's future income.

### **2450.0206 Budgeting Methods Non-Title IV-E (CIC)**

#### **Budgeting Methods (CIC)**

The process of computing the amount of income to be considered in determining financial eligibility and the benefit amount is called "budgeting". When determining financial eligibility, one or more budget calculations will be completed. The best estimate of an assistance group's income and circumstances is used to determine the ~~eligibility. benefit amount~~. When determining ~~eligibility~~ benefits for a past month the AG's actual income and circumstances are used. The income is compared to the appropriate income limit to arrive at the benefit amount. See Appendix A-7 for income charts.

### **2450.0207.01 Budgeting for Subsequent Months (CIC)**

~~Eligibility for a benefit is determined prospectively based on the individual's anticipated income and circumstances in the following month. Both technical and financial eligibility must be assessed. If eligible, the benefit must be based on the budget month's income and circumstances as known to the eligibility specialist at the time action is taken.~~

### **2450.0207.02 Removing an Individual's Needs (CIC)**

~~If an individual in the assistance group is determined to be prospectively ineligible for the following month, his needs must be removed the following month. If it is not possible to give a 10 day advance notice to cancel or reduce the benefit, an overpayment exists for the interim month.~~

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

August-December 2016  
Listing of Amended Passages

~~When the individual whose needs are being removed has income that must continue to be considered in the benefit (for example, a CSE sanctioned parent who is working) the income must continue to be budgeted. If, however, an individual's needs are removed and the income is no longer required to be considered, the income is removed effective the same month the individual is removed.~~

**2450.0209 Budgeting Methods Title IV-E (CIC)**

Determination of initial Title IV-E eligibility is completed by the Office of Child Welfare prior to submitting the application for Medicaid. Budgeting for Title IV-E foster care child's ongoing eligibility follows the budgeting methods in passage 2450.0206, except the eligibility specialist budgets actual income for the month of removal of the child from the home or voluntary placement. Prospective budgeting is used. For Title IV-E, two separate budgets are needed for the month of removal. First the countable income and any disregards (refer to Section 2450.0300) must be less than the consolidated needs standard in effect on July 16, 1996. The income of the child placed in care is then calculated separately and compared to the foster care board rate. ~~For non-Title IV-E cases, income is compared to the current TCA Tier I payment standard and the applicable poverty level for MEDS.~~ The difference between the board rate and the child's countable income is the amount of the board rate. Gross income cannot exceed 185% of the AFDC-FC board rate.

During redeterminations only income actually received by the child can be counted in the budget computation; income of the child's parents and relatives is not considered. State collected child support or money collected by fee collection is not counted. Ineligibility on lump sum in the month of the initiation of court action results in denial of the case. Lump sums received in an active case will be treated in accordance with TCA policy except that the lump sum eligibility period is the number of months the child is ineligible based on dividing the lump sum by the board rate. As with Family-Related Medicaid policy, any remainder must be counted the first month that eligibility resumes.

**2450.0300 INCOME DISREGARDS (CIC)**

~~This section presents policy on the following:~~

1. ~~earned income disregard,~~
2. ~~standard disregard,~~
3. ~~day care disregards,~~
4. ~~shelter disregards,~~
5. ~~utility disregards,~~
6. ~~medical disregards,~~
7. ~~student earned income,~~
8. ~~work expenses of the blind,~~
9. ~~ordinary and necessary expenses,~~

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

August-December 2016  
Listing of Amended Passages

- 10. optional deduction, and
- 11. unearned income overpayment.

**2450.0301 Disregards and Vendor Payments (CIC)**

~~Any expense which is paid in full by a vendor payment cannot be allowed as an expense under income disregard policy.~~

**2450.0304 Standard Earned Income Disregard (CIC)**

~~The standard earned income disregard must be budgeted for each individual whose earned income is considered in determining eligibility.~~

~~The first \$90 of each individual's gross earned income is deducted in a regular budget.~~

~~The first \$90 of each individual's gross earned income is deducted in the deeming budget.~~

~~**The formula is:** (Gross Earned Income) - (Standard Earned Income Disregard) = (Balance after Standard Earned Income Disregard).~~

**2450.0325 Work Related Cost of Care Disregards (CIC)**

~~For CIC, the following policy is applicable only for Title IV-E at initial eligibility determination.~~

