



State of New Mexico Human Services Department Human Services Register



I. DEPARTMENT

NEW MEXICO HUMAN SERVICES DEPARTMENT

II. SUBJECT

MEDICARE SAVINGS PROGRAMS

III. PROGRAM AFFECTED

(TITLE XIX) MEDICAID

IV. ACTION

PROPOSED REGULATIONS

V. BACKGROUND SUMMARY

The Human Services Department (HSD) is proposing to update the Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare Beneficiaries (SLIMB), and the Qualified Individual (QI-1) Medicare Savings Programs (MSP) resource limits to match the Low Income Subsidy as required under the Medicare Improvements for Patients & Providers Act of 2008 (MIPPA). The changes include the increase of resource limits for an individual and couple from \$4,000 for an individual and \$6,000 for a couple to \$8,100 and \$12,910, respectively.

The MSP resource limit is required to change annually by the increase in the consumer price index. Since a change in the MSP resource limit occurs every January 1st, subsequent changes to the MSP resource limits will be incorporated into the annual COLA register.

While the proposed register is effective July 15, 2010, the increase in resource limits for MSP, per MIPPA, went into effect January 1, 2010. Income Support Division field offices have been instructed to use the higher resource limits for determining eligibility for MSP.

VI. REGULATIONS

These proposed regulation changes will be contained in 8.240.500 NMAC (QMB-500); 8.245.500 NMAC; 8.250.500 NMAC; of the Medicaid Eligibility Manual. There is also a new Part 14 in 8.200.510 NMAC that cites the resource amounts. This register is available on the Medical Assistance Division web site at <http://www.hsd.state.nm.us/mad/registers/2010>. The proposed rule changes are an attachment to the register. If you do not have Internet access, a copy of the regulations may be requested by contacting the Medical Assistance Division at 827-3156.

VII. EFFECTIVE DATE

The Department proposes to implement these regulations effective July 15, 2010.

VIII. PUBLIC HEARING

A public hearing to receive testimony on these proposed regulations will be held at 9:00 a.m. on Thursday, May 27, 2010, in the South Park conference room, 2055 S. Pacheco, Ste. 500-590, Santa Fe, New Mexico.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Division toll free at 1-888-997-2583 and ask for extension 7-3156. In Santa Fe call 827-3156. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the Medical Assistance Division upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

IX. ADDRESS

Interested persons may address written or recorded comments to:

Kathryn Falls, Secretary
Human Services Department
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

These comments must be received no later than 5:00 p.m. on May 27, 2010. Written and recorded comments will be given the same consideration as oral comments made at the public hearing. Interested persons may also address comments via electronic mail to: Magdalena.Romero@state.nm.us.

Copies of all comments will be made available by the Medical Assistance Division upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

X. PUBLICATIONS

Publication of these regulations approved by:

KATHRYN FALLS, SECRETARY
HUMAN SERVICES DEPARTMENT

TITLE 8 SOCIAL SERVICES
CHAPTER 200 MEDICAID ELIGIBILITY - GENERAL RECIPIENT POLICIES
PART 510 RESOURCE STANDARDS

8.200.510.6 OBJECTIVE: The objective of [~~these regulations~~] this rule is to provide eligibility policy and procedures for the medicaid program.
[8.200.510.6 NMAC - N, 1-1-01; A, 7-15-10]

8.200.510.14 RESOURCE AMOUNTS FOR SUPPLEMENTAL SECURITY INCOME (SSI) RELATED MEDICARE SAVINGS PROGRAMS (OMB, SLIMB/QII AND QD): The following resource standards are inclusive of the \$1,500 per person burial exclusion:

A.	Individual	\$8,100
B.	Couple	\$12,910

[8.200.510.14 NMAC - N, 1-1-01; A, 1-1-02; A, 7-15-10]

TITLE 8 SOCIAL SERVICES
CHAPTER 240 MEDICAID ELIGIBILITY - QUALIFIED MEDICARE BENEFICIARIES (QMB)
(CATEGORY 040)
PART 500 INCOME AND RESOURCE STANDARDS

8.240.500.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of the section.
 [2/1/95; 8.240.500.5 NMAC - Rn, 8 NMAC 4.QMB.000.5; A, 7/15/10]

