



# **Minnesota Health Care Programs**

## **Eligibility Policy Manual**

**This document provides information about additions and revisions to the Minnesota Department of Human Service's Minnesota Health Care Programs Eligibility Policy Manual.**

**Manual Letter #17.5**

**December 1, 2017**

# Manual Letter #17.5

This manual letter lists new and revised policy for the Minnesota Health Care Programs (MHCP) Eligibility Policy Manual (EPM) as of December 1, 2017. The effective date of new or revised policy may not be the same date the information is added to the EPM. Refer to the Summary of Changes to identify when the Minnesota Department of Human Services (DHS) implemented the policy.

## I. Summary of Changes

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This section of the manual letter provides a summary of newly added sections and changes made to existing sections.

### A. Section 1.3.1.4 MHCP Data Privacy

This section has been updated after a consultation with DHS Legal and clarify policy regarding when information can be shared between adult applicants. This section update also clarifies policy on information sharing for minor applicants.

### B. Section 1.4 MHCP State Residency

This section has been updated to clarify when a person who may have MA coverage in another state may be eligible for MA in Minnesota.

### C. Section 2.1.2.3 MA County Residency

This section has been updated to clarify when the county of financial responsibility is responsible for paying the county share of MA services.

### D. Section 2.1.2.4 MA Living Arrangement

This section has been updated to clarify policy for people who are incarcerated and the definition of a correctional facility based on recently released federal guidance.

### E. Section 2. 2.3.6 MA FCA Medical Spenddown

Changes to this section were made to add policy about self-employment assets and how to count them when determining assets for MA-FCA enrollees with a spenddown.

### F. Section 2.3 Medical Assistance for People who are Age 65 or older and People who are Blind or Have a Disability (MA ABD)

This section was updated to highlight the change that MNHelp.info changed their name to Disability Hub MN

## **G. Section 2.3.3.2.7.2 MA ABD Retirement Funds and Plans**

This section has been updated to clarify exceptions to counting retirement funds and retirement plans that were previously inadvertently omitted in the EPM.

## **H. Section 2.3.3.2.7.9.4 MA ABD Special Needs Trusts**

This section was updated to clarify that someone acting on the beneficiary's behalf does not have to have a legal relationship with the beneficiary.

## **I. Section 2.3.3.2.7.9.5 MA ABD Pooled Trusts**

This section was updated to clarify that someone acting on the beneficiary's behalf does not have to have a legal relationship with the beneficiary.

## **J. Section 2.3.3.2.7.9.6 MA ABD Third Party Established and Funded Trusts**

This section was updated to remove a phrase that was erroneously added to the list of people who were precluded from creating a third party trust.

## **K. Section 2.3.3.2.7.14 MA ABD Household Goods and Personal Effects**

The language in this section has been updated to add further clarification on what is considered Household Goods and Personal Effects.

## **L. Section 2.3.5.1.2 MA EPD Premiums and Cost Sharing**

The language in this section was updated to clarify when coverage begins for retroactive MA EPD premiums and clarifying the policy regarding income deductions and disregards.

## **M. Section 2.3.5.2.1 MA EPD Living Arrangement**

This section was updated to clarify how long an MA EPD enrollee may keep their MA EPD coverage if they are living in a Long Term Care Facility

## **N. Section 2.3.6.1.1 TEFRA Applications**

This section replaces legal citation Code of Federal Regulations, Title 42, section 1396A, subdivision e and Minnesota Statutes, section 256B.04 with United States Code, Title 42, section 1396a, subdivision e and Minnesota Statutes, section 256B.055 subdivision 12

## **O. Section 2.5.5 MA HIP**

This section was updated to remove an erroneous statement about non-secure juvenile facilities and juvenile residential facilities licensed by DHS being correctional facilities.

### **P. Section 3.2.3 MinnesotaCare Insurance Barriers**

This section has been updated to clarify when an employer offer of coverage is a barrier to coverage for MinnesotaCare.

### **Q. Appendix F Standards and Guidelines**

Revised standards and guidelines in Appendix F that become effective January 1, 2018, are updated.

Note that we have not yet received the updated standards for the Maximum Monthly Income Allowance, Home Equity Limit, and Maximum Asset Allowance. If we receive these standards in December, we publish them in the EPM with Manual Letter #18.1 for January 1, 2018.

## II. Documentation of Changes

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This section of the manual letter documents all changes made to an existing section. Deleted text is displayed with strikethrough formatting and newly added text is displayed with underline formatting. Links to the revised and archived versions of the section are also provided.

- A. [Section 1.3.1.4 MHCP Data Privacy](#)
- B. [Section 1.4 MHCP State Residency](#)
- C. [Section 2.1.2.3 MA County Residency](#)
- D. [Section 2.1.2.4 MA Living Arrangement](#)
- E. [Section 2.2.3.6 MA-FCA Medical Spenddown](#)
- F. [Section 2.3 MA-ABD](#)
- G. [Section 2.3.3.2.7.2 MA-ABD Retirement Funds and Plans](#)
- H. [Section 2.3.3.2.7.9.4 MA-ABD Special Needs Trusts](#)
- I. [Section 2.3.3.2.7.9.5 MA-ABD Pooled Trusts](#)
- J. [Section 2.3.3.2.7.9.6 MA-ABD Third Party Established and Funded Trusts](#)
- K. [Section 2.3.3.2.7.14 MA-ABD Household Goods and Personal Effects](#)
- L. [Section 2.3.5.1.2 MA-EPD Premiums and Cost Sharing](#)
- M. [Section 2.3.5.2.1 MA-EPD Living Arrangement](#)
- N. [Section 2.3.6.1.1 TEFRA Applications](#)
- O. [Section 2.5.5 MA-HIP](#)
- P. [Section 3.2.3 MinnesotaCare Insurance Barriers](#)
- Q. [Appendix F Standards and Guidelines](#)

## **A. Section 1.3.1.4 MHCP Data Privacy**

Minnesota Health Care Programs

### **1.3.1.4 Data Privacy**

Applications and other forms collect sensitive information on an individual that is needed to determine eligibility. Individuals can be harmed by the reckless disclosure of information about them, and, accordingly, there are significant penalties under both state and federal law for government agencies that violate laws designed to protect individuals and groups from such disclosure of information.

All Minnesota Health Care Programs (MHCP) application forms include a Notice of Privacy Practices. There is also a brochure on Information access and privacy ([DHS-2667](#)) that describes applicant and enrollee privacy rights.

#### **Sharing of Information**

State, county and tribal servicing agencies will only share information about applicants and enrollees as needed and as allowed or required by law.

##### **Information sharing with providers**

A provider can obtain the following information about MHCP enrollees without a release form from the enrollee:

- Major program
- Prepaid health plan
- Spenddowns
- Special transportation
- Copay
- Hospice
- Waiver eligibility
- Minnesota Restricted Recipient Program (MRRP)
- Other health insurance coverage
- Medicare coverage
- Fee-for-service benefit limits

Long-term care providers can also obtain the following without a release form from an applicant or enrollee:

- Confirmation that the person has applied for MA

- Effective date of MHCP approval, denial or termination

## **Information sharing with Applicants**

Information about an adult applicant cannot be shared without the individual's consent, even with the application filer. This includes spouses, children and attorneys. In certain situations, another individual may have the legal authority to access the applicant's data or act on their behalf, such as an authorized representative, guardian, navigator, or persons with a power of attorney. State, tribal and county servicing agencies should request a copy of the legal document to verify that the legal relationship exists. If there is no legal relationship, consent must be obtained from the applicant either verbally or through the [DHS-3549 General Consent/Authorization for Release of Information](#).

## **Information sharing about Children**

Parents generally have the right to access their child's private information. State, tribal and county servicing agencies can disclose information about minors to their parents, except in the following four circumstances:

- If the minor is emancipated
- If state law provides the minor with the right to obtain treatment without parental consent
- If the agency has a reasonable belief that a minor has been, or may be subject to, abuse or neglect, or that the disclosure of private information could endanger the minor
- If the child asks the agency to deny parental access to their information. In this scenario, the agency can decide whether to honor the request for privacy.

The Notice of Privacy Practices and the Minors section of the Minnesota Department of Human Services (DHS) [Data Practices Manual](#) describes in detail what information may or may not be shared about children younger than age 18.

## **Privacy Rights of Children**

~~The Notice of Privacy Practices and the Minors section of the Minnesota Department of Human Services (DHS) [Data Practices Manual](#) describes what information may or may not be shared about children younger than age 18.~~

## **Safe at Home Address Confidentiality Program**

The Safe at Home (SAH) Address Confidentiality Program helps survivors of violence by providing a substitute address for individuals and their children who move to a new location unknown to assailants or probable assailants. SAH participants can apply for MHCPs using their SAH address. The Minnesota Secretary of State, who administers this program, assures that participants receive their mail.

A person is not required to provide proof of participation in the SAH program. A court order is required to release a SAH participant's information, including confirming or denying program participation.

Safe at Home program participants are granted good cause for not cooperating with medical support if they verify participation in the program with the ID card. SAH participants may also request and be granted good cause for late premium payments and for late submission or completion of renewals. See the MA Medical Support policy for more information.

MHCP enrollees participating in the Safe at Home program must notify their county, tribal or state servicing agency of their county of residence, but do not have to provide their address. Managed care enrollment and county of financial responsibility are determined by county of residence.

## **Immigration Information**

Immigration information applicants and enrollees provide to state, county and tribal servicing agencies is private. Immigration information is only used to determine MHCP eligibility. Immigration information is only shared when the law allows it or requires it, such as to verify identity. In most cases, applying for health coverage will not affect an applicant's immigration status unless they are applying for payment of long-term care services. See the U.S. Immigration and Customs Enforcement (ICE), Clarification of Existing Practices Related to Certain Health Care Information website for more information.

People do not have to provide immigration information when they are:

- Applying for Emergency MA (EMA) or MA for people receiving services at the Centers for Victims of Torture (MA-CVT)
- Helping someone else apply
- A pregnant woman living in the United States without the knowledge or approval of the United States Citizenship and Immigration Services (USCIS)
- Not an applicant

## **Data Practices Violations**

Willful violation of data privacy laws by a public employee is just cause for dismissal or suspension without pay. It is also a crime.

An individual affected by an agency's violation of data privacy laws can seek several remedies under state and federal law. Applicants and enrollees may also file a lawsuit under the Minnesota Government Data Practices Act. They may also send a written complaint to the county, tribal or state servicing agency, the provider, or the federal civil rights office at:

U.S. Department of Health and Human Services  
Office for Civil Rights, Region V  
233 N. Michigan Avenue, Suite 240

Chicago, IL 60601  
312-886-2359 (Voice)  
800-368-1019 (Toll Free)  
800-537-7697 (TTY)  
312-886-1807 (Fax)

If an applicant or enrollee thinks that DHS or MNsure has violated their privacy rights, they may send a written complaint to the U.S. Department of Health and Human Services at the address above or to:

Minnesota Department of Human Services – MNsure  
Attn: Privacy Official  
PO Box 64998  
St. Paul, MN 55164-0998

## **HIPAA**

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), provides for the protection of individually identifiable health information that is transmitted or maintained in any form or medium. The privacy rules affect the day-to-day business operations of all organizations that provide medical care and maintain personal health information.

Applicants and enrollees are informed of their rights under HIPAA at application, renewal or any other time information is requested.

HIPAA also creates uniform methods to bill and share health information electronically between health care providers, payers and other organizations involved with health care delivery and payment.

