

**I-1530 NEED – SSI-RELATED INCOME****I-1531 INCOME UNIT**

The income unit is the individual or group of individuals whose income must be considered in determining eligibility.

The income unit must include the:

- Applicant/beneficiary,
- Spouse living in the home, except in LTC and HCBS programs, and
- Parent(s) living in the home, when the applicant is a minor.

**Exception:**

If a child is an intellectually or developmentally disabled applicant coming from a non-institutionalized setting, include the parent(s) living in the home in the income unit the first calendar month of Medicaid approved participation only. Refer to [H-900 Home and Community Based Services](#).

If the applicant lives with a spouse who is an SSI beneficiary, include the SSI beneficiary in the income unit but do not count the beneficiary's SSI income.

**I-1532 POTENTIAL INCOME (Applying for Other Benefits)**

If the applicant/beneficiary is eligible for other benefits, s/he must apply for and accept those benefits.

Count as though received any benefits for which the applicant/beneficiary may be entitled but refuses to apply for or receive, except when the individual presents evidence of good cause.

Consider each request for a good cause exception. Good cause is present when:

- The applicant/beneficiary is mentally or physically incapable of filing for benefits and does not have an authorized representative to act on their behalf,
- Death or serious illness in the applicant/beneficiary's family,

- Transportation problems,
- The applicant/beneficiary had previously filed and was denied benefits for reasons that have not changed, or
- There is a delay in payment for reasons, which are beyond the applicant/beneficiary's control.

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If the applicant/beneficiary is eligible for a benefit but chooses not to receive the benefit:

- Verify the amount of the benefit available, and
- Budget that amount as though actually received when determining eligibility and, if LTC, patient liability.

**Exception:**

If an individual has a life insurance policy which allows him/her to receive their death benefit while living, and the individual meets the insurance company's requirements for receiving such proceeds, s/he is not required to file for such proceeds.

*If unable to determine the amount of benefits available because of the applicant/beneficiary inability or refusal to cooperate, refer to [G-1100 Cooperation](#).*

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**Referrals**

Refer applicants/beneficiaries for the following benefits and follow up after referral as appropriate:

- **Retirement Survival Disability Income (RSDI)**

Refer applicants/beneficiaries who are potentially eligible to SSA.

- **Veterans Administration (VA) Aid and Attendance Benefits**

Refer all veterans, veterans' widows, and eligible parents of veterans to the Parish Office of Veterans Affairs for possible

benefits when HCBS services begin or upon entry into an LTC facility.

- **VA Pension Assistance**

Refer veterans potentially eligible for a pension to the Parish Office of Veterans Affairs. The VA Office will also explore eligibility for improved VA pension assistance.

**Note:**

SSI is not considered potential income. An applicant/beneficiary is not required to apply for SSI benefits.

**I-1533      RESERVED**

**I-1534 TYPES OF INCOME (SSI-Related)**

Begin with gross income when determining eligibility.

Income exclusions are listed when exclusion is allowable for that type of income. The programs for which the exclusion is allowed are also noted. If no exclusion is listed, none shall be given.

For LTC cases, all income counted is used in determining eligibility and patient liability unless otherwise indicated.

**ADOPTION SUBSIDY****State General Funds**

Do not count as income to the child.

State-funded subsidies are counted as unearned income to the adoptive parent(s).

**Title IV-E**

Do not count as income to the adoptive parent(s).

Count as unearned income to the adopted child.

**Note:**

Adoption subsidy payments made to the adoptive parents are based on the social, emotional, and medical needs of the child, and are not based on the financial need of adopting parents.

**AGENT ORANGE SETTLEMENT PAYMENTS**

Do not count any payments made from the Agent Orange Settlement Fund or any other fund established as a result of a settlement in the Agent Orange Product Liability Litigation.

Do not count any interest earned on these payments as income in the month of receipt, but as a resource the following month.

**AGRICULTURE AND STABILIZATION/CONSERVATION PAYMENTS**

Count as unearned income.

## NON-CITIZEN SPONSOR'S INCOME

Count income deemed from the Non-citizen Sponsor as unearned income. Refer to [I-1424.2 Sponsor to Non-Citizen Deeming](#).

Consider the income of the sponsor and of their legal or non-legal spouse living with them.

Sponsor to Non-citizen deeming is applicable for three years, beginning with the month that the Bureau of Citizenship and Immigration Services (BCIS) grants permanent resident status.

Do not apply sponsor-to- Non-citizen deeming in the following situations:

- The applicant/beneficiary becomes ill or disabled after the date of entry into the United States. This situation applies to an applicant/beneficiary in the A category, as well as in D category and B category.
- The Non-citizen is a permanent resident under color of law.
- The sponsor is an organization.
- The Non-citizen's sponsor is his/her spouse and the sponsor/spouse is eligible for SSI. Treat as an eligible couple.

## ALIMONY

Count any court-ordered alimony received as unearned income.

Voluntary alimony or support received is considered a contribution.

## ANNUITY

Count as unearned income.

## ASSISTANCE BASED ON NEED

Do not count assistance based on need.

Assistance based on need is assistance:

- Provided under a program which uses income as a factor of eligibility, and
- Funded completely by a state, a political subdivision of a state, or a combination of such jurisdictions.

**Note:**

If a program uses income to determine payment amount but not eligibility, it is not assistance based on need.

Refer to **Income Based on Need**.

**BLACK LUNG DISEASE BENEFITS**

Count as unearned income.

**CAPITAL GAINS DISTRIBUTIONS**

Count as unearned income.

**CASH AND IN-KIND REPLACEMENT ITEMS**

Do not count cash and in-kind items that are received from any sources for the replacement or repair of lost, damaged, or stolen excluded resources.

**Note:**

Do not count the interest earned on this cash during the period it is excluded as a resource. Refer to [I-1630, Need – SSI-Related Resources](#).

**CENSUS BUREAU EARNINGS**

Do not count earnings from the temporary employment of individuals by the Census Bureau in conducting Census activities.

**CHILD CARE FOOD PROGRAM PAYMENTS**

Count as earned income from self-employment payments received for providing meals to children in day care.

The costs of purchasing, preparing, and serving the meals are considered deductible business expenses.

## **CHILD SUPPORT**

Count as unearned income to the child any court-ordered or voluntary child support.

Exclude one third of court-ordered child support payments in a child's SSI-related MNP case.

### **Note:**

When deeming income, the one-third child support disregard is not applicable when calculating income of an ineligible child.

In LTC, do not exclude the one-third child support disregard in eligibility determination or PLI determination.

## **COMMISSIONS**

Refer to **Wages, Salaries and Commissions**.

