Non-MAGI Budgeting for Disabled, Aged, and Blind New Yorkers

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CHA Monthly Meeting
November 14, 2017

Today's Agenda

- Identifying non-MAGI population
- Non-MAGI budgeting
  - Household size
  - Income
  - Resources
- Spenddown and Other Coverage Options

Identifying Non-MAGI Population

What is MAGI?

- **Modified Adjusted Gross Income (MAGI) is a methodology for determining household size and income based on tax law**
- **Used to determine eligibility for all Insurance Affordability Programs (including Medicaid, Child Health Plus, Advance Premium Tax Credits, Cost Sharing Reductions) under the Affordable Care Act**

MAGI and Non-MAGI

- Generally, MAGI budgeting used for non-disabled / under 65 population but with exceptions
- Non-MAGI budgeting is only available at the Local Departments of Social Services (LDSS) – all NY State of Health cases have MAGI budgeting
- Those eligible for MAGI budgeting rules but whose cases remain at LDSS use “MAGI-like” budgeting: MAGI income rules and non-MAGI household composition rules.

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Identifying Non-MAGI Populations

- Categorically eligible (e.g. SSI, children in foster care)
- Age 65+ when age is condition of eligibility
- Eligibility based on being blind or disabled
- Eligible for long term care services
- Eligible for Medicare cost sharing (MSP)
- Medically Needy (spenddown)
- Applicants for Medicaid Buy-In for Working People with Disabilities
- Applicants for Cancer Treatment Programs if income over 138% FPL
- Former foster care youth (now under 26, who were in FC in NYS and receiving Medicaid at 18)
- Residents of adult homes, residential treatment centers/community residences operated by OMH
- COBRA continuation of premium payments

42 U.S.C. § 1396a(a)(10); 42 C.F.R. § 603(j); N.Y. Soc. Serv. L. §435.603(j)

Some Can Choose MAGI or Non-MAGI Budgeting

- **Certified disabled under age 65, *but not yet receiving Medicare***
- **Parent/caretaker relatives, *even if they are disabled, over 65 and/or receiving Medicare***
- **Disabled children, *unless they are in a waiver program***

IMPORTANT: If you are eligible for MAGI or non-MAGI, you are entitled to most favorable budgeting!

Non-MAGI Budgeting

Non-MAGI Eligibility Budgeting Unchanged by ACA

- Individuals in a non-MAGI group follow pre-ACA budgeting methodologies
  - No changes to income and resource limits
  - Use SSI-related budgeting
    - SSI-related: 65+, certified blind, and/or certified disabled
  - Elderly and disabled can still use spenddown
  - Disabled can still use Supplemental Needs Trust
  - MBI-WPD still option for some
  - No changes to Medicare Savings Program application process

13 OHIP/ADM-03 available at http://onlineresources.wnylc.net.
http://www.health.state.ny.us/nysdoh/medicaid/mrg.

SSI-Related Budgeting

- Income limits lower than MAGI and MAGI-like budgeting
- Complex household size rules
- Income disregards available
- There is a resource test

1.	Non-MAGI Medicaid Levels (SSI and SSI-Related Consumers With or Without A Surplus)										
Family Size	1	2	3	4	5	6	7	8	9	10	Each Additional Person
Monthly Income	$825	$1,209	$1,390	$1,571	$1,753	$1,934	$2,115	$2,296	$2,478	$2,659	$182

2.	Non-MAGI Resource Levels										
Family Size	1	2	3	4	5	6	7	8	9	10	Each Additional Person
Resource Level	$14,850	$21,750	$25,013	$28,275	$31,538	$34,800	$38,063	$41,325	$44,588	$47,850	$3,262

SSI-Related Household Size: Married Couples

	Household size for INCOME	Household size for RESOURCES
Both spouses are SSI-related	TWO	TWO
One spouse is SSI-related	TWO if income of non-SSI related spouse more than $384 after allocation; otherwise ONE	TWO
Spouses living apart	ONE	ONE

SSI-Related Budgeting: SSI-Related Adult with Non-SSI-Related Spouse

- (After allocating income to non-SSI-related children)
- If remaining income of non-SSI-related spouse >$384, deem the income to SSI-related spouse
- Then subtract disregards from SSI-related spouse’s income

SSI-Related Household Size (cont.)

