DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

SHO # 19-003

Re: Changes to Modified Adjusted Gross Income (MAGI)-based Income Methodologies

August 22, 2019

Dear State Health Official:

The purpose of this letter is to provide guidance to explain several legislative changes to the modified adjusted gross income (MAGI)-based methodologies used for determining Medicaid and CHIP eligibility. These changes stem from the following pieces of legislation: the Tax Cuts and Jobs Act (Pub. L. No. 115-97, "TCJA"), enacted on December 22, 2017; the Bipartisan Budget Act of 2018 (Pub. L. No. 115-123, "BBA of 2018"), enacted on February 9, 2018; and the Helping Ensure Access for Little Ones, Toddlers, and Hopeful Youth by Keeping Insurance Delivery Stable Act (Pub. L. No. 115-120, "HEALTHY KIDS Act"), enacted on January 22, 2018. This guidance provides states with information on how to implement these legislative requirements, consistent with titles XIX and XXI of the Social Security Act ("Act"), for individuals whose financial eligibility is determined using MAGI-based methodologies.

Background

Section 1902(e)(14) of the Act requires that state Medicaid agencies generally use "modified adjusted gross income" and "household income," as defined at section 36B(d)(2) of the Internal Revenue Code of 1986 (the IRC) to determine Medicaid eligibility. Section 2107(e)(1)(H) of the Act requires that MAGI and household income also be used to determine eligibility for the Children's Health Insurance Program (CHIP). For purposes of Medicaid and CHIP eligibility, we refer to these definitions collectively as "MAGI-based methodologies." MAGI-based methodologies for Medicaid and CHIP are implemented in the regulations at 42 CFR 435.603 and 457.315, respectively.[1]

In general, the calculation of MAGI-based income includes all taxable earned and unearned income minus certain expenses such as student loan interest or IRA contributions that are deductible in determining an individual's adjusted gross income (AGI) for federal income tax purposes. Three items must be added to adjusted gross income to determine an individual's MAGI (i.e., *modified* AGI): non-taxable foreign earned income, tax-free interest, and non-taxable Social Security benefits. There are a few discrete ways in which MAGI-based

[1] Certain individuals are exempt from application of MAGI-based financial methodologies. Generally, these include individuals whose eligibility is being determined on the basis of being age 65 or older, living with a disability or blindness or needing long-term services and supports; and individuals for whom the state does not apply an income test. A more detailed description of individuals for whom MAGI-based methodologies do not apply can be found in regulations at 42 CFR 435.603(j).

methodologies used for Medicaid and CHIP differ from the definition of MAGI and household income in the IRC. For example, MAGI-based methodologies for treatment of irregular income received as a lump sum is different than the treatment of lump sum income under section 36B of the IRC. These differences are set forth in regulations at 42 CFR 435.603(e).

Identifying the members of an individual's household is important to determine the individual's total household income and family size. Under 42 CFR 435.603(f), for individuals intending to file a tax return as well as the individuals they claim as tax dependents, the MAGI-based household generally consists of the tax filer and his or her tax dependents. For individuals who are not tax filers or tax dependents, "non-filer" rules set forth in 42 CFR 435.603(f)(3) are used to determine the MAGI-based household. Under the non-filer rules, an individual's household generally consists of the family members, if living with the individual: the individual; the individual's spouse, if married; the individual's children (including step children); and, if the individual is a child, his/her parent(s) and sibling(s). The non-filer rules also are used for children and tax dependents in certain living situations, as described in 42 CFR 435.603(f)(2)(i)-(iii).

Once the composition of an individual's household has been established, additional rules are applied to determine whose income is counted in household income. Generally, the income of a tax dependent in a household is not counted unless it is expected that the dependent will be required to file a federal tax return – i.e., the income of the dependent is at or above the tax-filing thresholds for tax dependents under the IRC. Under regulations at 42 CFR 435.603(d)(2), the income of children in non-filing households also generally is excluded from household income unless a child's income meets the federal tax filing threshold.[2]

The TCJA, the BBA of 2018 and the HEALTHY KIDS Act each amended the Act as well as tax rules under the IRC in several ways, which impact the MAGI-based methodologies for Medicaid and CHIP. The following discussion explains the changes brought about by these new laws.

Changes to Tax Filing Thresholds

In 2017, a single tax dependent under age 65 and not blind met the federal tax filing threshold if he or she had $6,350 or more of gross income or $1,050 or more of unearned income. Gross income includes both earned and unearned income. This meant that, generally, for a child with unearned income below $1,050 and gross income below $6,350, none of the child's income would be included in determining household income. In contrast, all of the income of a child with unearned income equal to or greater than $1,050 or total gross income equal to or greater than $6,350 generally would be counted in household income.