State, county and tribal servicing agencies must follow HIPAA provisions as follows:

- If a provision of the HIPAA privacy regulations conflicts with a state law, whichever offers more privacy protection governs.
- If HIPAA and state law do not conflict, both state and federal privacy laws are followed.

## **Record Retention Policy**

State, county and tribal servicing agencies maintain data in accordance with state and federal law. Information provided in an application for coverage is subject to the False Claims Act and may be retained for up to ten years. After the appropriate period, data is destroyed in a manner that prevents their contents from being determined, including the shredding of paper files and permanently removing electronic data to prevent the possibility of recovery. County servicing agencies must follow the County Human Services General Records Retention Schedule.

## Data Review

MHCP applicants and enrollees may review private data that contain information about them. Both private and public data is shown to the subject of the data upon request.

## Release of Information

An applicant or enrollee can complete the General Consent/Authorization for Release of Information (DHS-3549) to authorize the release of their information. In addition, they can authorize the release of their information to a Long Term Care Facility on the Long-Term Care/County Communication Form (DHS-3050).

## Legal Citations

Code of Federal Regulations, title 45, section 155.310

Code of Federal Regulations, title 45, section 155.1210

Code of Federal Regulations, title 45, section 164.502

Code of Federal Regulations, title 45, section 164.508

Health Information Portability and Accountability Act, Public Law 104-191, 110 Stat. 1936 (1996)

Minnesota Rules, part 1205.0500

Minnesota Rules, part 1205.1500

Minnesota Statutes, ~~section~~ chapter 5B

Minnesota Statutes, ~~section~~ chapter 13

Minnesota Statutes, section 138.17

Minnesota Statutes, sections 144.341 to 144.347

Minnesota Statutes, section 256B.056

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## **B. Section 1.4 MHCP State Residency**

Minnesota Health Care Programs

### **1.4 State Residency**

Minnesota Health Care Programs (MHCP) are only available to Minnesota residents.

#### **People Age 21 or Older**

- People age 21 or older are a Minnesota resident if one of the following applies.
- The person is living in Minnesota AND intends to reside in the state. This includes people without a fixed address.
- The person is living in Minnesota AND has entered the state with a job commitment or is seeking employment (whether or not currently employed).

If a person is not capable of indicating intent, the person is a Minnesota resident if they are living in Minnesota. A person is not capable of indicating intent if they meet any of the following:

- Have an I.Q. of 49 or less
- Have a mental age of seven or less
- Is determined legally incompetent by a court
- Is found incapable of indicating intent by a physician, psychologist, or other person licensed by the state in the field of intellectual disability

#### **People Younger Than Age 21**

People under age 21 who are emancipated follow the policy for people age 21 or older. Otherwise, people under age 21 are a Minnesota resident if one of the following applies.

- The person is living in Minnesota, including people without a fixed address
- The person resides with a parent or caretaker who is a Minnesota resident

#### **Living in Minnesota**

A person is living in Minnesota if they reside in the state. To reside in the state means the person has made Minnesota their home.

If a person is not physically present in Minnesota, a person is living in Minnesota if they meet a condition for temporary absence.

People visiting Minnesota, including for the purpose of obtaining medical care, do not reside in Minnesota and are not residents of the state.

## **Inconsistent Information Regarding State Residency**

People are not required to provide proof of residency unless the person's attestation related to residency is inconsistent with other information provided by the person or known to the agency. The person may have to provide proof of residency to resolve the inconsistency.

Examples of inconsistent information regarding state residency include, but are not limited to:

- Receipt of a Public Assistance Reporting Information System (PARIS) interstate match
- Returned mail with an out of state forwarding address
- Other information or circumstances that may yield information about state residency

Acceptable proof of state residency includes, but is not limited to:

- Correspondence showing a person receives mail at the address given
- A copy of a valid Minnesota drivers' license or ID card. A valid driver's license is a license that is not expired, suspended, revoked or canceled. The license must contain the person's current address. If the person moves, they must get a new Minnesota drivers' license within 30 days. A Minnesota driver's license is not valid if the person also possesses a driver's license issued by another state.
- The most recent federal or state tax forms showing the person's current address
- A copy of a Minnesota property tax statement
- A copy of a rental or lease agreement
- Documentation that the person came to Minnesota in response to an offer of employment
- Documentation that the person has looked for work, such as completed job applications or documentation from employers, the local job service office or temporary employment agencies
- An affidavit from a person engaged in public or private social services, legal services, law enforcement or health services that states he or she knows the person and believes the person resides in Minnesota
- For preschool, elementary and secondary school-age children, a copy of a student identification card, report card, day care receipt or other documentation of school or day care registration
- A completed Proof of Residence ([DHS-6035A](#)) form

## **People who are a Resident of Another State**

People cannot be residents of more than one state. Generally, if another state has determined a person to be a resident of their state then they are not a Minnesota resident.

In cases where two or more states cannot resolve which state is the state of residence, the person is a resident of the state in which they are physically located.

## **Overlapping State Coverage**

People must not receive Medical Assistance (MA) from more than one state at a time. However, a person who has MA coverage in another state may be eligible for MA coverage in Minnesota when the person:

- Meets all other eligibility factors for a Minnesota Health Care Program,
- Has requested the other state close coverage, and
- Cannot reasonably access coverage from the other state.

## **Residency Rules for Certain Populations**

The following groups of people have special rules for determining their state of residency:

- People, of any age, who receive a State Supplementary Payment (SSP) are residents of the state paying the SSP. SSP is a state paid supplement to federally funded Supplemental Security Income (SSI). Minnesota Supplemental Aid (MSA) is Minnesota's SSP. A person who receives MSA is a Minnesota resident. A person who receives a SSP from another state is not a Minnesota resident.
- People who receive Title IV-E or state-funded adoption assistance or foster care
- People who reside in an institution

## **Legal Citations**

Code of Federal Regulations, title 42, section 435.403

Minnesota Statutes, section 256B.056, subdivision 1

Minnesota Statutes, section 256L.09

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## C. Section 2.1.2.3 MA County Residency

Medical Assistance

### 2.1.2.3 County Residency

Medical Assistance (MA) has rules about county residence. County residency policy determines the:

- County of service
- County of financial responsibility

#### County of Service

The county of service is responsible for administering the case, including, but not limited to:

- Processing paper applications
- Processing change in circumstances
- Processing renewals
- Gathering proofs and documentation
- Issuing manual notices
- Creating case notes

#### County of Financial Responsibility

The county of financial responsibility is responsible for paying the county share of MA services. The county of financial responsibility is the county where the person lives on the day the county receives a written request for assistance; ~~except in the following circumstances: The county of financial responsibility is responsible for paying the county share of MA services.~~

- When a person moves to a different county, the new county becomes the county of financial responsibility after two months, not including the month of the move.
- When a person lives in an excluded time facility or receives excluded time services, the county of financial responsibility is the county in which the person lived immediately before the excluded time started.

#### Excluded Time

Excluded time facilities and situations include:

- Hospitals
- Long-Term Care Facilities (LTCF)

- Shelters (other than emergency shelters)
- Halfway houses
- Foster homes for children receiving Title IV-E and Non-Title IV-E Foster Care
- Homes for children receiving Title IV-E and Non-Title IV-E Kinship Assistance
- Board and lodging facilities
- Maternity homes
- Battered women's shelters
- Correctional facilities
- Regional treatment centers (RTC)
- Placement in a facility based on an emergency hold
- Placements in day training and habilitation programs
- Assisted living services
- Placements with an indeterminate commitment, including independent living

A person may receive excluded time services while living at home or in a group living situation. Excluded time services include:

- Participation in a rehabilitation facility which meets the definition of a long-term sheltered workshop
- Receipt of services from a Semi-Independent Living Services (SILS) Program
- Day training and habilitation programs

## Safe at Home

When a person is a Safe at Home (SAH) program participant, they use a PO Box address assigned to them. SAH provides a mail forwarding service. The county of financial responsibility and county of residence are the county in which the person lives. More information about SAH Address Confidentiality Program is available from the Minnesota Secretary of State.

## Legal Citations

Minnesota Statutes, section 256B.056, subdivision 1

Minnesota Statutes, section 5B, subdivision 1 to 13

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## D. Section 2.1.2.4 MA Living Arrangement

Medical Assistance

### 2.1.2.4. Living Arrangement

Medical Assistance (MA) enrollees live in a variety of community and facility (or institutional) living arrangements. A person's living arrangement may affect MA eligibility and covered services. This chapter discusses living arrangements.

#### Community Living Arrangement

Community living arrangements have no impact on MA eligibility. See Appendix D Community Living Arrangements for more information.

#### Facility Living Arrangement

People who live in the following settings have a facility living arrangement. People in facility settings may be subject to special eligibility rules related to the living arrangement.

##### Institutions for Mental Diseases

An Institution for Mental Diseases (IMD) is a hospital, nursing facility, or other institution or residential program that has 17 or more beds and is primarily engaged in providing diagnosis, treatment or care of people with mental diseases. An IMD provides treatment for people with mental illness or chemical dependency (CD). See the Appendix E IMD Living Arrangement for more information.

##### Long-Term Care Facilities

Policies regarding payment of long-term care facility services are different for different types of MA. See the MA for Long-Term Care Services chapter for more information.

Long-term care facilities (LTCFs) include:

- Nursing facilities
- Intermediate Care Facilities for Persons with Developmental Disabilities (ICF/DDs)

##### Correctional Facilities

In general, people of any age who are incarcerated in a state prison, county detention facility, or city jail are not eligible for Minnesota Health Care Program (MHCP) coverage. Correctional facilities include:

- City, county, state and federal correctional and detention facilities for adults, including inmates who are:

- in a work release program that requires they return to the facility during non-work hours.
- sent by the court or penal institution to a chemical dependency residential treatment program while serving a sentence and are required to return to the correctional facility after completing treatment.
- ~~Secure Juvenile facilities licensed by the Department of Corrections (DOC) that are for holding, evaluation and detention purposes~~
- ~~State-owned and operated juvenile correctional facility~~
- ~~Publicly-owned and operated juvenile residential treatment and group foster care facilities licensed by the DOC with more than 25 non-secure beds~~

### Exceptions

- People who are incarcerated may qualify for MA payment of inpatient hospital care. See the MA for Hospitalized Incarcerated People chapter for more information.
- ~~Children~~ People placed by a juvenile court in certain juvenile programs residing in a correctional setting voluntarily may be eligible for MA ~~depending on the type of facility.~~ This includes, but is not limited to the following:
  - The person voluntarily enrolled in a program at the correctional facility, and was not placed there through the action of law enforcement authorities.
  - The person is free to leave, but living in the correctional facility for a temporary period pending other arrangements.
- People on home confinement are eligible for MA because they are not considered to be residing in a correctional facility.
- People in a halfway house are eligible for MA, as long as they have freedom of movement. Freedom of movement means:
  - Residents can work in the community, in jobs that are available to people who are not part of the justice system.
  - Residents can use community resources, such as grocery stores and libraries at will.
  - Residents can access health care treatment in the community, to the same extent as people who are not part of the justice system.
- People residing in a correctional facility may apply for Minnesota Health Care Programs 45 days prior to their release. See the MHCP Applications for Incarcerated People Preparing for Release policy for more information.

### Title IV-E Certified Facilities

The IV-E program certifies different types of programs for children as Title IV-E eligible facilities. These settings include residential treatment programs, foster homes or group foster homes licensed by DHS and/or Department of Corrections and out-of-state residential treatment programs approved as Title IV-E eligible by their home state.

See Northstar Care for Children chapter for more information about MA eligibility rules for children who reside in foster care settings.

