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**CHILDREN UNDER 19: 185 PERCENT OR 235 PERCENT OF POVERTY GUIDELINES
CATEGORY 032**

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TITLE 8 SOCIAL SERVICES**CHAPTER 232 MEDICAID ELIGIBILITY - CHILDREN UNDER 19: 185 PERCENT OR 235 PERCENT OF POVERTY GUIDELINES - CATEGORY 032****PART 500 INCOME AND RESOURCE STANDARDS**

8.232.500.1 ISSUING AGENCY: New Mexico Human Services Department.

[8.232.500.1 NMAC - Rp, 8 NMAC 4.KID.000.1, 8/1/06]

8.232.500.2 SCOPE: The rule applies to the general public

[8.232.500.2 NMAC - Rp, 8 NMAC 4.KID.000.2, 8/1/06]

8.232.500.3 STATUTORY AUTHORITY: The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. See Section 27-2-12 et seq. NMSA 1978 (Repl. Pamp. 1991).

[8.232.500.3 NMAC - Rp, 8 NMAC 4.KID.000.3, 8/1/06]

8.232.500.4 DURATION: Permanent

[8.232.500.4 NMAC - Rp, 8 NMAC 4.KID.000.4, 8/1/06]

8.232.500.5 EFFECTIVE DATE: August 1, 2006, unless a later date is cited at the end of a section.

[8.232.500.5 NMAC - Rp, 8 NMAC 4.KID.000.5, 8/1/06]

8.232.500.6 OBJECTIVE: The objective of these regulations is to provide eligibility policy and procedures for the medicaid program.

[8.232.500.6 NMAC - Rp, 8 NMAC 4.KID.000.6, 8/1/06]

8.232.500.7 DEFINITIONS: [RESERVED]

8.232.500.8 [RESERVED]

8.232.500.9 NEED DETERMINATION:

[8.232.500.9 NMAC - Rp, 8 NMAC 4.KID.500, 8/1/06]

8.232.500.10 RESOURCE STANDARDS: There are no resource standards for applicants/recipients under this category.

[8.232.500.10 NMAC - Rp, 8 NMAC 4.KID.510, 8/1/06]

8.232.500.11 INCOME STANDARDS:

A. AFDC income methodology is used in calculating income for category 032 except for income conversion factors which are 4.0 (paid weekly) and 2.0 (paid biweekly). The applicant/recipient must be a member of an assistance unit with income, after application of deductions and disregards specified in 8.232.500.12 NMAC, of less than 185 percent of the federal poverty guidelines for the size of the assistance unit. See 8.200.520.10 NMAC, *Income Standards*.

B. The income standard is determined by the number of members in the assistance unit, and includes the needs of unborn children, if applicable.

C. Income of parent(s) is considered available to the applicant child(ren) if the parent(s) and children live together.

D. No income from alien sponsor(s), stepparent(s), or grandparent(s) is considered available to the assistance unit.

[8.232.500.11 NMAC - Rp, 8 NMAC 4.KID.520, 8/1/06; A/E, 4/1/10]

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8.232.500.12 EARNED INCOME: Countable earned income is that remaining after all earned income deductions and disregards which are allowable under the old AFDC program methodology, and for which the family qualifies, have been deducted from gross earnings.

A. Earned income deductions:

(1) **Earnings deductions:** Deductions from gross earned income shall be made in determining the net countable earned income of benefit group members.

(a) Earned income deductions may not exceed the amount of an individual's gross earned income.

(b) The earned income deductions may not be used to reduce unearned income, nor may deductions that are not used by one benefit group member be allocated against the earnings of another benefit group member.

(c) An allowable deduction that is not verified at the time of certification or processing of the semiannual report shall not be allowed as a deduction. A deduction verified after certification shall be processed as a change.

(d) An allowable deduction that is verified after a semiannual report is processed shall be handled as set forth in Subsection I of 8.102.120.11 NMAC.

(2) **Business expenses and self-employment costs:** Business expenses and self-employment costs shall be deducted from the gross earnings of a self-employed benefit group member. The income after all allowable business expenses and self-employment costs shall be counted as the gross income of the benefit group member. To be eligible for this expense a tax ID shall be required.

