

TITLE 8 SOCIAL SERVICES
CHAPTER 230 MEDICAID ELIGIBILITY - FULL COVERAGE FOR PREGNANT WOMEN
PART 500 INCOME AND RESOURCE STANDARDS

8.230.500.1 ISSUING AGENCY: New Mexico Human Services Department (HSD).
[8.230.500.1 NMAC - Rp, 8.230.500.1 NMAC, 1-1-14]

8.230.500.2 SCOPE: The rule applies to the general public.
[8.230.500.2 NMAC - Rp, 8.230.500.2 NMAC, 1-1-14]

8.230.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-1-12 et seq.
[8.230.500.3 NMAC - Rp, 8.230.500.3 NMAC, 1-1-14]

8.230.500.4 DURATION: Permanent.
[8.230.500.4 NMAC - Rp, 8.230.500.4 NMAC, 1-1-14]

8.230.500.5 EFFECTIVE DATE: January 1, 2014, unless a later date is cited at the end of a section.
[8.230.500.5 NMAC - Rp, 8.230.500.5 NMAC, 1-1-14]

8.230.500.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual, specifically 8.200.400 NMAC, *General Medicaid Eligibility*. Processes for establishing and maintaining MAD eligibility are detailed in the income support division (ISD) general provisions 8.100 NMAC, *General Provisions for Public Assistance Programs*.
[8.230.500.6 NMAC - Rp, 8.230.500.6 NMAC, 1-1-14]

8.230.500.7 DEFINITIONS: [RESERVED]

8.230.500.8 MISSION: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.230.500.8 NMAC - N, 1-1-14]

8.230.500.9 NEED DETERMINATION:

A. Financial need: An individual's eligibility is based on financial need pursuant to Section 1931 of the Social Security Act, the rules in this chapter and in 8.200.520 NMAC.

B. Financial eligibility: Pursuant to Section 1931 of the Social Security Act, enacted by Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), a new medicaid financial eligibility standard was created.

(1) Income eligibility criteria: The income eligibility criteria are based on New Mexico's aid to families with dependent children (AFDC) program as of July 16, 1996. This is defined as the standard of need (SON) used in AFDC as of July 16, 1996.

(2) Less restrictive income and resource methodology: Pursuant to Section 1931 of the Social Security Act, as a state option, New Mexico may use income and resource eligibility methodologies that are less restrictive than the AFDC methodologies used as of July 16, 1996. This chapter defines less restrictive methodologies used in New Mexico for resources, countable and excluded earned and unearned income, available and unavailable income and income deductions and disregards.

C. Gross and net income tests: Determining financial need is a two-step process. When the countable gross or net income is exactly equal to the income eligibility standards, eligibility does not exist.

(1) Gross income test: the first step is determining the countable gross income of the budget group. Gross income includes all countable income before taking taxes or deductions. Only self employment deductions are allowed in the gross income test. The calculated gross income must be less than 185 percent of the SON. If the budget group's income is more than 185 percent of the SON, the assistance unit is not eligible.

(2) Net income test: the second step is determining the countable net income of the budget group. From the countable gross income in step one, deduct all allowable work related expenses (WRE), unearned income deductions and disregards. The countable net income must be less than the SON appropriate to the budget group size. If the budget group's income is more than the SON, the assistance unit is not eligible.
[8.230.500.9 NMAC - Rp, 8.230.500.9 NMAC, 1-1-14]

8.230.500.10 RESOURCE STANDARDS: The applicant or re-determining recipient's assistance unit must meet the resource standards established for AFDC.
[8.230.500.10 NMAC - Rp, 8.230.500.10 NMAC, 1-1-14]

8.230.500.11 RESOURCE EXCLUSIONS: Refer to Section 13 of this part.
[8.230.500.11 NMAC - Rp, 8.230.500.11 NMAC, 1-1-14]

8.230.500.12 INCOME ELIGIBILITY: Income consists of money received by a person whose income is considered available to the budget group as described in this rule.

A. Income from a 30 calendar day period is used to determine eligibility. The 30 calendar day period may be any consecutive 30 calendar day period that is prior to the date of the application through the date of timely disposition. The applicant and the caseworker must agree on the 30 calendar day period. Income from a terminated source is not counted.

B. Income received less frequently than monthly: If an amount of gross income is received less frequently than monthly, that amount is converted to a monthly amount to determine financial eligibility. The conversion is dividing the total income by the number of months the income is intended to cover. For the purposes of this calculation, a partial month is considered to be one full month. This includes, but is not limited to, income from sharecropping, farming, and self-employment. It includes contract income as well as income for a tenured teacher who may not have a contract.

C. Use of conversion factors: Whenever a full month's income is received on a weekly or biweekly basis, the income is converted to a monthly amount. Income is rounded down to the nearest whole dollar prior to application of the conversion factor. Weekly income is multiplied by four and biweekly income is multiplied by two.

