

# Minnesota Health Care Programs

## Eligibility Policy Manual



Minnesota Department of **Human Services**

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 #16.2**

**August 1, 2016**

# Manual Letter #16.2

This manual letter lists new and revised policy for the Minnesota Health Care Programs (MHCP) Eligibility Policy Manual (EPM) as of August 1, 2016. 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

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

### A. Section 1.6 Health Care Delivery

The changes to this section clarify information about managed care, out of state services, and membership cards to better align with current DHS processes. A link to the MHCP provider directory is also added.

### B. Section 2.1.1.2.1.1 Medical Assistance (MA) Estate Recovery

The 2016 Minnesota State Legislature amended state law to limit the number of MA services county agencies can recover under Minnesota's MA estate recovery program. The changes to this section incorporate these legislative changes, which were previously announced in Minnesota Department of Human Services (DHS) Bulletin #16-21-05, DHS Explains Changes to MA Estate Recovery in 2016 Legislation.

Only the policy from DHS Bulletin #16-21-05 has been incorporated into the EPM. Continue to refer to the bulletin for instructions and procedures.

### C. Section 2.1.1.2.1.2 MA Liens

The legislative changes enacted by the 2016 Minnesota State Legislature also impact recovery of MA services through the DHS lien process. The changes to this section incorporate the legislative changes announced in DHS Bulletin #16-21-05, and provide clarification about requirements DHS must meet in order to collect on an MA lien.

Only the policy from DHS Bulletin #16-21-05 has been incorporated into the EPM. Continue to refer to the bulletin for instructions and procedures.

### D. Section 2.1.1.2.1.3 MA Third Party Liability

The legal citations in this section are updated to include Code of Federal Regulations, title 42, section 435.610, which provides federal regulations for the assignment of rights to benefits.

#### **E. Section 2.1.2.2.2 MA Immigration Status**

Information is added to this section to clarify that CHIP-funded MA is not available to people enrolled in other health care coverage.

The change to this section also includes the addition of Minnesota Statutes, section 256B.06, subdivision 4, to the list of applicable legal citations. This state statute provides citizenship and immigration status requirements for Medical Assistance.

#### **F. Section 2.2.3.3 MA for Families with Children and Adults (MA-FCA) Income Limit**

References to the following legal citations are removed because they were found not to be applicable to the policy in this section:

- Code of Federal Regulations, title 42, section 155.305
- Code of Federal Regulations, title 42, section 155.350

#### **G. Section 2.2.3.4 MA-FCA Income Methodology**

Information is added to this section to clarify that payroll or pre-tax deductions are not taxable income and are not included in a person's adjusted gross income.

#### **H. Section 3.1.2.2 MinnesotaCare Premiums and Cost Sharing**

Policy in this section incorrectly stated that American Indian and Alaska Native enrollees need to provide proof of status to be exempt from paying MinnesotaCare premiums. The change to this section corrects the policy to say that American Indian and Alaska Native enrollees are **not** required to provide proof to be exempt from paying MinnesotaCare premiums.

For cost sharing, the policy is revised to reflect that verification of membership in a federally recognized tribe is required to be exempt from cost sharing.

#### **I. Section 3.3.3 MinnesotaCare Income Methodology**

The change to this section adds information that payroll or pre-tax deductions are not taxable income and are not included in a person's adjusted gross income.

## II. Documentation of Changes

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 1.6 MHCP Health Care Delivery](#)
- B. [Section 2.1.1.2.1.1 MA Estate Recovery](#)
- C. [Section 2.1.1.2.1.2 MA Liens](#)
- D. [Section 2.1.1.2.1.3 MA Third Party Liability](#)
- E. [Section 2.1.2.2.2 MA Immigration Status](#)
- F. [Section 2.2.3.3 MA-FCA Income Limit](#)
- G. [Section 2.2.3.4 MA-FCA Income Methodology](#)
- H. [Section 3.1.2.2 MinnesotaCare Premiums and Cost Sharing](#)
- I. [Section 3.3.3 MinnesotaCare Income Methodology](#)

## **A. Section 1.6 MHCP Health Care Delivery**

Minnesota Health Care Programs

### **1.6 Health Care Delivery**

Minnesota Health Care Program (MHCP) enrollees must follow guidelines for receiving medically necessary services.

#### **Managed Care**

Most MHCP enrollees receive services from a managed care health plan or ~~network of providers~~. The health plan coordinates the services provided. The Minnesota Department of Human Services (DHS) pays a fixed rate in advance for each enrollee.

New enrollees receive information and enrollment forms from ~~presentations at the county or tribal servicing agency or in the mail~~ MinnesotaCare. People must choose a health plan based on what plans are available in their county of residence.

Detailed information on managed care and managed care exemptions is in the Prepaid Minnesota Health Care Programs (PMHCP) Manual.

#### **Fee for Service**

Fee-for-service is a method of payment where the medical provider bills MHCP for specific, individual services. Enrollees must use a medical provider enrolled with MHCP, except in special circumstances. A directory of enrolled providers is available online.

#### **Covered Services**

The MHCP Summary of Coverage, Cost Sharing and Limits (DHS-3860) explains covered services and cost-sharing requirements.

#### **Out of State Services**

Enrollees who are temporarily absent from the state may receive MHCP services ~~when they are out of the state~~ in a medical emergency. For managed care, enrollees should contact the managed care health plan for these services.

A person who is temporarily living out of the country usually cannot receive MHCP services.

#### **Membership Card**

Each enrollee has a Person Master Index Number (PMI). The PMI is a unique number that verifies MHCP eligibility when obtaining health care services. MHCP enrollees receive a MHCP member card from the Minnesota Department of Human Services. People enrolled in a managed care plan receive a managed care organization membership card in addition to the MHCP member card.

## Legal Citations

Minnesota Statutes, section 256B

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  - [Revised page](#)

[Back to Top of Section](#)

## B. Section 2.1.1.2.1.1 MA Estate Recovery

Medical Assistance

### 2.1.1.2.1.1 Estate Recovery

Medical Assistance (MA) estate recovery is a program that the federal government requires the State of Minnesota to administer to receive MA funds. County agencies, on behalf of the state, assert MA claims against the estates of deceased MA enrollees, or the estates of the enrollees' spouses, to recover the amount MA paid for certain services described in state and federal law.

