

5. The actual amount paid by the institutionalized person for support of a person for whom the institutionalized person is legally responsible but not to exceed the appropriate AFDC assistance standard unless the institutionalized person is paying court-ordered support in an amount greater than the AFDC assistance standard in s. 49.19 (11) (a) 1, Stats.; and

6. The monthly cost of maintaining a home when the conditions of s. HSS 103.06 (1) (b) 3, are met, but not to exceed the SSI payment level for one person living in that person's own household.

(2) SPECIAL TYPES OF INCOME. (a) *Farm and self-employment income.* Farm and self-employment income used in MA calculations shall be determined by adding back into the net earnings the following: depreciation, personal business and entertainment expenses, personal transportation, purchases of capital equipment, and payments on the principal of loans. The total shall be divided by 12 to get monthly earnings. If no tax return has been filed, the individual shall complete a 1040 form of the internal revenue service (IRS) to determine net earnings or loss, or to anticipate, in case of relatively new businesses, net earnings as required by the IRS. If the latest income tax return does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the agency shall calculate the self-employment income based on anticipated earnings. Agencies shall determine whether it is necessary to use anticipated earnings on a case-by-case basis and shall document the reasons for the determination in the case record.

(b) *Contractual employment income.* Income received on other than an hourly or piecework basis from employment performed under a contract which is renewable on an annual basis shall be averaged over a 12-month period. Persons receiving this income shall be considered to receive compensation for the entire 12-month period even though actual compensation may only be received for part of the year.

Note: For example, if school teachers are paid 9 months a year, the wages they receive are to be averaged over a 12-month period.

(c) *In-kind benefits.* Predictable in-kind benefits received regularly and in return for a service or product delivered shall be treated as earned income in MA calculations. The value of the in-kind income is determined by using the prevailing wage rate in the local community for the type of work performed, but not less than the minimum wage for that type of work.

(d) *Income from providing room and board.* Net profit from room and board shall be treated as earned income in MA calculations. Net profit is determined by deducting the following expenses of providing room and board from the gross room and board income received:

1. Roomer only - \$15.00;
2. Boarder only - current food stamp allotment for one; and
3. Roomer and boarder - current food stamp allotment for one plus \$15.00.

(e) *Income from rentals.* When the owner reports rental income to the IRS as self-employment income, the procedures set forth in par. (a) shall be followed in MA calculations. If the owner does not report rental in-

come to the IRS as self-employment income, net rental income shall be determined as follows:

1. When the owner is not an occupant, net rental income is the rental income minus the mortgage payment and verifiable operational costs;

2. When the owner receives rental income from a duplex or multiple rental unit building and the owner resides in one of the units, net rental income shall be computed according to the following method:

a. Add the interest portion of the mortgage and other verifiable operational costs common to the entire operation;

b. Multiply the number of rental units by the total in subpar. a.;

c. Divide the result in subpar. b. by the total number of units;

d. Add the result in subpar. c. to any operational costs paid by the owner that are unique to any rental unit; and

e. Subtract the result in subpar. d. from the total rent payments. The result is net rental income.

(f) *Income of SSI child's parents.* Income of a disabled child's parents shall not be considered when determining the child's eligibility for MA if the child meets the conditions stated in 42 USC 1396a (e) (3).

(g) *Income disregards.* Income disregards of the AFDC program under 45 CFR 233.20 (a) and of the SSI program under 20 CFR 416.1112 and 416.1124 shall be used as appropriate.

(h) *Income from land contracts.* Income received from a land contract shall be counted as unearned income. If the income is received on a monthly basis, it shall be included as monthly income. Payments received on less than a monthly basis shall be prorated to a monthly amount over the period between payments. Any expenses that the applicant or recipient is required to pay under the terms of the land contract shall be deducted from the gross income received from the land contract.

(3) DEDUCTIONS FROM EARNED INCOME. (a) *Work-related deduction.* If an individual is employed, \$90 shall be deducted from the individual's earned income when determining MA eligibility.

(b) *Dependent care deductions.* When employment cannot be maintained without dependent care for a child or incapacitated adult in the MA or fiscal test group, the following deductions shall be applied:

1. The actual cost of care but not more than \$175 each month for each dependent child age 2 or over or incapacitated adult; and

2. The actual cost of care but not more than \$200 each month for each dependent child under age 2.

(c) *Special deductions for employed blind persons.* Transportation expenses incurred in getting to and from work, expenses related to job performance and expenses related to improving job ability such as training meant to improve employability and increase earning power shall be deducted from the earned income of blind persons.

Note: Examples of expenses related to job performance are a reader, translation of material into braille, the cost and upkeep of a seeing eye dog for a blind person, and the cost of a prosthesis.

(4) **DEDUCTION FROM ANY INCOME FOR SUPPORT TO AN INSTITUTIONALIZED PERSON.** If a person in the MA group has legal responsibility for a person residing in an institution where the cost of care cannot be covered by MA, any income actually made available by the MA group toward the institutional cost of care shall be deducted from the MA group's income.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; cr. (2) (h), Register, July, 1989, No. 403, eff. 8-1-89; emerg. r. and recr. (3) (a) and (b), eff. 10-2-89; r. and recr. (3) (a) and (b), Register, March, 1990, No. 411, eff. 4-1-90.