[8.230.500.12 NMAC - Rp, 8.230.500.12 NMAC, 1-1-14]

8.230.500.13 EARNED INCOME:

A. **Income exclusions:** The income of a stepparent of a minor pregnant woman and the income of a sponsor of a pregnant alien are not considered available, unless the following apply:

- (1) income is actually available to the pregnant woman; or
- (2) pregnant woman is a sponsored alien and the sponsor is her spouse.

B. **Earned income deductions and disregards:** Countable earned income is determined by subtracting all earned income deductions allowable for AFDC, and for which the pregnant woman qualifies, from gross earnings. The following deductions are allowed per wage earner:

- (1) deductions for work-related expenses of \$90.00; and
- (2) earned income disregards (EIDs) of \$30 and one third.

[8.230.500.13 NMAC - Rp, 8.230.500.13 NMAC, 1-1-14]

8.230.500.14 DEEMED INCOME: The gross income of the ineligible parent(s) of a minor women who is pregnant is considered available to the minor women if she resides in the parent(s)' household. If the assistance unit to which the minor pregnant woman belongs includes her siblings, the applicable amounts of the ineligible parent's income is deemed to the care of those siblings. Income deemed available to a minor woman is considered available to the assistance unit to which she belongs.

[8.230.500.14 NMAC - Rp, 8.230.500.14 NMAC, 1-1-14]

8.230.500.15 TOTAL COUNTABLE INCOME: The earned income which remains after subtracting all appropriate deductions and exclusions and the gross amount of any unearned income received by the assistance unit, is compared to the appropriate percentage of the federal income poverty guidelines (FPL) to determine eligibility.

[8.230.500.15 NMAC - Rp, 8.230.500.15 NMAC, 1-1-14]

8.230.500.16 LUMP SUM PAYMENTS: Lump sum payments are considered income in the month received, unless specifically excludable under medicaid regulations. Lump sum payments are considered as a resource, if retained, as of the first moment of the first day of the following month.
[8.230.500.16 NMAC - Rp, 8.230.500.16 NMAC, 1-1-14]

8.230.500.17 AVAILABLE INCOME:

A. Determination of eligibility for the assistance unit is made by considering income that is available to the assistance unit and budget group. The amount of countable income is determined using allowable income exemptions, deductions and disregards. The income of a budget group member who is not included in the assistance unit is deemed available to the assistance unit.

B. Available income includes:

- (1) income received by the budget group;
- (2) income received by someone not included in the budget group for someone included in the budget group and which is available to the budget group;
- (3) income that is withheld as a result of a garnishment or wage withholding; and
- (4) income withheld by a source at the budget group's request.

[8.230.500.17 NMAC - N, 1-1-14]

8.230.500.18 UNAVAILABLE INCOME:

A. Individuals included in the budget group may have a legal right to income but that income is considered unavailable. Income is not counted as available income when:

- (1) it is received by someone for the budget group and not made available to the budget group; or
- (2) the income that is not listed as available in this rule where the budget group cannot gain access to the income; this includes wages withheld by an employer that refuses to pay.

B. Individuals may receive payment of funds "passed through" the individual for the benefit of someone other than themselves. Such pass through payments are not considered available.

C. A recipient of supplemental security income (SSI) is not part of the budget group. His income is not available to the budget group.

D. Alien sponsor deeming is not applicable pursuant to 8.200.410 NMAC.

[8.230.500.18 NMAC - N, 1-1-14]

8.230.500.19 EARNED INCOME: Earned income includes wages, salaries, tips, other employee pay from employment, and net earnings from self-employment.

[8.230.500.19 NMAC - N, 1-1-14]

8.230.500.20 EARNED INCOME DEDUCTIONS/DISREGARDS:

A. Self-employment: Certain self-employment deductions allowed by the federal internal revenue service (IRS) are allowed in the net and gross income test.

(1) Self-employment income will be annualized for income projection purposes. If the IRS Form 1040 has been filed, the previous year's tax return is used to anticipate future income if no significant changes in circumstances have occurred. An alternative method of income anticipation should be used when the amount of self employment income reported on tax returns would no longer be a good indicator of expected income, i.e., loss of cattle or crops due to disease.

(2) If tax returns are used for annualized projected income, self-employment expenses listed on the return are allowable except for:

- (a) when mileage allowance is the New Mexico department of finance and administration (DFA) rate as detailed in 2.42.2 NMAC unless proof that the actual expense is greater;
- (b) when no deduction is allowed for rent or purchase of the place of business if the individual operates the business out of his or her residence, unless the individual can demonstrate that the expense has been allowed under federal income tax guidelines; and
- (c) depreciation, personal business and entertainment expenses, personal transportation to and from work, the purchase of capital equipment; and payments on the principal of loans for capital assets or durable goods.

B. Work related expense deductions of \$90 and earned income disregards of \$30 and one third of the remaining balance is disregarded from countable earned income for each employed individual during the net income test.

