

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 243 MEDICAID ELIGIBILITY - WORKING DISABLED INDIVIDUALS (WDI)**  
**(CATEGORY 043)**  
**PART 500 INCOME AND RESOURCE STANDARDS**

**8.243.500.1 ISSUING AGENCY:** Human Services Department  
[8.243.500.1 NMAC - N, 1-1-01]

**8.243.500.2 SCOPE:** This rule applies to the general public.  
[8.243.500.2 NMAC - N, 1-1-01]

**8.243.500.3 STATUTORY AUTHORITY:** The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended by the state human services department pursuant to state statute. See NMSA 1978 27-2-12 et. seq. (Repl. Pamp. 1991).  
[8.243.500.3 NMAC - N, 1-1-01]

**8.243.500.4 DURATION:** Permanent  
[8.243.500.4 NMAC - N, 1-1-01]

**8.243.500.5 EFFECTIVE DATE:** January 1, 2001, unless a later date is cited at the end of a section.  
[8.243.500.5 NMAC - N, 1-1-01]

**8.243.500.6 OBJECTIVE:** The objective of these regulations is to provide eligibility policy and procedures for the medicaid program.  
[8.243.500.6 NMAC - N, 1-1-01]

**8.243.500.7 DEFINITIONS:** [RESERVED]

**8.243.500.8** [RESERVED]

**8.243.500.9 WORKING DISABLED INDIVIDUALS:** Income and resources are determined based on SSI methodology, except when deeming income from an ineligible spouse. See 8.215.500 NMAC. Individuals must meet all financial and non-financial eligibility criteria in the month(s) for which a determination of eligibility is made.  
[8.243.500.9 NMAC - N, 1-1-01; A, 6-1-04]

**8.243.500.10 RESOURCE STANDARDS:** A "resource" is defined as cash or liquid assets and real or personal property which is owned and can be used either directly, or by sale or conversion, for the applicant's/recipient's support and maintenance. Resources may be liquid or non-liquid and may be excluded from the eligibility determination process under certain conditions.

A. A liquid resource is an asset, which can readily be converted to cash.

B. A non-liquid resource is an asset or property, which cannot readily be converted to cash.

[8.243.500.10 NMAC - N, 1-1-01]

**8.243.500.11 APPLICABLE RESOURCE STANDARDS:** The resource determination is made as of the first moment of the first day of the month. For determination of continued eligibility, see Section 8.243.600.12 NMAC.  
[8.243.500.11 NMAC - N, 1-1-01]

**8.243.500.12 COUNTABLE RESOURCES:**

A. An individual's countable resources must be less than \$10,000.

B. Married individuals' countable resources must be less than \$15,000.

[8.243.500.12 NMAC - N, 1-1-01]

**8.243.500.13 RESOURCE EXCLUSIONS:** Specified types of resources are excluded from the calculation of countable resources as described in 8.215.500.14 NMAC as follows:

A. **Retirement funds:** Internal revenue service-recognized retirement fund accounts are excludable resources in the eligibility determination so long as funds are not withdrawn from the account.

B. Examples of such retirement fund accounts include: PERA, ERA, an employer's qualifying pension plan, 401(k) plan, civil service annuity, IRA, Roth IRA, KEOUGH plan, etc.  
[8.243.500.13 NMAC - N, 1-1-01]

**8.243.500.14 RESOURCES TRANSFERS:** See 8.215.500.15 NMAC.  
[8.243.500.14 NMAC - N, 1-1-01]

**8.243.500.15 TRUSTS:** See 8.281.510 NMAC and following subsections.  
[8.243.500.15 NMAC - N, 1-1-01; A, 10-1-12]

**8.243.500.16 DEEMING RESOURCES:** If an eligible noninstitutionalized applicant/recipient lives in the same household with an ineligible spouse, resources are considered to belong to the applicant/recipient. The resource standard for a couple applies.  
[8.243.500.16 NMAC - N, 1-1-01]

**8.243.500.17 INCOME:**

A. **Earned income** consists of the total gross income received by an applicant/recipient for services performed as an employee or net income as a result of self-employment.

(1) **Royalties** earned in connection with the publication of the applicant's/recipient's work and any honoraria/fees received for services rendered are considered earned income.

(2) In any given calendar quarter, an applicant/recipient must have earnings equal to social security administration's definition of a covered quarter. See 8.200.520.20 NMAC.

B. **Unearned income** consists of all other income (minus exclusions and disregards) that is not earned in the course of employment or self employment.

C. **Deemed income** is income which must be considered available to the applicant/recipient from the ineligible spouse when both live in the same household. Deemed income is counted in determining eligibility for the applicant/recipient.

[8.243.500.17 NMAC - N, 1-1-01; A, 1-1-02; A, 6-1-04]

**8.243.500.18 INCOME STANDARDS:** The applicable income standard of countable earned income for this category is less than 250% of the federal poverty level for a household size of one. See Subsection H of 8.200.520.11 NMAC. The applicant/recipient must meet two income tests to qualify for working disabled individuals. These are as follows:

A. **TEST 1**

(1) Determine applicant's/recipient's gross monthly earnings.