## Legal Citations

Code of Federal Regulations, title 42, section 435.1010

Minnesota Statutes, section 256B.055, subdivisions 11 to 14

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## E. Section 2.2.3.6 MA FCA Medical Spenddown

Medical Assistance for Families with Children and Adults

### **2.2.3.6 Medical Spenddown**

A spenddown is a cost-sharing approach that allows Medical Assistance (MA) eligibility for people whose income is greater than the applicable limit. Federal rules refer to this population as “medically needy.”

People can become income eligible for MA by “spending down” their excess income to the appropriate income limit. The excess income is reduced by deducting certain health care expenses.

Parents, caretaker relatives, pregnant women and children who are not eligible for MA because they are over the income limit and who have medical expenses may be eligible for MA with a spenddown. Federal law does not permit stepparents or people using an adults without children basis of eligibility to be eligible for MA with a spenddown.

#### **Spenddown Criteria**

People may be eligible for MA with a spenddown if they:

- meet all other MA eligibility criteria;
- meet the applicable asset limit;
- have a parent, caretaker relative, pregnant woman or child basis of eligibility;
- have income that exceeds the applicable MA income standard; and
- have medical expenses equal to or greater than their spenddown.

People with an age 65 or older, blind or disabled basis of eligibility must meet different criteria than those described on this page. See MA for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability (MA-ABD) Medical Spenddown for more information.

#### **Spenddown Types and Health Care Expenses**

The policies for spenddown types, eligible health care expenses and spenddown adjustments are the same for MA for Families and Children with a Medical Spenddown and MA-ABD with a Medical Spenddown. See the following policies for details:

MA-ABD Medical Spenddowns

MA-ABD Spenddown Types

MA-ABD Health Care Expenses

## **Non-Financial Eligibility for MA for Families and Children with a Medical Spenddown**

People enrolled in MA for Families and Children with a Medical Spenddown must meet the same responsibilities and post-eligibility requirements as enrollees in MA for Families with Children and Adults (FCA) without a spenddown:

### **Bases of Eligibility**

This policy applies to medical spenddowns for the following people:

- Biological, natural or adoptive parent
- Caretaker relative
- Pregnant woman
- Child age birth through 20

### **Household Composition**

Household composition and household size affects asset and income limits. People who live together and have the following relationships are considered in the household composition determination for MA for Families and Children with a Medical Spenddown.

The following people are included in the household size of an adult applicant, age 21 and older:

- Applicant
- Spouse
- Children under age 21, biological, adoptive and step-children
  - Emancipated minors are not included. An emancipated minor is a person under the age of 18 who is or was married, is on active-duty in the uniformed services, or declared emancipated by a court.
- Unborn child or children of the applicant or spouse

The following people are included in the household size of a child applicant, under age 21:

- Applicant
- Parents of applicant, including biological, natural, and adoptive parents
- Siblings under age 21, including biological, adoptive, half and step-siblings
  - Emancipated minors are not included
- Spouse

- Children of the child applicant
- Unborn child or children of the applicant, spouse or children

The following people are included in the household size of an emancipated minor:

- Applicant
- Spouse
- Children of the child applicant
- Unborn child or children of the applicant or spouse

## **Financial Eligibility for MA for Families and Children with a Medical Spenddown**

### **Asset Limit**

Assets are items of value that people own like bank accounts, stocks and bonds, cars and real estate. See Appendix A Types of Assets for definitions of the different types of assets.

- Children and pregnant women eligible for MA with a spenddown have no asset limit.
- Parents and caretaker relatives eligible for MA with a spenddown have the following asset limits:
  - \$10,000 asset limit for a household of one
  - \$20,000 for a household of two or more

### **Categories of Assets**

Assets fall into two categories, excluded and countable.

- Excluded assets: Certain types and amounts of assets are excluded and do not count against a person's asset limit. Any assets that are not specifically excluded are countable.
- Countable assets: Countable assets are evaluated for availability and may count towards the person's asset limit.
  - Available assets: count against the asset limit
  - Unavailable assets: do not count against the asset limit

Income received in a given month is not an asset in that month. If retained beyond the month of receipt, income becomes an asset.

### **Excluded Assets**

Excluded assets are not counted against the asset limit when establishing eligibility. Excluded assets for MA with a spenddown for a parent or caretaker relative include:

- Adoption Assistance

- Agent Orange Settlement Fund payments
- Alaska Native Claims Settlement Act (ANCSA) payments
- Blood Product Settlement payments
- Bureau of Indian Affairs (BIA) student financial aid
- Burial assets
- Cobell v. Salazar Class Action Settlement (also known as Claims Resolution Act of 2010)
- Corporation for National and Community Service (CNCS) payments
- Crime victim payments
- Disaster assistance, federal declaration
- Disaster assistance, state declaration
- Filipino Veterans Equity Compensation (FVEC) payments
- First \$200,000 of household self-employment assets (net value of assets of a trade or business needed for a client to earn income). This includes self-employment assets that are temporarily not being used due to the self-employed person's illness or disability.
- Foster Care payments
- Gifts to children with life threatening conditions
- Homestead property
- Household goods and personal effects
- I-35W Bridge Collapse payment
- Individual Development Accounts (IDA)
- Interest income from Indian trust land or restricted lands
- James Zadroga 9/11 Health and Compensation Act of 2010
- Japanese-American and Aleutian Restitution payments
- Jensen Settlement Agreement Payment
- Low Income Home Energy Assistance Program (LIHEAP) payments
- Minnesota Housing Finance Agency (MHFA) home improvement loan
- Nazi Persecution payment
- Personal property
- Public assistance appeal payments
- Radiation Exposure Compensation Act payments
- Real property
- Relocation Assistance Payments, federal
- Relocation Assistance Payments, state and local

- Retirement plans
- Ricky Ray Hemophilia Relief Act payments
- Student financial aid
- Tax refund
- Term life insurance
- Trade or business asset
- Tribal Land Settlements or Judgements
- Third Party Trusts
- Vehicles -used for employment or seeking employment, one per household member of legal driving age
- Veterans' Benefits for Educational Assistance
- Veterans' Children with Certain Birth Defects payments
- Vietnamese Commando Compensation Act payments
- Workers' compensation settlement

### **Countable Assets**

Assets not specifically excluded are considered countable assets. Countable assets must be evaluated for availability to determine if their value counts toward the person's asset limit. Countable assets that are available count towards the person's asset limit, unavailable assets do not.

- Assets are unavailable if a person is unable to access or use them for self-support and cannot liquidate them. They include:
  - Legally unavailable assets
  - Non-homestead real property with a reasonable effort to sell
- Countable assets are not explicitly excluded from being counted against the asset limit and are available to the person.
  - Annuities
  - Continuing Care Retirement Community (CCRC) entrance fee
  - Cash Surrender Value (CSV)
  - Certificate of Deposit (CDs)
  - Home Equity
  - Interest
  - Liquid assets
  - Money market account

- Non-homestead real property
- Non-term life insurance policy
- Promissory notes
- Qualified Tuition Program (QTP), also referred to as a Section 529 Plan
- Self-employment assets over the maximum excluded net value of \$200,000 per household
- Trusts
- Vehicles - in excess of one per household member of legal driving age

### **Reducing Assets**

Parents and relative caretakers who are applying for MA and have excess countable assets in the month of application must reduce those assets to be within their asset limit by the end of the processing period to be eligible.

Some acceptable ways to reduce assets for applicants who have excess assets in the application month include, but are not limited to, paying bills or other obligations such as health care expenses or purchasing assets that do not count toward the asset limit.

Applicants who are requesting MA for Long-Term Care (LTC) services may be subject to a transfer penalty if they reduce assets by giving them away without receiving adequate compensation. See MA-LTC Uncompensated Transfers for more information.

Applicants must verify that they have reduced excess countable assets by providing bank statements or other documents that show current asset amounts, but are not required to provide receipts.

Eligibility can begin back to the first day of the month of application if the applicant reduces excess assets within the applicable processing period.

Applicants who are requesting retroactive coverage and need to reduce assets have different rules from applicants not requesting retroactive coverage. Applicants requesting retroactive eligibility can only reduce assets by paying medical expenses or retroactively designate burial funds.

### **Income**

Income is cash or in-kind benefits available to a person. Income is divided into two major categories, earned and unearned:

- Earned income is cash or in-kind benefits received in return for work or services, including employment and self-employment.
- Unearned income is cash or in-kind benefits received without being required to perform any work or service, including spousal maintenance, child support, annuities, pensions, etc.

Income is either counted or not counted. Income is not counted if it is unavailable or if it is excluded by law. Whether income is counted depends on the type of income. Income is counted in the month it is received. See Appendix B Types of Income for descriptions of each type of income.

### **Counted Income**

- AmeriCorps State or National living allowances and other payments
- AmeriCorps-National Civilian Community Corps (AmeriCorps NCCC) living allowances and other payments
- Amount over \$2,000 interest income from Indian trust land or other restricted Indian lands
- Amount over \$2,000 of cash payments from tax-exempt organizations for a child with a life-threatening condition
- Annuity payments
- Blood and blood plasma sales
- Child support income
- Clergy housing allowances
- Commissions
- Compensation from an employer's vacation donation program, if paid and taxed in the same manner as the employee's usual pay
- Conservation and Youth Service Corps wages
- Court-ordered dependent care expense payments
- Disability payments that are part of the employer's benefit package
- Experience Works wages
- Extended income support payments through the Trade Adjustment Reform Act of 2002 (TAA)
- Gifts
- Higher Education Innovative Projects wages
- Honoraria
- Hostile fire, imminent danger and combat pay
- Income from self-employment
- Income that is withheld to repay a legal debt or obligation
- Income withheld to repay a legal debt or obligation
- In-kind income if the person has the option to receive cash instead of in-kind income
- Interest and dividends received as payments
- Jury duty pay

- Lump sum income
- National and Community Service Models wages
- Net self-employment income
- Non-Title IV of HEA and non-BIA grants, scholarships, fellowships and other non-loan financial aid that requires teaching, research, or other work in order to receive the aid for graduate students
- Non-Title IV of HEA and non-BIA grants, scholarships, fellowships and other non-loan financial aid that does not require work to receive the aid for graduate students, after deducting allowable student expenses
- Non-Title IV of HEA and non-BIA student loans for graduate students, after deducting allowable student expenses
- Picket duty pay
- Public and private pensions
- Railroad Retirement Board (RRB) benefits
- Refugee Resettlement Program grants
- Regular cash gift income or cash gift income that exceeds \$30 per three months
- Retirement, Survivor's and Disability Insurance (RSDI), except for specific exclusions
- Royalties
- Senior Aids Program wages
- Serve America wages
- Severance pay
- Sick pay based on accrued leave time
- Spousal maintenance income
- Tips
- Tribal per capita payments from gaming revenue (casino profits)
- Trust disbursements
- Unemployment insurance
- Vacation pay
- Value of in-kind gifts from tax-exempt organizations for a child with a life-threatening condition when those gifts are converted to cash
- Veteran's Administration benefits
- Vocational Rehabilitation current living expense payments
- Voluntary Resettlement Agency Matching Grant Program grants
- Wages

- Workers' Compensation
- Workforce Investment Act (WIA) earned income of a child under age 18 or 18 years old and expected to graduate by age 19, who is not a student, beyond six months per year