[2] Under MAGI-based methods, a child's income is always counted when the child is the only person in his/her MAGI-based household (or is living with his/her sibling(s)), regardless of whether or not the child's income exceeds the filing threshold. For example, the child's income is counted in the case of a child living with his or her grandparent(s) and neither parent is living with them nor claiming the child as a tax dependent. 42 CFR 435.603(d)(1)

The TCJA modified the tax filing threshold for most individuals. For tax year 2018, single tax dependents who are under age 65 and not blind must file a federal tax return if any of the following apply for the tax year:[3]

1. Unearned income is more than $1,050;
2. Earned income is more than $12,000;
3. Gross income is more than the larger of –
    a. $1,050; or
    b. Earned income (up to $11,650) plus $350.

Further, the filing threshold is increased for tax dependents who are age 65 or older or who are blind. For tax year 2018, single tax dependents who are age 65 or older and/or who are blind must file a federal tax return if any of the following apply for the tax year:

1. Unearned income is more than $2,650 ($4,250 if 65 or older <u>and</u> blind);
2. Earned income is more than $13,600 ($15,200 if 65 or older <u>and</u> blind);
3. Gross income is more than the larger of –
    a. $2,650 ($4,250 if 65 or older <u>and</u> blind); or
    b. Earned income (up to $11,650) plus $1,950 ($3,550 if 65 or older <u>and</u> blind).

Attachment A includes a table comparing the 2017 and 2018 tax filing thresholds. The IRS updates the standard deduction and filing thresholds annually for inflation.

Impact on Household Composition

For years prior to 2018, tax filers were allowed a deduction for each of their personal exemptions, including their tax dependents. The TCJA reduced the personal exemption deduction amount to $0 for tax years 2018 through 2025, meaning that tax filers will no longer claim a deduction for their tax dependents on their federal tax return. Although taxpayers will no longer claim personal exemption deductions, they must still claim their dependents on their tax return by putting the name and Social Security Number of the dependent on the return to be eligible for certain tax benefits such as the dependent care credit and the premium tax credit for the child's health insurance coverage. Claiming dependents also remains relevant for determining household composition under the MAGI-based methodologies used by Medicaid and CHIP. Thus, there is no change to the rules governing household composition under 42 CFR 435.603(f) for purposes of making MAGI-based eligibility determinations.[4]

Changes to Countable Income

In addition to the changes noted above, the BBA of 2018 and TCJA made several changes to the taxability of certain items, which similarly impact MAGI-based methodologies.

---

[3] See IRS Publication 501, Table 2. https://www.irs.gov/pub/irs-pdf/p501.pdf.
[4] See: https://www.irs.gov/pub/irs-drop/n-18-84.pdf.

<u>Counting of Qualified Lottery and Gambling Winnings in MAGI-based Methods</u>

Under 42 CFR 435.603(e)(1) of the current regulations describing the MAGI-based methodologies, non-recurring income received as a lump sum is generally counted (if it is taxable) as income only in the month received; if not spent, the money converts to savings, which is a resource.[5] Section 53103 of the BBA of 2018 supersedes this regulatory rule in the case of "qualified lottery winnings" and "qualified lump sum income" (i.e., gambling) of $80,000 or greater. Specifically, section 53103, which added paragraph (K) to section 1902(e)(14) of the Act, requires that covered lottery and gambling winnings of $80,000 or greater, which are received in a single payout, be counted not only in the month received, but over a period of up to 120 months. The statute provides a formula for determining this period, depending on the amount of the winnings. States must apply this formula to qualified lottery or gambling winnings received beginning on or after January 1, 2018.

Qualified Lottery Winnings. Under section 1902(e)(14)(K)(v) of the Act, the term "qualified lottery winnings" is defined as "winnings from a sweepstakes, lottery, or pool" described in section 4402 of the IRC (which generally requires that these particular activities be conducted by a state agency or under the authority of state law), or winnings from "a lottery operated by a multistate or multijurisdictional lottery association." Multijurisdictional lotteries include those that include multiple entities of government.

While lottery winners generally have a choice between receiving a single payment or an annuity that pays out in installments over a period of time (often in annual payments over 20 or 30 years), the definition of "qualified lottery winnings" in section 1902(e)(14)(K)(v) by its own terms applies to the single payout option. Lottery winnings paid out in installments are not required to be considered "qualified lottery winnings" under the statute, and we do not think that interpreting the term to include such winnings would be consistent with the purpose of the statute. In our analysis of the potential impact of the formula for qualified lottery winnings on an annuity paid in installments, we found through many permutations of winnings that some individuals could have winnings counted for a shorter time and others for a longer time under the formula as compared to existing MAGI-based income counting. Due to the complexity of various lotteries, payment amounts and scenarios, and in the absence of rulemaking to implement this law, at this time we are not interpreting the definition of "qualified lottery winnings" beyond the plain language of the statute. Therefore, lottery winnings paid out in installments would be treated the same as other types of recurring income under 42 CFR 435.603(e).[6]