## **COMMUNITY SPOUSE'S INCOME**

Count as unearned income to the community spouse any income allocated from an institutionalized spouse.

## **CONTRACTUAL INCOME**

Count as earned income in the month of receipt money received under an implied, oral, or written contract for services or goods.

## **CONTRIBUTIONS**

Count as unearned income.

A contribution may be:

- In cash, or

- In-kind for the purpose of meeting basic needs.

### **CONTRIBUTIONS FROM TAX-EXEMPT ORGANIZATIONS**

Do not count the following gifts, made on or after October 28, 1996, from tax-exempt organizations, such as the Make-A-Wish Foundation, to children under age 18 who have a life-threatening condition.

- Any in-kind gift, not converted to cash; and
- A cash gift to the extent that the total cash excluded under this provision does not exceed \$2,000 in any calendar year. Cash in excess of \$2,000 received in a calendar year is subject to regular income counting rules.

If an in-kind gift is converted to cash, the cash is counted as income in the month converted.

Count interest paid on unspent portion as unearned income in the month of receipt and as a resource the following month.

### **DEATH BENEFITS**

Count as unearned income that portion of the benefit that exceeds expenses.

A death benefit is a benefit other than life insurance received as the result of another individual's death.

Examples of death benefits include:

- Death benefits from labor unions,
- Death benefits from SSA or Railroad Retirement paid to the:
  - legal or non-legal spouse who was living with the individual, or
  - the spouse or child receiving RSDI or Railroad Retirement benefits from the individual's record.
- Veterans Administration burial benefits, and
- Cash given by relatives, friends, or a community group (e.g.,

benevolent society) to assist with expenses related to the death.

Exclude that portion of death benefits which is used to pay expenses for the deceased person's last illness and burial.

**Note:**

Recurring survivor benefits (e.g., those received under RSDI or private pension programs) are not death benefits. Therefore, expenses of last illness and burial cannot be deducted from these benefits.

Last illness and burial expenses include:

- Related hospital and medical expenses,
- Funeral, burial plot, and interment expenses, and
- Other related expenses.

Verify all last illness and burial expenses. If an expense has been incurred but not paid, assume that the applicant/beneficiary will pay the expense from the death benefits.

**Note:**

Count as a resource any part of the death benefit that the applicant/beneficiary has not spent by the first day of the second month after the month of receipt.

Verify the amount of death benefits received by a statement from the payor of the benefit.

Accept the applicant/beneficiary's statement as to the amount of cash given by relatives, friends, or community groups.

## DISABILITY PAYMENTS

Count as unearned income.

**Exception:**

Do not count credit disability insurance payments made directly to a loan or mortgage company.

### See Sick Pay

## DISASTER ASSISTANCE

Do not count federal assistance received as a result of a federally declared natural disaster.

Exclude as income and resources interest paid on unspent portion.

Assistance from 'The Road Home Program' is considered disaster assistance, as it is 100% federally funded and a result of a presidentially declared disaster.

Many types of Pandemic-related assistance under the Coronavirus Aid, Relief, and Economic Security Act (CARES ACT), the Consolidated Appropriations Act (CAA), and the American Rescue Plan Act (ARPA) are considered disaster assistance and will be permanently disregarded for SSI-related income and resources for all individuals involved in computation of benefits. The Pandemic-related assistance meeting criteria for disaster assistance exclusions are:

- Economic Impact Payments
- All Unemployment Benefits (regular and pandemic) during the pandemic period,
- Paycheck Protection Program
- Economic Injury Disaster Loan Program
- Tribal Payments from the Coronavirus State and Local Fiscal Recovery fund
- State Stimulus Payments
- Covid-19 Funeral Assistance
- Emergency Rental Assistance
- Emergency Assistance for Rural Housing Assistance
- Homeowner Assistance Fund
- Housing Assistance and Supportive Services Programs for Native Americans

- Higher Education Emergency Relief Fund
- Supporting Foster Youth and Families during the Pandemic
- COVID-19 Veteran Rapid Restraining Assistance Program
- Emergency Assistance to Children and Families through the Pandemic Emergency Assistance Fund
- Coronavirus Food Assistance Program-Direct Payments to Farmers and Ranchers
- Farm Loan Assistance for Socially Disadvantaged Farmers and Ranchers
- USDA Assistance and Support for Socially Disadvantaged Farmers, Ranchers, Forest Land Owners and Operators, and Groups.
- Chicago Resilient Communities Cash Assistance Pilot

## DIVIDENDS

Do not count as income in the month of receipt. Count as a resource the month following the month of receipt. This applies to all dividends.

**Note:**

Dividends paid on a life insurance policy that are left in the custody of the insurer to accumulate interest are considered a resource.

Do not count interest paid on dividends as income in the month of receipt, but as a resource the following month.

## DOMESTIC VOLUNTEER SERVICE ACT

Do not count.

Examples of these types of payments are reimbursements to individual volunteers serving:

- As foster grandparents,
- As senior health aides,

- As senior health companions,
- In SCORE, ACE, VISTA, or
- In any other program under Titles I, II, and III of P.L.93-113.

### **DONATIONS OR GIFTS**

Count as unearned income to the individual a donation of cash or real property.

To be a donation, an item must:

- Be given irrevocably,
- Not be compensation or return for services, and
- Be given without legal obligation on the part of the donor.

A donation may be:

- In cash, or
- In-kind for the purpose of meeting basic needs.

A donation or gift received as the result of a death is considered a death benefit. See **Death Benefits**.

### **EARNED INCOME CREDITS (EIC)**

Do not count EIC tax payments received either as advances or as refunds.

Count interest paid on unspent portion as unearned income in the month of receipt and as a resource the following month.

### **ECONOMIC IMPACT PAYMENT**

Refer to **DISASTER ASSISTANCE** \*\*

## EDUCATIONAL ASSISTANCE (GRANTS, SCHOLARSHIPS, FELLOWSHIPS, GIFTS)

Effective June 1, 2004, any portion of a grant, scholarship, fellowship, or gift used for paying tuition, fees, or other necessary educational expenses at any educational institution, including vocational or technical, is excluded from income. Any portion of such assistance not used to pay for education but will be used for an educational expense at a future date is excluded from income in the month of receipt. This exclusion does not apply to any portion set aside or actually used for food, clothing, or shelter. See [Z-100 Maximum SSI Student Child Earned Income Exclusion Amounts](#).

Educational expenses include laboratory fees, student activity fees, transportation, stationery supplies, books, technology fees, and impairment-related expenses necessary to attend school or perform schoolwork.