~~Medicaid recipients with child care costs will be allowed the work related cost of care disregard in the eligibility budget. The child care cost must be verified only if questionable.~~

~~Only the amount of the out-of-pocket expense may be used as a disregard in the Medicaid budget. This is the amount the individual pays; i.e., the parent fee and/or any amount that exceeds the market rate.~~

**2450.0326 Cost of Care Maximums (CIC)**

~~The maximum allowable disregard for the work related cost of child or incapacitated adult care is up to \$200 per child under age two; or up to \$175 per child or incapacitated adult age two or older.~~

~~In the month following the month the child turns age two, the maximum cost of care disregard becomes \$175 per child. If the child turns age two on the first of a month, the \$175 maximum disregard applies in the month of the child's birthday. The cost of care disregard is budgeted as billed (an average of the weekly expense x 4.3 conversion factor is used). However, no child or incapacitated adult care amount paid by vendor payment is allowed as a deduction.~~

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

August-December 2016  
Listing of Amended Passages

~~The formula is: (Balance after Standard Earned Income Disregard) - Appropriate Earned Income Disregard - (As Billed Cost of Care per Child or Incapacitated Adult up to the Maximum) = (Countable Income).~~

**2450.0327 Eligibility for Child Care Disregard (CIC)**

~~For Child in Care (CIC), the following policy is applicable only for Title IV-E at initial determination.~~

~~In order to qualify for the disregard, the child/incapacitated adult care must be necessary for the parent/caretaker relative to maintain employment. Additionally, the child in need of care must be under age 13, or physically or mentally incapable of caring for himself, or be under court supervision. Verification of the need for care must be obtained only when questionable.~~

~~For Refugee Assistance Program (RAP), CIC and Family-Related Medicaid (MFAM) (under \$10 and opt not to receive), the cost of care shall be deducted only for the care of dependent children in the assistance group (AG). This includes a child who would be an assistance group member (or standard filing unit (SFU) for MFAM) except for the receipt of Supplemental Security Income (SSI). For all other MFAM groups, the child does not have to be in the AG, but must be a member of the SFU.~~

~~The cost of care incurred must be paid to an individual not in the AG/SFU.~~

**2450.0328 Incapacitated Adult Care Disregard (CIC)**

~~For CIC, the following policy is applicable only for Title IV-E at initial determination.~~

~~The cost of care for an incapacitated adult can be deducted only when:~~

- ~~1. the incapacitated individual lives in the home with the employed individual and the dependent child;~~
- ~~2. the incapacitated adult is included in the assistance group; and~~
- ~~3. the individual requires care due to a physical, mental, or emotional condition that precludes the individual from remaining alone in the home during the hours of employment.~~

~~The incapacitated individual's need for care must be verified, if questionable, by a statement from a physician, nurse or other health care professional. The amount billed must be documented or verified, only if questionable.~~

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

August-December 2016  
Listing of Amended Passages

**2450.0363 Student Earned Income Disregard (CIC)**

The earned income of an eligible child who is a full-time student or a part-time student who is not a full-time employee is not subject to the eligibility standard test for six months in a calendar year. The gross earned income of the child who is a full-time student, or a part-time student and who is not a full-time employee is disregarded in the budget computation for the entire calendar year.

A part-time student who is not a full-time employee is defined as one whose school or training schedule is at least one-half of a full-time curriculum and who is regularly employed less than 30 hours a week.

If a student goes from full to part-time employment or vice versa within a month, entitlement to the student disregard should be based on the average weekly number of hours for which the student was paid during the month.

A full-time student includes the eligible child in the assistance group who is a participant in the Job Corps.

Verification of student status by the school or institution attended is required. Information must be provided on the gross income earned by the student; documentation is not required.

Earnings for classroom attendance negate this student definition. Earnings for classroom attendance is considered earned income and the individual receiving this income is not considered a student qualified for the student earned income disregard. The one exception to this is with reference to earnings for classroom attendance under a WIA Program. This WIA pay is unearned income and subject to the separate WIA unearned income exclusions. Refer to Chapter 1800.