#### Recoverable Services

The following program services are subject to estate recovery:

- MA
  - MA services received by enrollees 55 years old or older who do not permanently reside in a medical institution:
    - All MA services received before January 1, 2014
    - The following MA services received on or after January 1, 2014:
      - Nursing facility services (NFS)
      - Home and community-based services (HCBS)
      - Hospital and prescription drug services received during the time the enrollee was provided NFS or HCBS
    - All MA services received by enrollees, regardless of age, who permanently reside in a medical institution
  - General Assistance Medical Care (GAMC)
  - Alternative Care (AC) services received on or after July 1, 2003
  - Medicare Savings Program (Qualified Medicare Beneficiary (QMB), Service Limited Medicare Beneficiary (SLMB), Qualified Individuals (QI) and Qualified Working Disabled (QWD)) services received before January 1, 2010

Generally, all these program services fall under the definition of "MA" for estate recovery purposes.

#### Nonrecoverable Services

The following program services are not subject to estate recovery:

- MA services not identified in Recoverable Services section
- MinnesotaCare

- Consolidated Chemical Dependency Treatment Fund (CCDTF)
- Alternative Care (AC) for services received prior to before July 1, 2003
- Medicare Savings Program (QMB, SLMB, QI and QWD) services received on or after January 1, 2010

## **Populations Affected by Estate Recovery**

Counties file a claim against the estate of an MA enrollee, or the estate of the enrollee's spouse, if the enrollee's eligibility basis was Families with Children and Adults (MA-FCA) when the enrollee received services on or after age 55.

Counties file a claim against the estate of an MA enrollee, or the estate of the enrollee's spouse, if the enrollee's eligibility basis was anything other than MA-FCA when the MA enrollee received services:

- At age 55 years old or older
- At any age in a medical institution for six months or longer without reasonable expectation of discharge

Counties file a claim against the estate of a GAMC enrollee, or the estate of the enrollee's spouse, for all GAMC services received at any age. The GAMC program no longer exists, but costs of services provided under GAMC while it was in existence are recoverable.

Counties file a claim against the estate of an AC enrollee, or the estate of the enrollee's spouse, who received services on or after July 1, 2003.

## **Amount of Recovery**

The maximum claim is the total amount of the following services, when applicable:

- MA
  - MA services received at on or after age 55 years old or older by enrollees who do not permanently reside in a medical institution:
    - All MA services received before January 1, 2014
    - The following MA services received on or after January 1, 2014:
      - NFS
      - HCBS
      - Hospital and prescription drug services received during the time the enrollee was provided NFS or HCBS
  - All MA services received at any age by enrollees who are permanently residing in a medical institution

- ~~MA received at any age while permanently residing in a medical institution~~
- GAMC received at any age
- AC received on and after July 1, 2003
- Medicare Savings Programs (QMB, SLMB, QI and QWD) received before January 1, 2010

## **Recoverable Assets**

County agencies may recover against the following assets:

- the person's probate estate;
- all of the person's interests or proceeds of those interests in real property the person owned as a life tenant, or as a joint tenant with a right of survivorship, that were established on or after August 1, 2003, and were owned at the time of the person's death;
  - Recovery on a life estate is limited to the value of the person's interest on the date of death as determined by the Life Estates Mortality Table.
- all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form at the time of the person's death, to the extent the interests or proceeds of those interests become part of the probate estate;
- all of the person's interests in joint accounts, multiple-party accounts, and pay-on-death accounts, brokerage accounts, investment accounts, or the proceeds of those accounts at the time of the person's death to the extent the interests become part of the probate estate; and
- assets conveyed to a survivor, heir, or assign of the person through survivorship, living trust, or other arrangements.

## **Methods of Estate Recovery**

Five methods of distributing property after a person dies allow county agencies to claim against an estate: probate, special administration, decree of descent, affidavit of collection of personal property, and transfer on death deed.

### **Probate**

The county of financial responsibility files a claim in a district court where the enrollee's or the enrollee's spouse's estate is being administered as soon after the enrollee's or enrollee's spouse's death as possible.

If the decedent or a deceased spouse of the decedent received assistance for which a claim could be filed, the personal representative of the estate, or the attorney for the personal representative, must serve the commissioner of human services with a Notice to the Commissioner of a possible MA claim.

The Notice to the Commissioner must include the decedent's and each of the decedent's deceased spouses' full names, dates of birth, and Social Security numbers. Once DHS receives the notice, DHS determines whether the decedent, or the decedent's deceased spouse(s), received MA. DHS then responds to the personal representative, or the attorney of the personal representative, with that determination. DHS also sends a response to the county of probate and to the county of financial responsibility (if different from the probate county).

~~A~~The county's claim within a probate proceeding must be in writing and contain the claimant's name and address, the amount of the claim, and the basis of the claim. ~~The county can present the claim can be presented~~ by delivering or mailing it to the personal representative or by filing it with the court administrator.

### **Special administration**

A special administration is ~~a~~ probate proceeding used when prompt action is necessary to protect and preserve a decedent's assets before a personal representative can be appointed, or if a personal representative cannot act. A special administrator is appointed to collect, manage, and preserve estate assets. To accomplish these duties, the special administrator has all the powers of a general personal representative.

If a county agency receives notice that a special administrator has been appointed to administer assets in an estate subject to an MA claim, the agency can present a claim against those assets.

### **Decree of Descent**

A determination of descent is a specialized court proceeding that can only occur when:

- a deceased person has been dead for more than three years,
- the deceased person left real or personal property, and
- the deceased person's estate has not yet gone through probate in Minnesota or in any other state.

Any interested party, including a county agency, may petition a court to determine the descent of the estate's property and assign title to the correct parties under law. After a petitioner or the petitioner's attorney files a petition for a decree of descent, he or she must apply to the county agency for a clearance of MA claims against the decedent or a deceased spouse who received benefits. This is called a clearance certificate.

The petitioner must submit the Application for Certificate of Clearance for Medical Assistance - Decree of Descent (DHS-6165A) to the county. The county completes the Certificate of Clearance for Medical Assistance Claim-Decree of Descent (DHS-6165B) and states the dollar amount for the MA claim. A satisfied certificate of clearance is required for clear title.

When the petitioner receives the certificate of clearance, he or she must file the certificate into the decree of descent proceedings as soon as possible. Filing a certificate with an MA claim amount has the effect of filing an MA claim that identifies the county as the claimant. The county

agency can only enforce its claim listed in the certificate against property of the decedent that is subject to the proceedings.