Any portion of assistance not used or not set aside for paying tuition, fees, or other necessary educational expenses is income in the month received and a resource the month after the month of receipt. See [I-1634 Earned Income Tax Credits \(EITC\) and Child Tax Credits \(CTC\)](#) for treatment as a resource.

If a portion of the funds that have been set aside to pay for future expenses is used for some other purpose, the funds are income at the earliest of the following points: in the month that it is spent, or the month the individual no longer intends to use the funds for education.

### **Exception:**

Do not count any student financial assistance provided under Title IV of the Higher Education Act of 1965 or Bureau of Indian Affairs regardless of use. There is no time limit on the exclusion.

Do not count as income any interest or dividends paid on unspent educational assistance. However, any interest or dividends paid on unspent funds not intended to be used for education is counted as unearned income in month of receipt.

## ENERGY ASSISTANCE

Do not count utility supplement payments made from Department of Housing and Urban Development (HUD), local housing authorities, or governmental housing programs, whether they are in the form of cash,

in kind, or vendor payment.

Count as unearned income any other payments made directly to the beneficiary.

## FELLOWSHIPS

Refer to **Educational Assistance**.

## FOSTER CARE PAYMENTS

Count the part of the payment provided to meet the needs of the foster child as unearned income to the foster child.

Do not allow the \$20 disregard because foster care payments are based on the need of the child.

Count any part of the payment meant for the foster care provider's own personal use (such as service or incentive pay) as unearned income to the foster care provider.

**Note:**

Contact the payor of the benefit to obtain the breakdown of the payment into the child's portion and the provider's portion.

## GRANTS

Refer to **Educational Assistance**.

## HOME PRODUCE FOR PERSONAL CONSUMPTION

Do not count.

## HOUSING ASSISTANCE PAYMENTS

If the applicant/beneficiary is the renter, do not count:

- HUD Community Development Block Grant Funds,
- HUD payments or subsidies, or

- Government housing subsidies.

Count as unearned income housing assistance payments to the applicant/beneficiary if s/he is the property owner.

### **INCOME BASED ON NEED**

Count income based on need as unearned income unless it is totally excluded by statute. Do not apply the \$20 general income exclusion.

Income based on need is assistance:

- Provided under a program which uses income as a factor of eligibility, and
- Funded completely or partially by the federal government or by a non-government agency for the purpose of meeting basic needs.

Refer to **Assistance Based on Need**.

### **INCOME TAX REFUNDS AND CREDITS**

Do not count Federal or State tax refunds or advance tax credits as income.

**Note:**

All Federal tax refunds and advance tax credits are excluded from being counted toward resources for 12 months after receipt.

### **INDEMNITY MEDICAL INSURANCE BENEFITS (INCOME REPLACEMENT POLICIES)**

Count benefit payments from these policies as unearned income.

Types of policies:

- Cash replacement policies, and
- Indemnity insurance policies.

These policies:

- May pay to the insured specified benefits for each day of confinement, and
- Are not a medical insurance (third party liability resource).

### **INDIAN FISHING RIGHTS INCOME**

Income derived by a member of an Indian tribe from the exercise of recognized fishing rights (i.e., secured as of March 17, 1988, by a treaty, Executive Order, or an Act of Congress) is counted as unearned income in the month of receipt.

### **INDIAN RELATED PAYMENTS**

Count per capita distribution of gaming operations/casino revenue as unearned income.

To determine whether certain Indian related payments are excludable, the applicant shall provide documentation of the purpose of the payment, including reference to the applicable federal statute that provides for the payment or the alleged SSI income/resource exclusion.

### **INDIVIDUAL AND FAMILY GRANT ASSISTANCE**

Do not count.

### **INHERITANCE**

Inheritance is cash, a right, or a non-cash item(s) received as the result of someone's death.

Consider an inheritance as income in the month received. Receipt is deemed to be the day of death in the case of a direct descendant, or when there is an uncontested will designating the individual as the beneficiary.

Refer to **Death Benefit**.

### **IN-KIND INCOME**

In-kind income is third party noncash payments that are not a basic need (food and/or shelter), but can be sold or converted by an individual to meet their basic needs. See **In-Kind Support and Maintenance** for payments that are food or shelter.

Count payments made directly to an individual for meeting basic needs as unearned income.

Count in-kind payments made in lieu of cash wages as earned income, except when made to agricultural or domestic employees, which are not counted. Count maintenance obligation on rent-free shelter as self-employment income in-kind.

**Exceptions:**

Do not count in-kind contributions used to supplement the personal care needs of an LTC beneficiary.

Do not count in-kind income to individuals receiving Long Term Care throughout a month:

**Example:**

When an individual has contracted to purchase an automobile or a home and his/her son is making the payments on their behalf, the payment is not considered in-kind income.

Refer to **In-Kind Support and Maintenance** when there is any question whether a third party payment is in-kind income or in-kind support and maintenance.

The value of in-kind income is determined by the fair market value at the time of receipt.

## **IN-KIND SUPPORT AND MAINTENANCE (ISM)**

In-kind Support and Maintenance (ISM) are third party payments that result directly in an individual's fulfillment of a basic need (food and/or shelter).

Count as unearned income.

**Exception:**

Do not count ISM in determining eligibility for Act-421 CMO, MNP, MPP, QMB, SLMB, QI, and TB individuals.

### **Presumed Maximum Value**

When determining the value of in-kind support and maintenance, presume that the value is not more than an amount equal to one-third of the appropriate SSI standard payment plus \$20.

The individual should be advised of their right to rebut the presumed maximum value and establish actual value. The amount of in-kind support and maintenance to be counted is the lesser of:

- The presumed maximum value, or
- The established actual value.

## INSURANCE PAYMENTS

Refer to **Cash and In-Kind Replacement Items**.

## INTEREST

Do not count. Unless otherwise noted, interest retained after the month of receipt is a countable resource.

### **Exception:**

Count as unearned income in the month of receipt interest paid on unspent portions of the following:

- Advance Earned Income Tax Credit
- Child Tax Credits
- Earned Income Tax Credits
- Contributions from Tax-exempt Organizations
- Relocation Assistance
- Title II and Title XVI Retroactive Payments
- Victim's Compensation
- Educational Assistance not used for education

Also, count interest:

- Paid on non-excluded burial funds,
- Paid on excluded burial funds when the interest is not left to accumulate, and
- Paid on mortgages and promissory notes

### **Month of Receipt**

The month of receipt is the month in which the interest is:

- Actually received,
- Credited to the applicant/beneficiary's account and available for use, or
- Set aside for the applicant/beneficiary's use.

### **IRREGULAR OR INFREQUENT INCOME**

Count irregular or infrequent income in the month of receipt according to the particular type of income.