**2450.0500 INCOME AVERAGING (CIC)**

Income averaging is a method used to adjust for fluctuations in income when the income is not verified through the Federal Data Services Hub (FDSH) or State Wage Information Collection Agency (SWICA) data, converted to a monthly amount, as described in passages 2450.0501 through 2450.0509.

When earned income is received more frequently than monthly, a four week average is used. When income is received semimonthly, the computation is averaged based on the most recent available one month of pay. When the income is received monthly, use the most recent one month of pay if representative.

When using an average, use only the weeks in the average that represent the ongoing pattern of employment. If there are significant breaks of one week or more without pay

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

August-December 2016  
Listing of Amended Passages

and the breaks are not expected to recur at four week intervals, the breaks will be disregarded in computing the average. Such a break without pay might be due to illness, a death, vacation, employer leaving town, and the like. When such breaks are part of the pattern of the applicant/recipient's employment, the weeks are taken into consideration in computation of the average (for example, construction workers).

When the applicant/recipient begins employment by working only a partial week, thus having lower wages for that week only, the initial partial week should not be included in the average used to compute the budgeted income.

Unearned income may be averaged using the same procedures.

**2450.0502    Averaging Fluctuating Income    ~~When Income should be Averaged (CIC)~~**

To average income, consider the standard filing unit's anticipation of monthly income fluctuations over the eligibility period. When averaging income, use the most recent consecutive four weeks or the best available information when it is representative of the individual's future earnings.

When the most recent consecutive four pay stubs are provided and there are no major changes in pay or number of work hours, project future monthly earnings on an average of the four pay stubs provided.

When the most recent consecutive four pay stubs are provided and there has been a change to the hourly rate of pay or work hours use the most recent pay stub(s), which are representative of future earnings.

When computing a budget, income should be averaged whenever it is received:

1. in differing amounts;
2. at varying periods;
3. from sources such as tips, commissions, and overtime;
4. at a regular rate and schedule of pay, but to cover time periods which vary; or
5. in any combination of the above, or any time the same amount is not received at the same time each month, resulting in the amounts to be budgeted varying from month to month.

**2450.0503    Unearned Income (CIC)**

Unearned income such as contributions or child support payments may be averaged using the same procedures as for earned income.

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

August-December 2016  
Listing of Amended Passages

**2450.0504    Earned Income (CIC)**

A four week average is used when earned income is received more frequently than monthly; for example, weekly or biweekly. When income is received semimonthly, the computation is averaged based on the most recent available one month of pay (two semimonthly payments). When the income is received monthly, use the most recent one month pay if representative.

~~When using an average, use only the weeks in the average that represent the ongoing pattern of employment. For example, if the employee is out sick one week and received no pay, do not use that week in the average.~~

**2450.0506    Significant Breaks in Employment (CIC)**

If there are significant breaks of one week or more without pay and the breaks are not expected to recur at four week intervals, the breaks will be disregarded in computing the average. Such a break without pay might be due to illness, a death, vacation, employer leaving town, and the like. When such breaks are part of the pattern of the applicant/recipient's employment, the weeks are taken into consideration in computation of the average (for example, construction workers).

**2450.0507    Partial Week (CIC)**

When the applicant/recipient begins employment by working only a partial week, thus having lower wages for that week only, the initial partial week should not be included in the average used to compute the budgeted income. Additionally, if a partial week was worked due to illness, a death, vacation, etc., and these factors are not anticipated to recur within the future, these partial weeks should be omitted from the average as they are not reflective of future earnings. In this situation, the average may be based on three weeks or less.

**2450.0508    Basis for Average (CIC)**

Requirements for documentation or verification of averaged income are the same as with any income as provided in Chapter 1800. It is important that the eligibility specialist base the average computation for ongoing employment on the actual gross income the applicant/recipient received for the particular time period, rather than on estimated wages and hours to be worked. When the applicant/recipient begins new employment, the eligibility specialist must determine whether the particular type of employment will result in irregular income. Although the employer may indicate on the documentation that the applicant/recipient is to work a set number of hours or days for a certain wage, the applicant/recipient may actually work varying hours. Base the initial budget on the amount the applicant/recipient is supposed to earn, usually one week's salary, or the employer's statement of wages.