### **Affidavit of Collection of Personal Property**

Counties may use an Affidavit of Collection of Personal Property to collect against assets of a deceased MA enrollee or the assets of the recipient's deceased spouse. To serve an affidavit, the county must ensure that the following conditions are met:

- The enrollee has been deceased for at least 30 days.
- No application or petition for the appointment of a personal representative is pending or has been granted.
- The assets consist entirely of personal property.
- The value of the estate, less liens and encumbrances is \$5075,000 or less.

The county serves the affidavit on the financial institution, person or other entity holding the deceased person's money or property, including the contents of a safe deposit box. The institution, person, or other entity receiving the affidavit is only obligated to turn over the deceased person's money or other property still in its possession when the affidavit is served.

The institution is not obligated to turn over funds or property that has already been distributed to the joint owner or payable-on-death beneficiary. If the funds or property has already been distributed to the joint owner or payable-on-death beneficiary, the county can determine if they can assert a claim against the distributed assets through an affidavit of collection.

### **Transfer on Death Deed**

A transfer on death deed (TODD) allows title of real property to transfer to a named beneficiary at the death of the owner, or the last to die of multiple owners. At the time of the death of the grantor owner of a TODD, the grantee, or the grantee's attorney or agent, must apply to the county agency for an Application for Certificate of Clearance for Medical Assistance Claim-Transfer on Death Deed (DHS-5893) to request clearance of MA claims against the grantor owner or the grantor owner's deceased spouse.

Any MA claim is payable, in whole or in part, from the property identified in the certificate of clearance. The claim can be allowed, denied, and appealed in the same way as a claim in a probate proceeding. The county, or any person claiming an interest in the real property, may petition the district court for an order determining the validity of the MA claim and allowing sale of the real property for the recovery of MA benefits received. The net sale proceeds from such a sale must be used to pay MA claims if the MA claim is determined valid.

### **Exemptions from Estate Recovery**

An estate claim may be filed, but not collected on, when one or more of the following people survive the enrollee:

- A spouse
- A child younger than age 21
- A child of any age who is blind or totally and permanently disabled according to Supplemental Security Income program criteria

### **American Indian and Alaska Native exemptions**

The following American Indian and Alaska Native income, resources, and property are exempt from MA estate recovery:

- Certain American Indian and Alaska Native income and resources (such as interests in and income derived from Tribal land and other resources currently held in trust status, and judgment funds from the Indian Claims Commission and the U.S. Claims Court) that are exempt from Medicaid estate recovery by other laws and regulations;
- Ownership interest in trust or non-trust property, including real property and improvements for any of the following:
  - Property located on a reservation (any federally recognized Indian Tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established by Alaska Native Claims Settlement Act and Indian allotments) or near a reservation as designated by the Bureau of Indian Affairs. See the MinnesotaCare Health Care Reform Waiver Annual 2003 Report, Attachment D3 (Reservation Map/Contract Health Service Delivery Areas).
  - Property located within the most recent boundaries of a prior Federal reservation for any federally recognized Tribe not described in the paragraph above.
  - Protection of non-trust property described as on or near a reservation is limited to circumstances when it passes from an Indian to one or more relatives (by blood, adoption, or marriage), including Indians not enrolled as members of a Tribe and non-Indians, such as spouses and step-children, that their culture would protect as family members; to a Tribe or Tribal organization and/or to one or more Indians.
- Income left as a remainder in an estate derived from property protected in trust or non-trust located on a Federal reservation or within most recent boundaries, that was either collected by an Indian, or by a Tribe or Tribal organization and distributed to Indians, as long as the person can clearly trace it as coming from the protected property;
- Ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights, and income either collected by an Indian, or by a Tribe or Tribal organization and distributed to Indians derived from these sources as long as the person can clearly trace it as coming from protected sources; and
- Ownership interests in or usage rights to items not covered above that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional life style according to applicable Tribal law or custom.

## **Long-term Care Partnership**

An amount equal to the total amount paid by a Long-term Care Partnership (LTCP) policy is protected as an asset during the person's lifetime and from estate recovery after his or her death. The protected asset limit (PAL) is the amount equal to the amount of insurance benefits the LTCP policy paid on the enrollee's behalf. See the MA Long-term Care Partnership policy for more information.

## **Undue Hardship Waiver**

When a county agency claims against an estate, the county notifies all heirs and devisees of the decedent (whom the county can identify through reasonable diligence) about the MA claim. This Notice of Claim for Medical Assistance in Decedent's Death (DHS-4934) informs heirs and devisees about undue hardship waivers.

Any person entitled to this notice has a right to apply for waiver of the claim based on undue hardship. To do this, the person must submit an Application for a Waiver of Claim (DHS-4933) to the county agency.

- The county may fully or partially waive a claim if it determines there is undue hardship.
- The county may defer recovery if it determines there is undue hardship.

## **Legal Citations**

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United States Code, title 42, section 1396p

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[Back to Top of Section](#)

## C. Section 2.1.1.2.1.2 MA Liens

Medical Assistance

### 2.1.1.2.1.2 Liens

The Minnesota Department of Human Services (DHS) files liens against real property interests to recover the amount Medical Assistance (MA) paid for certain services described in state and federal law. A lien is a legal right or interest that a creditor has in another person's property until the creditor's claim has been repaid or the lien expires. Real property includes land and buildings on land.

The DHS lien process is separate from county-administered estate recovery, though liens help secure county claims against estate assets.

#### Liens on Real Property

There are two types of liens that DHS files to secure repayment of MA:

- MA liens (also called TEFRA liens)
- Notices of potential claim (NPC)

#### MA Lien (TEFRA Lien)

An MA lien is a lien filed against an MA enrollee's real property interest before the enrollee dies to secure repayment of MA costs of the enrollee's permanent stay in a medical institution. DHS collects on MA liens when real property is sold, which may happen before or after the enrollee dies.

DHS only files MA liens after an enrollee enters a "medical institution." Medical institutions include the following:

- Nursing facilities
- Skilled nursing facilities
- Intermediate care facilities
- Intermediate care facilities for persons with developmental disabilities
- Inpatient hospitals

When a person applies for MA coverage for services received in a medical institution, the county agency submits a Medical Assistance Lien and Notice of Potential Claim (NPC) Worksheet (DHS-3203) to DHS. A lien worker in the DHS Special Recovery Unit reviews the worksheet. For an MA lien to become effective, the lien worker must ensure the following has occurred:

- DHS has made MA payments on behalf of the enrollee

- DHS has obtained verification from the enrollee's attending physician that the enrollee cannot reasonably be expected to be discharged and return home
- The enrollee has been provided with notice of the lien and an opportunity for an administrative hearing
- All exemptions against the enforcement of the lien no longer apply
- The lien notice has been filed in the county recorder's office or memorialized on a certificate of title for the property.