Examples of irregular or infrequent income are lease arrangements for mineral and surface rights, mineral rights, and royalties.

#### **Irregular or Infrequent Income Exclusion**

Income that is received either infrequently or irregularly may be excluded from any type case, provided the total of such income does not exceed \$30 per quarter for earned income and/or \$60 per quarter for unearned income.

In order for this exclusion to apply, income need only be one or the other of:

- Infrequent - income received no more than once in a calendar quarter from a single source; or
- Irregular - income not reasonably expected

#### **Winnings from Gambling, Lottery and Other Prizes**

Count as unearned income in the month of receipt.

**Note:**

Gambling losses are not subtracted from gambling winnings when determining an applicant/beneficiary's countable income. If an individual claims gambling as a profession and files tax returns to that effect, consider as self-employment.

If an individual is offered a choice between an in-kind item and cash, the amount of cash offered is counted regardless of which one the individual chooses or the value of the in-kind item.

### **JOB TRAINING PARTNERSHIP ACT (JTPA)**

Count earnings from JTPA as earned income.

### **LEASE ARRANGEMENTS FOR MINERAL AND SURFACE RIGHTS**

Count as unearned income in the month of receipt.

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Lease arrangements include gas, oil, timber, gravel, and land use leases.

**Note:**

Use net income when the difference between gross and net in oil royalties is for payment of severance tax.

### **LIFE INSURANCE**

Count money received by the beneficiary at the death of the insured.

**Exception:**

For spouses and parents of the deceased, the expenses of last illness and burial are deducted from the lump sum.

Do not count money received from cashing in a life insurance policy as it is considered conversion of a resource.

Count accelerated life insurance payments made for certain ill policy holders as income in the month of receipt. The receipt of accelerated payments is not treated as a conversion of a resource because the

policy holder is receiving the proceeds from the policy and not the policy's cash surrender value.

Do not count as potential income if accelerated payments are available to an applicant/beneficiary and he chooses not to apply for them.

## LOANS

Do not count income received as the result of valid loan agreements.

A loan is a transaction:

- This is not an in-kind payment,
- For which a valid loan agreement exists, and
- In which:
  - one party advances money or services to another party,
  - the other party (borrower) at the time of the loan or the beginning of the services promises to repay the debt in full within a specified period of time which must be within his /her lifetime, and
  - neither party to the agreement is a minor or has been declared legally incompetent.

A valid loan agreement can be written or oral. Oral loans that meet the above criteria are legally binding under Louisiana law.

A written loan agreement must meet the following conditions:

- The borrower's acknowledgment of an obligation to repay (with or without interest),
- A timetable for repayment, and
- A realistic plan for repayment (e.g., borrower plans to repay the loan when he receives anticipated income).

Verification of an oral agreement must include:

- Signed statements from both parties giving a description of the

loan agreement. Compare the statements to see if they have agreed as to:

- the amount of the loan,
  - the timetable for repayment, and
  - the amount of the payments.
- The signed statement of the borrower acknowledging their current intent to comply with the loan agreement described above.

An oral agreement cannot include a minor or a person who has been declared legally incompetent.

### **LONG-TERM CARE (LTC) INSURANCE POLICY PAYMENTS**

Count as unearned income in month of receipt any policy benefits paid directly to the beneficiary while a beneficiary is receiving Medicaid payment of LTC services.

### **LUMP SUM PAYMENTS**

#### **SSI**

Do not count.

#### **RSDI**

Count as unearned income in the month of receipt.

#### **VA Aid and/Attendance**

Do not count.

#### **Exception:**

Count as unearned income in the month of receipt when determining:

- LTC/HCBS patient liability, and
- MNP spend-down.

#### **Workers' Compensation**

Count as unearned income in the month of receipt less any portion of the Workers' Compensation award or payment that the authorizing or paying agency designates for medical expenses, legal expenses, or other expenses attributable to obtaining the WC award. The expenses may be past, current, or future. The WC payments designated for such expenses may be received in a lump sum or as a continuing payment.

**Note:**

There is no resource exclusion that applies specifically to WC payments that have been deducted from income. Resource rules apply to WC payments retained after the month of receipt.

**Other Types**

Count as unearned income in the month of receipt.

**Note:**

Refer to [I-1630 Need - SSI-Related Resources, Lump Sum Payments](#), for lump sums retained after the month of receipt.

**MIGRANT WORKER INCOME**

Count as earned income.

**MILITARY PAY AND ALLOWANCES**

Count as earned income:

- Military pay,
- Allowances for quarters, housing, and food,
- Base pay, and
- Flight pay.

Count allotments for dependents as unearned income.

**MINERAL RIGHTS**

Count income from mineral rights as unearned income in the month of receipt.

Refer to [I-1630 Need - SSI-Related Resources, Property](#).

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## **MORTGAGES AND PROMISSORY NOTES**

Count as unearned income interest payments received on mortgages and promissory notes.

The portion of the payment received which represents repayment of the principal is not counted as income. It is counted as a resource that is converted from one form to another. Refer to [I-1630 Need – SSI-Related Resources, Mortgages and Promissory Notes](#).

See also **Reverse Mortgages** and **Reverse Annuity Mortgages**.

## **PENSIONS AND ANNUITIES**

Count the total pension or annuity as unearned income in the month of receipt.

## **RADIATION EXPOSURE COMPENSATION PAYMENTS**

Do not count payments made to persons through the Radiation Exposure Compensation Act enacted October 15, 1990, or the Radiation Exposure Compensation Amendments of 2000, which was enacted on July 10, 2000.

## **RAILROAD RETIREMENT BENEFITS**

Count as unearned income the gross benefits amount of entitlement.

Retirement benefits are payable only to the railroad employee and the spouse of the employee, not to children. Benefits may be increased because of dependent children. The increase is income to the employee, not the child.

## **RECOUPMENTS**

Count as unearned income any portion of a benefit that is being recouped to repay prior overpayments (e.g., RSDI, Railroad Retirement.)

## REIMBURSEMENTS

Do not count.

**Exception:**

For determining patient liability in LTC cases, count as unearned income reimbursements for previously budgeted deductions (e.g., medical insurance premiums).

## RELOCATION ASSISTANCE

Do not count any assistance received under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970.

Do not count any funds received from May 1, 1991 through May 1, 1994 as state or local government relocation assistance.

## RENTAL PROPERTY INCOME

Count as unearned income if the applicant/beneficiary does not perform any work activity related to the property such as maintenance and yard work.

Count as earned income if the owner of the income is in the business of renting property. Refer to **Self-Employment**.

**Note:**

In LTC cases, count rental income as unearned income.