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

August-December 2016  
Listing of Amended Passages

**3010.0200 SECURITY (FS)**

IRS and BEERS exchange confidential tax and benefit information with state agencies only under the condition that the state will follow strict security guidelines in the storage, use, and disclosure of that information. This sensitive data is available to authorized Department employees through the data exchange process of FLORIDA. **Contracted services employees and employees of other agencies are not permitted to view any part of the IRS or BEERS information at any time.** Each employee is personally liable for any willful disclosure or misuse of the data and therefore must be aware of the security procedures and penalties for improper use or disclosure. Some security controls are built into the automated system. Manual procedures must assure other controls.

Federal Code protects the confidentiality of federal tax information. Anyone who knowingly, or by reason of negligence discloses IRS or BEERS data is in violation of the law. An individual who discloses this information may be subject to civil action by the taxpayer in an U.S. District Court.

No liability will arise to a disclosure requested by a taxpayer or a misinterpretation of Federal Code governing this policy.

If the U.S. District Court finds in the civil action that an individual released information, and it is a willful disclosure, the defendant can be liable for \$1000 for each disclosure or actual damages, whichever is greater.

**3010.0202 IRS and BEERS Data Security Requirements (FS)**

The IRS mandates any agency obtaining IRS tax and BEERS data to maintain strict security guidelines. Do not print, **fax, copy, or store** information from BEERS or IRS responses. If this information is inadvertently printed, follow the following procedures:

1. Secure any screen print of IRS or BEERS data from the system under lock and key and destroy it immediately after review with the individual.
2. Do not exceed 45 days from the time of initial receipt of data to destruction of the data.
3. Do not photocopy the data.

There is a prohibition against recording IRS as the source of the information. Record only the results of the review of the data.

Do not, under any circumstances, place a copy of the IRS tax data in the case record **or document imaging system**. When destroying the hardcopy, shred it by machine into strips not larger than 5/16th of an inch wide and cut it perpendicular to the printing.

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## August-December 2016 Listing of Amended Passages

The Region or Circuit is to maintain a log of shredded information, including the item shredded, the date and the name of the individual who completed the shredding. Maintain the log for five years.

Do not retain any third party request for additional verification on IRS or BEERS data in the case record and treat the request with the same security provisions as the actual IRS or BEERS response. Retain the third party response in the case record only if it does not contain return information. Return information is information obtained through an IRS or BEERS match that contains data not otherwise available to the Department.

If the customer **denies** knowledge of the income/asset, the customer must be pended for additional information about the account, staff must not reveal the source of the information to the customer. If the requested information is received from the customer, update the case with the information, and enter on CLRC and AMS. If the requested information is not received, and assets are a factor of eligibility for the benefits the customer receives, staff must follow the standard denial process, ensuring Continuous Medicaid coverage. **Note:** For combination cases (food assistance (FA)/ Temporary Cash Assistance (TCA)/ Medicaid) action to deny can be taken at any time during the eligibility period. For Simplified Reporting FA only cases, action to deny can only be taken at application or renewal of benefits.

### **3020.0200 SECURITY (TCA)**

IRS and BEERS exchange confidential tax and benefit information with state agencies only under the condition that the state will follow strict security guidelines in the storage, use, and disclosure of that information. This sensitive data is available to authorized Department employees through the data exchange process of FLORIDA. **Contracted services employees and employees of other agencies are not permitted to view any part of the IRS or BEERS information at any time.** Each employee is personally liable for any willful disclosure or misuse of the data and therefore must be aware of the security procedures and penalties for improper use or disclosure. Some security controls are built into the automated system. Manual procedures must assure other controls.

Federal Code protects the confidentiality of federal tax information. Anyone who knowingly, or by reason of negligence discloses IRS or BEERS data is in violation of the law. An individual who discloses this information may be subject to civil action by the taxpayer in an U.S. District Court.

No liability will arise to a disclosure requested by a taxpayer or a misinterpretation of Federal Code governing this policy.

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

## August-December 2016 Listing of Amended Passages

If the U.S. District Court finds in the civil action that an individual released information, and it is a willful disclosure, the defendant can be liable for \$1000 for each disclosure or actual damages, whichever is greater.