8.240.500.6 OBJECTIVE: The objective of ~~[these regulations]~~ this rule is to provide eligibility policy and procedures for the medicaid program.
 [2/1/95; 8.240.500.6 NMAC - Rn, 8 NMAC 4.QMB.000.6; A, 7/15/10]

8.240.500.9 GENERAL NEED DETERMINATION: Applicants for, or recipients of, the qualified medicare beneficiaries (QMB) program must apply for and take all necessary steps to obtain any income or resources to which they may be entitled. Recipients of supplemental security income (SSI) or aid to families with dependent children (AFDC) who apply for QMB are excluded from this requirement. ~~[QMB recipients are not required to (re)apply for benefits under the Veterans and Survivors Improvement Act of 1978.]~~ A victim of crime is not required to accept victim compensation payments from a state-administered fund established to aid crime victims as a condition of eligibility.
 [2/1/95; 9/15/95; 8.240.500.9 NMAC - Rn, 8 NMAC 4.QMB.500; A, 7/15/10]

8.240.500.10 RESOURCE STANDARDS: The value of an applicant/recipient's individual countable resources must not exceed ~~[\$4,000]~~ the amount set forth in 8.200.510.14 NMAC. The resource limit for an applicant couple is ~~[\$6,000]~~ the amount set forth in 8.200.510.14 NMAC, resource amounts for supplemental security income (SSI) related medicare savings programs (OMB, SLIMB/OII and OD). An applicant/recipient with an ineligible spouse is eligible if the couple's countable resources do not exceed ~~[\$6,000]~~ the amount set forth in 8.200.510.14 NMAC, when resources are deemed. The resource determination is always made as of the first moment of the first day of the month. The applicant/recipient is ineligible for any month in which the countable resources exceed the current resource standard as of the first moment of the first day of the month. Changes in the amount of resources during a month do not affect eligibility for that month. See ~~[Section SSI-510, Supplemental Security Income Methodology]~~ 8.215.500.13 NMAC, countable resources, and 8.215.500.14 NMAC, resource exclusions, for specific information on exclusions, disregards, and calculation of countable resources.
 [2/1/95; 9/15/95; 8.240.500.10 NMAC - Rn, 8 NMAC 4.QMB.510; A, 7/15/10]

8.240.500.12 INCOME STANDARDS: The income ceiling for QMB eligibility is 100[%] percent of the federal income poverty guidelines. These guidelines are updated annually effective April 1st. See ~~[Section MAD-520, Income Standards]~~ 8.200.520 NMAC, Income Standards. If the applicant is a minor child, income must be deemed from the parent(s). Income must be verified and documented in the case record. See ~~[Section SSI-520, Supplemental Security Income Methodology]~~ 8.215.500.13 NMAC, countable resources, and 8.215.500.14 NMAC, resource exclusions, for specific information on exclusions, disregards, and calculation of countable income.
 [2/1/95; 9/15/95; 8.240.500.12 NMAC - Rn, 8 NMAC 4.QMB.520; A, 7/15/10]

8.240.500.13 UNEARNED INCOME: Unearned income exclusions: All social security and railroad retirement beneficiaries receive cost of living adjustments (COLAs) in January of each year. The ~~[income support specialist (ISS)]~~ ISD caseworker must disregard the COLA from January through March when (re)determining QMB eligibility. For redeterminations made in January, February and March and for new QMB applications registered in January, February or March, the ~~[ISS]~~ ISD caseworker uses the December social security and railroad retirement benefit amounts. For QMB applications registered from April through December, total gross income including the new COLA figures are used to determine income and compared to the new April federal poverty levels. This exclusion does not apply to other types of income.
 [2/1/95; 9/15/95; 8.240.500.13 NMAC - Rn, 8 NMAC 4.QMB.522; A, 7/15/10]

8.240.500.14 DEEMED INCOME:

A. Minor applicant/recipient living with parent(s): If the applicant/recipient is a minor who lives with a parent(s), deemed income from the parent(s) must be considered in accordance with ~~[Section SSI-523]~~ 8.215.500.21 NMAC, *deemed income*, and applicable subsections.