Budget gross rental income minus allowable costs of production that are paid during the budget month. Allowable costs of production include but are not limited to:

- Property taxes,
- Insurance,
- Interest payments on mortgages,
- Incidental repairs that are minor repairs to an existing structure, such as replacing a leaky faucet,

- Maintenance, such as lawn mowing or housekeeping,
- Curator fees, and
- Management (realtor) fees.

Do not deduct capital expenditures that are expenses for an addition or increase in the value of property, which is subject to depreciation for income tax purposes.

Do not consider rent received or expenses paid in months prior to Medicaid eligibility.

Determine gross rent received and deductible expenses month-by-month.

Subtract deductible expenses paid in a month from gross rent received in the same month.

If deductible expenses paid in a month exceed the gross rent, subtract the excess expenses from the next month's gross rent and continue doing this as long as necessary until the end of the tax year in which the expense was paid.

**Note:**

Do not carry excess expenses over to other tax years or use them to offset other income.

When only a portion of the property is rented, prorate the allowable costs of production for that portion which is rented.

If the applicant/beneficiary as Landlord pays for utilities, average the cost for a year and deduct the pro rata share from the monthly rent as an allowable expense.

## REPARATION PAYMENTS

Do not count as income reparation payments received from the Republic of Germany, the Austrian General Social Insurance Act, the Nazi Persecution Victims Eligibility Act, or Netherlands WUV payments.

Do not count any interest earned from the unspent portion of these payments as income in the month of receipt, but as a resource the

following month.

Accept the applicant/beneficiary statement of the amount and date received.

### **RESTITUTION PAYMENTS**

Do not count restitution payments made by the U.S. government to individual Japanese-Americans (or their survivors) or to Aleuts who were interned or relocated during World War II.

Do not count any interest earned from these payments as income in the month of receipt, but as a resource the following month.

### **RETIREMENT BENEFITS**

Count the total gross amount of retirement benefits as unearned income.

### **REVERSE ANNUITY MORTGAGES**

A reverse mortgage arrangement involving the purchase of an annuity is a Reverse Annuity Mortgage (RAM). Count payments from a reverse annuity mortgage as unearned income.

### **REVERSE MORTGAGES (AKA HOME EQUITY CONVERSION MORTGAGES)**

Reverse mortgages are plans which allow homeowners to borrow, via a mortgage contract, some percentage of the appraised value of their home as long as it is occupied as their primary residence. Homeowners retain ownership of the home and receive periodic payments (or a line of credit) up to the specified amount. Reverse mortgages are due and repaid when the last surviving borrower dies, sells the home or permanently moves out.

Permanently moves out generally means the homeowner has not lived in the home for twelve consecutive months. There may be other "conditions of default" written into the agreement by the lender which also cause the loan to become due.

Do not count payments received from a Reverse Mortgage. These

payments are considered loan proceeds. Unspent portions of the payments become a resource the month following receipt.

See also **Reverse Annuity Mortgages**.

## ROYALTIES

Refer to **Lease Arrangements for Mineral and Surface Rights** for royalties paid to the owner of a mine, oil well, timber tract, or other resource.

Count as earned income any royalties earned in connection with the publication of a person's work and any honorarium received for services rendered.

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## S-CORPORATIONS

An S-Corporation is a legal small business corporation in which the shareholders may elect to be an employee of the corporation and be paid wages. They may also receive dividend payments on their investments.

Employees of an S-Corporation are not considered self-employed. Their monthly income received is budgeted as earned income. Dividends paid on capital investments are not considered earnings.

## SALARIES

Refer to **Wages, Salaries, and Commissions**.

## SCHOLARSHIPS

Refer to **Educational Assistance**.

## SEASONAL EARNINGS

Count as earned income in the month received.

If contractual, such as a bus driver or teacher, prorate the earned income over the period it is intended to cover.

If earnings are self-employment seasonal income, refer to **Self-Employment Earnings**.

## SELF-EMPLOYMENT EARNINGS

Count net earnings as earned income.

To determine net earnings, first determine gross earnings.

If personal and business funds are commingled in an account, withdrawals from the account for personal use are counted as net earned income. Any income withdrawn that cannot be documented specifically for business expenses shall be considered for personal use.

Count the distributive share (whether or not distributed or received) as net earned income, if the business is a partnership.

Acceptable verification of gross earnings and deductions in order of preference are:

- Applicant's income tax return for the previous calendar year (including all schedule attachments such as Schedule C, Profit or Loss from Business, necessary to determine gross earnings and allowable business expenses),
- Business records, and
- Applicant's signed statement of income and deductions, only if no other verification is available and only for the initial eligibility determination.

Yearly income and deductions (even if seasonal) from a tax return are divided equally among the months in the tax year to determine monthly income.

When the applicant's statement is used, advise the applicant that business records for income tax purposes must be maintained and presented for future determinations (renewals or reapplications).

Deduct the following business expenses allowable by the Internal Revenue Service to obtain net earned income:

- The applicant's statement concerning the amount of the

following expenses may be accepted:

- advertising,
  - car and truck expenses,
  - commissions,
  - freight,
  - laundry and cleaning,
  - office expenses,
  - repairs, and
  - supplies.
- The applicant's statement is not acceptable for the following expenses because these expenses can be documented by the business or institution to which it was paid:
    - bad debts from sales or services,
    - bank services,
    - depletion,
    - depreciation,
    - dues and publications,
    - employee benefit programs,
    - insurance,
    - interest on mortgages,
    - legal and professional services,
    - pension and profit-sharing plans,
    - rent on business property,
    - taxes,

- travel, meals, and entertainment,
- utilities and telephone, and
- wages.

Exclude from income the following work expenses of the blind:

- FICA,
- Federal income taxes,
- State income taxes,
- Transportation,
- Lunches, and
- Seeing-eye dog.

**Note:**

Persons meeting LTC medical certification requirements generally will not be able to engage in any self-employment activity. In some cases, however, employment is recommended as a therapeutic or rehabilitative measure.

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### **SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)**

A wage or salary paid under Chapter 35 of Title 42 of the U.S. Code, Programs for Older Americans, is earned income.

Anything provided under Chapter 35 of Title 42 of the U.S. Code, Program for Older Americans, other than a wage or salary is excluded from income.

### **SHELTERED WORKSHOP EARNINGS**

Refer to **Wages, Salaries, and Commissions**.

### **SICK PAY**

Sick pay is a payment made to or on behalf of an employee by an

employer or a private third party for sickness or accident disability.

Sick pay is counted as either earned or unearned income, depending on when the pay is received and whether or not it is attributable to the employee's own contribution as follows.