### **Excluded Income**

- Agent Orange Settlement Fund payments
- All income of refugee unaccompanied minors
- American Indian tribal land settlements and judgment funds that are held in trust by the Secretary of the Interior or distributed per capita pursuant to a plan prepared by the Secretary of the Interior
- AmeriCorps Vista payments
- Assets converted to cash
- Bills paid by a third party
- Blood Product Settlement payments
- Bureau of Indian Affairs (BIA) student financial aid for undergraduate and graduate students
- Child Care and Development Block Grant Act payments
- Class action settlement agreement in Jensen et al v. Minnesota Department of Human Services, et al.
- Clinical trial participation payments
- Cobell Settlement for American Indians
- Community fundraiser income not under the control of the applicant, enrollee or a responsible relative
- Consumer Support Grant (CSG) payments
- Corporation for National and Community Service (CNCS) payments
- Costs necessary to secure the payments of unearned income, such as attorney's fees and medical fees
- Court-ordered medical support
- Coverdell Education Savings Account (ESA) payments used for educational expenses
- Crime victim payments
- Disaster assistance
- Family Support Grant (FSG) payments
- Federal Relocation Assistance
- Filipino Veterans Equity Compensation (FVEC) fund payments
- First \$2,000 interest income from Indian trust land or other restricted Indian lands

- First \$2,000 of cash payments from tax-exempt organizations for a child with a life-threatening condition
- First \$10,000 of court-ordered Workers Compensation settlements
- Foster Care Assistance
- Gifts of cash for tuition or education
- Gifts of cash to purchase a prosthetic device not covered by health care or other insurance
- Housing and Urban Development (HUD) subsidies
- Inaccessible income such as unpaid court ordered child support
- Income excluded by the Social Security Administration to determine Supplemental Security Income (SSI) eligibility
- Income used by the Social Security Administration to determine SSI eligibility
- Income withheld to repay a prior overpayment of benefits made by the same income source
- Individual Development Accounts (IDA)
- In-kind income if the person does not have the option to receive cash
- Insurance payments not payable or available to the applicant
- Interest and dividends accrued and combined with counted assets, within the asset limit
- Irregular cash gift income of less than \$30 per three months
- IV-E and State-Subsidized Adoption Assistance
- James Zadroga 9/11 Health and Compensation Act of 2010
- Japanese and Aleutian Restitution payments
- Loans – principal portion of loan payments
- Low Income Home Energy Assistance Program (LIHEAP) payments
- Military salary reductions
- Mille Lacs Band of Ojibwa Elder Supplement Assistance Program
- Money received and spend to cover someone else's expenses
- Nazi Persecution payments
- Non-Title IV of HEA and non-BIA grants, scholarships, fellowships and other non-loan financial aid that requires teaching, research, or other work to receive the aid for undergraduate students
- Non-Title IV of HEA and non-BIA grants, scholarships, fellowships and other non-loan financial aid that does not require work to receive the aid for undergraduate students
- Non-Title IV of HEA and non-BIA student loans for undergraduate students
- Payments used to reimburse a custodial parent for health insurance premiums

- Per capita distributions of all funds held in trust by the Secretary of the Interior to members of an Indian tribe
- Program participation incentive payments
- Public Assistance Payments, such as general assistance (GA), Minnesota Supplemental Aid (MSA), Minnesota Family Investment Program (MFIP), Refugee Cash Assistance (RCA), Diversionary Work Program benefits (DWP), Work Benefit Program benefits (WB)
- Radiation Exposure Compensation Act payments
- Refunds of security and utility deposits
- Reimbursements for employment and training, medical expenses and property
- Relative Custody Assistance
- Retirement, Survivor's and Disability Insurance (RSDI) for children under age 18 under the TEFRA option or receiving home and community based waiver services
- Ricky Ray Hemophilia Relief Act payments
- Student financial aid expenses for tuition, mandatory fees, course and lab fees, books, supplies and equipment required for course work, child care costs incurred while at school or in transit, transportation to and from school
- Student financial aid from a Title IV of the Higher Education Act of 1965 program for undergraduate and graduate students
- SSI
- Tax credits, rebates and refunds
- Training expenses under the Trade Adjustment Reform Act of 2002
- Veterans' Children with Certain Birth Defects payments
- Veterans' Affairs (VA) education assistance
- Vietnamese Commando Compensation Act payments
- Vocational Rehabilitation payments, except current living expense payments
- Wages and other earned income of a child under age 18 or 18 years old and expected to graduate by age 19, who is a full or part-time student and works less than 37.5 hours per week
- Workforce Investment Act (WIA) earned income of a child under age 18 or 18 years old and expected to graduate by age 19, who is a full or part-time student and works at least 37.5 hours per week
- WIA earned income of a child under age 18 or 18 years old and expected to graduate by age 19, who is not a student, six months per year
- WUV payments from the Dutch government to victims of Nazi persecution

### **Whose Income and Assets Counts**

When calculating income and assets for a person, it is often necessary to count another person's income or assets in that determination. This is called deeming.

Income of the following people, living with the person, is deemed and counted:

- Spouse
- Parents, if the applicant is under age 21 and is not emancipated, including biological, natural and adoptive parents

The assets of the spouse, who is living with the person applying for MA, are deemed and counted.

### **Sponsor Deeming**

Adult immigrant non-citizens who have a sponsor must have the income and assets of the sponsor deemed to them for MA with a spenddown. For MA with a spenddown, sponsor deeming only occurs for applicants using the parent or relative caretaker basis of eligibility.

The following income of the sponsor is deemed to the applicant and counted:

- Gross income
- Cash assistance received by the sponsor
- Net self-employment income

The net assets of the sponsor are deemed to the applicant and counted.

### **Sponsor Deeming Exceptions**

Sponsor deeming does not apply to:

- Pregnant women
- Children younger than 21 years old
- People who need placement in a facility and their placement is jeopardized by the sponsor's failure or inability to provide support
- Sponsored non-citizens who have 40 qualifying work quarters

A person meeting both of the following can have a 12-month deferment of sponsor deeming, with a potential 12-month extension:

- A. a battered non-citizen immigration status who is subjected to extreme cruelty and is not living with the batterer; and
- B. there is a substantial connection between the need for health care coverage and the battery. There is substantial connection between the need resulting from the battery of the non-citizen or his or her children and the need for health care coverage if any of the following conditions are met:

- To enable them to become self-sufficient following separation from the abuser
- To enable escape from the abuser or the community where the abuser lives, or to ensure safety from the abuser
- Due to a loss of financial support or loss of a job due to their separation from the abuser
  - Including job loss due to work absence or reduced job performance because of the abuse or cruelty or related legal proceedings, such as child support or custody disputes
- Due to a need to obtain medical attention or mental health counseling or they are disabled because of the battery or cruelty
- Because of lost housing or income, or the fear of separation from the abuser jeopardizes the ability to care for their children
- To alleviate nutritional risks or need resulting from the abuse or following the separation from the abuser
- To provide medical care during an unwanted pregnancy resulting from the abuser's sexual assault, or the relationship with the abuser. Or to care for any resulting children
- To replace medical coverage or health care services they had when living with the abuser

**Income Methodology**

Net income is used to determine initial and ongoing eligibility for MA for Families and Children with a Medical Spenddown. Net income is equal to gross counted income minus certain disregards and deductions including:

- Court ordered child support and arrears payments made to another household
- Work expense deductions for children age 2-20 including:
  - First \$90 of earned income of a child
  - First \$90 of earned income of each person whose income is deemed to the child
- Work expense deductions for pregnant women and infants based on household size using the following chart:

Household Size	Work Expense Deduction
1	\$136
2	\$140
3	\$145
4	\$149
5	\$156
6	\$161

Household Size	Work Expense Deduction
7	\$165
8	\$170
9	\$177
10	\$181
each additional person	\$5

- Earned income disregard of 17% of a person's gross earned income for four consecutive months
- Dependent care deduction of dependent care expenses of household members with earned income who need dependent care while at work, in transit to or from work, or not at work but in need of dependent care to maintain employment. Expenses of up to \$200 per month for each dependent under age two and \$175 each month for each dependent age two and older, are deducted. The dependent care deduction is not available when childcare is provided by a parent, stepparent, sibling under age 19, or when others pay for the cost of childcare.

### **Income Limit**

People eligible for MA for Families and Children with a Medical Spenddown must spend down to the 133% federal poverty guidelines (FPG) standard.

### **Post Eligibility for MA for Families and Children with a Medical Spenddown**

Enrollees in MA for Families and Children with a Medical Spenddown must meet the same responsibilities and post-eligibility requirements as enrollees in MA-FCA without a spenddown. See the following for more information:

MA-FCA Rights and Responsibilities

MA-FCA Post-Eligibility

### **Renewals**

Enrollees in MA for Families and Children with a Medical Spenddown must complete an annual renewal and a six-month income renewal.

### **Legal Citations**

Code of Federal Regulations, title 42, section 435.811

Code of Federal Regulations, title 42, section 435.831

Code of Federal Regulations, title 42, section 435.840

Minnesota Statutes, section 256B.056, subdivision 3c

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## F. Section 2.3 MA ABD

# 2.3 Medical Assistance for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability

Medical Assistance (MA) eligibility is determined using a variety of non-financial, financial and post-eligibility factors. Some MA policies apply to all MA applicants and enrollees. Other eligibility requirements are different, depending on what type of MA a person may be eligible for.

This subchapter includes policies that apply to MA for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability (MA-ABD) and links to policies that apply to all MA programs and all Minnesota Health Care Programs (MHCP) programs.

In-depth information about statewide services is available from [Disability Hub MN](#) [mnhelp.info](http://mnhelp.info). Specialized assistance for seniors is available from the Senior Linkage Line at 800-333-2433 and for people with disabilities from the Disability Linkage Line at 866-333-2466.

### MA-ABD General Requirements

- MHCP Applications
- MA-ABD Mandatory Verifications
- MA Responsibilities
- MHCP Retroactive Coverage
- MHCP Rights

### MA-ABD Non-Financial Eligibility

- MA-ABD Bases of Eligibility
- MA-ABD Certification of Disability
- MA Citizenship and Immigration
- MA County Residency
- MA Living Arrangement
- MHCP State Residency
- MA Social Security Number

### MA-ABD Financial Eligibility

- MA-ABD Household Composition
- MA-ABD Assets
  - MA-ABD Asset Limits

- MA-ABD Asset Deeming
  - MA-ABD Sponsor Asset Deeming
- MA-ABD Excluded Assets
- MA-ABD Countable Assets
  - MA-ABD Availability of Countable Assets
    - MA-ABD Shared Ownership
- MA-ABD Unknown Assets
- MA-ABD Excess Assets
- MA-ABD Asset Evaluation
  - MA-ABD Liquid Assets
  - MA-ABD Retirement Funds and Plans
  - MA-ABD Health Expense Accounts
    - MA-ABD Flexible Spending Arrangements
    - MA-ABD Health Savings Accounts
  - MA-ABD Real Property
    - MA-ABD Homestead Real Property
    - MA-ABD Non-Homestead Real Property
    - MA-ABD Life Estates and Remainder Interests
    - MA-ABD Other Property Interests
  - MA-ABD Contract for Deed and Other Property Agreements
  - MA-ABD Promissory Notes
  - MA-ABD Automobiles and Other Vehicles used for Transportation
  - MA-ABD Annuities
  - MA-ABD Trusts
    - MA-ABD Identifying the Type of Trust
    - MA-ABD Client Funded Trusts
    - MA-ABD Medicaid Qualifying Trusts
    - MA-ABD Special Needs Trusts
    - MA-ABD Pooled Trusts
    - MA-ABD Third Party Established and Funded Trusts
    - MA-ABD Supplemental Needs Trusts
  - MA-ABD Life Insurance Policies
  - MA-ABD Burial Contracts

MA-ABD Burial Space Exclusion

MA-ABD Burial Fund Exclusion

MA-ABD Continuing Care Retirement Community Entrance Fee

MA-ABD Tribal Payments and Interests

MA-ABD Household Goods and Personal Effects

#### MA-ABD Income

MA-ABD Income Limits

MA-ABD Income Methodology

MA-ABD Countable Income

MA-ABD Income Deeming

MA-ABD Sponsor Income Deeming

MA-ABD Disregards and Deductions

MA-ABD Excluded Income

#### MA-ABD Medical Spenddowns

MA-ABD Spenddown types

MA-ABD Health Care Expenses

#### MA-ABD Post-Eligibility

MA Begin and End Dates

MA Benefit Recovery

MHCP Change in Circumstances

MA Cooperation

MA Cost Sharing

MHCP Fraud

MA-ABD Health Care Delivery

MA Inconsistent Information

MA Qualifying Health Coverage

MA Referral for Other Benefits

MA-ABD Renewals

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## G. Section 2.3.3.2.7.2 MA ABD Retirement Funds and Plans

Medical Assistance for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability

### 2.3.3.2.7.2 Retirement Funds and Retirement Plans

Retirement funds are cash and other assets held by a person for use during retirement. A retirement plan is an arrangement to provide people and their spouses with income during retirement. Employers, insurance companies, the government or other institutions such as employer associations or trade unions may set up retirement plans.