If the above conditions are not met, DHS cannot collect on an MA lien. DHS must release an MA lien before the real property is sold if an enrollee leaves the medical institution and rejoins the community.

An MA lien is enforceable for 10 years from the date of its filing. DHS may renew the lien for an additional 10 years.

#### **NPC**

An NPC is a lien filed against an enrollee's real property interest to secure repayment of MA costs subject to estate recovery. DHS can file an NPC before or within one year after an MA enrollee's death. An NPC is not a lien until the enrollee dies. Until the enrollee dies, an NPC only serves as notice that an MA estate claim could be made against a specific interest in real property in the future.

NPCs are enforceable for 20 years from the date of filing, or from the date of the enrollee's death, whichever is later.

### **Populations Affected by Liens**

#### **MA Lien**

An MA lien can be filed against an MA enrollee's real property interests if the enrollee's eligibility basis was anything other than MA for Families with Children and Adults (MA-FCA) when the enrollee receives services at 54 years of age or younger when residing in a medical institution for six months or longer without reasonable expectation of discharge.

An MA lien can also be filed against an MA enrollee's real property interests if the enrollee's eligibility basis was anything other than MA-FCA when the enrollee receives services at 55 years of age or older when residing in a medical institution without reasonable expectation of discharge.

#### **NPC**

Only NPCs can be filed against an MA enrollee's real property interests if the enrollee's eligibility basis was MA-FCA when the enrollee received services on or after age 55. DHS cannot file MA liens against these enrollees' real property interests.

An NPC can also be filed against an MA enrollee's real property interests if the enrollee's eligibility basis was anything other than MA-FCA when the enrollee received services on or after age 55.

## Recoverable Services

The An MA lien can recover the costs of the following program services can be recovered by a lien:

- MA
  - MA services received by enrollees 55 years old or older who do not permanently reside in a medical institution:
    - All MA services received before January 1, 2014
    - The following MA services received on or after January 1, 2014:
      - Nursing facility services (NFS)
      - Home and community-based services (HCBS)
      - Hospital and prescription drug services received during the time the enrollee was provided NFS or HCBS
    - All MA services received by enrollees, regardless of age, who permanently reside in a medical institution
  - General Assistance Medical Care (GAMC)
  - Medicare Savings Program (QMB, SLMB, QI and QWD) services received before January 1, 2010

An NPC can recover the costs of the following program services:

- MA services received by enrollees 55 years old or older who do not permanently reside in a medical institution:
  - All MA services received before January 1, 2014
  - The following MA services received on or after January 1, 2014:
    - NFS
    - HCBS
    - Hospital and prescription drug services received during the time the enrollee was provided NFS or HCBS
- GAMC
- Medicare Savings Program (QMB, SLMB, QI and QWD) services received before January 1, 2010

Generally, all these program services fall under the definition of "MA" for lien collection purposes.

## Nonrecoverable Services

The costs of the following program services cannot be recovered by ~~an MA lien or NPC~~:

- MA services not identified in the Recoverable Services section
- MinnesotaCare
- Consolidated Chemical Dependency Treatment Fund (CCDTF)
- Alternative Care (AC)
  - Note that AC services received on or after July 1, 2003, are recoverable by an estate claim.
- Medicare Savings Program (QMB, SLMB, QI and QWD) services received on or after January 1, 2010

## Populations Affected by Liens

### ~~Notice of Potential Claim~~

~~Only a Notice of Potential Claim (NPC) can be filed against an MA enrollee's real property interests if the enrollee's eligibility basis was Families with Children and Adults (MA-FCA) when the enrollee received services on or after age 55. DHS cannot file MA liens against these enrollees' real property interests.~~

~~An NPC can be filed against an MA enrollee's real property interests if the enrollee's eligibility basis was anything other than MA-FCA when the MA enrollees received services on or after age 55.~~

### ~~MA Lien~~

~~An MA lien can be filed against an MA enrollee's real property interests if the enrollee's eligibility basis was anything other than MA-FCA when the MA enrollee receives services at 54 years of age or younger when residing in a medical institution for six months or longer without reasonable expectation of discharge~~

~~An MA lien can also be filed against an MA enrollee's real property interests if the enrollee's eligibility basis was anything other than MA-FCA when the MA enrollee receives services at 55 years of age or older when residing in a medical institution without reasonable expectation of discharge.~~

## Amount of Recovery

The maximum amount recoverable under an MA lien ~~or NPC~~ is the total amount of the following services, when applicable:

- MA
  - MA services received by enrollees at age 55 years old or older who do not permanently reside in a medical institution:
    - All MA services received before January 1, 2014
    - The following MA services received on or after January 1, 2014:
      - NFS
      - HCBS
      - Hospital and prescription drug services received during the time the enrollee was provided NFS or HCBS
    - All MA services received at any age while permanently residing in a medical institution
  - ~~MA received at any age while permanently residing in a medical institution~~
  - GAMC received at any age
  - Medicare Savings Program (QMB, SLMB, QI and QWD) services received before January 1, 2010

The maximum amount recoverable under an NPC is the total amount of the following services, when applicable:

- MA services received by enrollees 55 years old or older who do not permanently reside in a medical institution:
  - All MA services received before January 1, 2014
  - The following MA services received on or after January 1, 2014:
    - NFS
    - HCBS
    - Hospital and prescription drug services received during the time the enrollee was provided NFS or HCBS
- GAMC received at any age
- Medicare Savings Program (QMB, SLMB, QI and QWD) services received before January 1, 2010

## **Liens on Real Property**

~~There are two types of liens that DHS files to secure repayment of MA:~~

- ~~MA liens (also called TEFRA liens)~~
- ~~Notices of potential claim (NPCs)~~

### **Medical Assistance Liens (TEFRA Liens)**

An MA lien is a lien filed against an MA enrollee's real property interest before the enrollee dies to secure repayment of MA costs of the enrollee's permanent stay in a medical institution. DHS collects on MA liens when real property is sold, which may happen before or after the enrollee dies.