With respect to non-cash prizes, like a car or boat, the statute does not clearly specify whether such prizes are considered "qualified lottery winnings" under section 1902(e)(14)(K)(v) of the Act. As an example, the winner of a sweepstakes may be awarded a boat, which is appraised at a value of $110,000. Unlike a cash prize, however, a non-cash prize like the boat will begin to depreciate immediately. Depending on the length of time that elapses between receipt and sale

[5] There is one exception to this rule in the case of beneficiaries who receive lump sum income in a state that has elected the option to use projected annual household income for current beneficiaries under 42 CFR 435.603(h)(2).

[6] To address the fluctuations in monthly income of a lottery winner receiving annual annuity payments, under MAGI-based rules at 42 CFR 435.603(h)(3), states currently may elect an option to account for "reasonably predictable future income" by prorating lottery payments over a 12-month period to determine an average current monthly income for Medicaid and CHIP.

of the item, the fair market value could be considerably less than the original appraised value. Therefore, we believe that non-cash prizes should continue to be counted as lump sum income in the month in which they are received and not counted as "qualified lottery winnings".

Qualified Lump Sum Income. Section 1902(e)(14)(K)(vi) of the Act defines "qualified lump sum income" as "income that is received as a lump sum from monetary winnings from gambling." Under this statute, the Secretary has discretion to define "gambling," except that the activities described in 18 U.S.C 1955(b)(4) must be included in the definition. These activities include: betting pools; wagers placed through bookmakers; slot machines; roulette wheels; dice tables; lotteries; and bolita or numbers games, or the selling of chances therein. The Secretary will consider other activities proposed by one or more states to be included in the definition of gambling. Absent a determination by the Secretary that inclusion of other activities in the definition of gambling is appropriate, states may not include any other activities. Because the statute specifically defines qualified lump sum income as "*monetary* winnings from gambling" (emphasis added), non-cash prizes are not counted as qualified lump sum income for the purposes of section 1902(e)(14)(K) of the Act

Formula for Counting Qualified Winnings. For qualified winnings from lotteries or gambling activities occurring on or after January 1, 2018, states must count the winnings according to the following formula:

Winnings less than $80,000 are counted in the month received;

- Winnings of $80,000 but less than $90,000 are counted as income over two months, with an equal amount counted in each month; and
- For every additional $10,000 one month is added to the period over which total winnings are divided, in equal installments, and counted as income.

The maximum period of time over which winnings may be counted is 120 months, which would apply for winnings of $1,260,000 and above. A table showing the amount of monthly income attributed to increasing amounts of qualified winnings and the number of months over which the winnings is counted appears in Attachment B.

Treatment of Winnings for Other Household Members. Under section 53103(b)(2) of the BBA of 2018, the requirement to count qualified lottery and gambling winnings in household income over multiple months applies only to the individuals receiving the winnings. The determination of household income for other members of the individual's household are not affected. Thus, for example, the total amount of qualified lottery or gambling winnings of a spouse or parent continues to count only in the month received in determining the eligibility of the other spouse and children.

Verification of lottery and gambling winnings. Under regulations at 42 CFR 435.940 through 435.952 and 457.380, states may accept self-attestation or require other verification of lottery and gambling winnings. If a state requires other verification, per regulations at 42 CFR 435.952(c), the agency must first access available electronic data sources (such as a state lottery winner database, if available) and may accept self-attestation of lottery and gambling winnings before requesting documentation from the individual.

Hardship exemption. Section 1902(e)(14)(K)(iii) of the Act requires that states establish an "undue medical or financial hardship" exemption, through a procedure and based on a standard established by the state, in accordance with guidance provided by the Secretary, for individuals impacted by the new treatment of lottery and gambling winnings. Pending further guidance from the Secretary, states should develop a procedure and establish a reasonable standard for this hardship exemption.

State responsibilities to ineligible applicants and beneficiaries. Applicants and beneficiaries affected by the counting of lottery or gambling winnings maintain the ability to request a determination on a non-MAGI basis, as described at 42 CFR 435.911. Individuals determined financially ineligible for Medicaid or CHIP due to lottery or gambling winnings also have the right to purchase health coverage through a Qualified Health Plan (QHP) on the Exchange and, if eligible, claim a premium tax credit (PTC) for such purchase. Section 1902(e)(14)(K)(iv) of the Act addresses certain state responsibilities to such applicants and beneficiaries, related to notices and technical assistance. The Act specifies that the state agency provide notice to affected individuals of the date on which the lottery or gambling winnings no longer will be counted for the purpose of Medicaid or CHIP eligibility. States also must notify affected individuals of the hardship exemption. In addition, the Act requires states to "inform the individual of the individual's opportunity to enroll in" a QHP on the Exchange, which states meet through implementation of notices regulations at 42 CFR 435.917, 435.1200(e) and 457.340(e).