**Note:**

Sick pay paid to an LTC beneficiary can only be considered as wages if the employment is part of the approved plan of care. Refer to **I-1536**.

<b>When Received</b>	<b>Attributable to Employee's Own Contribution?</b>	<b>Type of Income</b>
More than 6 months after stopping work	N/A	Unearned Income
Within 6 months after stopping work	No	Wages
	Yes	Unearned Income

To determine the 6-month period after stopping work:

- Begin with the first day of non-work.
- Include the remainder of the calendar month in which work stops.
- Include the next 6 full calendar months.

### **SOCIAL SECURITY RETIREMENT, SURVIVORS AND DISABILITY INSURANCE BENEFITS (RSDI)**

Count as unearned income the gross amount of the entitlement, regardless of recoupments for a prior overpayment or deductions for Medicare Parts A or B.

Count the net amount of the benefit received plus the Medicare Part B and Part D premiums withheld when the monthly benefit payment has been reduced due to a Workers' Compensation offset.

### **SPOUSAL IMPOVERISHMENT ALLOCATED INCOME**

Count as unearned income to a community spouse/dependent, money

allocated by an LTC/HCBS beneficiary as defined in **I-1537, Spousal Impoverishment Income Provisions.**

## STUDENT EARNINGS

Count as earned income for a child who is subject to the SSI Child Earned Income Exclusion:

- A student regularly attending school,
- Blind or disabled, and
- Under age 22,

Refer to [Z-100 Maximum SSI Student Child Earned Income Exclusion Amounts](#) for maximum exclusion amounts.

Apply exclusion consecutively to months in which there is earned income until yearly exclusion is exhausted.

Do not count earnings received prior to the month of eligibility toward the yearly limit.

This is in addition to the SSI Standard Deduction and Earned Income Exemption.

## SUPPLEMENTAL SECURITY INCOME (SSI)

Do not count.

### Patient Liability Determination

In computing LTC patient liability, count the total SSI payment received by an LTC applicant in the month of admission.

After the month of admission, count the reduced SSI payment in computing LTC patient liability.

#### Exception:

Do not count the SSI payment in the months following the month of admission in determining LTC patient liability for a beneficiary who continues to receive full SSI benefits for up to three months in an LTC nursing facility. Do not issue OSS checks to these beneficiaries.

## TRUST INCOME AND TUTORSHIP FUNDS

### Inaccessible Trusts

Count as unearned income trust distributions, which are or could be made to the applicant/beneficiary or on their behalf by the trustee.

Do not count as income interest or dividend payments.

Count food, clothing, or shelter received as a result of disbursements from the trust as in-kind support and maintenance and valued under the presumed maximum (PMV) rule as unearned income.

Do not count trust funds paid to a provider of medical services for care rendered to the individual.

### Accessible Trusts

Do not count as income trust dividends or interest, which are received or are constructively received according to the terms of the trust.

Do not count withdrawals as income because the principal has been counted as a resource.

## UNDIVIDED ESTATE INCOME

When property is part of an undivided estate, in which the applicant/beneficiary has an interest:

- Determine his/her share of the income from the property according to their pro rata share in the resource, and
- Apply the policy set forth in this section for the type of income.

Examine and verify the ownership of property to determine the applicant/beneficiary's share of the undivided estate and whether or not succession has been opened.

## UNEMPLOYMENT COMPENSATION BENEFITS (UCB)

Count as unearned income in the month of receipt.

**Note:** During the pandemic period, do not count regular and

Pandemic Unemployment Assistance (PUA) in the SSI income calculation. Refer to **Disaster Assistance**.

### **UNIFORM GIFTS TO MINORS AND UNIFORM TRANSFERS TO MINORS ACT (UGMA/ATMA)**

UTMA and UGMA accounts are taxable investment accounts set up by a donor to benefit a minor, but controlled by an adult custodian until the minor reaches their age of majority.

**Donor:** Additions to the principal that occur before a transfer may be income to the donor. (Example: rental income received by donor then moved to the minor's fund would be considered rental income for donor.)

**Custodian:** Additions to or income generated by the principal after a transfer are not income to the custodian who has no right to use the additions or income for his or her own support or maintenance.

#### **Minor (under age 18)**

- These accounts property, including additions or earnings, is not income to the minor;
- The custodian's accounts disbursements to the minor are income to the minor in month of disbursement and a resource beginning the following month;
- The custodian's account disbursements on behalf of the minor may be treated as ISM if used to make certain third party vendor payments for the minors support and maintenance.

#### **Minor turns age 18:**

- In the month the minor attains age 18, all the accounts property becomes available to the individual and is subject to income counting. The accounts property becomes subject to resource counting the following month.

### **VENDOR PAYMENTS**

Vendor payments are third party payments made directly to a creditor or provider of a service.

Count vendor payments that are in-kind income or in-kind support and maintenance. Refer to **In-Kind Income and In-Kind Support and Maintenance**.

Do not count other vendor payments including Medicaid vendor payments made on behalf of a beneficiary to a Medicaid provider.

## **VETERAN'S ADMINISTRATION (VA) BENEFITS**

Count VA benefits as unearned income.

**Exception:**

Do not count VA Aid and Attendance or housebound allowances in determining eligibility.

Count VA Aid and Attendance in determining LTC patient liability.

**Exception:**

Do not count the protected VA Improved Pension Reduction in determining patient liability. It is protected as a part of the personal care needs allowance.

Do not allow the \$20 disregard for VA pension.

Do not deem a VA pension because it is based on need or any income received which was used to determine amount of pension.

Do not count a dependent's portion as income to the veteran or widow(er) unless all the following conditions exist:

- The dependent lives apart from the veteran/surviving spouse; and
- The dependent has applied to the VA for apportionment; and
- The dependent has received the VA's written denial of the apportionment request, and
- The dependent has not received the augmentation directly from the veteran/surviving spouse.

Do not count reimbursements for medical expenses.

VA benefits include the following types of payments:

- VA compensation:
  - is a payment based on a service-connected disability or death, and
  - may be paid to a veteran or survivor of the veteran.
- VA pension is a payment based on need.
- VA Improved Pension Assistance is a re-computation of pension benefits that may result in a higher benefit amount.
- VA Aid and Attendance is an allowance to veterans, spouses of disabled veterans, and surviving spouses who are in regular need of the aid and attendance of another person or who are housebound.

VA Aid and Attendance and housebound allowances are combined with the individual's pension or compensation payment. Verify all VA payments with VA to determine if Aid and Attendance or housebound allowances are involved.

**Note:**

Failure of the beneficiary of VA benefits to return VA income statements will result in VA termination.