DHS only files MA liens after an enrollee enters a "medical institution." Medical institutions include the following:

- ⊖ Nursing facilities
- ⊖ Skilled nursing facilities
- ⊖ Intermediate care facilities
- ⊖ Intermediate care facilities for persons with developmental disabilities
- ⊖ Inpatient hospitals

When a person applies for MA coverage for services received in a medical institution, the county agency submits a Medical Assistance Lien and Notice of Potential Claim (NPC) Worksheet (DHS-3203) to DHS. A lien worker in the DHS Special Recovery Unit reviews the worksheet. For an MA lien to become effective, the lien worker must ensure the following has occurred:

- ⊖ DHS has made MA payments on behalf of the enrollee;
- ⊖ DHS has obtained verification from the enrollee's attending physician that the enrollee cannot reasonably be expected to be discharged and return home;
- ⊖ the enrollee has been provided with notice of the lien and an opportunity for an administrative hearing;
- ⊖ all exemptions against the enforcement of the lien no longer apply; and
- ⊖ the lien notice has been filed in the county recorder's office or memorialized on a certificate of title for the property.

If the above conditions are not met, DHS cannot collect on an MA lien. DHS must release an MA lien before the real property is sold if an enrollee leaves the medical institution and rejoins the community.

An MA lien is enforceable for 10 years from the date of its filing. DHS may renew the lien for an additional 10 years.

### **Notices of Potential Claim (NPCs)**

An NPC is a lien filed against an enrollee's real property interest to secure repayment of MA costs subject to estate recovery. DHS can file an NPC before, or within one year after, an MA enrollee's death. An NPC is not a lien until the enrollee dies. Until the enrollee dies, an NPC only serves as notice that an MA estate claim could be made against a specific interest in real property in the future.

~~NPCs are enforceable for 20 years from the date of filing, or from the date of the enrollee's death, whichever is later.~~

## **Life Estate and Joint Tenancy Interests**

If a person owns a life estate or joint tenancy interest in real property when he or she dies, and the interest was established on or after August 1, 2003, that interest remains subject to a lien after death to satisfy repayment of MA. Recovery on a life estate is limited to the value of the person's interest on the date of death as determined by the Life Estates Mortality Table.

## **Exemptions from Liens**

### **MA liens**

When an exemption applies to an MA lien, DHS cannot file the lien. Real property is exempt from an MA lien if the real property is the homestead of one or more of the following people:

- An enrollee's spouse
- An enrollee's child who is younger than age 21
- An enrollee's child of any age who is blind or totally and permanently disabled according to Supplemental Security Income program criteria
- An enrollee's child of any age who:
  - lived on the property for at least two years before the enrollee began receiving institutional care,
  - has continuously lived on the property since the enrollee's date of institutionalization, and
  - provided care that allowed the enrollee to remain in the community.
- An enrollee's sibling who:
  - has an equity interest in the homestead,
  - resided in the home for at least one year before the enrollee began receiving institutional care, and
  - has continuously lived on the property since the enrollee's date of institutionalization.

### **NPCs**

When an exemption applies to an NPC, DHS can file the lien but it cannot collect on the lien until (1) the enrollee dies and (2) the exemption is no longer in effect. Real property is exempt from an NPC if the real property is the homestead of one or more of the following people:

- An enrollee's spouse

- An enrollee's child who is younger than age 21
- An enrollee's child of any age who is blind or totally and permanently disabled according to Supplemental Security Income program criteria
- An enrollee's child or grandchild of any age who:
  - lived on the property for at least two years before the enrollee began receiving institutional care,
  - has continuously lived on the property since the enrollee's date of institutionalization, and
  - provided care that allowed the enrollee to remain in the community.
- An enrollee's sibling who:
  - resided in the home for at least one year before the enrollee began receiving institutional care and
  - has continuously lived on the property since the enrollee's date of institutionalization.

### **American Indian and Alaskan Native Exemptions**

The following American Indian and Alaska Native ownership interests in trust or non-trust property, including real property and improvements, are exempt from MA liens and NPCs:

- Property located on a reservation (any federally recognized Indian Tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established by Alaska Native Claims Settlement Act and Indian allotments) or near a reservation as designated by the Bureau of Indian Affairs
- Property located within the most recent boundaries of a prior federal reservation for any federally recognized Tribe not described in the paragraph above
- Protection of non-trust property described as on or near a reservation is limited to circumstances when it passes from an Indian to one or more relatives (by blood, adoption, or marriage) including Indians not enrolled as members of a Tribe and non-Indians, such as spouses and step-children, who their culture would protect as family members; to a Tribe or Tribal organization and/or to one or more Indians

## Legal Citations

Minnesota Statutes, section 256B.15

Minnesota Statutes, sections 514.980 to 514.985

United States Code, title 42, section 1396p

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[Back to Top of Section](#)

#### **D. Section 2.1.1.2.1.3 MA Third Party Liability**

Medical Assistance

### **2.1.1.2.1.3 Third Party Liability**

Third parties are people, entities, or programs that are, or may be, liable to pay all or part of the medical costs provided to Medical Assistance (MA) enrollees. A third party may be liable to pay all or part of the medical costs provided to MA enrollees because MA is always the payer of last resort, with limited exception, such as Indian Health Services. This means enrollees with Third Party Liability (TPL) will have medical costs paid by those sources before MA pays claims.

A third party payer includes, but is not limited to:

- Other health care coverage, such as employer sponsored insurance, Medicare, military insurance, COBRA, group or individual health insurance
- Medical support from absent parents
- Other sources such as automobile insurance, court judgments or settlements, workers' compensation, and fundraisers to pay for medical expenses

### **Other Health Care Coverage**

Applicants and enrollees must cooperate with identifying sources of existing health coverage and assign rights to other health care coverage. Those who fail to cooperate with Third Party Liability (TPL) requirements may be denied coverage or have their MA coverage ended. See the Minnesota Health Care Programs (MHCP) Cooperation policy for more information.

People must cooperate with TPL requirements by:

- Providing information to assist the Minnesota Department of Human Services (DHS) or an enrollee's managed care plan to pursue any third party liable for payment, and applying for other benefits that may help pay for their medical costs. This includes:
  - Cooperation with competing Medical Service Questionnaires (MSQs) when the person has received a service that potentially indicates a third party may be responsible
  - Giving complete information about third party policies
- Enrolling, when eligible, in other health care coverage that is determined to be cost effective
- Assigning rights to DHS for medical support and payment for medical care from any third party

Enrollees are not required to cooperate with TPL when they are Safe at Home (SAH) Address Confidentiality program participants and the policyholder is their probable assailant.

MA applicants and enrollees who are enrolled in individual health care coverage are required to maintain enrollment as a condition of MA eligibility if the coverage is cost effective and premiums are paid by the county, tribal or state servicing agency.