Section 1902(e)(14)(K)(iv)(II) requires states to "provide technical assistance to the individual seeking to enroll in" a QHP. Consistent with coordination regulations at 42 CFR 435.1200(e) and 42 CFR 457.350(i), the state agency takes appropriate action to transfer the electronic account of an individual financially ineligible for Medicaid or CHIP to the Exchange.[7] Inasmuch as the existing account transfer procedures that states use under the coordination regulations afford individuals needed assistance and provide the opportunity to enroll in appropriate coverage, such existing procedure satisfy the requirement to provide technical assistance.

<u>MAGI Exclusion of Parent Mentor Compensation</u>

Section 3004 of the HEALTHY KIDS Act extended the outreach and enrollment grant program for children who are eligible for, but not enrolled in, Medicaid or CHIP. Section 2113(f)(1)(E) of the Act provides that national, state, local, or community-based public or nonprofit private organizations that use parent mentors, are eligible to receive such grants. A "parent mentor," defined in section 2113(f)(5) of the Act, is a parent or guardian of a Medicaid or CHIP-eligible child who is "trained to assist families with children who have no health insurance coverage with respect to improving the social determinants of the health of such children."

[7] Qualified lottery and gambling winnings are subject to federal income taxation in the year received. Because PTC for subsidized purchase of a QHP is based on taxable income during the tax year, if the amount of winnings results in individuals losing Medicaid or CHIP eligibility and their household income, including the lottery or gambling winnings, exceeds the income limit for PTC (400 percent of the federal poverty level (FPL)), those individuals will not qualify for a subsidized health plan for the year in which the winnings are received. However, because section 1902(e)(14)(K) of the Act applies only to MAGI-based methods for Medicaid and CHIP, such winnings will not be counted in subsequent years for purposes of eligibility for the PTC for purchase of coverage through the Exchange.

In order to protect parent mentors from losing eligibility for Medicaid, section 3004 of the HEALTHY KIDS Act amends section 1902(e)(14) of the Act to exclude parent mentor compensation from their MAGI-based household income. New paragraph (J) provides that "[a]ny nominal amount received by an individual as compensation, including a stipend, for participation as a parent mentor" in a grant-funded program under section 2113 of the Act "shall be disregarded for purposes of determining income eligibility of such individual for medical assistance." The disregard of parent mentor income applies only in the case of parent mentors working with a grantee organization under section 2113 of the Act.

Nominal amounts paid as a stipend to a parent mentor are excluded from income. For payments received as wages or other compensation, states have discretion to determine the threshold of a "nominal amount." CMS will alert states if a grant is awarded under section 2113 of the Act in which the grantee plans to use parent mentors. We will be available to work with those states and grantees to establish a process for applicants and beneficiaries to identify parent mentor income that is not counted in determining eligibility under section 1902(e)(14)(J) of the Act.

Alimony Received

Prior to enactment of the TCJA, alimony as defined in IRC section 71 was considered taxable income to the recipient. Section 11051 of the TCJA modified the alimony rules. Under the TCJA, alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not included in the income of the recipient. For individuals with alimony agreements finalized on or before December 31, 2018, alimony continues to be included in the income of the recipient for the duration of the agreement unless or until the agreement is modified. Treatment of alimony paid is discussed below. The treatment of child support is unchanged: child support is not included in the income of the recipient and thus not counted in MAGI-based income.

Discharged Student Loan Debt

Student loan debt that is discharged, forgiven or cancelled is generally treated as taxable income to the borrower, and therefore the amount of discharged debt is included in MAGI-based income.[8] However, section 11031 of the TCJA amended section 108(f) of the IRC to provide an exception for tax years 2018 through 2025 in cases of discharged debt on account of the death or permanent and total disability of the student. Under the amendment, discharged student loan debt is not included in income (and not counted in the MAGI-based income) of a borrower if the debt is discharged on account of the death or the permanent and total disability of the student. (The borrower and the student may or may not be the same person.) Student loan debt discharged under the foregoing circumstances is not counted as income in determining household income for other members of the borrower's household.

Changes to Deductions

[8] A notable exception is the Public Service Loan Forgiveness program and certain teacher loan/healthcare loan forgiveness programs, which do not lead to taxable income (26 USC 108(f)(1)).

As noted above, certain deductions are allowed under the IRC in determining adjusted gross income, upon which MAGI is based. The TCJA eliminated several of these deductions.

