

iii. Such aid is to any undergraduate student for educational purposes.

6. Any income received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, c.81).

7. Funds received by applicants and beneficiaries through certain Federal programs shall be regarded as exempt income.

i. Benefits or assistance received through the WIC program (Special Supplemental Food program for Women, Infants and Children) and the special food services program for children under the National School Lunch Act as amended by Public Laws 92-433 and 93-150;

ii. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965;

iii. Payments made through Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), and payments made under Title I of P.L. 93-113 (for example, Volunteers in Service to America (VISTA));

iv. Payments received under the Experimental Housing Assistance Program (EHAP) made under annual contribution's contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937;

v. Payments made through the United States Department of Housing and Urban Development (HUD) Section 8, Rental Assistance Program (RAP), which provides funds to certain disabled individuals and low income families to assist them in meeting shelter costs;

vi. HUD community development block grant funds under Title I of the Housing and Community Development Act of 1974;

vii. Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35.

8. The value farm and garden products raised by the eligible unit for its own use is not considered income.

(c) Occasional nonrecurring gifts and contributions of nominal amount or value, such as those for birthdays, graduations, Christmas or other holidays, to the extent the value does not exceed an average of \$30.00 per beneficiary in any calendar quarter, are considered exempt income.

1. In cases where such gifts and contributions exceed an average of \$30.00 per beneficiary in any calendar quarter, that excess shall be counted as unearned income.

2. In determining value, a gift received by one member of the eligible unit but intended for the entire eligible unit

may be allocated among the eligible unit members in the way most advantageous to the entire unit.

Special amendment, R.2000 d.411, effective September 12, 2000 (to expire March 12, 2001).

See: 32 N.J.R. 3598(a).

In (b), rewrote the introductory paragraph, 1 and 2.

Adopted concurrent proposal R.2001 d.123, effective March 12, 2001.

See: 32 N.J.R. 3598(a), 33 N.J.R. 1123(c).

Readopted provisions of R.2000 d.411 without change.

#### 10:69-10.23 Nonrecurring earned or unearned lump sum income

(a) When a beneficiary receives nonrecurring earned or unearned lump sum income, including retroactive RSDI payments and other monthly benefits, and payments in the nature of a windfall, such as inheritances and lottery winnings, personal injury and worker compensation awards, to the extent it is not earmarked and used for the purpose for which it was paid (for example, moneys for back medical bills resulting from accidents or injury, funeral and burial costs, or replacement or repair of resources), that income will be added together with all other income received that month by the eligible family after application of the disregards in N.J.A.C. 10:69-10.32 and the exemption of income in N.J.A.C. 10:69-10.31. The TANF grant shall not be considered income. When this total exceeds the standard of need for the eligible family size as set forth at N.J.A.C. 10:69-10.2, the family shall be ineligible for AFDC-related Medicaid program for the number of full months derived by dividing this total income by the standard of need applicable to the eligible family. Any remaining income from this calculation is treated as if it is unearned income received in the first month following the period of ineligibility and is considered available for use at that time. SSI payments shall not be subject to lump sum treatment.

1. For purposes of determining the period of ineligibility, the family includes the AFDC-related Medicaid program eligible unit and any other individual (such as a stepparent) whose lump sum income caused the unit's income to exceed the allowance standard.

2. The period of ineligibility shall begin in the first month subsequent to the month the nonrecurring income is received or, if there is insufficient time for a timely adverse action notice, the following month.

3. In the event the nonrecurring income is not reported timely, the period of ineligibility shall begin at the point the ineligibility would have occurred had the CBOSS had knowledge of its receipt. The amount of Medicaid overpayment for the period of ineligibility must be established and recovery made.

4. The period of ineligibility applies to each individual in the eligible family at the time of receipt of the lump sum nonrecurring income. Other family members to whom the penalty does not apply, may be eligible as a separate Medicaid eligibility unit.

5. Once established, the period of ineligibility may be reduced only in the circumstances below. It is the responsibility of the former eligible family to provide all necessary information and documentation required to make a determination to shorten the period of ineligibility. The basis for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record.

i. The period of ineligibility may be recalculated when the AFDC standard of need is increased. Upon request of a former AFDC eligible family, the period of ineligibility shall be reduced as follows:

(1) The number of months of ineligibility already elapsed shall be multiplied by the standard of need used to compute the original period of ineligibility;

(2) The result shall be subtracted from the original lump sum amount; and

(3) The remaining amount shall be divided by the new AFDC standard of need for the eligible family size and the result will be the number of months of ineligibility remaining.

ii. The period of ineligibility may be recalculated if the income used to determine such period becomes unavailable to the eligible family for reasons beyond the control of the family members. Acceptable reasons are limited to those below:

(1) The former eligible family shall thoroughly substantiate an allegation of loss or theft of part or all of the lump sum income and shall provide the CBOSS with evidence that a police report of an incident of theft has been filed. Upon receipt of credible evidence of loss or theft of the income, the CBOSS shall reduce the amount of the original lump sum by the amount of the loss or theft. Loss of the income, for the purposes of this section, shall include circumstances where a member of the former eligible family has absconded with the funds.