### **3020.0202 IRS and BEERS Data Security Requirements (TCA)**

The IRS mandates any agency obtaining IRS tax and BEERS data to maintain strict security guidelines. Do not print, **fax, copy, or store** information from BEERS or IRS responses. If this information is inadvertently printed, follow the following procedures:

1. Secure any screen print of IRS or BEERS data from the system under lock and key and destroy it immediately after review with the individual.
2. Do not exceed 45 days from the time of initial receipt of data to destruction of the data.
3. Do not photocopy the data.

There is a prohibition against recording IRS as the source of the information. Record only the results of the review of the data.

Do not, under any circumstances, place a copy of the IRS tax data in the case record **or document imaging system**. When destroying the hardcopy, shred it by machine into strips not larger than 5/16th of an inch wide and cut it perpendicular to the printing.

The Region or Circuit is to maintain a log of shredded information, including the item shredded, the date and the name of the individual who completed the shredding. Maintain the log for five years.

Do not retain any third party request for additional verification on IRS or BEERS data in the case record and treat the request with the same security provisions as the actual IRS or BEERS response. Retain the third party response in the case record only if it does not contain return information. Return information is information obtained through an IRS or BEERS match that contains data not otherwise available to the Department.

If the customer **denies** knowledge of the income/asset, the customer must be pended for additional information about the account, staff must not reveal the source of the information to the customer. If the requested information is received from the customer, update the case with the information, and enter on CLRC and AMS. If the requested information is not received, and assets are a factor of eligibility for the benefits the customer receives, staff must follow the standard denial process, ensuring Continuous Medicaid coverage. **Note:** For combination cases (food assistance (FA)/ Temporary Cash Assistance (TCA)/ Medicaid) action to deny can be taken at any time during the eligibility period. For Simplified Reporting FA only cases, action to deny can only be taken at application or renewal of benefits.

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

August-December 2016  
Listing of Amended Passages

**3030.0200 SECURITY (MFAM)**

IRS and BEERS exchange confidential tax and benefit information with state agencies only under the condition that the state will follow strict security guidelines in the storage, use, and disclosure of that information. This sensitive data is available to authorized Department employees through the data exchange process of FLORIDA. **Contracted services employees and employees of other agencies are not permitted to view any part of the IRS or BEERS information at any time.** Each employee is personally liable for any willful disclosure or misuse of the data and therefore must be aware of the security procedures and penalties for improper use or disclosure. Some security controls are built into the automated system. Manual procedures must assure other controls.

Federal Code protects the confidentiality of federal tax information. Anyone who knowingly, or by reason of negligence discloses IRS or BEERS data is in violation of the law. An individual who discloses this information may be subject to civil action by the taxpayer in an U.S. District Court.

No liability will arise to a disclosure requested by a taxpayer or a misinterpretation of Federal Code governing this policy.

If the U.S. District Court finds in the civil action that an individual released information, and it is a willful disclosure, the defendant can be liable for \$1000 for each disclosure or actual damages, whichever is greater.

**3030.0202 IRS and BEERS Data Security Requirements (MFAM)**

The IRS mandates any agency obtaining IRS tax and BEERS data to maintain strict security guidelines. Do not print, **fax, copy, or store** information from BEERS or IRS responses. If this information is inadvertently printed, follow the following procedures:

1. Secure any screen print of IRS or BEERS data from the system under lock and key and destroy it immediately after review with the individual.
2. Do not exceed 45 days from the time of initial receipt of data to destruction of the data.
3. Do not photocopy the data.

There is a prohibition against recording IRS as the source of the information. Record only the results of the review of the data.

Do not, under any circumstances, place a copy of the IRS tax data in the case record **or document imaging system**. When destroying the hardcopy, shred it by machine into strips not larger than 5/16th of an inch wide and cut it perpendicular to the printing.

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## August-December 2016 Listing of Amended Passages

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If the customer **denies** knowledge of the income/asset, the customer must be pended for additional information about the account, staff must not reveal the source of the information to the customer. If the requested information is received from the customer, update the case with the information, and enter on CLRC and AMS. If the requested information is not received, and assets are a factor of eligibility for the benefits the customer receives, staff must follow the standard denial process, ensuring Continuous Medicaid coverage. **Note:** For combination cases (food assistance (FA)/ Temporary Cash Assistance (TCA)/ Medicaid) action to deny can be taken at any time during the eligibility period. For Simplified Reporting FA only cases, action to deny can only be taken at application or renewal of benefits.