The available value of retirement funds and retirement plans count toward the Medical Assistance for People Who Are Age 65 or Older and People who Are Blind or Have a Disability (MA-ABD) asset limit unless an exception applies.

Exceptions:

- Individual Retirement Accounts held in the form of an annuity (or an annuity account in the accumulation phase) must be evaluated as an annuity. See MA-ABD Annuities for more information.
- A retirement plan that is owned by a spouse not enrolled in MA is not deemed to a spouse enrolled in MA-ABD.
- A retirement plan is unavailable if a person must terminate employment in order to obtain any payment.

### Evaluation of Retirement Plans

Each specific retirement plan establishes the circumstances under which retirement funds are available. Some retirement plans allow for disbursements of retirement funds due to disability or other circumstances. Others allow for disbursement of any portion of an account balance that represents assets a person rolled into the plan from another employer-sponsored retirement plan. The value of a retirement plan is the amount of funds that a person can currently withdraw. If there is a penalty for early withdrawal, the plan's value is the amount of funds available after the penalty deduction. However, any taxes due as a result of the withdrawal are not deducted when determining the plan's value.

~~When retirement funds and retirement plans are not excluded, they must be evaluated individually to determine their specific conditions, how payments are or can be made, and restrictions or limitations, if any, on withdrawal.~~

### Types of Retirement Plans

#### Individually-Purchased Individual Retirement Arrangements

An individual retirement arrangement is an umbrella term used to describe a personal retirement savings plan that provides the owner tax advantages for setting aside money for retirement. Individual retirement arrangements can be in the form of a trust, an account, or an annuity. Individually-purchased individual retirement arrangements are generally purchased by a person from an insurance company, bank or financial planner. Common individually-purchased individual retirement arrangements include:

- Traditional Individual Retirement Accounts IRA's
- Roth IRAs
- Spousal IRAs

### **Employer-Sponsored or Union-Sponsored Retirement Plans**

These retirement plans fall under one of the following three categories: defined-benefit plans, defined-contribution plans and employer-sponsored retirement arrangements.

- Defined-Benefit Plans. This is a retirement plan (also referred to as a pension plan) that promises a specified monthly benefit at retirement. The plan may state the promised benefit as an exact dollar amount. More commonly, however, the plan sponsor calculates a benefit through a plan formula that considers certain factors such as salary and years of service. There are three types of defined benefit plans: traditional plans, cash balance plans and defined-benefit Keogh plans
  - Traditional plans. A type of defined-benefit retirement plan offered by both private and public employers. These types of retirement plans are often referred to as a pension. Examples of traditional defined benefit plans include:
    - Federal Employee Retirement System (FERS)
    - Military pension (Air Force, Marine Corps, Navy, and Coast Guard)
    - Minnesota State Retirement System (MSRS)
    - Minnesota Teachers Retirement Association (TRA)
    - Public Employees Retirement Association (PERA)
    - Railroad Retirement
    - Traditional plans offered by public and private employers
  - Cash balance plan. A defined-benefit plan that defines the benefit in terms that are more characteristic of a defined contribution plan. Employers bear the financial risk of cash balance plans and are required to maintain sufficient funds to pay future benefits. The unique feature of a cash balance plan is that the employee's account shows benefits as a lump sum - the "cash balance" of the account - rather than as periodic payments the employee will receive during retirement.
  - Defined-benefit Keogh plan. A tax deferred pension plan available to self-employed individuals or unincorporated businesses for retirement purposes. A Keogh plan can be set up as either a defined-benefit or defined contribution plan, although most plans are defined contribution plans.

- Defined contribution plans. A defined contribution plan is a retirement plan that does not promise a specific amount of benefits at retirement. In these plans, the employee or the employer (or both) contribute to the employee's individual account under the plan. These contributions generally are invested on the employee's behalf. The employee will ultimately receive the balance in the account, which is based on contributions, plus or minus investment gains or losses. The value of the account will fluctuate due to the changes in the value of the investments purchased with the contributions added to the employee's individual account. Distributions start at retirement age, but participants can also take distributions if they change jobs or in certain emergencies. Participants can choose to take distributions as a lump sum, annual installments or as an annuity. The following are examples of defined contribution plans:
  - 401(k) plans
  - Roth 401(k) plans
  - 403(b) plans
  - 457 plans
  - Thrift Savings Plans (TSPs)
  - Employee Stock Ownership Plans (ESOPs)
  - Profit sharing plans
  - Defined-contribution Keogh plans
- Employer-Sponsored IRAs. An employer-sponsored IRA is an individual retirement arrangement that an employer establishes for an employee. The following are examples of employer-based IRAs:
  - Simplified Employee Pension (SEP) IRAs (available to employees and self-employed individuals)
  - Savings Incentive Match Plans for Employees (SIMPLE) IRAs (available to employees and self-employed individuals)
  - Deemed IRAs
  - Payroll Deduction IRAs

When an IRA is held in the form of a trust, account or annuity, the IRA is the plan that meets the federal government guidelines to receive certain tax advantages and the trust, account or annuity is the vehicle used to fund the IRA (retirement plan). IRAs held in the form of a trust or account must be evaluated as a retirement plan using the policy in this section. IRAs held in the form of an annuity (or an annuity account for an annuity in the accumulation phase), must be evaluated as an annuity using the policies in Medical Assistance for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability (MA-ABD) Annuities.

## **Retirement Funds Not Held in a Retirement Plan**

Funds that a person intends to use for retirement, but that are not placed in a retirement plan are treated differently. Retirement funds not in a retirement plan are evaluated as liquid assets. For example, funds held in a bank account a person intends to use for retirement, are treated as a liquid asset, not as a retirement plan.

## **Evaluation of Retirement Funds**

~~Each specific retirement plan establishes the circumstances under which retirement funds are available. Some retirement plans allow for disbursements of retirement funds due to disability or other circumstances. The value of a retirement plan is the amount of funds that a person can currently withdraw. If there is a penalty for early withdrawal, the plan's value is the amount of funds available after the penalty deduction. However, any taxes due as a result of the withdrawal are not deductible when determining the plan's value.~~

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## **H. Section 2.3.3.2.7.9.4 MA ABD Special Needs Trust**

Medical Assistance for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability

### **2.3.3.2.7.9.4 Special Needs Trusts**

A Special Needs Trust is a trust established for the sole benefit of a person under age 65 who is certified disabled. The property held within a trust that meets all the requirements of a Special Needs Trust is an excluded asset.

#### **Trust Requirements**

A trust must satisfy all of the following statutory requirements in order to be excluded as a Special Needs Trust. If a trust does not meet all of the requirements, the trust is not an excluded asset.

##### **Date Established**

It is established on or after August 11, 1993.

##### **Beneficiary Age Limit for Establishing a Special Needs Trust**

The trust is established before the beneficiary turns age 65. A special needs trust established before the beneficiary reaches age 65 remains an excluded asset after the beneficiary reaches age 65.

##### **Established By**

Special needs trusts established before December 13, 2016, must be established by the beneficiary's parents, grandparents, legal guardian, or a court. Special needs trust established before December 13, 2016, cannot be established by the beneficiary.

Special needs trust established on or after December 13, 2016, include trusts established by the beneficiary on their own behalf.

##### **Funded By**

It is funded with the income or assets of the beneficiary. A special needs trust may also contain assets of other people.

##### **Disability Standard**

The beneficiary must meet the disability criteria of the Supplemental Security Income (SSI) program at the time the trust is established. A person with a disability established by the Social Security Administration (SSA) or State Medical Review Team (SMRT) meets this qualification.

The trust does not meet the criteria for the exclusion if the beneficiary's disability began after the trust was established.

If SSA or SMRT did not determine the beneficiary's disability at the time the trust was established, SMRT must determine whether the beneficiary was disabled according to SSI disability criteria at the time the trust was established.

### **Sole Benefit Requirement**

The trust must be established for the sole benefit of the beneficiary. The trust provisions must state that disbursements from the trust must be for the sole benefit of the beneficiary at the time the trust is established and any time in the future.

Trusts that allow for payments to a spouse or dependents during the lifetime of the beneficiary do not meet this requirement even if the beneficiary does not currently have a spouse or dependent.

### **DHS Remainder Beneficiary**

The trust must contain a provision stating that, upon the death of the beneficiary, Minnesota Department of Human Services (DHS), or "the State" receives all amounts remaining in the trust, up to an amount equal to the total amount of Medical Assistance (MA) paid on behalf of the beneficiary.

- Trust provisions allowing payment of administrative expenses and fees are acceptable if the trust also contains a provision that the expenses and fees must be reasonable.
- Trust provisions are also acceptable if the trust clearly states reasonable and necessary administrative expenses may be paid only if DHS is provided with advance notice and approves such expenses.

Trusts that include provisions that allow for payment of the following expenses prior to repayment to the State do not qualify as a Special Needs Trust:

- Payment for last illness and funeral, outstanding debts or other payments
- Payment of administrative expenses or attorney and trustee fees if the trust does not require such payment(s) to be reasonable

## **Evaluation of Trust Assets**

### **Trust Corpus**

Trust assets, including any income generated by the trust assets that is retained by the trust, are considered excluded assets as long as the trust is established, or any additions occur, before the beneficiary reaches age 65.

A special needs trust cannot be added to after the beneficiary reaches age 65. Additions to the trust after the beneficiary reaches age 65 are not considered excluded assets. The value of any non-excluded assets added to the trust after the beneficiary reaches age 65 are considered available to the beneficiary.

## Distributions

Disbursements of cash from the trust made directly to the beneficiary person or to a person someone acting on the beneficiary's person's behalf, such as a guardian or legal representative are counted as unearned income in the month received.

Payments made by the trustee to a third party that result in for the benefit of the person beneficiary receiving non-cash items ,but not made directly to the person are not counted.

## Special Needs Trust Verifications

Verification of a Special Needs Trust is required. A copy of the trust instrument and most recent trust accounting along with a completed Special Needs/Pooled Trust Referral Form ([DHS-4759](#)) must be sent to the DHS Special Recovery Unit (SRU).