Moving Expenses

Section 11049 of the TCJA, amending section 217 of the IRC, eliminated the deduction for qualified moving expenses for tax years 2018 through 2025. Moving expenses, including expenses incurred by the individual as well as reimbursements from an employer, should no longer be deducted in calculating MAGI. This change does not apply to active duty members of the military who are ordered to move or change duty station.

Alimony Paid

Under the TCJA, alimony payments under separation or divorce agreements finalized after December 31, 2018, or pre-existing agreements modified after December 31, 2018, are not deductible by the payer. For individuals with alimony agreements finalized on or before December 31, 2018, alimony payments continue to be deductible. Child support payments remain non-deductible.

Tuition and Fees Deduction

The payment of tuition and fees for qualified education expenses for postsecondary education had been an allowable deduction. Amounts paid for these expenses for the taxpayer, spouse or tax dependent typically could be deducted in computing adjusted gross income. Section 40203 of the BBA of 2018 amended section 222(e) of the IRC to eliminate this deduction, effective January 1, 2018. Such tuition and fees paid are no longer deductible in calculating MAGI, effective January 1, 2018.

The tuition and fees deduction is separate and distinct from the exclusion of scholarships, awards or fellowships used solely for educational purposes from MAGI for purposes of Medicaid and CHIP eligibility. This exclusion, which also applies for determining MAGI under the IRC, remains in effect under the Medicaid regulations at 42 CFR 435.603(e)(2) and CHIP regulations at 42 CFR 457.315.

State Requirement to Report Enrollment in MEC

Under Section 6055 of the IRC, states are required to provide Medicaid and CHIP beneficiaries with IRS Form 1095-B, indicating that the beneficiary had minimum essential coverage (MEC) for the tax year. States also must provide this information to the IRS. Under section 5000A of the IRC, individuals not enrolled in MEC and not exempt are subject to a “shared responsibility payment.” The TCJA reduced the shared responsibility payment to $0 beginning in tax year 2019. However, it did not eliminate the requirement for states to furnish Form 1095-B or to provide information about Medicaid and CHIP enrollment to IRS. Therefore, states must continue to send Forms 1095-B for Medicaid and CHIP coverage for tax year 2019 and beyond. If there is any change to these reporting requirements, CMS will communicate the changes to states.

Operational Considerations

In order to implement the changes to MAGI-based methods described in this letter, states may need to make updates to eligibility policies and procedures and changes to eligibility systems logic. In addition, states will need to be able to collect the relevant application information in order to make accurate Medicaid and CHIP determinations. Capturing the information may involve changes to applications and other forms, additional instructions or help text, or new application questions. In order to implement needed systems changes, and in accordance with 42 CFR 433.112(b)(14), states may request enhanced 90 percent federal financial participation for eligibility technology investments funded through an approved Advanced Planning Document. CMS remains available to provide technical assistance to states on implementation of such changes to ensure that states are able to make the changes as soon as possible.

We hope this information will be helpful. Questions and comments about the changes to MAGI-based methodologies discussed in this bulletin may be directed to Stephanie Kaminsky, Director, Division of Medicaid Eligibility Policy, CMCS, at Stephanie.Kaminsky@cms.hhs.gov. Requests for technical assistance on revisions to the state's application and renewal processes needed to implement the changes to MAGI-based methodologies may be directed to Jessica Stephens, Director, Division of Enrollment Policy and Operations, CMCS, at Jessica.Stephens@cms.hhs.gov.

Sincerely,

Calder Lynch
Deputy Administrator and Director

Enclosures

cc:

National Association of Medicaid Directors

National Academy for State Health Policy

National Governors Association

American Public Human Services Association

Association of State Territorial Health Officials

Council of State Governments

National Conference of State Legislatures

Academy Health

Attachment A –
Tax Filing Thresholds

	2017 Tax Filing Thresholds	**2018 Tax Filing Thresholds**
Personal Exemption Amount	$4,050[9]	$0
Standard Deduction for most people[10]	$6,350 (gross) - single	$12,000 (gross) - single[11]
Tax filing threshold for single tax dependent[12]	$1,050 unearned; or $6,350 earned; or Gross income is more than the larger of: • $1,050; or • Earned income (up to $6,000) plus $350	$1,050 unearned; or $12,000 earned; or Gross income is more than the larger of: • $1,050; or • Earned income (up to $11,650) plus $350
Tax dependents > 65 or blind	$2,600 unearned; or $7,900 earned; or Gross income is more than the larger of: • $2,600; or • Earned (up to $6,000) plus $1,900	$2,650 unearned; or $13,600 earned; or Gross income is more than the larger of: • $2,650; or • Earned income (up to $11,650) plus $1,950
Tax dependent > 65 and blind	$4,150 unearned; or $9,450 earned; or Gross income is more than the larger of: • $4,150; or • Earned (up to $6,000) plus $3,450	$15,200 earned $4,250 unearned income Gross income is more than the larger of: • $4,250; or • Earned income (up to $11,650) plus $3,550

[9] See IRS Pub 17, Chapter 3; and Pub 501.
[10] For individuals who are under age 65, not blind, not head of household and no one else can claim individual as a dependent. See IRS Pub 17, Table 20-1 (2017) and Table 21-1 (2018); and IRS Pub 501, Table 6.
[11] To be increased annually for inflation. See Internal Revenue Bulletin 2018-10 (March 5, 2018).
[12] For individuals under age 65 and not blind. See IRS Pub 501, Table 2.