Enrollees who are eligible for group health care coverage are required to enroll as a condition of MA eligibility if the coverage:

- is cost effective and premiums are paid by the county, tribal or state servicing agency, or
- there is no cost to the client.

Enrollees must maintain or enroll in group health care coverage during an open enrollment period, if one is offered.

Not all people who are eligible for other health coverage are able to enroll or otherwise cooperate on their own behalf. MA eligibility continues for people who do not enroll in, cooperate with or assign rights to other health coverage if they cannot do so on their own behalf.

See the MA Cost Effective Insurance policy for more information.

## **Medical Support**

Medical support may include cash payments or health insurance coverage that a parent who does not live with their children must provide or are court-ordered to provide to meet the medical needs of their children. Parents and relative caretakers who are referred for medical support must cooperate with the county, tribal or state servicing agency as a condition of their own eligibility, unless they show good cause for non-cooperation. See the MA Medical Support policy for more information.

## **Other Third Party Liability**

In some situations, automobile insurance, homeowner insurance, court judgments or settlements, workers' compensation and other third parties may pay health care costs. See the MA Other Third Party Liability policy for more information.

## Legal Citations

Code of Federal Regulations, title 42, sections 433.135 to 433.154

[Code of Federal Regulations, title 42, section 435.610](#)

Federal Register, Vol.60, No.131 (July 10, 1995), page 35498

Minnesota Statues, section 256B.042

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  - [Revised page](#)

[Back to Top of Section](#)

## **E. Section 2.1.2.2.2 MA Immigration Status**

Medical Assistance

### **2.1.2.2.2 Immigration Status**

To receive Medical Assistance (MA), applicants must be U.S. citizens, U.S. nationals or certain lawfully present noncitizens. See the MA Citizenship policy for more information.

#### **MA Eligibility for Noncitizen Children under Age 21 and Pregnant Women**

The following people are eligible for MA, regardless of their specific immigration status:

- All lawfully present noncitizen children younger than age 21
- All lawfully present noncitizen pregnant women

People granted Deferred Action for Childhood Arrivals (DACA) are not lawfully present noncitizens for the purpose of determining health care eligibility. They are not eligible for MA.

See the Appendix H Lawfully Present Noncitizens appendix for more information about lawfully present noncitizens.

#### **MA Eligibility for Noncitizens Age 21 or Older and Not Pregnant**

To be eligible for MA, lawfully present noncitizens who are age 21 or older and not pregnant must have a qualified immigration status. People with certain qualified immigration statuses must wait five years after receiving the qualified immigration status before they are eligible for MA.

##### **Qualified Immigration Statuses Without a Five-Year Waiting Period**

Lawfully present noncitizens with the following qualified immigration statuses are eligible for MA **without** a five-year waiting period:

- Afghan or Iraqi Special Immigrants
- Amerasians
- American Indian noncitizens
- Asylees, including asylees who later adjust to lawful permanent resident status
- Conditional Entrants
- Cuban/Haitian Entrants
- Refugees, including refugees who later adjust to lawful permanent resident status
- T-Visa

- Trafficking victims
- Withholding of Removal

### **Qualified Immigration Statuses With a Five-Year Waiting Period**

Lawfully present noncitizens with the following qualified immigration statuses are eligible for MA **after** a five-year waiting period:

- Battered noncitizens
- Immigrants paroled for one year or more
- Lawful permanent residents (LPRs), except LPRs who adjusted from asylee or refugee status. LPRs who were formerly asylees or refugees are eligible for MA without a five-year wait.

### **MA for Noncitizens Not Otherwise Eligible for Medical Assistance**

Four programs are available to certain noncitizens who are not eligible for MA because of their immigration status.

- Children's Health Insurance Program (CHIP) funded MA may be available for pregnant women who are undocumented or noncitizens not otherwise eligible for MA. Eligibility may continue through the 60–day postpartum period. CHIP-funded MA is not available to people enrolled in other health care coverage.
- People who are receiving services from the Center for Victims of Torture (CVT) may be eligible for state funded MA-CVT
- People with a medical emergency may be eligible for Emergency Medical Assistance (EMA)
- People who meet specific criteria may be eligible for federally funded Refugee Medical Assistance (RMA)

### **Verification**

Immigration status may be verified electronically at the time of application. Applicants and enrollees whose immigration status cannot be verified electronically must provide proofs. See Immigration documentation types at HealthCare.gov for information about immigration documentation.

Eligibility is approved for applicants who meet all other eligibility criteria and attest to meeting the citizen or noncitizen eligibility requirements. A person approved for MA without verification of their immigration status has a reasonable opportunity to provide proof. A notice is sent to the enrollee to indicate they have 90 days, plus five days for mailing, from the date of the notice to provide proof. Coverage ends with a 10-day advance notice if the person fails to cooperate with the verification process.

The county, tribal or state servicing agency must help applicants and enrollees obtain required proofs.

## Legal Citations

Centers for Medicare and Medicaid Services State Health Officials letter re: Individuals with Deferred Action for Childhood Arrivals (August 28, 2012), at [www.medicaid.gov/Federal-Policy-Guidance/downloads/SHO-12-002.pdf](http://www.medicaid.gov/Federal-Policy-Guidance/downloads/SHO-12-002.pdf)

Centers for Medicare & Medicaid Services (CMS) State Health Officials letter re: Medicaid and CHIP Coverage of "Lawfully Residing" Children and Pregnant Women (July 1, 2010), at [www.cms.gov/smdl/downloads/SHO10006.pdf](http://www.cms.gov/smdl/downloads/SHO10006.pdf)

Children's Health Insurance Program Reauthorization Action of 2009 (CHIPRA), Public Law 111-3, Section 214

Code of Federal Regulations, title 42, section 435.406

Code of Federal Regulations, title 42, section 435.945

Code of Federal Regulations, title 42, section 435.949

Code of Federal Regulations, title 42, section 435.952

Minnesota Statutes, section 256B.06, subdivision 4

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193

United States Code, title 8, section 1641

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  - [Revised page](#)

[Back to Top of Section](#)

## **F. Section 2.2.3.3 MA-FCA Income Limit**

Medical Assistance for Families with Children and Adults

### **2.2.3.3 Income Limit**

To be eligible for Medical Assistance for Families with Children and Adults (MA-FCA) a person's income must be less than or equal to the applicable income limit. Income limits are based on federal poverty guidelines.

#### **Federal Poverty Guidelines**

The U.S. Department of Health and Human Services (HHS) issues federal poverty guidelines (FPG) each year. New guidelines are used beginning each July 1.