8.230.500.21 UNEARNED INCOME: Unearned income includes benefits, pensions, etc.

- A. The following types of unearned income are counted:
- (1) old age, survivors, and disability insurance (OASDI);
 - (2) railroad retirement benefits (RRB);
 - (3) veterans administration (VA) benefits:
 - (a) income available to veterans and their dependents from the VA as compensation for service-connected disability;
 - (b) pension for non-service connected disability;
 - (c) dependency and indemnity compensation; and
 - (d) death benefits paid from a government issue (GI) life insurance;
 - (4) unemployment compensation benefits (UCB);
 - (5) military allotments;
 - (6) worker's compensation;
 - (7) pension, annuity, and retirement benefits;
 - (8) union benefits;
 - (9) lodge or fraternal benefits;
 - (10) real property income that is not earned income;
 - (11) shared shelter and utility payments, when the budget group shares shelter with others:
 - (a) payments which exceed the budget group's cost are considered income; and
 - (b) payments which are less than the budget group's cost are not considered; these are the others' share of the shelter cost and are treated as pass-through payments;
 - (12) income from the sale of goods or property which are obtained in finished condition;
 - (13) child support payments received directly by the budget group and retained for its use;
 - (14) settlement payments which are received from worker's compensation settlements, insurance claims, damage claims, litigation, trust distributions which are made on a recurring basis;
 - (15) individual Indian monies (IIM) payments received and distributed by the bureau of Indian affairs (BIA) as a trustee for an individual member of a tribe; and
 - (16) bureau of Indian affairs (BIA) or tribal general assistance (GA) payments.
- B. The following types of unearned income are not considered in determining eligibility:
- (1) cash assistance from HSD or a tribal entity;
 - (2) supplemental nutritional assistance program (SNAP);
 - (3) low income home energy assistance program (LIHEAP);
 - (4) foster care or adoption subsidy;
 - (5) supplemental security income (SSI);
 - (6) Child Nutrition and National School Lunch Act;
 - (7) nutrition programs for the elderly, including meals on wheels and lunches at senior citizen's centers;
 - (8) bona fide loans from private individuals and commercial institutions as well as loans for the purpose of educational assistance;
 - (9) work study funds paid by an educational institution when the purpose is to assist with educational expenses, regardless of the actual use of the funds;
 - (10) domestic volunteers compensation or any other payments made to or on behalf of volunteers under the Domestic Volunteers Services Act of 1973 including:
 - (a) volunteers in service to America (VISTA);
 - (b) university year for action (UYA);
 - (c) special volunteer programs (SVP);
 - (d) retired senior volunteer program (RSVP);
 - (e) foster grandparents program (FGP);
 - (f) older American community service program (OACSP);
 - (g) service corps of retired executives (SCORE); and
 - (h) active corps of executives (ACE);
 - (11) state and federal income tax returns;
 - (12) American Indian or Alaskan native payments including:

- (a) per capita payments distribution of tribal funds to an American Indian or Alaskan native tribal member by the tribe or by the secretary of the United States (U.S.) department of the interior;
 - (b) interest derived from retained per capita payments (if kept separately identifiable); and
 - (c) tribal land claims payments settled by means of case payments;
 - (13) Job Training Partnership Act of 1982 (JTPA) payments made to dependent children;
 - (14) Title II Uniform Relocation Assistance and Real Property Acquisition Act of 1970 payments;
 - (15) supportive service payments made for reimbursement of transportation, child care, or training related expenses under NMW work programs, tribal work programs and other employment assistance programs;
 - (16) division of vocational rehabilitation (DVR) training payments made by the for training expenses;
 - (17) gifts, donations or contribution from other agencies which are intended to meet needs not covered as a medicaid benefit; to be exempt, the payment must:
 - (a) be paid under the auspices of an organization or non-profit entity; and
 - (b) be for a specific identified purpose, to supplement not duplicate medicaid covered benefits for the intended beneficiary of the donation/contribution;
 - (18) educational loans and grants intended for educational expenses regardless of actual utilization of the funds;
 - (19) agent orange settlement fund payments or any fund established pursuant to the agent orange product liability litigation settlement;
 - (20) radiation exposure compensation settlement fund payments;
 - (21) Nazi victim payments made to individuals per P.L. 103-286, August 1, 1994; and
 - (22) vendor payments made on behalf of a budget group member when an individual or organization outside the budget group uses its own funds to make a direct payment to a budget group's service provider.
- [8.230.500.21 NMAC - N, 1-1-14]

HISTORY OF 8.230.500 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

- ISD 290.1000, Medical Assistance for Woman and Children, filed 11-13-84.
- ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2-10-88.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8-11-88.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-8-88.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 9-30-88.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-1-88.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-31-89.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-8-89.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-28-89.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 12-29-89.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 3-1-91.
- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92.

History of Repealed Material:

- MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 6-5-92 - Repealed effective 2-1-95.
- 8.230.500 NMAC, Income and Resource Standards, filed 3-25-10 - Repealed effective 1-1-14.