Attachment B –
Lottery and Gambling Winnings:
Months over which Income is Counted by Income Increment

From $	Up To $	# Months Counted for Medicaid
1	79,999	1
80,000	89,999	2
90,000	99,999	3
100,000	109,999	4
110,000	119,999	5
120,000	129,999	6
130,000	139,999	7
140,000	149,999	8
150,000	159,999	9
160,000	169,999	10
170,000	179,999	11
180,000	189,999	12
190,000	199,999	13
200,000	209,999	14
210,000	219,999	15
220,000	229,999	16
230,000	239,999	17
240,000	249,999	18
250,000	259,999	19
260,000	269,999	20
270,000	279,999	21
280,000	289,999	22
290,000	299,999	23
300,000	309,999	24
310,000	319,999	25
320,000	329,999	26
330,000	339,999	27
340,000	349,999	28
350,000	359,999	29
360,000	369,999	30
370,000	379,999	31
380,000	389,999	32
390,000	399,999	33
400,000	409,999	34
410,000	419,999	35

From $	Up To $	# Months Counted for Medicaid
420,000	429,999	36
430,000	439,999	37
440,000	449,999	38
450,000	459,999	39
460,000	469,999	40
470,000	479,999	41
480,000	489,999	42
490,000	499,999	43
500,000	509,999	44
510,000	519,999	45
520,000	529,999	46
530,000	539,999	47
540,000	549,999	48
550,000	559,999	49
560,000	569,999	50
570,000	579,999	51
580,000	589,999	52
590,000	599,999	53
600,000	609,999	54
610,000	619,999	55
620,000	629,999	56
630,000	639,999	57
640,000	649,999	58
650,000	659,999	59
660,000	669,999	60
670,000	679,999	61
680,000	689,999	62
690,000	699,999	63
700,000	709,999	64
710,000	719,999	65
720,000	729,999	66
730,000	739,999	67
740,000	749,999	68
750,000	759,999	69
760,000	769,999	70

From $	Up To $	# Months Counted for Medicaid
770,000	779,999	71
780,000	789,999	72
790,000	799,999	73
800,000	809,999	74
810,000	819,999	75
820,000	829,999	76
830,000	839,999	77
840,000	849,999	78
850,000	859,999	79
860,000	869,999	80
870,000	879,999	81
880,000	889,999	82
890,000	899,999	83
900,000	909,999	84
910,000	919,999	85
920,000	929,999	86
930,000	939,999	87
940,000	949,999	88
950,000	959,999	89
960,000	969,999	90
970,000	979,999	91
980,000	989,999	92
990,000	999,999	93
1,000,000	1,009,999	94
1,010,000	1,019,999	95
1,020,000	1,029,999	96
1,030,000	1,039,999	97

From $	Up To $	# Months Counted for Medicaid
1,040,000	1,049,999	98
1,050,000	1,059,999	99
1,060,000	1,069,999	100
1,070,000	1,079,999	101
1,080,000	1,089,999	102
1,090,000	1,099,999	103
1,100,000	1,109,999	104
1,110,000	1,119,999	105
1,120,000	1,129,999	106
1,130,000	1,139,999	107
1,140,000	1,149,999	108
1,150,000	1,159,999	109
1,160,000	1,169,999	110
1,170,000	1,179,999	111
1,180,000	1,189,999	112
1,190,000	1,199,999	113
1,200,000	1,209,999	114
1,210,000	1,219,999	115
1,220,000	1,229,999	116
1,230,000	1,239,999	117
1,240,000	1,249,999	118
1,250,000	1,259,999	119
1,260,000	or higher	120

Attachment C –
Frequently Asked Questions:
Changes to Modified Adjusted Gross Income (MAGI)-based Income Methodologies

<u>Lottery and Gambling Winnings</u>

Q1. Can you provide some examples of how lottery and gambling winnings would impact individual applicants and beneficiaries?