### **3040.0200 SECURITY (MSSI)**

IRS and BEERS exchange confidential tax and benefit information with state agencies only under the condition that the state will follow strict security guidelines in the storage, use, and disclosure of that information. This sensitive data is available to authorized Department employees through the data exchange process of FLORIDA. **Contracted services employees and employees of other agencies are not permitted to view any part of the IRS or BEERS information at any time.** Each employee is personally liable for any willful disclosure or misuse of the data and therefore must be aware of the security procedures and penalties for improper use or disclosure. Some security controls are built into the automated system. Manual procedures must assure other controls.

Federal Code protects the confidentiality of federal tax information. Anyone who knowingly, or by reason of negligence discloses IRS or BEERS data is in violation of the law. An individual who discloses this information may be subject to civil action by the taxpayer in an U.S. District Court.

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

August-December 2016  
Listing of Amended Passages

If the U.S. District Court finds in the civil action that an individual released information, and it is a willful disclosure, the defendant can be liable for \$1000 for each disclosure or actual damages, whichever is greater.

**3040.0202 IRS and BEERS Data Security Requirements (MSSI)**

The IRS mandates any agency obtaining IRS tax and BEERS data to maintain strict security guidelines. Do not print, **fax, copy, or store** information from BEERS or IRS responses. If this information is inadvertently printed, follow the following procedures:

1. Secure any screen print of IRS or BEERS data from the system under lock and key and destroy it immediately after review with the individual.
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Technical changes and changes in non-substantive information may be excluded from this summary.

August-December 2016  
Listing of Amended Passages

**3050.0200 SECURITY (CIC)**

IRS and BEERS exchange confidential tax and benefit information with state agencies only under the condition that the state will follow strict security guidelines in the storage, use, and disclosure of that information. This sensitive data is available to authorized Department employees through the data exchange process of FLORIDA. **Contracted services employees and employees of other agencies are not permitted to view any part of the IRS or BEERS information at any time.** Each employee is personally liable for any willful disclosure or misuse of the data and therefore must be aware of the security procedures and penalties for improper use or disclosure. Some security controls are built into the automated system. Manual procedures must assure other controls.

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If the U.S. District Court finds in the civil action that an individual released information, and it is a willful disclosure, the defendant can be liable for \$1000 for each disclosure or actual damages, whichever is greater.

**3050.0202 IRS and BEERS Data Security Requirements (CIC)**

The IRS mandates any agency obtaining IRS tax and BEERS data to maintain strict security guidelines. Do not print, **fax, copy, or store** information from BEERS or IRS responses. If this information is inadvertently printed, follow the following procedures:

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## August-December 2016 Listing of Amended Passages

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If the customer **denies** knowledge of the income/asset, the customer must be pended for additional information about the account, staff must not reveal the source of the information to the customer. If the requested information is received from the customer, update the case with the information, and enter on CLRC and AMS. If the requested information is not received, and assets are a factor of eligibility for the benefits the customer receives, staff must follow the standard denial process, ensuring Continuous Medicaid coverage. **Note:** For combination cases (food assistance (FA)/ Temporary Cash Assistance (TCA)/ Medicaid) action to deny can be taken at any time during the eligibility period. For Simplified Reporting FA only cases, action to deny can only be taken at application or renewal of benefits.

### **3060.0200 SECURITY (RAP)**

IRS and BEERS exchange confidential tax and benefit information with state agencies only under the condition that the state will follow strict security guidelines in the storage, use, and disclosure of that information. This sensitive data is available to authorized Department employees through the data exchange process of FLORIDA. **Contracted services employees and employees of other agencies are not permitted to view any part of the IRS or BEERS information at any time.** Each employee is personally liable for any willful disclosure or misuse of the data and therefore must be aware of the security procedures and penalties for improper use or disclosure. Some security controls are built into the automated system. Manual procedures must assure other controls.

Federal Code protects the confidentiality of federal tax information. Anyone who knowingly, or by reason of negligence discloses IRS or BEERS data is in violation of the law. An individual who discloses this information may be subject to civil action by the taxpayer in an U.S. District Court.