These guidelines determine income eligibility for MA-FCA. A person's applicable income limit is based on many factors, including, but not limited to:

- The basis of eligibility for Medical Assistance (MA)
- The number of people included in the family size
- Whether the person has a medical spenddown for MA

#### **Income Limits for Medical Assistance for Families with Children and Adults**

The following income limits determine eligibility for MA -FCA:

- Pregnant women: less than or equal to 278% FPG
- Infants under 2: less than or equal to 283% FPG
- Children 2 through 18: less than or equal to 275% FPG
- Children 19 and 20: less than or equal to 133% FPG
- Parent and caretaker relatives: less than or equal to 133% FPG
- Adults without children: less than or equal to 133% FPG
- Transition Year MA (TYMA) second six months: less than or equal to 185% FPG

Auto newborns and former foster children younger than age 26 have no income limit.

See the Minnesota Health Care Programs Income and Asset Guidelines (DHS-3461A) for more information regarding family size and income limits.

#### **Five Percent FPG Disregard**

When the person's income is above the income limit, an income disregard equal to 5% FPG is applied. When the person's income, minus the disregard, is within the income limit, they qualify for MA-FCA. This disregard effectively raises the MA-FCA income limits by 5%.

## **Safety Net Provision**

In certain situations, a person's income may be greater than his or her income standard for MA – FCA and be less than the MinnesotaCare income standard due to differences in how income is calculated for each program. This results in ineligibility for both programs. This may occur when:

- A lump sum is counted in the month received under the MA-FCA income methodology, but counted as annual income using the MinnesotaCare income methodology.
- Sponsor income is counted in the household income using the MA-FCA income methodology, but not counted in the MinnesotaCare income methodology.
- A child younger than age of 19 has income greater than the MA-FCA income limit, but has projected annual income less than 100% FPG for MinnesotaCare eligibility. This can happen because MA-FCA and MinnesotaCare have different household composition and family size policies.
- Current income is used in the MA-FCA income methodology, but projected annual income is used for the MinnesotaCare income methodology.

When these situations arise, the person's income is recalculated using the MinnesotaCare income methodology and compared to the applicable MA-FCA income limit. If the person's income is within the applicable MA-FCA income limit, they are eligible for MA.

## **Legal Citations**

~~Code of Federal Regulations, title 42, section 155.305~~

~~Code of Federal Regulations, title 42, section 150.350~~

Code of Federal Regulations, title 42, section 435.100

Code of Federal Regulations, title 42, section 435.116

Code of Federal Regulations, title 42, section 435.118

Code of Federal Regulations, title 42, section 435.119

Code of Federal Regulations, title 42, section 435.603

Minnesota Statutes, section 256B.056

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- Links:
  - [Archived page](#)
  - [Revised page](#)

[Back to Top of Section](#)

## **G. Section 2.2.3.4 MA-FCA Income Methodology**

Medical Assistance for Families with Children and Adults

### **2.2.3.4 Income Methodology**

Income eligibility for Medical Assistance for Families with Children and Adults (MA-FCA) is based on Modified Adjusted Gross Income (MAGI) as follows:

- Household income includes:
  - The types of income included in Federal taxable income, minus Federal income tax adjustments
  - Nontaxable foreign earned income and housing cost of citizens or residents of the United States living abroad
  - Nontaxable interest income
  - Nontaxable Social Security and tier one railroad retirement benefits
- Household income does not include:
  - Scholarships, awards or fellowship grants used for education purposes and not for living expenses
  - Certain American Indian/Alaska Native income
- Taxable lump sum income is counted in the month received. The non-taxable portion of the lump sum income is not counted.

### **Federal Taxable Income**

Federal taxable income are the different types of income that appear on lines 7 through 21 on the Internal Revenue Service (IRS) form 1040, lines 7 through 15 on the IRS form 1040-A and line 6 on IRS form 1040-EZ. Only the taxable portions of these types of income are included in the adjusted gross income. See the appropriate IRS form instructions for examples of federal taxable income. The general types of taxable income include the following:

- Wages, salary and tips
  - Payroll or pre-tax deductions for childcare, health insurance, retirement plans, transportation assistance and other employee benefits are not taxable and are not included in a person's adjusted gross income.
- Interest
- Dividends
- Taxable refunds, credits or offsets of state and local income taxes
- Alimony received

- Business income
- Capital gains
- Other gains
- Individual retirement account (IRA) distributions
- Pension and annuity payments
- Income from rental real estate, royalties, partnerships, S corporations, trusts, etc.
- Farm income
- Unemployment compensation
- Social Security benefits
- Other income

## **Federal Income Tax Adjustments**

The types of adjustments that appear on lines 23 through 35 on the 1040 or lines 16 through 19 on the 1040-A are subtracted from gross income to calculate the adjusted gross income. Only specific types of adjustments are allowed. See the appropriate IRS form instructions for specific information about the types of adjustments.

- Educator expenses
- Certain business expenses of reservists, performing artists and fee-basis government officials
- Health savings account
- Moving expenses
- Deductible portion of self-employment tax
- Self-employed Simplified Employee Pension (SEP), Savings Incentive Match Plan for Employees (SIMPLE) and qualified plans
- Self-employed health insurance
- Penalty on early withdrawal of savings
- Alimony paid (spousal support)
- IRA deduction
- Student loan interest
- Tuition and fees
- Domestic production activities

## **Scholarships, Awards or Fellowship Grants**

Taxable scholarships, awards or grants used for education purposes and not for living expenses (room and board) are excluded income under the MA-FCA income methodology.