- SSI-related children budgeted as household of ONE using their income and deemed income from parents
- Individuals receiving SSI or PA are not counted in household size and income does not count

SSI-Related Budgeting: Income

- All earned or unearned, either one-time payment or recurring, minus deductions/disregards
- Generally counted in month received; if received quarterly or annually is pro-rated
- Earned income includes wages from self or contractual employment, salaries, tips, commissions, bonuses
- Unearned income is not received as compensation for work performed; includes Social Security, Workers Compensation, retirement and disability payments, dividends, interest, pensions, rent from tenants
- In-kind income is received in goods or services and can be earned or unearned

18 N.Y.C.R.R § 360-4.3; MAPDR-01 3/21/2013

http://www.health.state.ny.us/nysdoh/medicaid/mrg. p.89

Income Disregards

- SSI-Related Disregards
  - First $65 of monthly gross earned income, plus 1/2 of remainder
  - First $20 of unearned income
  - Health insurance premiums
  - See Medicaid Reference Guide for complete listing
- Disabled persons
  - Income deposited in Supplemental Needs Trust (SNT) is not counted

N.Y. Soc. Serv. L § 366(2)(a)(5); 18 N.Y.C.R.R. §360-4.3, 4.6; http://www.health.state.ny.us/nysdoh/medicaid/mrg.

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SSI-Related Budgeting: Available Resources

- Available and countable cash or property convertible into cash
- Income not spent in previous month becomes resource
- Common resources are bank accounts in applicant’s name, CDs, life insurance, stocks, IRAs not in payout status
- Higher limit for MBI-WPD

18 N.Y.C.R.R. § 360-4.4

Resource Disregards

- Allowed only if using SSI-related budgeting, and seeking community-based care (special budgeting for institutional based care)
  - Homestead: no home equity limit unless want long term care, then must be under $840,000
  - Irrevocable pre-paid funerals arrangements: no $ limit; $1,500 burial fund limit with some exceptions
  - Irrevocable annuity, pension plan that is in actuarially sound payout status (payouts counted as income)
  - Special rules for income producing property and business deductions
  - See Medicaid Reference Guide for complete list

N.Y. Soc. Serv. L § 366(2);18 N.Y.C.R.R. § 360-4-4

Spousal Impoverishment Budgeting

- Available to a community spouse of an individual receiving certain Medicaid long term care services:
  - Nursing Home
  - Managed Long Term Care (MLTC)
  - Nursing Home Transition and Diversion or Traumatic Brain Injury waiver programs
- Spouse receiving MLTC or waiver services "keeps" $384/month and allocates remainder of income to community spouse to bring community spouse's income up to $3,022.50/month
- If it is more advantageous for MLTC spouse to budget only own income, can treat MLTC spouse as a household of one.

18 N.Y.C.R.R. § 360-4.9;GIS 13 MA/018, available at https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/13ma018.pdf

Remedies for Excess Income and Resources

- Transfer of Assets
- Spousal Refusal
- Spenddown
- Placing Excess in Supplemental Needs Trust
- Medicaid Buy-In for Working People with Disabilities

Transfer of Assets

- For community Medicaid (home care, hospital care, assisted living) no penalty for transfer of assets made prior to application
- May disqualify individual from receiving Medicaid for nursing home care if needed within 5 years.
  - Must document resources for 60 months for identification of non-exempt transfers - penalty calculated by dividing total amount by monthly regional nursing home cost
  - Some exceptions: transfer home to spouse, disabled child under 21, child who resided there and provided care; transfer assets to SNT if under 65; compensated transfer; hardship

N.Y. Soc. Serv. L. § 366(5)

Spousal Refusal

- If applicant lives with a Legally Responsible Relative (LRR) whose income or resources are too high, the relative can submit signed statement that s/he cannot contribute towards applicant's medical expenses and support
- This relative's income and resources will not be counted and applicant will be counted as household of ONE
- Refusing spouse cannot have Medicaid
- The LRR is still liable for support and local district may sue. No policy, but practice to use income and resource levels applicable to institutionalized spouse
- Proposals made each year to repeal

18 N.Y.C.R.R. § 360-4.3(f)

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Income or Resource Spenddown