(2) When the former eligible family incurs and pays verifiable expenses due to an emergent situation, including fire, flood, natural disaster or other emergent situation, for which, had the family been eligible, emergency assistance would have been authorized under N.J.A.C. 10:90, those expenses shall reduce the amount of the original lump sum.

iii. The period of ineligibility may be reduced if the family incurs, becomes responsible for, and pays medical expenses during the period of ineligibility. In such cases, the original income used to compute the period of ineligibility shall be offset by verified medical expenditures. For this purpose, allowable medical expenses are as follows:

(1) Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional;

(2) Hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was an eligible family member immediately prior to entering a hospital or nursing home, provided by a facility recognized by the State;

(3) Prescription drugs when prescribed by a licensed practitioner authorized under State law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment;

(4) Health and hospitalization insurance policy premiums;

(5) Medicare premiums related to coverage under Title XVIII of the Social Security Act;

(6) Dentures, hearing aids, and prosthetics;

(7) Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

(8) Eye glasses prescribed by a physician skilled in eye diseases or by an optometrist;

(9) The reasonable cost of transportation and lodging to obtain medical treatment or services; and

(10) Maintaining an attendant, homemaker, home health aid, housekeeper, or child care services, necessary because of age, infirmity, or illness.

6. In all instances, where the previously eligible family has been terminated due to receipt of lump sum income, the notice of adverse action shall include:

i. The reason for the family's termination from AFDC-related Medicaid program;

ii. The duration of the period of ineligibility;

iii. The earliest date the ineligible family may apply to reopen their AFDC-related Medicaid program case; and

iv. A statement concerning possible reduction of the ineligibility period (see (a)5ii or iii above).

(b) For the AFDC-related program, lump sum income and the resulting period of ineligibility shall be treated in accordance with the following provisions:

1. Only those individuals actually receiving AFDC-related Medicaid or Medicaid Special are considered to be AFDC-related Medicaid program beneficiaries. Any individual receiving Medicaid Only, New Jersey Care ... Special Medicaid programs, Medicaid Special, NJ Kid-Care or any other medical coverage is not considered an AFDC-related Medicaid program beneficiary. Therefore, a period of ineligibility imposed on a beneficiary of Medicaid Only or Medicaid Special benefits due to the receipt of lump sum income cannot be carried over into the AFDC-related Medicaid program, and cannot cause ineligibility for AFDC-related Medicaid program benefits.

(c) This section is not to be construed to limit any policy pertaining to reimbursement in any program but must be applied in conjunction with any repayment agreement.

Special amendment, R.2000 d.411, effective September 12, 2000 (to expire March 12, 2001).

See: 32 N.J.R. 3598(a).

In (a), deleted a former third sentence in the introductory paragraph. Adopted concurrent proposal R.2001 d.123, effective March 12, 2001.

See: 32 N.J.R. 3598(a), 33 N.J.R. 1123(c).

Readopted provisions of R.2000 d.411 without change.

#### 10:69-10.24 Child support received by the eligible unit

The first \$50.00 of any child support payments received on behalf of a dependent child or children by any family applying for or eligible for AFDC-related Medicaid program shall be disregarded. Such child support payments shall include disregarded child support (DCS) payments paid the family through the child support and paternity process and direct support payments received by the eligible unit which represent a current monthly support obligation. These moneys are disregarded in determination of initial eligibility, maximum income eligibility, and the prospective needs test. The total amount of child support disregarded shall not exceed \$50.00 per month per eligible unit.

#### 10:69-10.25 Prospective budgeting

(a) Prospective budgeting policy shall be applied to applicants and beneficiaries of AFDC-related Medicaid program benefits, including Medicaid Special.

(b) AFDC-related Medicaid program eligibility shall be based on a best estimate of the family's income and other circumstances that will exist until the next reported significant change in circumstance or redetermination, whichever is first. The best estimate of income is based on the family's and the agency's reasonable expectations and knowledge of current, past, and future circumstances. In determining the best estimate of income, the CBOSS shall use income averaging and the concept of "significant and non-significant" income and circumstance changes. Verification of the income used shall be clearly documented in the case record.

1. For purposes of determining the family's eligibility, the CBOSS shall determine earnings by obtaining wage information for the four consecutive week period immedi-

ately preceding the date of application, redetermination, or change in circumstance. Likewise, all unearned income received within this four-week period is also determined. All earned and unearned income received within this four week period shall be verified and documented in the case record, even if all four weeks of income are not ultimately used to calculate the best estimate.

2. The receipt of income generally occurs weekly, bi-weekly, or on a semi-monthly basis. The CBOSS shall convert the averaged income amount to a gross monthly amount by multiplying the averaged income amount by the appropriate conversion factor as follows: weekly amounts by 4.333; biweekly amounts by 2.167; and semi-monthly amounts by two.