No liability will arise to a disclosure requested by a taxpayer or a misinterpretation of Federal Code governing this policy.

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

## August-December 2016 Listing of Amended Passages

If the U.S. District Court finds in the civil action that an individual released information, and it is a willful disclosure, the defendant can be liable for \$1000 for each disclosure or actual damages, whichever is greater.

### **3060.0202 IRS and BEERS Data Security Requirements (RAP)**

The IRS mandates any agency obtaining IRS tax and BEERS data to maintain strict security guidelines. Do not print, **fax, copy, or store** information from BEERS or IRS responses. If this information is inadvertently printed, follow the following procedures:

1. Secure any screen print of IRS or BEERS data from the system under lock and key and destroy it immediately after review with the individual.
2. Do not exceed 45 days from the time of initial receipt of data to destruction of the data.
3. Do not photocopy the data.

There is a prohibition against recording IRS as the source of the information. Record only the results of the review of the data.

Do not, under any circumstances, place a copy of the IRS tax data in the case record **or document imaging system**. When destroying the hardcopy, shred it by machine into strips not larger than 5/16th of an inch wide and cut it perpendicular to the printing.

The Region or Circuit is to maintain a log of shredded information, including the item shredded, the date and the name of the individual who completed the shredding. Maintain the log for five years.

Do not retain any third party request for additional verification on IRS or BEERS data in the case record and treat the request with the same security provisions as the actual IRS or BEERS response. Retain the third party response in the case record only if it does not contain return information. Return information is information obtained through an IRS or BEERS match that contains data not otherwise available to the Department.

If the customer **denies** knowledge of the income/asset, the customer must be pended for additional information about the account, staff must not reveal the source of the information to the customer. If the requested information is received from the customer, update the case with the information, and enter on CLRC and AMS. If the requested information is not received, and assets are a factor of eligibility for the benefits the customer receives, staff must follow the standard denial process, ensuring Continuous Medicaid coverage. **Note:** For combination cases (food assistance (FA)/ Temporary Cash Assistance (TCA)/ Medicaid) action to deny can be taken at any time during the eligibility period. For Simplified Reporting FA only cases, action to deny can only be taken at application or renewal of benefits.

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

August-December 2016  
Listing of Amended Passages

**3230.0102 Designated Representative (MFAM)**

When the applicant/recipient payee, their spouse, legal guardian, Power of Attorney, or a responsible assistance group member of the assistance group cannot apply for benefits they may be eligible for, a designated representative may be authorized to make application on behalf of the assistance group.

**Designated representatives must be authorized according to the following requirements:**

1. the designated representative must be authorized in writing by the applicant/recipient payee, their spouse, legal guardian, Power of Attorney, or another responsible member of the assistance group;
2. the designated representative should generally be is commonly authorized prior to determining eligibility of the assistance group, however, the assistance group can also name the representative at any time during the review period;
3. the designated representative must be an individual who is familiar with the current circumstances of the assistance group; and
4. if it becomes obvious that the designated representative is not aware of the current assistance group circumstances, the eligibility specialist must record this information and immediately request in writing that the assistance group authorize another representative.

**The designated representative may be:**

1. authorized on the application, or
2. on any written and signed statement from the applicant/recipient.

Authorizations of designated representatives are valid for the current review period only.

Recipients may continue to authorize designated representatives to apply and be interviewed on their behalf.

**3230.0116 Self-Designated Representative (MFAM)**

In instances where the individual does not select a specific person as designated representative, the eligibility specialist must determine if the self-designated representative is the most appropriate person to fulfill this responsibility. An organization cannot self-designate, but an individual employee of an organization may continue to self-designate. If the individual employee of an organization self-designates, the preferred method is to complete the CF-ES 2505 form. If this is done, only that employee may communicate with the Department and not any other employee of the organization.

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

August-December 2016  
Listing of Amended Passages

The eligibility specialist must determine who has knowledge of the individual's affairs. If a self-appointed designated representative has little or no knowledge of an individual's finances, the eligibility specialist must record a complete explanation of efforts made to obtain a knowledgeable designated representative.