**HSS 103.08 Beginning of eligibility.** (1) **DATE.** Except as provided in subs. (2) to (4), eligibility shall begin on the date on which all eligibility requirements were met, but no earlier than the first day of the month 3 months prior to the month of application. Retroactive eligibility of up to 3 months may occur even though the applicant is found ineligible in the month of application.

(2) **SPEND-DOWN PERIOD.** (a) 1. The spend-down period shall begin on the first day of the month in which all eligibility factors except income were met, but no earlier than the first day of the month 3 months prior to the month of application. However, at the recipient's option, it may begin on the first day of any of the 3 months prior to the date of application if all eligibility factors, except income, were met in that month. A recipient's decision to choose an optional beginning date shall be recorded in the agency's case record. For persons who previously received MA and then reapply, the spend-down period cannot cover the time during which they were receiving MA.

2. The MA group shall be eligible as of the date within the spend-down period on which the expenditure of excess income or the obligation to expend excess income is achieved.

3. The applicant shall be responsible for some bills or parts of bills for services received on the first day of eligibility if there is remaining unspent and unobligated excess income on that day.

(b) If the amount of the monthly excess income changes before the expenditure or obligation of excess income is achieved, the expenditure or obligation of excess income for the remainder of the 6-month period shall be recalculated. When the size of the MA group changes, the monthly income limit shall be adjusted appropriately to the size of the new group, and the amount of excess income to be expended or obligated shall be adjusted accordingly. If any change is reported that may affect eligibility, the eligibility of the entire MA group may be redetermined and, if there is determined to be excess income, a new spend-down period shall be established.

(c) 1. Once the expenditure or obligation of excess income has been achieved, the MA group shall be eligible for the balance of the 6-month spend-down period, unless it is determined that assets have increased enough to make the MA group ineligible, or that a change in circumstances has caused someone in the MA group to become ineligible for nonfinancial reasons.

2. If the entire group is determined ineligible, the MA benefits shall be discontinued with proper notice. If only one person in the MA group is determined ineligible for nonfinancial reasons, only that person's MA benefits shall, with proper notice, be discontinued. The other person or

persons in the MA group continue their eligibility until the end of the 6-month period.

3. If the size of the MA group increases due to the addition of a child, that child is eligible for benefits during the rest of the spend-down period. An adult caretaker who enters the group, except a woman who is medically verified as pregnant or a person who is SSI-related, is not eligible for benefits during the remainder of the spend-down period.

(3) **PRESUMPTIVE DISABILITY CASES.** If, in a presumptive disability case, the applicant meets all other conditions for eligibility, MA benefits shall begin on the date the presumptive disability finding is made and shall continue at least until the official disability determination is completed. Presumptive disability eligibility shall not be granted retroactively. MA benefits based on presumptive disability shall not be continued pending an appeal of a negative official disability determination.

(4) **MATERNITY CASES.** For maternity cases, eligibility shall begin on the date pregnancy is verified or the date of application, whichever is later, pursuant to ss. 49.46 (1) (a)1m and 49.47 (4) (a)2, Stats.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.

**HSS 103.09 Termination of medical assistance. (1) FINAL MONTH COVER-AGE.** When eligibility ends, except in the case of death of the recipient, the MA benefits shall continue until the end of the calendar month.

(2) **FOUR-MONTH CONTINUATION OF ELIGIBILITY.** (a) When an MA group has become ineligible for AFDC because of increased earnings or hours of employment, has received an AFDC payment in at least 3 months of the 6 months preceding the month in which ineligibility for AFDC occurred and at least one person included in that MA group is employed, eligibility for MA shall continue for 4 months from the date that AFDC eligibility was terminated.

(b) When an MA group has become ineligible for AFDC due to excess income, is receiving child support payments, and has received an AFDC payment in at least 3 of the 6 months immediately preceding the month in which ineligibility begins, eligibility for MA shall continue for 4 months from the date that AFDC eligibility was terminated. The 6 months preceding the month in which ineligibility begins includes the month in which the MA group became ineligible for AFDC if the MA group was eligible for and received AFDC for that month.

(3) **TWELVE-MONTH CONTINUATION OF ELIGIBILITY.** (a) When an MA group has become ineligible for AFDC because of the loss of the earned income disregards under s. 49.19 (5) (a)4 and 4m; Stats., eligibility for MA shall continue for 12 months from the date that AFDC eligibility was terminated.

(b) The MA group's eligibility shall be redetermined after 9 months of continued coverage by application of the earned income disregard that originally closed the AFDC case. Eligibility shall be redetermined monthly until the end of the 12 months.

(4) **TIMELY NOTICE.** The agency shall give the recipient timely advance notice and explanation of the agency's intention to terminate MA. This notice shall be in writing and shall be mailed to the recipient at least 10 calendar days before the effective date of the proposed action. The notice

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shall clearly state what action the agency intends to take and the specific regulation supporting that action, and shall explain the right to appeal

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