(c) Significant income and circumstance changes are defined as changes in sources or amounts of earned or unearned income or changes to the eligible unit size which are expected to continue into the future. Examples of significant changes include, but are not limited to: starting a new job or gaining a new source of unearned income; losing a job or a source of unearned income; permanent or long term changes in hours worked and/or rate of pay; permanent or long term changes in unearned income; changing from part-time to full-time employment (or vice versa); promotion or demotion; beginning to work piece work or regular overtime (or vice versa); changing employers; short term plant closings (such as one or more weeks) or periods of sick leave without compensation (more than one day); or addition of or loss of an eligible family member.

1. The CBOSS shall use information about past significant changes of a continuous nature in estimating future income. The date of an anticipated significant income/circumstance change may be used to schedule a desk review to coincide with the expected date of the change, in order to recalculate the best estimate of income.

2. Families shall be required to report all significant changes in income and circumstances that could affect eligibility as soon as possible, but in no event later than 10 calendar days of the date the change happened. The CBOSS shall initiate appropriate action on the reported change within 10 calendar days of receiving the report of the change, subject to timely and/or adequate notice requirements.

(d) Non-significant income/circumstance changes are defined as temporary, very short term variations in the earned or unearned income amount or eligible unit size caused by a situation which is not of an ongoing nature, or which is of a variable nature. Examples include, but are not limited to: fluctuations in wages due to ongoing (reported) earnings from piece work; occasional changes in wages due to very irregular overtime; or an occasional unpaid day off.

(e) The following procedures are to be followed in determining the best estimate of income:

1. Verification through wage stubs or documentation from the employer, of income received within the specified time frame in (b) above. All earned and unearned income received within this four week period shall be verified and documented in the case record even if all four weeks of income are not ultimately used to calculate the best estimate.

2. Determination, through a review of the income documentation and discussion with the family, if there have been any significant changes during that period. If a significant change has occurred and the change is of a continuous nature, the change shall be documented and taken into consideration when determining the best estimate. For example, if a family has received an increase in hourly rate, the new hourly rate shall be multiplied by the appropriate number of hours (either stable or averaged) to determine anticipated income.

3. Determination of any significant changes that are expected in the future. If a significant change is expected and the exact nature of the change is known, the CBOSS shall use the information in determining the best estimate of income and shall require that the family provide the required verification subsequent to the change to determine if the best estimate was correct or needs to be recalculated. If the exact nature of the anticipated change is not known, then a desk review can be scheduled to coincide with the expected date of change and/or the client advised to report the change within 10 days of the date of change.

4. Determination, through review of the documentation, of the case record and discussion with the client, if any of the income received is not expected to be representative of the future. For instance, the first pay check of new employment may not represent a full-pay period; a missing week's income may represent a summer plant closing; or a larger check may represent nonrecurring overtime, all of which may not be anticipated to occur in the future. Non-representative income (or lack of income) shall not be used in calculating the best estimate. The case record shall be clearly documented to explain why any income was not used, and to show how the best estimate was calculated. For example, the family receives regular weekly income but is missing one week's pay due to a plant closing for that week only. The three available amounts would be averaged to determine average weekly income and that average converted to monthly gross income as described in (b)2 above.

5. If income fluctuates (that is, is not exactly the same each time received and/or is not received on a regular schedule) to the extent that a four-week period is not expected to provide the best estimate of income until the next redetermination, the CBOSS shall require the family to submit verified wage information for those months subsequent to the month of review, in order that the CBOSS may recalculate the best estimate. When income fluctuates dramatically, CBOSSs shall recalculate eligibility as often as deemed necessary to ensure the most accurate best for determination of continued AFDC-related Medicaid eligibility.

i. When four consecutive weeks of income fluctuate but are representative of the family's anticipated fluctuation in income for future months, the CBOSS shall average the income from the four-week period and project that gross income estimate for future months, taking into account any anticipated significant changes.

6. The final step shall be to average the income that has been determined to be representative of the eligible family's circumstances and to convert that average to a gross monthly income "best estimate" amount by using the conversion factors set forth in (b)2 above. The best estimate amount shall then be used to determine eligibility until the next redetermination or report of a significant change.

(f) If there are no significant changes in circumstances, a new best estimate of income shall, at a minimum, be completed at the time of the next redetermination of eligibility.

1. When non-significant changes are reported, it shall not be necessary to redetermine eligibility immediately. Non-significant changes shall, however, be taken into consideration when determining the best estimate of income at the next regularly scheduled redetermination. When such changes are reported, the case record shall be clearly documented to show that the change was non-significant.

2. A significant change in circumstances of the eligible family may result in loss of eligibility. The termination of eligibility shall be effective no later than the first day of the month following the month in which the significant change in circumstance occurred, or 10 business days after the change is reported to the CBOSS, whichever is later. Termination of eligibility shall be subject to timely and adequate notice and meet the requirements of N.J.A.C. 10:69-6.

#### 10:69-10.26 Eligibility

(a) In determining initial eligibility, the appropriate disregards shall be applied to earned income.