- Anyone with non-MAGI budgeting can spend down to the applicable income limit (medically needy level)
- Also available in cases of excess resources
- To meet spenddown:
  - Pay or incur medical expenses equal to or greater than excess income
  - Pay the amount of the excess income directly to the local district
  - Use a combination of both

18 N.Y.C.R.R. § 360-4.8; http://www.health.state.ny.us/nysdoh/medicaid/mrg 293-304

Spending Down

- Provides outpatient coverage for those who meet spenddown on a monthly basis
- Inpatient and outpatient coverage for those who meet six months of spenddown
- Bills must be incurred, need not be paid
- Can use bills for LRR (spouse) if LRR not using spousal refusal; for family members (e.g. child) for whom beneficiary is LRR
- Bills can include health insurance deductibles and co-payments, medically necessary expenses not covered by Medicaid (chiropractors, MDs who do not accept Medicaid), medical expenses covered by Medicaid, costs paid by public program (AIDS Drug Assistance Program)
- For services requiring prior approval, limited to what approved as medically necessary
- Special rules govern use of old / new bills, paid / unpaid bills, whether using as part of new Medicaid application or to maintain benefits

18 N.Y.C.R.R § 360-4.8; Financial Eligibility For Medicaid and the Medicaid Spend Down Program In New York, Training Outline for Advocates http://onlineresources.wnylc.net.

Spenddown and MLTC

- MLTC enrollees “meet” their spenddown by virtue of being enrolled in the program
- Incur liability in the amount of the spenddown to the plan each month
- It is still possible to meet spenddown through other bills but is difficult to coordinate; must work with local district and plan
- Plan can initiate involuntary disenrollment for failure to pay spenddown
- Plan CANNOT stop services without notice or refuse to enroll because of spenddown

18 N.Y.C.R.R. § 360-4.8; http://www.health.state.ny.us/nysdoh/medicaid/mrg 293-304

Placing Excess Income or Resources in Supplemental Needs Trust (SNT)

- Enables a person with a disability to maintain eligibility for government benefits, primarily Medicaid and SSI
- Purpose is to enhance the quality of life of disabled individual by permitting trust to pay for expenses not paid for by public benefits, such as rent
- Different kinds of trusts: rules depend on
  - whose money used to establish (self-settled or third party)
  - age of beneficiary (pooled only if age 65+, transfer of assets considerations)
  - type of public benefit (disbursements treated differently)

42 U.S.C. § 1396(d)(4); N.Y. Estates, Powers and Trusts Law § 7-1.12

SNT Requirements

- Irrevocable
  - If could be dissolved, would be available asset
  - Beneficiary does not have right to direct
- Beneficiary must be disabled
- Payback to State upon death
  - State Medicaid program must be primary remainderman
  - If Pooled Trust, can be non-profit organization
- Must contain language that trustee cannot impair beneficiaries' eligibility for public benefits

42 U.S.C. § 1396(d)(4); Advocates Guide on Supplemental Needs Trusts prepared by Evelyn Frank Legal Resources Program, available at http://onlineresources.wnylc.net.

The Medicaid Buy-In for Working People with Disabilities (MBI-WPD)

- **The MBI-WPD allows disabled individuals ages 16-64 who are working and earning more than allowable limits to qualify for Medicaid coverage without having to meet a spenddown.**

MBI-WPD Eligibility

- Engaged in paid work (can be part time)
- Total net available income is <250% FPL ($2,513 / $3,384)
- If all income is earned, single person can make up to $61,332/yr gross and be eligible
- Resource standard $20,000 (single) $30,000 (couple) excluding retirement accounts, homestead, vehicle, life insurance with face value $1,500 or less

N.Y. Soc. Serv. L. § 366c(5);11 OHIP/ADM-7 available at http://onlineresources.wnylc.net.

Medicare Savings Program (MSP)

- Helps eligible individuals meet some or all of their cost sharing obligations under Medicare. Three separate programs depending on income, all pay for Part B
  - QMB: Also pays for Medicare copays
  - SLMB, QI-1: Only pays Part B premium
  - QMB, SLMB: Can have Medicaid as well
- Can increase net available income
- No asset limit
- Uses rules for counting income for SSI-related recipients

N.Y. Soc. Serv. L. § 367-a(3)

Questions?