If notified that VA benefits have terminated, contact VA to verify the reason(s) for termination to determine whether to continue budgeting the income as stated in Potential Income. If the termination was caused by the failure of the applicant/beneficiary to comply with VA correspondence requirements, determine whether he was unable to comply because of his physical or mental condition. If so, assist the applicant/beneficiary in reinstating VA benefits. Do not report an overpayment or underpayment. No patient liability adjustment is necessary.

## VICTIM'S COMPENSATION

Do not count payments received from a state-administered victim's compensation fund.

**Note:**

A victim is not required to accept victim's compensation.

Count interest paid on unspent portion as unearned income in the

month of receipt and as a resource the following month.

### **WAGES, SALARIES, AND COMMISSIONS**

Count gross wages, salaries, and commissions including paid sick and vacation leave as earned income.

Persons meeting LTC medical certification requirements generally will not be able to engage in any wage earning activity. In some cases, however, employment is recommended as a therapeutic or rehabilitative measure. When a question concerning medical certification for such a case arises, send a summary of the situation to the Health Standards Regional Office.

If earned income is reported for a SNF beneficiary, submit current medical data and employment information to the Health Standards Regional Office for a review of level of care.

### **WORKER'S COMPENSATION**

Count the gross amount as unearned income.

Refer to **Lump Sum Payments**

### **WORKERS' COMPENSATION MEDICARE SET-ASIDE ARRANGEMENT (WCMSA)**

Count any interest earned on unspent portions as unearned income in the month of receipt and as a resource the following month.

**I-1535 NEED – SSI-RELATED - TREATMENT OF INCOME****I-1536 DEDUCTIONS**

Medicaid deductions are determined:

- By the program,
- By the type of income, and
- According to whether the budget is the eligibility determination or the LTC patient liability determination.

The specific order that must be used in allowing these deductions is indicated below, followed by an alphabetical list of deductions and an explanation of each.

**Extended Medicaid, Retroactive Medicaid for SSI Applicants, and Medicare Savings**

1. Standard SSI Deduction
2. Earned Income Deduction
3. Remainder, if any, of the Standard SSI Deduction

**MNP Spend-down**

1. Standard SSI Deduction
2. Earned Income Deduction
3. Remainder, if any, of the Standard SSI Deduction
4. Health Insurance Premiums
5. Allowable Medical Bills

**LTC Eligibility Determination**

No deductions allowed

**LTC Patient Liability**

1. Earned Income Deduction
2. Personal Care Needs
3. Health Insurance Premiums
4. Allowable Medical Bills
5. Maintenance Needs of Legal Spouse
6. Maintenance Needs of Legal Dependents

**LTC Spend-down MNP Eligibility Determination**

1. Standard SSI Deduction
2. Earned Income Deduction
3. Remainder, if any, of the standard deduction
4. MNIES
5. Allowable Medical Bills

**LTC Spend-down MNP Patient Liability**

1. Earned Income Deduction
2. Personal Care Needs
3. Health Insurance Premium
4. Allowable Medical Bills
5. Maintenance Needs of Legal Community Spouse
6. Maintenance Needs of Legal Dependents

**HCBS Eligibility Determination**

No deductions allowed

**HCBS Patient Liability**

There is no PLI determination for HCBS beneficiaries with income below the Special Income Level (SIL).

**HCBS Spend-down MNP Eligibility Determination (Community Choices, Adult Day Health Care, and NOW only)**

1. Standard SSI Deduction
2. Earned Income Deduction
3. Remainder, if any, of the standard deduction
4. MNIES
5. Allowable Medical Bills

**HCBS Spend-down MNP Patient Liability (Community Choices, Adult Day Health Care, and NOW)**

1. Earned Income Deduction
2. Basic Needs Allowance
3. Health Insurance Premium
4. Allowable Medical Bills
5. Maintenance Needs of Legal Community Spouse
6. Maintenance Needs of Legal Dependents

### Allowable Medical Bills

This deduction applies to MNP Spend-down, LTC, LTC SD MNP, Community Choices SD MNP, Adult Day Health Care SD MNP and NOW SD MNP eligibility determinations.

Deductions for medical expenses may be allowed in LTC, LTC SD MNP, Community Choices SD MNP, Adult Day Health Care SD MNP and NOW SD MNP post eligibility patient liability determinations.

### Basic Needs Allowance

See [H-910.4 Beneficiary Liability](#) (needs allowance is 3 x Federal Benefit Rate (FBR) for all waivers).

For HCBS beneficiary liability determinations, deduct an allowance equal to three times the SSI FBR.

Refer to [Z-700 LTC/HCBS SIL Rate, Resource Limits and Personal Care Needs Allowance](#).

### Earned Income Exemption (EIE)

Deduct \$65 and one-half of the remainder from gross earned income for each individual or couple.

This deduction applies to:

- All programs except LTC in the eligibility determination, and
- LTC patient liability determinations, if the employment is part of the approved plan of care. Refer to Sick Pay.

**Note:**

Many ICF/IID beneficiaries engage in wage earning activity as a part of their plan of care and are eligible for the SSI earned income deductions (\$65 and one half of the remainder) in the patient liability determination only.

Beneficiaries of ICF I and II services whose physician plan of care prescribes a wage earning activity as a therapeutic or rehabilitative measure shall be eligible for the SSI earned income deductions (\$65 and one half of the remainder) in the patient liability determination only.

## Health Insurance Premiums

This deduction applies to:

- MNP eligibility determinations, and
- LTC and LTC/HCBS Spend-down MNP patient liability determinations.

Deduct the verified monthly premium amount paid by the applicant/beneficiary:

**Note:**

The premium must be paid by the applicant/beneficiary. It may NOT be paid by the community spouse (i.e. deducted from spouse's earned/unearned income) or other third party.

- Medicare (shall be deducted first),
- Medical insurance, and
- Medical transportation insurance.
- LTC Partnership Insurance

**Note:**

In patient liability determinations, medical insurance premiums that are paid quarterly, annually, etc. may be prorated monthly. For Medically Needy LTC, refer to [H-1011.5 Bills Allowed in the Spend-Down Process](#).

Allowable medical insurance policies are those that relate payment to the amount of expense incurred by paying either actual charges or actual charges less a percentage.

Verify the monthly amount of medical transportation and medical insurance premiums at application and renewal.

If the applicant/beneficiary does not provide adequate verification, attempt to verify the premium by contacting the insurance company or agent.

Do not allow a deduction if the premium amount cannot be verified or the time period the premium covers cannot be determined.

A canceled check is not adequate verification.