(a) **Allowable expenses and costs:** Allowable costs of producing self-employment income include, but are not limited to:

(i) costs of materials and supplies;

(ii) business travel, but not personal commuting expenses, calculated at \$.25 per mile, unless the self-employed individual can prove that the actual expense is greater;

(iii) business taxes, including occupational taxes, gross receipts taxes, property taxes on a place of business other than the home, and business licenses;

(iv) rental of equipment, tools, and machinery;

(v) rent expense for the place of business, except for the place of business when the individual operates the business out of the individual's residence, unless the individual can demonstrate that the expense has been allowed under federal income tax guidelines;

(vi) payments on the principal of the purchase price of income producing real estate and capital assets, machinery, equipment and other durable goods;

(vii) interest paid to purchase income producing property.

(b) **Expenses and costs not allowed:**

(i) costs for depreciation, personal business, entertainment expenses, personal transportation to and from work;

(ii) expenses or costs of self-employment that are reimbursed by other agencies cannot also be claimed as costs of self-employment, such as but not limited to, reimbursements made through USDA to individuals who provide home child care.

(c) Expenses or costs that exceed self-employment income shall not be deducted from other income.

(3) **Child care deductions allowed:** Out of pocket expenses for child care that is necessary due to employment of a benefit group member shall be allowed.

(a) **Child care deduction for households containing only children ages 0 – 5 years:** Deduct an amount equal to the actual cost of child care, but not less than \$375 total cost per month.

(b) **Child care deduction for households containing only child(ren) age 6 years and older:**

(i) Deduct the actual amount up to \$175 per month per child age 6 to 12 years if the wage earner is employed full time.

(ii) Deduct the actual amount up to \$87.50 per month per child age 6 to 12 years if the wage earner is employed part time.

(c) **Child care deduction for households with children less than age 6 years and children over age 6 years:** Deduct the appropriate child care deductions depending on the age(s) of the children.

(i) When determining eligibility for children ages 0 – 5, deduct an amount equal to the actual cost of child care for all children in the household 0 – 12 years, but not less than \$375 total cost per month.

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(ii) When determining eligibility for children age 6 years and older, deduct the actual amount up to \$175 per month per child for all children in the household age 2 -12 years if the wage earner is employed full time. Deduct the actual amount up to \$87.50 per month per child for any children in the household age 2 – 12 years if the wage earner is employed part time. Deduct the actual amount up to \$200 per month per child for all children in the household under 2 years of age if the wage earner is employed full time. Deduct the actual amount up to \$100 per month per child for all children in the household under 2 years of age if the wage earner is employed part time.

B. Earned income disregards: Earned income disregards are allowed based on ages of the children in the household:

- (1) households with children age(s) 0 – 5 years: disregard \$750 per month.
- (2) households with children age(s) 6 – 19 years: disregard \$90 per month per employed parent.
- (3) households with children in both age groups:

(a) first apply the \$750 per month disregard. Only children age(s) 0 – 5 years can be eligible using this disregard.

(b) for children age(s) 6 – 19 years apply only the \$90 per employed parent disregard.

[8.232.500.12 NMAC - Rp, 8 NMAC 4.KID.521, 8/1/06]

8.232.500.13 COUNTABLE INCOME: Countable income is determined by subtracting the earned income deductions specified in 8.232.500.12 NMAC and following subsections from the gross earned income of the assistance unit. Add the unit's gross unearned income to the earned income total as determined above.

[8.232.500.13 NMAC - Rp, 8 NMAC 4.KID.526, 8/1/06]

8.232.500.14 LUMP SUM PAYMENTS: Lump sum payments are considered income in the month received, unless specifically excluded under medicaid regulations. Lump sum payments are considered resources, if retained, as of the first of the moment of the first day of the following month. See 8.232.500.10 NMAC.

[8.232.500.14 NMAC - Rp, 8 NMAC 4.KID.527, 8/1/06]

HISTORY OF 8.232.500 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center.

ISD 290.1000, Medical Assistance for Woman and Children, filed 11/13/84.

ISD FA 830, Medical Assistance for Woman and Children and AFDC Related Groups, filed 2/10/88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups, filed 8/11/88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 9/8/88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 9/30/88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12/1/88.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 3/31/89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6/8/89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12/28/89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 12/29/89.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 3/1/91.

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6/5/92.

History of Repealed Material:

MAD Rule 830, Medical Assistance for Women and Children and AFDC - Related Groups; filed 6/5/92 - Repealed effective 2/1/95.

8 NMAC 4.KID.500, Income and Resource Standards, filed 7/25/95 - Repealed effective 8/1/2006.