### Annual Reporting by Trustees

The trustee of a Special Needs Trust with a beneficiary who is an applicant or recipient for MA is required by state law to submit an annual trust accounting directly to the SRU. The person is not required to provide this information as part of the renewal process.

If the person or the person's authorized representative or trustee provides this information to the county, the information must be forwarded to the SRU.

## Legal Citations

Minnesota Statutes, section 256B.056, subdivision 3b

Minnesota Statutes, section 501C.1205, subdivisions 3 and 4

United States Code, title 42, section 1396p(d)

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## **I. Section 2.3.3.2.7.9.5 MA ABD Pooled Trusts**

Medical Assistance for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability

### **2.3.3.2.7.9.5 Pooled Trusts**

A Pooled Trust is a trust established for the sole benefit of a beneficiary who is certified disabled. The property held within a trust that meets all the requirements of a Pooled Trust is an excluded asset.

#### **Trust Requirements**

A trust must satisfy all of the following statutory requirements in order to be excluded as a Pooled Trust. If a trust does not meet all of the requirements, the trust is not an excluded asset.

#### **Date Established**

The trust must be established on or after August 11, 1993.

#### **Beneficiary Age Limit**

There is no age limit for a person to establish a Pooled Trust.

#### **Trust Management**

A non-profit association establishes and manages Pooled Trusts. A separate account is maintained for each beneficiary of the trust but for purposes of investment and management of the trust; the funds are pooled.

#### **Account Establishment**

The beneficiary, beneficiary's parents or grandparents, legal guardian or a court establishes pooled trust accounts.

#### **Funded By**

It must be funded with the income or assets of the beneficiary. A Pooled Trust may also contain assets of other people.

#### **Disability Standard**

The beneficiary must meet the disability criteria of the Supplemental Security Income (SSI) program at the time the trust is established. A person with a disability established by the Social Security Administration (SSA) or State Medical Review Team (SMRT) meets this qualification.

The trust does not meet the criteria for the exclusion if the beneficiary's disability began after the trust was established.

If SSA or SMRT did not determine the beneficiary's disability at the time the trust was established, SMRT must determine whether the beneficiary was disabled according to SSI disability criteria at the time the trust was established.

### **Sole Benefit Requirement**

The trust sub-account must be established for the sole benefit of the beneficiary. The trust provisions must state that disbursements from the trust must be for the sole benefit of the beneficiary at the time the trust is established and any time in the future.

Trusts that allow for payments to a spouse or dependents during the lifetime of the beneficiary do not meet this requirement even if the beneficiary does not currently have a spouse or dependent.

### **DHS Remainder Beneficiary**

The trust must contain a provision stating that, upon the death of the beneficiary, Minnesota Department of Human Services (DHS) or "the State" receives all amounts remaining in the trust, up to an amount equal to the total amount of Medical Assistance (MA) paid on behalf of the beneficiary.

- Trust provisions allowing payment of administrative expenses and fees are acceptable if the trust also contains a provision stating that the expenses and fees must be reasonable.
- The trust is also acceptable if the trust clearly states reasonable and necessary administrative expenses may be paid only if DHS is provided with advance notice and approves such expenses.
- An additional remainder amount of up to ten percent of the value of the beneficiary's sub-account at the time death may be retained the trustee.

Trusts that include provisions that allow for payment of the following expenses prior to repayment to the state do not qualify as a Pooled Trust:

- Payment for last illness and funeral, outstanding debts or other payments
- Payment of administrative expenses or attorney and trustee fees if the trust does not require such payment(s) to be reasonable

## **Evaluation of Trust Assets**

### **Trust Corpus**

Trust assets, including any income generated by the trust assets that is retained by the trust, are considered excluded assets.

### **Distributions**

Disbursements of cash from the trust made directly to the beneficiary person or to a person someone acting on the beneficiary's person's behalf, such as a guardian or legal representative are counted as unearned income in the month received.

Payments made by the trustee to a third party that result in for the benefit of the person beneficiary receiving non-cash items ,but not made directly to the person are not counted.

- Note that for MA for Long-Term Care (MA-LTC) services applicants and enrollees, funds entering and leaving the trusts must be evaluated to determine if an uncompensated transfer occurred. See Section 2.4.1.3.4 MA-LTC Other Asset Transfer Considerations for more information.

## **Pooled Trust Verifications**

Verification of the existence of a Pooled Trust is required to determine eligibility. In addition, the trustee should provide a copy of the most recent accounting along with a copy of the trust instrument. Both documents must be sent along with a completed Special Needs/Pooled Trust Referral Form ([DHS-4759](#)) to the DHS Special Recovery Unit (SRU).

### **Annual Reporting by Trustees**

The trustee of a Pooled Trust with a beneficiary who is an applicant or recipient for MA is required by state law to submit an annual trust accounting directly to SRU. The beneficiary is not required to provide this information as part of the renewal process.

If the person or person's authorized representative or trustee provides this information to the county, that information must be forwarded to SRU.

## **Legal Citations**

Minnesota Statutes, section 256B.056, subdivision 3b

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## J. Section 2.3.3.2.7.9.6 MA ABD Third Party Established and Funded Trusts

Medical Assistance for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability

### 2.3.3.2.7.9.6 Third Party Established and Funded Trusts

A trust can be established and funded by a person (third party grantor) other than the person ~~or the person's spouse~~ applying for Medical Assistance (MA) for the benefit of the person applying for MA during the grantor's lifetime or under the grantor's will.

A trust established under a third party grantor's will is called a testamentary trust. A testamentary trust is established at the time of the grantor's death, rather than at the time the will was created. However, if the beneficiary is entitled to any part of the corpus or income under the terms of the trust, it may not be available until the grantor's estate is settled.

A trust funded by a third party during his or her lifetime is called an inter vivos or living trust.

Trusts funded by a third party that meet the requirements of a Supplemental Needs Trust are evaluated under the policy for Supplemental Needs Trust, not under Third Party Trust policy.

#### Trust Availability

The availability concepts applicable to Third Party Funded and Established Trusts depend on the type of Third Party Trust involved:

- Discretionary Trust
- Discretionary Trust with Support Standards
- Support Trust

The terms of the trust establish which type of trust is involved.

#### Discretionary Trust

A discretionary trust is a trust with provisions that grant the trustee absolute discretion regarding whether distributions from the trust will be made. A discretionary trust gives the trustee complete discretion to distribute all, some, or nothing from the trust.

#### Trust Corpus

If the trust provides that neither the trustee nor the court can invade the corpus to make disbursements to the beneficiary, the trust corpus is treated as unavailable to the beneficiary even when:

- the trust can be revoked by someone other than the beneficiary or the beneficiary's spouse; or

- the trust provides a regular specified payment from the corpus to the beneficiary.
  - When the applicant or enrollee is a beneficiary of a testamentary trust, the maximum distribution available to the beneficiary from the trust (including provisions permitting invasion of the corpus for the beneficiary's support and maintenance) does not mean the maximum distribution available is actually made available to the beneficiary.

The trust corpus is considered to be unavailable if the beneficiary's access is restricted. The trust is restricted if the beneficiary cannot compel the trustee to make disbursements to the beneficiary. If the trust provisions provide that neither the trustee nor the court can invade the corpus to make disbursements to the beneficiary, the trust corpus is treated as unavailable to the beneficiary.

### **Distributions**

Any payments made directly from the trust to the beneficiary are considered income to the beneficiary.

## **Discretionary Trust with Support Standards**

A discretionary trust with support standards is a trust that includes trust provisions granting the trustee absolute discretion, but also includes standards of support for the beneficiary which limits the trustee's discretion. A discretionary trust with support standards directs the trustee to distribute trust income or principal as necessary for the support and maintenance of the beneficiary.

### **Trust Corpus**

The entire trust corpus is counted as available when the trust contains provisions permitting disbursements from the corpus for the beneficiary's health or medical care.

### **Distributions**

Any payments made directly from the trust to the beneficiary are considered income to the beneficiary.

## **Support Trust**

A support trust is a trust with provisions that direct the trustee to restrict the use of the trust for the beneficiary's basic support needs such as food, clothing, medical care and education.

### **Trust Corpus**

The entire corpus of a support trust is counted as an available asset.

### **Distributions**

Any payments made directly from the trust to the beneficiary are income to the beneficiary.

## **Legal Citations**

Minnesota statutes, section 258B.056, subdivision 1a

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## **K. Section 2.3.3.2.7.14 MA ABD Household Goods and Personal Effects**

Medical Assistance for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability

### **2.3.3.2.7.14 Household Goods and Personal Effects**

Household goods and personal effects are types of personal property. This section discusses how these types of assets are evaluated.

#### **Household Goods**

Household goods are items of personal property found in or near a home that a person uses on a regular basis. ~~They include~~ or items needed by the household for maintenance, use, and occupancy of the premises as a home. Examples include ~~pets~~, furniture, clothing, jewelry, appliances, children's toys, tools and other equipment used in the home.

Household goods are an excluded asset and do not need to be verified. The exclusion for household goods does not include personal property that a person acquires or holds because of its monetary value or as an investment.

#### **Personal Effects**

Personal effects are items of personal property ordinarily worn or carried by the person, and articles otherwise having an intimate relation to the person. Personal effects include, but are not limited to, personal jewelry including wedding and engagement rings, personal care items, pets, and educational or recreational items such as books or musical instruments.

Personal effects include:

- Items of cultural or religious significance to a person, such as ceremonial attire
- Items required because of a person's physical or mental impairment, such as prosthetic devices or wheelchairs

Personal effects do not include personal property that a person acquires or holds because of its monetary value or as an investment.

Personal effects are an excluded asset and do not need to be verified.

#### **Items Acquired or Held Because of Their Monetary Value or as Investments**

Personal property that a person acquires or holds because of its monetary value or as an investment is a countable asset and not considered to be household goods or personal effects. Other personal property items include, but are not limited to, gems, jewelry and collectibles acquired or held because of its monetary value or as an investment.

The equity of any item acquired or held because of its monetary value or as an available asset is counted.

A recent sales slip, an appraisal of the item, or insurance coverage can be used to verify the current market value of an item acquired or held because of its value or as an investment. If this information is not available, an estimate from a knowledgeable source, such as a local merchant, can be used to verify the current market value.

- Insurance appraisals and amounts of insurance coverage often reflect replacement value (the amount it would cost to purchase a similar item new) rather than current market value. Replacement value may not be used in lieu of current market value.

## Legal Citations

Minnesota Statutes, section 256B.056, subdivision 1a

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## L. Section 2.3.5.1.2 MA EPD Premiums and Cost Sharing

Medical Assistance for Employed Persons with Disabilities

### 2.3.5.1.2 Premiums and Cost Sharing

People enrolled in Medical Assistance for Employed Persons with Disabilities (MA-EPD) must pay monthly premiums. A premium is based upon:

- R. A person's gross countable income. The minimum amount will be \$35 per month, with a sliding scale for people with gross income at or below 300% of the Federal Poverty Guidelines (FPG). If income is greater than 300% FPG, the rate is 7.5% of gross income.
- S. An additional fee that is equal to 0.5% of unearned income. The fee is paid no matter how low gross income is.

The total MA-EPD premium is the combined amount.

An American Indian or Alaska Native who has provided verification of American Indian or Alaska Native status is exempt from paying a premium for MA-EPD.

An online [MA-EPD premium estimator](#) is available. A person's county or tribal servicing agency is responsible for collecting the initial MA-EPD premium. The Minnesota Department of Human Services (DHS) bills for ongoing MA-EPD premiums monthly.