## **American Indian and Alaska Native Income**

The following income is excluded under the MA-FCA income methodology for American Indian and Alaska Native people:

- Distributions from Alaska Native Corporations and Settlement Trusts
- Distributions from any property held in trust, subject to federal restrictions, located within the most recent boundaries of a prior federal reservation, or otherwise under the supervision of the Secretary of the Interior
- Distributions and payments from rents, leases, rights of way, royalties, usage rights or natural resource extraction and harvest from:
  - rights of ownership or possession in properties held in trust under the supervision of the Secretary of the Interior; or
  - federally protected rights regarding off-reservation hunting, fishing, gathering or usage of natural resources.
- Distributions resulting from real property ownership interests related to natural resources and improvements:
  - located on or near a reservation or within the most recent boundaries of a prior federal reservation, or
  - resulting from the exercise of federally protected rights relating to such real property ownership interests.
- Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom
- Student financial assistance provided under the Bureau of Indian Affairs education programs

## **Lump Sum Income**

Under MA-FCA, lump sum income is one-time income that is not predictable. Periodic reoccurring income is not lump sum income. Examples of lump sum income include, but are not limited to:

- Winnings (lottery, gambling)
- Insurance settlements
- Worker's Compensation settlements
- Inheritances

- Retroactive Retirements, Survivors and Disability Insurance (RSDI), Veterans Administration (VA) and unemployment insurance benefits

## Legal Citations

Code of Federal Regulations, title 42, section 155.305

Code of Federal Regulations, title 42, section 435.603

Minnesota Statutes, section 256B.057

Minnesota Statutes, section 256L.01

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  - [Archived page](#)
  - [Revised page](#)

[Back to Top of Section](#)

## **H. Section 3.1.2.2 MinnesotaCare Premiums and Cost Sharing**

MinnesotaCare

### **3.1.2.2 Premiums and Cost Sharing**

#### **Premiums**

Many MinnesotaCare enrollees must pay a monthly premium to establish and maintain coverage. The following enrollees have no premium:

- Households that include one or more military members, enrolled in MinnesotaCare, who have completed a tour of active duty within 24 months of MinnesotaCare eligibility, are exempt from paying MinnesotaCare premiums for up to 12 months
- Households with one or more American Indians or Alaska Natives enrolled in MinnesotaCare
- Households with income below 35% of the Federal Poverty Guidelines (FPG)
- Children younger than 21

American Indian and Alaska Native enrollees ~~are not required~~ need to provide proof of status to be exempt from paying MinnesotaCare premiums. ~~Some examples of acceptable proofs are listed on the American Indians webpage on MNsure.~~

The MinnesotaCare Premium Estimator Table (DHS-4139A) lists estimated premiums. The premium listed on a bill is the official calculation and the amount an enrollee must pay.

People who are required to pay a monthly premium must pay it to keep MinnesotaCare coverage. Ongoing MinnesotaCare premiums are due the 15th of the month. Premiums should be paid on time to avoid a gap in coverage.

#### **Grace Month**

MinnesotaCare enrollees who do not pay their premium before the coverage month, have a one-month grace period. An enrollee will remain covered during the grace month, regardless of whether the enrollee pays the premium for that month. Coverage stops at the end of the grace month if they fail to pay their past due premium.

To restart coverage, the person must pay the past-due premium for the grace month and the future month's premium. Coverage begins the first day of the month after the month in which the person pays both these premiums in full.

The MinnesotaCare grace month applies only to enrollees who are required to pay a MinnesotaCare premium. Household members who are not required to pay premiums, such as children under the age of 21, remain covered, regardless of whether other household members' premiums are paid.

## **Cost Sharing**

Cost sharing includes those costs a MinnesotaCare enrollee pays towards their health care. MinnesotaCare cost sharing includes deductibles, medical visit and prescription copays.

Adults age 21 or older have a:

- Monthly deductible
- Copays for non-preventative visits
- Copays for nonemergency ER visits
- Copays for eyeglasses
- Copays for prescription drugs

There is no cost sharing for mental health services.

American Indians and Alaska Natives enrolled in a federally recognized tribe are exempt from cost sharing. Verification of American Indian or Alaska Native status membership in a federally recognized tribe is required to be exempt from cost sharing. Acceptable verifications include a data match from an electronic data source or paper documentation.

Providers must serve MinnesotaCare enrollees who are not able to pay a copay or deductible at the time of the visit, however, that provider does not have to serve an enrollee again if their cost sharing is still not paid.

## **Legal Citations**

Code of Federal Regulations, title 42, section 600.505

Code of Federal Regulations, title 42, section 600.510

Code of Federal Regulations, title 42, section 600.525

Code of Federal Regulations, title 45, section 155.350

Minnesota Statutes, section 256L.03

Minnesota Statutes, section 256L.06

Minnesota Statutes, section 256L.15

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  - [Revised page](#)

[Back to Top of Section](#)

## I. Section 3.3.3 MinnesotaCare Income Methodology

MinnesotaCare

### 3.3.3 Income Methodology

Income eligibility for MinnesotaCare is based on projected Modified Adjusted Gross Income (MAGI) as follows:

- Household income includes:
  - The types of income included in Federal taxable income, minus Federal income tax adjustments
  - Nontaxable foreign earned income and housing cost of citizens or residents of the United States living abroad
  - Nontaxable interest income
  - Nontaxable Social Security and tier one railroad retirement benefits

#### Federal Taxable Income

Federal taxable income are the different types of income that appear on lines 7 through 21 on the Internal Revenue Service (IRS) form 1040, lines 7 through 15 on the IRS form 1040-A and line 6 on IRS form 1040-EZ. Only the taxable portions of these types of income are included in the adjusted gross income. See the appropriate IRS form instructions for examples of federal taxable income. The general types of taxable income include the following:

- Wages, salary and tips
  - Payroll or pre-tax deductions for childcare, health insurance, retirement plans, transportation assistance and other employee benefits are not taxable and are not included in a person's adjusted gross income.
- Interest
- Dividends
- Taxable refunds, credits or offsets of state and local income taxes
- Alimony received
- Business income
- Capital gains
- Other gains
- Individual retirement account (IRA) distributions
- Pension and annuity payments

- Income or from rental real estate, royalties, partnerships, S corporations, trusts, etc.
- Farm income
- Unemployment compensation
- Social Security benefits
- Other income

## **Federal Income Tax Adjustments**

The types of adjustments that appear on lines 23 through 35 on the 1040 or lines 16 through 19 on the 1040-A are subtracted from gross income to calculate the adjusted gross income. Only specific types of adjustments are allowed. See the appropriate IRS form instructions for specific information about the types of adjustments.

The types of tax adjustments include:

- Educator expenses
- Certain business expenses of reservists, performing artists and fee-basis government officials
- Health savings account
- Moving expenses
- Deductible portion of self-employment tax
- Self-employed Simplified Employee Pension (SEP), Savings Incentive Match Plan for Employees (SIMPLE) and qualified plans
- Self-employed health insurance
- Penalty on early withdrawal of savings
- Alimony paid (spousal support)
- IRA deduction
- Student loan interest
- Tuition and fees
- Domestic production activities

## **Legal Citations**

Code of Federal Regulations, title 26, section 1.36B-1

Code of Federal Regulations, title 42, section 600.5

Code of Federal Regulations, title 42, section 600.330 (b)

Minnesota Statues, section 256L.01

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  - [Revised page](#)

[Back to Top of Section](#)