Do not allow deductions for premiums for:

- Income replacement policies,
- Accidental death and dismemberment policies, or
- Sick and accident policies.

Evaluate policies with combined coverage (i.e., those that provide medical insurance and income replacement) to determine whether the premium for the income replacement provision can be determined separately.

If the premiums can be determined separately, deduct the medical insurance portion of the premium.

If the premiums cannot be determined separately but the majority (over 50%) of policy provisions is allowable, deduct the total premium.

### **Maintenance Needs Allowance for Legal Dependents**

For long term care facility patient liability determinations involving Spousal Impoverishment Provisions only, deduct the allowance for legal dependents of a long term facility care applicant/beneficiary living with a long term facility care community spouse. Refer to **I-1537.3, Patient Liability Determination (Post Eligibility Determination)**.

For long term care facility patient liability determinations involving an individual with legal dependents and no community spouse, deduct the MNIES for the number of dependents. Refer to **I-1537.3, Patient Liability Determination (Post Eligibility Determination)**.

For HCBS Spend-down MNP patient liability determinations involving an individual with legal dependents with or without a community spouse, deduct the monthly MNIES for the number of dependents.

### **Maintenance Needs Allowance for Community Spouse**

For long term care facility patient liability determinations involving Spousal Impoverishment Provisions only, deduct the allowance for a long term care facility community spouse.

Refer to **I-1537.3, Patient Liability Determination (Post Eligibility Determination)**.

For HCBS Spend-down MNP patient liability determinations involving Spousal Impoverishment Provisions only deduct the MNIES.

### **Personal Care Needs**

For long term care facility patient liability determinations only, deduct a standard allowance to help cover the cost of personal care items not covered by the facility fee.

Refer to [Z-700 LTC/HCBS SIL Rate, Resource Limits and Personal Care Needs Allowance](#).

### **SSI Standard Deduction**

Do not apply this deduction to:

LTC categorically needy eligibility or patient liability determinations, or income based on need (e.g., AFDC payments, VA pensions).

For all other programs, including LTC/HCBS Spend-down MNP, deduct \$20 from monthly income not based on need for each:

- Individual, or
- Couple.

Deduct the \$20 from unearned income first. Then deduct any unused portion of the \$20 from earned income.

## **I-1537 SPOUSAL IMPOVERISHMENT INCOME PROVISIONS**

### **I-1537.1 General Information**

Apply these provisions only in the LTC patient liability determination for an LTC/HCBS applicant/beneficiary who has a legal community spouse. The legal community spouse is the legal spouse, who was residing in the home with the applicant/beneficiary prior to institutionalization, and who is currently in a non-institutionalized living arrangement. Spousal Impoverishment applies if the spouses are not residing in the same home due to medical reasons or due to

circumstances beyond their control. A person receiving home and community based services is considered institutionalized for Medicaid purposes.

There is no residence requirement for spousal impoverishment. The legal spouse can live in another state or country and the LTC applicant/beneficiary can have spousal impoverishment apply as long as all other eligibility requirements are met.

**Note:**

Verify that the marriage is legal.

A legal dependent is a person who may be claimed as a dependent by either member of the couple for income tax purposes under the Internal Revenue Code. Legal dependents may be:

- A couple's minor or dependent child(ren),
- Parents, or
- Siblings.

**Note:**

For dependents not living with a community spouse, refer to **I-1536, Deductions, Maintenance Needs Allowance for Legal Dependents**.

The gross income of the applicant/beneficiary must be below the individual SIL or the individual must be eligible under LTC/HCBS Spend-down MNP guidelines before these provisions can be applied. Refer to [H-0000, Eligibility Determinations](#).

**Note:**

Never consider the income of the community spouse/legal dependents at home in determining eligibility for an institutionalized individual.

Allow income to meet the needs of the legal spouse/dependents at home only if:

- The applicant/beneficiary agrees to make the income available to the spouse/dependent, and
- The spouse/dependent is willing to accept the income.

**I-1537.2 Ownership of Income**

Determine ownership of income for each spouse without regard to community property laws. A spouse has:

- Full ownership of income paid in his/her name,
- Half ownership of income paid in the names of both spouses, and
- Pro rata ownership of income paid in the names of either one or both spouses and another individual.

**I-1537.3 Patient Liability Determination (Post Eligibility Determination)**

Determine patient liability for the applicant/beneficiary with a community spouse as follows:

- Total gross income (including VA Aid and Attendance) of the applicant/beneficiary less earned income deductions, if applicable.
- Apply deductions in the following order (Refer to **I-1536, Need - SSI-Related Income, Deductions**):
  - Subtract LTC personal care needs or HCBS basic needs allowance. Refer to [Z-700 LTC/HCBS SIL Rate, Resource Limits and Personal Care Needs Allowance](#).
  - Subtract the community spouse's maintenance needs allowance as determined as follows:

Total spouse's gross income including any countable interest earned from allowable resources.

Subtract spouse's income from the Spouse's Maintenance Needs Standard. Refer to [Z-800 Spousal Impoverishment Maintenance Needs and Resource Standards](#).

**Note:**

For HCBS Spend-down MNP applicants/beneficiaries, subtract spouse's income from the monthly MNIES. The remainder, if any, is the spouse's maintenance needs allowance.

Do not allocate more than the Maintenance Needs Allowance.

- Deduct the maintenance needs of each legal dependent living with a community spouse. For each dependent:
  - Total the dependent's gross income including any countable interest paid on allowable resources.
  - Subtract this income from the dependent's Maintenance Needs Standard. Refer to [Z-800 Spousal Impoverishment Maintenance Needs and Resource Standards](#).
  - Divide the remainder by three. The remaining amount, if any, is the dependent's maintenance needs allowance. Do not allocate more than one-third of the Dependent's Need Standard for each dependent.
- Deduct the maintenance needs of Legal dependent's not living with a Community spouse:
  - Total all dependent's income, including any countable interest paid on allowable resources.
  - Subtract this income from the MNIES for the number of dependents. Refer to [Z-300 Medically Needy Income Eligibility Standards \(MNIES\)](#). The remainder, if any, is the maintenance needs.

**Note:**

For HCBS Spend-down MNP patient liability determinations involving an applicant/beneficiary with legal dependents with or without a community spouse, deduct the monthly MNIES for the number of dependents.

- The remainder is the LTC patient liability.

**I-1537.4 Verification**

Obtain verification that:

- The couple is legally married,
- The dependents who are allowed the Maintenance Needs Allowance are legal dependents,
- The applicant/beneficiary agrees to make the income available to the spouse/dependent, and
- The spouse/dependent is willing to accept the income.

**I-1537.5 Documentation**

Document and file copies of the verification.