MA-EPD coverage does not begin until the initial premium is paid and remains in place for a six-month budget period from the date of application. Within the six-month period, applicants have coverage only in months for which they pay the premium. People do not have to be eligible in the month of application. Eligibility may begin later within the six-month budget period, if the applicant meets all eligibility factors by the end of the processing period.

Applicants who request retroactive coverage must pay the premium for any retroactive months before coverage is approved for the retroactive period. Applicants can choose which retroactive months they want covered and the months do not need to be consecutive.

The average anticipated gross monthly countable income is used to calculate the MA-EPD premium amount for a six-month period. The actual gross monthly income is used to calculate the MA-EPD premium amount during any retroactive months.

MA-EPD premiums are calculated for a six-month period and do not change unless a reported change results in a decreased premium. Premiums are calculated at each six-month renewal.

#### Gross Countable Income

Gross countable income includes countable earned and unearned income of the person and anyone whose income deems to the person, without any disregards or deductions applied. See the MA for

People Who Are Age 65 or Older and People Who Are Blind or Have a Disability (MA-ABD) Countable Income policy for more information.

### **Excluded Income**

The MA-ABD excluded income policy applies to MA-EPD. See the MA-ABD Excluded Income policy for more information.

### **Deeming**

Only the MA-EPD enrollee's income is counted for adults age 18 and older. No spousal income is deemed to the MA-EPD spouse. Parental income is deemed for MA-EPD applicants and enrollees younger than age 18.

### **Disregards and Deductions**

MA-EPD enrollees do not use standard MA-ABD deductions and disregards, because premiums are calculated using the gross countable income.

## **Family Size**

Family size is used to determine premium rates. Family size is determined for each person separately. Family size may be different for each person on an application or in a household.

For MA-EPD enrollees age 21 or older, family size includes the following, if they are living with the person:

- Enrollee
- Spouse (unless they are enrolled in MA-EPD)
- Biological or adopted children, including those who are temporarily absent
- Spouse's biological or adopted children, including those who are temporarily absent
- Unborn children of the person or their spouse

For MA-EPD enrollees under age 21, family size includes the following if they are living with the person:

- Enrollee
- Spouse (unless they are enrolled in MA-EPD)
- Biological or adoptive parents
- Stepparent, if the biological or adoptive parent also lives with the person
- Siblings (biological, adopted, or step siblings)
- Unborn children of the person, their spouse or their biological, adoptive or step parents listed above

## Good Cause for Non Payment of MA-EPD Premiums

People who cannot pay their premium may request good cause. A “good cause” request is an enrollee’s request for premium relief because of circumstances outside their control. DHS is responsible for good cause determinations. When a request is approved, premiums are waived for the period necessary for the enrollee to resolve the situation preventing the enrollee from paying premiums.

Good cause is defined as circumstances beyond a person's control or that they could not reasonably foresee resulting in the enrollee being unable or failing to pay the premium.

Good cause does not include choosing to pay other household expenses instead of the premium. A person cannot request good cause for non-payment of an initial premium. Good cause can only be requested for the non-payment of subsequent premiums.

### Requesting Good Cause

People must request good cause using the MA-EPD Good Case Request form ([DHS-6939](#)). The form can be submitted electronically, or printed and mailed to DHS. Enrollees needing assistance in completing the form can call [Disability Hub MN](#) ~~The Disability Linkage Line~~ at 866-333-2466.

DHS provides the person with written notice of their decision within 30 days. People may appeal a finding that good cause does not exist. See the MHCP Appeals policy for more information.

## Legal Citations

Minnesota Rules, part 9506.0040, subpart 7, items B to D

Minnesota Statutes, section 256B.057, subdivision 9

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## **M. Section 2.3.5.2.1 MA EPD Living Arrangement**

Medical Assistance for Employed Persons with Disabilities

### **2.3.5.2.1 Living Arrangement**

Medical Assistance for Employed Persons with Disabilities (MA-EPD) enrollees may live in a variety of living arrangements. This policy discusses living arrangements and MA-EPD.

#### **Community Living Arrangement**

Community living arrangements have no impact on MA eligibility. See Appendix D Community Living Arrangements for more information.

#### **Institutions for Mental Diseases**

An Institution for Mental Diseases (IMD) is a hospital, nursing facility, or other institution or residential program that has 17 or more beds and is primarily engaged in providing diagnosis, treatment or care of people with mental diseases. [A list of IMDs that provide treatment for people with mental illness](#) (MI) is also available online. MA-EPD enrollees may continue MA-EPD while living in an IMD, as long as they meet the MA-EPD work requirements.

#### **Long-Term Care Facility**

A long-term care facility (LTCF) is a place such as a skilled nursing facility, Intermediate Care Facility for the Developmentally Disabled (ICF/DD) or medical hospital in which the individual receives skilled nursing services (swing bed). People who live in a LTCF while working, even during the four-month medical leave period, may continue MA-EPD, as long as they continue to pay the premium.

#### **Legal Citations**

Minnesota Statutes, section 256B.055, subdivisions 11 to 14

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## N. Section 2.3.6.1.1 MA TEFRA Applications

Medical Assistance under the TEFRA Option

### 2.3.6.1.1 Applications

Medical Assistance (MA) under the TEFRA option is for children with a disability who are otherwise ineligible for MA because household income is above the MA for Families with Children and Adults (MA-FCA) income limit. The TEFRA option for children with a disability is named after the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 that created the option.

Because the MA under the TEFRA option is only available to children with a disability who are not otherwise eligible for MA, children must first apply for MA using the [MNsured online application](#) or the paper MNsure Application for Health Coverage and Help Paying Costs ([DHS-6696](#)).

Both the online and paper DHS-6696 application forms asks:

- Are you blind?
- Do you have a physical, mental, or emotional health condition that limits your activities (like bathing, dressing, daily chores, etc.)?

When an application for a child indicates yes to either question, and MA is denied because the household income exceeds the child's income limit, a referral must be made for MA under the TEFRA option.

Because the information needed to make an eligibility determination for MA-FCA is different than the information needed to determine eligibility for MA for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability (MA-ABD), the applicant must then complete the Supplement to MNsure Application for Health Coverage and Help Paying Costs ([DHS-6696A](#)). This paper supplement gathers information, not requested on the MNsure application, needed to determine eligibility for MA-ABD.

The county, tribal or state servicing agency must complete a State Medical Review Team (SMRT) Referral for a Disability Determination ([DHS-6123](#)). SMRT makes both the level of care determination and a disability determination, if the child is not already certified disabled by the Social Security Administration. See the MA-ABD Certification of Disability policy for more information. See the TEFRA Level of Care policy for more information.

## Legal Citations

~~Code of Federal Regulations, title 42, section 1396A, subdivision e~~

Code of Federal Regulations, title 42, section 435.225

Code of Federal Regulations, title 42, section 435.907

Code of Federal Regulations, title 45, section 155.405

Code of Federal Regulations, title 45, section 155.310

~~Minnesota Statutes, section 256B.04~~

Minnesota Statutes, section 256B.08

Minnesota Statutes, section 256b.055, subdivision 12

The Tax Equity and Fiscal Responsibility Act (TEFRA), Public Law 97-248, section 134

United States Code, title 42, section 1396a, subdivision e

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## O. Section 2.5.5 MA HIP

Medical Assistance for Hospitalized Incarcerated People

### 2.5.5 Hospitalized Incarcerated Individuals

In general, people incarcerated in a state prison, county detention facility, or city jail are not eligible for Medical Assistance (MA) coverage. See the MA Living Arrangement policy for more information. However, a person incarcerated in one of the following facilities may qualify for MA payment for inpatient hospital or nursing facility care.

- State prison, county detention facility, or city jail for adults. A person incarcerated in one of these facilities remains incarcerated, and thus ineligible for MA benefits, if the person:
  - is in a work-release program that requires the person to return to the facility during non-work hours or
  - has been sent by the court or correctional facility to a chemical dependency residential treatment program while serving a sentence and must return to the correctional facility after completing treatment.
- Secure juvenile facilities licensed by Minnesota Department of Corrections (DOC) that are for holding, evaluation and detention
- ~~State owned and operated juvenile correctional facilities~~
- ~~Publicly owned and operated juvenile residential treatment facilities and group foster care facilities that are licensed by the DOC and have more than 25 non-secure beds~~

~~Additionally, children placed by a juvenile court in certain juvenile group residential facilities or programs may be eligible for MA depending on the type of facility. A child who resides in a non-secure correctional setting may be eligible for MA. Some correctional facilities have both secure and non-secure units. See the MA Living Arrangement policy for more information.~~

A person must meet the eligibility requirements that match their basis of eligibility. People are in one of the following eligibility groups:

- MA for Families With Children and Adults (MA-FCA)
- MA for People Who Are Age 65 or Older and People Who Are Blind or Have a Disability (MA-ABD)
- MA for Long-Term Care Services

This subchapter includes policies that apply to MA for hospitalized people who are incarcerated and links to policies that apply to all MA programs and all Minnesota Health Care Programs (MHCP) programs.

MA-HIP General Requirements

MA-HIP Applications

MA Responsibilities

MHCP Retroactive Eligibility

MHCP Rights

#### MA-HIP Non-Financial Eligibility

MA-ABD Non-Financial Eligibility

MA-FCA Non-Financial Eligibility

MA-LTC

#### MA-HIP Financial Eligibility

MA-ABD Financial Eligibility

MA-FCA Financial Eligibility

MA-LTC

#### MA-HIP Post-Eligibility

MA-HIP Health Care Delivery

MA-ABD Post Eligibility

MA-FCA Post Eligibility

MA-LTC

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## P. Section 3.2.3 MinnesotaCare Insurance Barriers

MinnesotaCare

### 3.2.3 Insurance Barriers

#### Other Health Coverage

Other health coverage may be a barrier to MinnesotaCare eligibility.

- Access to some types of health coverage is always a barrier, even if the person is not enrolled.
- Some types of health care coverage are a barrier to MinnesotaCare only if the person is enrolled in the coverage.
- Some types of health care coverage are never a barrier to MinnesotaCare.

See Appendix C Types of Other Health Care Coverage for a list of different types of health care coverage and whether or not they are a barrier to MinnesotaCare eligibility.

#### Employer-Sponsored Coverage

Employer-sponsored coverage is a barrier to MinnesotaCare eligibility for an employee in the following circumstances:

- The employee ~~has access to~~ is eligible for coverage that meets both the minimum value and affordability standards.
- The employee is enrolled in the coverage, regardless of whether it meets the minimum value or affordability standards.

~~Access to~~ Eligibility for employer-sponsored coverage that meets both the minimum value and affordability standards is a barrier to MinnesotaCare eligibility for people ~~even if~~ when they ~~did~~ do not enroll in the employer-sponsored coverage at initial enrollment for new hires, at the time of the employer's annual open enrollment period or during a special enrollment period.

When an employer offers annual open enrollment for a plan that meets the minimum value and affordability standards, and an employee does not enroll in employer-sponsored coverage, the employee is not eligible for MinnesotaCare.

When an employer offers open enrollment less often than annually for a plan that meets the minimum value and affordability standards, an employee is considered eligible for the employer-sponsored coverage during the first coverage year that follows each open enrollment period. The employee is not eligible for MinnesotaCare for the first coverage year after each open enrollment opportunity.

When an employer offers open enrollment less often than annually for a plan that meets the minimum value and affordability standards, and there was no open enrollment opportunity for the current coverage year, an employee is not considered to be eligible for the employer-sponsored coverage until after the next open enrollment period. The employee may be eligible for MinnesotaCare, if the employee meets all other MinnesotaCare eligibility factors, until the employer-sponsored plan is offered again

A person does not have access to eligibility for employer-sponsored coverage until the first day of the first full month it is available to the person.