B. Applicant/recipient living with an ineligible spouse: If an applicant/recipient is living in the same household with an ineligible spouse, the income of the applicant/recipient and the income of the ineligible spouse must be considered in accordance with the following paragraphs. ~~[Information contained in Section SSI-523 regarding income determination methodology used when an applicant/recipient lives with an ineligible spouse no longer applies to the QMB program.]~~

(1) Evaluation of applicant/recipient's Income: The ~~[ISS]~~ ISD caseworker determines the amount of income available to the applicant/recipient using only the applicant/recipient's own income. Allow the standard \$20 disregard in accordance with instructions in ~~[Section SSI-525.2]~~ Subsection B of 8.215.500.22 NMAC of the medical assistance division policy manual. If the applicant/recipient has earned income, allow the earned income disregard as specified in ~~[Section SSI-525.3]~~ Subsection C of 8.215.500.22 NMAC. From the combined total of the applicant/recipient's remaining earned and unearned income, subtract up to the difference between 100 percent of the federal income poverty level for two ~~[(2)]~~ persons and 100 percent of the federal income poverty level for one ~~[(1)]~~ person. This is referred to as the FPL disregard. Compare the remaining countable income of the applicant/recipient to the individual income standard for the QMB program. If the applicant/recipient's remaining countable income is greater than the individual standard, s/he is ineligible for the QMB program. If the applicant/recipient's remaining countable income is less than the individual income standard, proceed to the following section.

(2) Evaluation of the ineligible spouse's gross income: The ~~[ISS]~~ ISD caseworker determines the total gross earned and unearned income of the ineligible spouse. From this combined amount, subtract a living allowance for any ineligible minor dependent child(ren) of either member of the couple who live(s) in the home. The deductible amount of the ineligible child(ren)'s living allowance cannot exceed the ineligible spouse's total gross income. The amount of the living allowance for an ineligible child is determined by subtracting the child's gross income from the figure which represents the difference between 100 percent of the federal income poverty level for two ~~[(2)]~~ persons and 100 percent of the federal income poverty level for one ~~[(1)]~~ person. A "child" must be under ~~[eighteen (18)]~~ 18 years of age or under ~~[twenty-one (21)]~~ 21 years of age if a full-time student at an institution of learning.

(3) Determination of countable income for eligibility purposes: The ~~[ISS]~~ ISD caseworker adds the gross unearned income of the applicant/recipient (without applying any disregards) to the gross unearned income of the ineligible spouse. The ~~[ISS]~~ ISD caseworker then adds the total gross earned income of the applicant/recipient to the total gross earned income of the ineligible spouse. From the combined total gross earnings of the couple, the ~~[ISS]~~ ISD caseworker subtracts one earned income disregard (the first \$65 of the total earnings plus 1/2 of the remainder). The resulting figure is the total combined countable earnings of the couple. Add the couple's total combined countable earned income to their total gross unearned income. From this figure subtract the standard \$20 disregard determined in accordance with ~~[Section SSI-525.2]~~ Subsection B of 8.215.500.22 NMAC. Next, subtract the amount of the FPL disregard which the applicant/recipient was allowed. Finally, subtract the amount of the ineligible child(ren)'s living allowance which was calculated in ~~[Section QMB-523.22]~~ Paragraph (2) of Subsection B of 8.240.500.14 NMAC. The resulting figure is the countable income of the couple. Compare it to the couple standard for QMB. If the countable income of the couple exceeds the couple standard, the applicant/recipient is ineligible for the QMB program. If the countable income of the couple is less than the couple standard, the applicant/recipient is eligible for the QMB program of the factor of income.

[2/1/95; 9/15/95; 8.240.500.14 NMAC - Rn, 8 NMAC 4.QMB.523; A, 7/15/10]

TITLE 8 SOCIAL SERVICES
CHAPTER 245 MEDICAID ELIGIBILITY - SPECIFIED LOW INCOME MEDICARE BENEFICIARIES
(SLIMB) (CATEGORY 045)
PART 500 INCOME AND RESOURCE STANDARDS

8.245.500.6 OBJECTIVE: The objective of ~~[these regulations]~~ this rule is to provide eligibility policy and procedures for the medicaid program.
[2/1/95; 8.245.500.6 NMAC - Rn, 8 NMAC 4.SMB.000.6, 12/1/09; A, 7/15/10]