A1. Consider the following examples:

1. Sally is enrolled in Medicaid with MAGI-based household income of $1,200 per month. She is single and has no dependents. On New Year's Eve 2018, Sally wins $192,000 playing roulette. How do Sally's gambling winnings impact her MAGI-based income and eligibility for Medicaid?
    a. Using the chart in Attachment B, we see that Sally's winnings of $192,000 are counted in her MAGI-based income for 13 months, including the month in which she receives the winnings. So they are counted in December 2018 through December 2019.
    b. An equal amount of $14,769 is counted in each month ($192,000/13 months = $14,769 per month).
    c. Sally's MAGI-based monthly income for December 2018 through December 2019 is $15,969 ($14,769 gambling winnings + $1,200 other MAGI-based income) assuming no changes to her other MAGI-based income.
    d. Because Sally's income exceeds the state's MAGI-based income standard, the agency would provide Sally with a notice alerting her that she is no longer eligible for Medicaid and her coverage will be terminated following the advance notice period. The notice will also tell Sally that beginning January 1, 2020, her gambling winnings will no longer be counted in her MAGI-based income.
    e. The Medicaid agency will transfer Sally's account to the Exchange. Because she is losing eligibility for Medicaid, she qualifies for a special enrollment period and the Exchange will determine if she is eligible for advanced payments of the premium tax credit.

2. Joe is a single individual who has no dependents. He earns $700 per month and has no other income or deductions. Joe wins a scratch-off ticket paying out $50,000 on May 15, 2019. The following month, Joe applies for Medicaid. How do his lottery winnings impact his MAGI-based income and eligibility for Medicaid?
    a. Using the chart in Attachment B, we see that Joe's lottery winnings are counted in MAGI-based methods for only one month. Because his winnings are less than $80,000, they are counted only in the month received. So the full amount of $50,000 is counted in May of 2019.
    b. When Joe applies for Medicaid in June, his MAGI-based income will be $700 and that will be used to determine his financial eligibility for Medicaid.

Q2. How do lottery and gambling winnings received by parents impact their children's eligibility for Medicaid?

A2. The changes to section 1902(e)(14) of the Act made by the Bipartisan Budget Act of 2018 (Pub. L. No. 115-123, "BBA of 2018") only impact the MAGI-based household income of the individuals who themselves receive the lottery or gambling winnings. Therefore, when determining Medicaid eligibility for a child who lives with a parent, the parent's qualified lottery or gambling winnings would be treated the same as any other lump sum income received and included in the child's MAGI-based income only in the month received, as described at 42 CFR 435.603(e)(1). Consider the following example.

Justine is a single parent who lives with her son, Oscar, who is age 7. Justine and Oscar have monthly MAGI-based income of $2,000 from Justine's job. On April 14, 2019, Justine submits a Medicaid application for Oscar. The following week Justine wins the state lottery and receives a lump sum payment of $755,000. How do Justine's lottery winnings impact Oscar's MAGI-based income and eligibility for Medicaid?

For the month of April, Oscar's MAGI-based household income will be calculated as $755,000 in lottery winnings, plus $2,000 in the other MAGI-based income, for a total monthly income of $757,000 for a family of two. For the month of May, Oscar's MAGI-based income will be $2,000. Justine's lottery winnings would count toward Oscar's MAGI-based income only in the month of April. If Justine applies for Medicaid, using the chart in Attachment B, her winnings of $755,000 would be counted in her MAGI-based income for 69 months (or, 5 years and 9 months), beginning in the month in which she receives the winnings. That is, Justine's winnings would be counted in her MAGI-based income in April 2019 through December 2024. An equal amount of $10,942 would be counted in each month ($755,000/69 months = $10,942 per month).

Q3. Do winnings from any state count under the lottery and gambling winnings methodology?

A3. Yes. Lottery and gambling winnings are treated the same regardless of the state in which they were won. The methodology in section 1902(e)(14)(K) of the Act applies to winnings an individual receives from any state.

Q4. How are multiple instances of gambling winnings counted under the lottery and gambling winnings methodology?

A4. If a Medicaid or CHIP applicant or beneficiary wins monetary winnings from gambling multiple times, the lottery and gambling winnings methodology is applied separately to each instance of winning. Where the amount of months over which winnings are counted overlap, those months are counted concurrently (each instance beginning and ending as per the formula) and the countable income attributed to each month is added together for each month.

Q5. Are gambling losses subtracted from gambling winnings for the purposes of the lottery and gambling winnings methodology?

A5. No. Although there are circumstances in which gambling losses may be deducted from income for the purpose of federal income taxes, gambling losses are not deducted from winnings for the purposes of the lottery and gambling winnings methodology under MAGI-based income methodologies for Medicaid and CHIP.

Q6. How should the "gap-filling" rule at 42 CFR 435.603(i) apply to individuals whose income is counted under the lottery and gambling winnings methodology?