### **Minimum Value Standard for Employer-Sponsored Coverage**

An employer-sponsored health plan meets the minimum value standard if it covers at least 60 percent of the total allowed costs under the plan.

### **Affordability Standard for Employer-Sponsored Coverage**

An employer-sponsored health plan is affordable if the employee's portion of the annual premiums for employee-only coverage does not exceed 9.69 percent of their annual household income for the tax year. The lowest-cost plan for employee-only coverage is used when determining affordability.

### **Employer-Sponsored Coverage for a Spouse and Dependents**

Employer-sponsored coverage is a barrier to MinnesotaCare eligibility for an employee's spouse or dependents if they are enrolled in the coverage, regardless of whether the employer-sponsored coverage meets the minimum value and affordability standards.

Employer-sponsored coverage that meets both the minimum value and affordability standards for the employee is a barrier to MinnesotaCare eligibility for the following people if they have access to enroll in the coverage, regardless of whether they enroll:

- People the employee expects to claim as a tax dependent
- The employee's spouse, if either of the following are true:
  - The employee and the spouse expect to file taxes jointly
  - The employee and the spouse do not expect to file taxes jointly, but the employee expects to claim a personal exemption for the spouse. The employee expects to claim a personal exemption for the spouse when they expect to list and count the spouse on a federal income tax return.

Employer-sponsored coverage is a barrier to eligibility for these people if they did not enroll in the employer-sponsored coverage at the time of the employer's open enrollment period or during a special enrollment period.

### **Change in Affordability for Employer-Sponsored Coverage**

If a person's employer-sponsored coverage is determined unaffordable at application, and becomes affordable at some point later in the employer-sponsored plan year, they remain eligible

for MinnesotaCare for the remainder of the employer-sponsored plan year. Once the person is able to enroll in affordable employer-sponsored coverage through an open enrollment period, they are no longer eligible for MinnesotaCare.

- If a person is determined eligible for MinnesotaCare because they provide incorrect information regarding the affordability of their employer-sponsored plan at application, they can be disenrolled following 10-day advance notice requirements.
- If a person is determined eligible for MinnesotaCare because they did not update information regarding the affordability of their employer-sponsored plan at the time of their renewal, they can be disenrolled following 10-day advance notice requirements.

### **Voluntary Disenrollment from Employer-Sponsored Coverage**

People who are ineligible for MinnesotaCare because they are enrolled in employer-sponsored coverage may qualify for MinnesotaCare if the employer-sponsored coverage does not meet either the affordability or minimum value standard and they disenroll from the coverage. Eligibility begins the month after the employer-sponsored coverage ends.

### **Post-Employment Employer-Sponsored Coverage**

Health insurance available to former employees and dependents of former employees, such as continuation coverage under COBRA or retiree insurance, is only a barrier to MinnesotaCare eligibility if a person is enrolled in the coverage.

## **Legal Citations**

Code of Federal Regulations, title 26, section 1.36B-2

Code of Federal Regulations, title 26, section 1.5000A-2

Code of Federal Regulations, title 26, section 1.5000A-3

Code of Federal Regulations, title 42, section 600.305

Minnesota Statutes, section 256L.07

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## Q. Appendix F Standards and Guidelines

Appendix F

# Standards and Guidelines

This appendix provides figures used to determine eligibility for a person, or in a specific calculation completed to determine eligibility.

## Community Spouse Allowances

The Community Spouse Allowances are used when determining the long-term care (LTC) income calculation's community spouse allocation.

### Basic Shelter Allowance

The Basic Shelter Allowance is used to determine if the community spouse has any excess shelter expenses.

Effective Dates	Basic Shelter Allowance
July 1, 2017 to June 30, 2018	\$609
July 1, 2016, to June 30, 2017	\$602

### Maximum Monthly Income Allowance

The Maximum Monthly Income Allowance, along with the Minimum Monthly Income Allowance, is used to determine the community spouse's monthly maintenance needs amount.

Effective Dates	Maximum Monthly Income Allowance
January 1, 2017, to December 31, 2017	\$3,022.50
January 1, 2016, to December 31, 2016	\$2,980.50

### Minimum Monthly Income Allowance

The Minimum Monthly Income Allowance, along with the Maximum Monthly Income Allowance, is used to determine the community spouse's monthly maintenance needs amount.

Effective Dates	Minimum Monthly Income Allowance
July 1, 2017 to June 30, 2018	\$2031
July 1, 2016 – June 30, 2017	\$2,005

### Utility Allowance

The Utility Allowance is allowed as a shelter expense if the community spouse is responsible for heating or cooling costs.

<b>Effective Dates</b>	<b>Utility Allowance</b>
October 1, 2017 to September 30, 2018	\$556
October 1, 2016 to September 30, 2017	\$532

The Electricity and Telephone Allowances are allowed as shelter expenses if the community spouse is not responsible for heating or cooling expenses, but is responsible for electricity or telephone expenses.

<b>Effective Dates</b>	<b>Electricity Allowance</b>
October 1, 2017 to September 30, 2018	\$172
October 1, 2015 to September 30, 2016	\$141

<b>Effective Dates</b>	<b>Telephone Allowance</b>
October 1, 2017 to September 30, 2018	\$41
October 1, 2016 to September 30, 2017	\$38

## **Federal Poverty Guidelines**

The federal poverty guidelines (FPG) are used to determine income eligibility for the Minnesota Health Care Programs (MHCP).

Refer to Insurance and Affordability Programs (IAPs) Income and Asset Guidelines (DHS-3461A) for the current FPG.

## **Home Equity Limit**

The Home Equity Limit is applied only in specific situations and at certain times.

<b>Effective Dates</b>	<b>Home Equity Limit</b>
January 1, 2017, to December 31, 2017	\$560,000
January 1, 2016, to December 31, 2016	\$552,000

## **IRS Mileage Rate**

The IRS mileage rate is used in many calculations to determine eligibility or reimbursement costs.

Effective Dates	IRS Mileage Rate
January 1, 2017, to December 31, 2017	53.5 cents
January 1, 2016, to December 31, 2016	54 cents

## Long-Term Needs Allowances

The LTC needs allowances provide figures for needs allowances used in the LTC income calculation and for determining the community spouse or family allocation amounts.

### Clothing and Personal Needs Allowance

The Clothing and Personal Needs Allowance is used when the enrollee is not eligible for any of the other LTC needs allowances.

Effective Dates	Clothing and Personal Needs Allowance
January 1, <del>2018</del> 2017, to December 31, <del>2018</del> 2017	\$ <del>99</del> 97
January 1, <del>2017</del> 2016, to December 31, <del>2017</del> 2016	\$97

### Home Maintenance Allowance

The Home Maintenance Allowance can be deducted from a person's LTC income calculation if certain conditions are met.

Effective Dates	Home Maintenance Allowance
July 1, 2017 to June 30, 2018	\$1,005
July 1, 2016, to June 30, 2017	\$990

### Special Income Standard for Elderly Waiver Maintenance Needs Allowance

The Special Income Standard for Elderly Waiver (SIS-EW) maintenance needs allowance is used in the LTC income calculation for persons who have income at or below the Special Income Standard (SIS).

Effective Dates	Maintenance Needs Allowance
July 1, 2017 to June 30, 2018	\$990
July 1, 2016, to June 30, 2017	\$988

## Maximum Asset Allowance

The Maximum Asset Allowance is used for the community spouse asset allowance for an asset assessment.

Effective Dates	Minimum	Maximum
January 1, 2017, to December 31, 2017	No minimum	\$120,900
June 1, 2016 to December 31, 2016	No minimum	\$119,220
January 1, 2016, to May 31, 2016	\$33,851	\$119,220

## MinnesotaCare Premium Amounts

MinnesotaCare premiums are calculated using a sliding fee scale based on household size and annual income.

Refer to MinnesotaCare Premium Estimator Table (DHS-4139) for information about MinnesotaCare premiums. The table provides an estimate of the premium before receiving the actual bill. The premium calculated by the system and listed on the bill is the official calculation and the amount to be paid.

## Pickle Disregard

The Pickle Disregard is a disregard of the Retirement, Survivors and Disability Insurance (RSDI) cost of living adjustment (COLA) amounts for Medical Assistance (MA) Method B and the Medicare Savings Programs (MSP).

Effective Date	Pickle Disregard
January 1, <del>2018</del> 2017, to December 31, <del>2018</del> 2017	<u>1.02</u> <del>1.003</del>
January 1, <del>2017</del> 2016, to December 31, <del>2017</del> 2016	<u>1.003</u> 4

## Remedial Care Expense

The Remedial Care Expense deduction amount can be used as a health care expense when meeting a spenddown or as an income deduction in an LTC income calculation.

Effective Dates	Remedial Care Expense
<del>July</del> <u>January 1, 2018</u> <del>2017</del> to <u>June 30, 2018</u> <del>December 31, 2017</del>	<u>\$188</u> <del>186</del>
January <del>July</del> 1, 2017 to <u>June 30, December 31</u> 2017	<u>\$186</u> <del>196</del>

## Roomer and Boarder Standard Amount

The Roomer and Boarder Standard income is used in calculating the amount of self-employment income a person who rents or boards another person has to add to the MA Method A income calculation.

Roomer and Boarder Standard	Amount
Roomer Amount	\$71
Boarder Amount	\$155
Roomer plus Boarder Amount	\$226

## Special Income Standard

The Special Income Standard (SIS) is used to determine certain criteria for the Elderly Waiver (EW) Program.

Effective Dates	SIS
January 1, <del>2018</del> 2017, to December 31, <del>2018</del> 2017	<del>\$2,250</del> 2,205
January 1, <del>2017</del> 2016, to December 31, <del>2017</del> 2016	<del>\$2,205</del> 2,199

## Statewide Average Payment for Skilled Nursing Facility Care

The statewide average payment for skilled nursing facility (SAPSNF) care amount is used to determine a transfer penalty for MA. The SAPSNF is updated annually in July.

Effective Dates	SAPSNF
July 1, 2017 to June 30, 2018	\$7,106
July 1, 2016, to June 30, 2017	\$6,280

## Student Earned Income Exclusion

The Student Earned Income Exclusion is a disregard of earned income for people who are under age 22 and regularly attending school. It is only available for MA Method B and MSP.

Effective Date	Monthly	Annual
January 1, <del>2018</del> 2017, to December 31, <del>2018</del> 2017	<del>\$1,820</del> 1,790	<del>\$7,350</del> 7,200

Effective Date	Monthly	Annual
January 1, <del>2017</del> 2016, to December 31, <del>2017</del> 2016	<del>\$1,790</del> 1,780	<del>\$7,200</del> 7,180

## Supplemental Security Income Maximum Payment Amount

These figures are the maximum benefit amounts for people eligible for Supplemental Security Income (SSI). A person's SSI benefit amount is based on the income of the person and certain responsible household members.

SSI benefit payments may be deducted from the LTC income calculation if the person qualifies for the Special SSI Deduction.

Effective Date	Individual
January 1, <del>2018</del> 2017, to December 31, <del>2018</del> 2017	<del>\$750</del> 735
January 1, <del>2017</del> 2016, to December 31, <del>2017</del> 2016	<del>\$735</del> 733

Effective Date	Couple
January 1, <del>2018</del> 2017, to December 31, <del>2018</del> 2017	<del>\$1,125</del> 1,103
January 1, <del>2017</del> 2016, to December 31, <del>2017</del> 2016	<del>\$1,103</del> 1,100

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