8.245.500.10 RESOURCE STANDARDS: The value of an applicant/recipient's countable resources must not exceed ~~[\$4,000]~~ the amount set forth in 8.200.510.14 NMAC. The resource limit for an applicant couple is ~~[\$6,000]~~ cannot exceed the amount for a couple set forth in 8.200.510.14 NMAC. An applicant/recipient with an ineligible spouse is eligible if the couple's countable resources do not exceed ~~[\$6,000]~~ the amount set forth in 8.200.510.14 NMAC, resource amounts for supplemental security income (SSI) related medicare savings programs (OMB, SLIMB/OII and OD), when resources are deemed. A resource determination is always made as of the first moment of the first day of the month. An applicant/recipient is ineligible for any month in which the countable resources exceed the current resource standard as of the first moment of the first day of the month. Changes in the amount of resources during a month do not affect eligibility for that month. See ~~[8.215.500.11 NMAC, Resource Standards,]~~ 8.215.500.13 NMAC, countable resources, and 8.215.500.14 NMAC, resource exclusions, for information on exclusions, disregards, and countable resources.
[2/1/95; 8.245.500.10 NMAC - Rn, 8 NMAC 4.SMB.510 & A, 12/1/09; A, 7/15/10]

8.245.500.13 UNEARNED INCOME: Unearned income exclusions: All social security and railroad retirement beneficiaries receive cost of living adjustments (COLAs) in January of each year. The ~~[income support specialist (ISS)]~~ ISD caseworker must disregard the COLA from January through March when (re)determining SLIMB eligibility. For redeterminations made in January, February and March and for new SLIMB applications registered in January, February, or March, the ISS uses the December social security and railroad retirement benefit amounts. For SLIMB applications registered from April through December, total gross income including the new COLA figures are used to determine income and compared to the new April federal poverty levels. This exclusion does not apply to other types of income.
[2/1/95; 8.245.500.13 NMAC - Rn, 8 NMAC 4.SMB.522, 12/1/09; A, 7/15/10]

TITLE 8 SOCIAL SERVICES
CHAPTER 250 MEDICAID ELIGIBILITY - QUALIFIED INDIVIDUALS WHOSE INCOME EXCEEDS
QMB AND SLIMB (CATEGORY 045)
PART 500 INCOME AND RESOURCE STANDARDS

8.250.500.10 RESOURCE STANDARDS: The value of an applicant/recipient's countable resources must not exceed ~~[\$4,000]~~ the amount set forth in 8.200.510.14 NMAC. The resource limit for an applicant couple is ~~[\$6,000]~~ cannot exceed the amount for a couple set forth in 8.200.510.14 NMAC. An applicant/recipient with an ineligible spouse is eligible if the couple's countable resources do not exceed ~~[\$6,000]~~ the amount set forth in 8.200.510.14 NMAC, resource amounts for supplemental security income (SSI) related medicare savings programs (QMB, SLIMB/QI1 and QD), when resources are deemed. A resource determination is always made as of the first moment of the first day of the month. An applicant/recipient is ineligible for any month in which the countable resources exceed the current resource standard as of the first moment of the first day of the month. Changes in the amount of resources during a month do not affect eligibility for that month. See ~~[8.215.500.11 NMAC, Resource Standards,]~~ 8.215.500.13 NMAC, countable resources, and 8.215.500.14 NMAC, resource exclusions, for information on exclusions, disregards, and countable resources.

[4/30/98; 8.250.500.10 NMAC - Rn, 8 NMAC 4.QIS.510 & A, 12/1/09; A, 7/15/10]

8.250.500.13 UNEARNED INCOME: Unearned income exclusions: All social security and railroad retirement beneficiaries receive cost of living adjustments (COLAs) in January of each year. The ~~income support specialist (ISS)]~~ ISD caseworker must disregard the COLA from January through March when (re)determining QI1s eligibility. For redeterminations made in January, February and March and for new QI1 applications registered in January, February or March, the ISS uses the December social security and railroad retirement benefit amounts. For QI1 applications registered from April through December, total gross income including the new COLA figures are used to determine income and compared to the new April federal poverty levels. This exclusion does not apply to other types of income.

[4/30/98; 8.250.500.13 NMAC - Rn, 8 NMAC 4.QIS.522, 12/1/09; A, 7/15/10]