**3230.0118 Liability of the Designated Representative (MFAM)**

The designated representative is liable for prosecution for perjury and/or fraud if the designated representative knowingly withholds information or knowingly gives false information about the assistance group. The eligibility specialist is responsible for advising the designated representative that by signing the application/eligibility form, the designated representative indicates a clear understanding of these responsibilities, and has provided information to the best of the designated representative's knowledge about the individual's situation.

**3240.0115 Designated Representative (MSSI, SFP)**

A designated representative is someone who assumes responsibility for acting on behalf of the individual or assistance group by providing information for the eligibility determination.

**Designated representatives must be authorized according to the following requirements:**

1. the designated representative must be authorized in writing by the applicant/recipient, their spouse, legal guardian, Power of Attorney, or another responsible member of the assistance group;
2. the designated representative is commonly authorized prior to determining eligibility of the assistance group, however, the assistance group can also name the representative at any time during the review period;
3. the designated representative must be an individual who is familiar with the current circumstances of the assistance group; and
4. if it becomes obvious that the designated representative is not aware of the current assistance group circumstances, the eligibility specialist must record this information and immediately request in writing that the assistance group authorized another representative.

**The designated representative may be:**

1. authorized on the application, or
2. on any written and signed statement from the applicant/recipient.

Authorizations of designated representatives are valid for the current review period only.

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August-December 2016  
Listing of Amended Passages

~~Whenever possible, the designated representative should be someone who has knowledge of the individual's financial affairs.~~

The individual can select the designated representative, or if the individual is incapable of selecting a representative, the designated representative may be self-appointed. An organization cannot self-designate, but an individual employee of an organization may continue to self-designate. If the individual employee of an organization self-designates, the preferred method is to complete the CF-ES 2505 form. If this is done, only that employee may communicate with the Department and not any other employee of the organization. If the individual does not designate the designated representative, the eligibility specialist must record the reason.

A designated representative must be selected when the individual has been declared legally incompetent and cannot legally act on his own behalf. If the individual has a legal guardian, the legal guardian must act on the individual's behalf as the designated representative. If the legal guardian will not cooperate or cannot be located, someone else may act as designated representative. When someone other than the legal guardian is the designated representative, a written notice must be sent to the legal guardian advising the legal guardian that a designated representative has been appointed. A copy of the written notice must be filed in the case record.

The individual may select a designated representative at any time. The individual does not have to be functionally or legally incompetent to have a designated representative.

**3240.0116 Self-Designated Representative (MSSI, SFP)**

In instances where the individual does not select a specific person as designated representative, the eligibility specialist must determine if the self-designated representative is the most appropriate person to fulfill this responsibility. An organization cannot self-designate, but an individual employee of an organization may continue to self-designate. If the individual employee of an organization self-designates, the preferred method is to complete the CF-ES 2505 form. If this is done, only that employee may communicate with the Department and not any other employee of the organization.

The eligibility specialist must determine who has knowledge of the individual's affairs. If a self-appointed designated representative has little or no knowledge of an individual's finances, the eligibility specialist must record a complete explanation of efforts made to obtain a knowledgeable designated representative.

The following guide presents an order of preference for selection of the designated representative:

1. legal guardian,

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

August-December 2016  
Listing of Amended Passages

2. power of attorney,
3. relatives,
4. friends, and
5. agency representative/nursing home staff (other than nursing home administrator).

**3440.0104 Exceptions to Written Notice Requirements (MSSI)**

~~In Medically Needy cases, if an assistance group is assigned an estimated rather than actual SOC, notice is given at the time the share of cost is assigned that it is subject to change without notice. If the assistance group later provides verification of actual income, and a higher share of cost is determined, the assistance group is then informed of the higher SOC. Ten days advance notice is not required.~~

**3440.0504 Law/Rule Citations (MSSI, SFP)**

The rule citations for Medicaid are found in the Florida Administrative Code 65A-1. The rule citations for Optional State Supplementation are found in Florida Administrative Code, Chapter [65A-2](#) ~~65A-1~~. The rule citations for Home Care for Disabled Adults are found in Florida Administrative Code, Chapters 65A-1 and A-2.

The Florida Administrative Code (Rule) citation must be given on any notice regarding:

1. increase in patient responsibility,
2. increase of share of cost,
3. termination of enrollment (~~enrolled only or enrolled and eligible~~), or
4. termination of Medicaid for a recipient who is no longer eligible.

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