(2) Apply a \$20.00 general disregard.

(3) Apply a \$65.00 earned income disregard.

(4) Disregard ½ of the remainder of income.

(5) Disregard work-related expenses for the blind or disabled.

(6) If the countable earned income is less than 250% of the applicable federal poverty level (FPL) for a household of one, the individual is eligible.

(7) If the countable earned income is less than 250% of the applicable FPL for a household size of one, determine if there is an ineligible spouse and/or children in the household.

B. If applicant/recipient lives with an ineligible spouse, see 8.215.500.21 NMAC to determine if deeming income is applicable.

C. **TEST 2**

(1) Determine applicant's/recipient's gross unearned income.

(2) Add ineligible spouse's deemable income, if applicable.

(3) Apply a \$20.00 disregard.

(4) Subtract an amount equal to the current SSI federal benefit rate (FBR) for an individual. See 8.200.520.13 NMAC.

(5) Compare the total countable income to the SSI FBR for an individual or couple, as applicable.

(6) If the total countable income is less than the applicable SSI FBR, the individual is eligible.

D. **Income exclusions:** Income exclusions for the applicant/recipient are applied before income disregards. Exclusions are not applied to the income of the ineligible spouse from whom income may be deemed. [8.243.500.18 NMAC - N, 1-1-01; A, 6-1-04; A, 3-14-08]

**8.243.500.19 UNEARNED INCOME**

A. Standards for unearned income and exclusions: See 8.215.500.20.C. & D. NMAC.

B. Unearned income is computed on a monthly basis. If there are no expenses incurred with the receipt of unearned income, such as annuities, pensions, retirement payments or disability benefits, the gross amount is considered countable unearned income. [8.243.500.19 NMAC - N, 1-1-01]

**8.243.500.20 DEEMED INCOME: RESERVED**

[8.243.500.20 NMAC - N, 1-1-01; Repealed, 6-1-04]

**8.243.500.21 DISREGARDS:** Income disregards are allowed as described below when applicable.

A. **Twenty dollar disregard:** The first \$20 of unearned or earned income received in a month is disregarded. This disregard is not applicable to payments made to an applicant/recipient through a state or other government assistance program, or by a private charitable organization, where such payments are based on the applicant's/recipient's need.

B. **Additional earned income disregard:** If appropriate, earned income of \$65 per month, plus one-half of the remainder is disregarded.

C. **Work-related expenses defined:** Work-related expenses of an employed applicant/recipient who is blind or disabled are disregarded. This disregard is applied to earned income only. Disregarded expenses must be for items or services directly related to enabling a person to work, and which are necessarily incurred by that individual because of a physical or mental disability or blindness. Such expenses are disregarded if not covered by other third party payers, including medicaid.

(1) Types of work-related expenses which may be disregarded include:

- (a) federal, state, and local income taxes;
- (b) social security contributions;
- (c) union dues;
- (d) transportation costs, including actual cost of bus or taxi cab fare, or fifteen (15) cents per

mile for private automobile;

- (e) lunches;
- (f) child care costs, if not otherwise provided;
- (g) uniforms, tools, and other necessary equipment;
- (h) special vehicle modifications to enable transportation to and from work, but not the cost of

the vehicle itself;

(i) attendants who may be hired for the purpose of taking applicant/recipient to and from work, and getting ready for work;

(j) durable medical equipment that is medically related and generally not useful in absence of the blindness or disability yet, are necessary to attend and perform tasks in the work place;

(k) expenses for work related equipment, which is impairment related and necessary for the individual to perform his/her tasks;

(l) prostheses necessary to perform work related tasks.

(m) design modifications related to blindness or disability that enable the applicant/recipient to leave home in order to attend work, or design modifications made to the work area of the home in the case where the applicant/recipient engages in a home-based business;

(n) special expenses necessary to enable an applicant/recipient who is blind or disabled to engage in employment, such as a seeing-eye dog, braille instructions, or instructions on using special equipment and,

(o) health insurance premiums.

(2) If items or services above are purchased through an installment contract, the payments are disregarded. Should the item or service be a one-time purchase, the purchase may be pro-rated over a 12-month period, or over the life of the contract.

(3) If items are leased, the monthly payment would be disregarded.

D. **NONDEDUCTIBLE ITEMS:** The following items cannot be deducted from earned income:

- (1) in-kind payments;
- (2) expenses deducted under other provisions;
- (3) expenses which will be reimbursed;
- (4) life maintenance expenses; although not all-inclusive, life maintenance items include the

following:

- (a) meals consumed outside of work hours;
- (b) self-care items (including items of cosmetic rather than work related nature);
- (c) general educational development;
- (d) deposits into retirement accounts intended as an IRA, Keogh, 401K, PERA or voluntary

pensions;

- (e) life insurance premiums;
- (f) items furnished by others that are needed in order to work (the value of such items is not

income), and

- (g) expenses claimed on a self-employment tax return.

[8.243.500.21 NMAC - N, 1-1-01]

**HISTORY OF 8.243.500 NMAC:** [RESERVED]

**History of Repealed Material:** [RESERVED]