A6. The Medicaid "gap-filling" rule at 42 CFR 435.603(i), promulgated in March 2012, was designed to prevent a potential gap in coverage for low-income individuals caused by the slight differences in the MAGI methodologies used for purposes of premium tax credit (PTC) eligibility and the MAGI-based methodologies used for purposes of Medicaid and CHIP eligibility. Under the gap-filling rule, if an individual's MAGI-based monthly household income for purposes of Medicaid eligibility is above the applicable Medicaid income standard and the individual's MAGI-based annual household income for purposes of PTC eligibility is under 100 percent of the FPL (and ineligible for a PTC due to too little income) the state is required to apply the MAGI methodologies generally used for purposes of PTC eligibility in determining the individual's eligibility for Medicaid.

The different treatment of lottery and gambling winnings under the MAGI methodologies for PTC eligibility versus the MAGI-based methodologies used for Medicaid and CHIP may result in a situation in which an individual's household income for purposes of PTC eligibility in a given year will be under 100 percent FPL, but his or her income applying MAGI-based methodologies (for purposes of Medicaid and CHIP eligibility) will be over the Medicaid and CHIP eligibility thresholds. If applied in this situation, the gap filling rule would result in approval of Medicaid or CHIP eligibility in the year after receipt of the winnings. If applying the lottery and gambling methodology would result in income over the Medicaid eligibility standard, applying the gap-filling rule and determining such an individual eligible would not be consistent with the intended result under the BBA of 2018. We believe that the new statutory provision supersedes the regulatory policy in this situation. Thus, we have determined that states should not apply the gap-filling regulation at 42 CFR 435.603(i) if doing so would result in a determination contrary to the determination reached after applying the lottery and gambling methodology added at section 1902(e)(14)(K) of the Act by the BBA.

Q7. Are states required to keep a record of individuals found ineligible for a period of time due to lottery or gambling winnings?

A7. Per regulations at 42 CFR 431.17 and 435.914(a), states are required to maintain case records on each applicant and beneficiary containing, among other things, facts essential to supporting the agency's denial or termination of eligibility. States are expected to follow their standard recordkeeping protocol when an individual is denied or terminated due to lottery or gambling winnings, including the period of time such records are maintained. States are not required to establish a separate process specific to individuals denied or terminated from coverage due to lottery or gambling winnings.

When an individual previously denied or terminated from coverage subsequently reapplies for coverage, states typically are able to identify the individual's previous application or enrollment in the state's program. Some states may have ready access to the record of the individual's prior winnings, and such states would be expected to take this information into account in processing the individual's new application. Other states may want to establish a process to maintain a record of the monthly amount of winnings of former applicants and beneficiaries to be counted as income as well as the duration for which that amount is counted.

Other Questions

Below we answer frequently asked questions which are not related to the lottery and gambling winnings methodology discussed in this letter.

Q8. Now that alimony payments are treated differently under MAGI-based methodologies depending on the date that the agreement was consummated or last revised, how can states verify the date of execution of separation or divorce agreements that include provision for alimony?

A8. Under the general verification regulations at 42 CFR 435.945(a) and 435.952(c), states have the flexibility to accept attestation of the date of the finalization or modification of a separation or divorce agreement or to require paper documentation, provided that electronic verification is not available or is inconsistent with the individual's attestation.

Q9. Does the change to the treatment of alimony affect or render obsolete the mandatory eligibility group for extended Medicaid due to increased collection of spousal support (42 CFR 435.115)?

A9. No. The discussion of including alimony in income relates only to MAGI-based methods, and not to any particular MAGI-based eligibility group. In particular, the group for extended Medicaid eligibility based on the increased collection of spousal support remains in effect as described under 42 CFR 435.115.

As noted in the SHO letter, if a separation or divorce agreement (or a modification to a pre-existing agreement) was finalized after December 31, 2018, the alimony payments under the agreement would not be counted in MAGI income and an increase would not trigger the four-month extension of Medicaid eligibility. However, if a separation or divorce agreement was finalized on or before December 31, 2018 (and is not modified thereafter), the alimony payments under the agreement must be included in the income of the recipient. In circumstances in which such alimony income meets the definition of "spousal support" under title IV-D of the Act, and the recipient has an increased collection of such support (e.g., through a scheduled increase, payment of arrears, or through new collection on an existing support obligation) through the IV-D agency, the family may qualify for the four-month extension of Medicaid eligibility group under 42 CFR 435.115.

Spousal support that does not meet the IRS definition of alimony is not included in income and therefore an increased collection of such support would not trigger the extension under 42 CFR 435.115. The five requirements for spousal support to be alimony are:

1. Payment must be in cash;
2. Payment is received by (or on behalf of) a spouse under a divorce or separation agreement;
3. The divorce or separation instrument does not designate such payment as a payment not includable in gross income and not allowable as a deduction;
4. The payee spouse and the payer spouse are not members of the same household at the time such payment is made; and
5. There is no liability to make any such payment (in cash or property) as a substitute for such payments after the death of the payee spouse.