

## NEW YORK MEDICAID INCOME DISREGARDS CHART

**Note:** beginning January 1, 2014, many categories of Medicaid eligibility in New York will be replaced with a new budgeting method based on Modified Adjusted Gross Income (MAGI). Do not attempt to use this chart after that date.

	Parent/caretaker of child under 21, Pregnant Women, Persons under 21	Single Adults & Childless Couples Over 21 and Not Disabled (S/CC)	Disabled, Aged 65+, & Blind (“DAB”) or (SSI-Related) including disabled children ONLY if using disability budgeting)
<b>BASICS</b>			
Monthly Income Level (2013)	One person - \$ 800 Two people - \$ 1,175 Three people - \$ 1,352	One \$750 Two \$936	One person - \$ 800 Two people - \$ 1,175  Household size can only be ONE or TWO. Disabled children are always ONE with some of parents’ income deemed to them. Married persons may be ONE or TWO depending on spouse’s income and number of children under 18. SEE chart on household size. <sup>1</sup>
Health Insurance premiums	DISREGARDED	Not disregarded!	Disregarded, including cost of Medicare premiums. <sup>2</sup>
Cash assistance based on need - PA, SSI	PA, SSI, WIC, Food Stamps, and support and maintenance assistance based on need and furnished EITHER in-kind by a non-profit OR in cash or in kind by a regulated utility is disregarded. <sup>3</sup>		
Unearned income	No general disregard, but if received Unemployment benefits, may qualify for Trade Readjustment Allowance (TRA) if lost job as result of import competition. TRA part of Unemployment benefit is exempt if TRA allowance is received for training expenses. <sup>4</sup>		\$20 disregarded for single or couple’s income, or for disabled child living with parents. If unearned income is less than \$20, balance deducted from earned income. <sup>5</sup>
Dividends and interest	Not disregarded	Not disregarded	Dividends and interest earned on savings accounts, including exempt Holocaust restitution accounts, does not count as income. However, if interest is saved into the next month, it counts as a resource. Eff. 7/1/04. Interest on certain resources that are exempt only for 9 months after receipt DOES count as income.: retroactive SSI/Social Security; unspent state or local relocation assistance, unspent EITC refund, state crime victim compensation <sup>6</sup>

<sup>1</sup> Household size chart posted at <http://wnylc.com/health/download/96/>

<sup>2</sup> N.Y. Dep’t of Health, Medicaid Reference Guide (“MRG”) pg. 177; 18 NYCRR 360-4.6(a)(2)(vii)

<sup>3</sup> MRG pg. 212; 18 NYCRR 360-4.6(a)(1)(vi),(viii), (ix),(x)

<sup>4</sup> MRG pg. 215

<sup>5</sup> MRG pg. 177

<sup>6</sup> MRG pg. 91-92, 181

Note: this document is an unofficial summary of the Medicaid eligibility rules in New York State. It is for informational purposes only and does not constitute the provision of legal advice.

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IRA Distributions	IRA DISTRIBUTIONS – While periodic payments from an IRA would count as income, at least two fair hearings have held that NON-periodic withdrawals from an IRA do not count as income. Same reasoning as for DAB recipients in next column. <sup>7</sup>		IRA Distributions count as income if they are periodic payments. (Individual MUST put IRA into periodic payment status in order to make IRA exempt as an ASSET. The periodic payments count as income. NON-periodic withdrawals from an IRA <i>do not</i> count as income. The non-periodic, irregular distributions are considered a conversion of a resource and not countable income. However, if the IRA is not also in pay-out distribution status, the IRA would be a countable asset if only irregular, rather than periodic, distributions are taken. <sup>8</sup>
Infrequent or irregular income - earned or unearned			If less than \$30 per calendar quarter of earned income or \$60 per calendar quarter of unearned income is received that is irregular (unexpected) or infrequent received no more than once/quarter and from a single source) - it is disregarded. If more is received, NONE is disregarded. <sup>9</sup> Same limit for individual or couple. <sup>10</sup>
Child Support	First \$50/mo. disregarded		Disregard one third of child support received by disabled or blind child from absent parent
<b>NEW! Special income standard for housing expenses NH-&gt;MLTC</b>			Eff. 10/15/2012, individuals who can be safely discharged back to the community from a nursing facility and who enroll into the MLTC program, will have Medicaid eligibility determined under a special income standard if they have a housing expense. Individual must have been in the nursing home for at least 30 days (not including date of discharge) and Medicaid must have made a payment towards the cost of the nursing home stay. Not eligible if using spousal impoverishment budgeting or PACE. Amount of shelter expense to be disregarded varies by region. E.g., NYC: \$1,042; Long Island: \$1,187; North Metropolitan: \$829. <sup>11</sup>

<sup>7</sup> MRG. p. 316, FH #5773586M (Chemung Co. July 6, 2011, Rep: Karen Gooderum, Chemung Co. Neighborhood Legal Services), redacted copy available at [http://www.otda.ny.gov/fair%20hearing%20images/2011-7/Redacted\\_5773586M.pdf](http://www.otda.ny.gov/fair%20hearing%20images/2011-7/Redacted_5773586M.pdf); FH # 5696948L (Onondaga Co. June 14, 2011, Rep: Maureen Kieffer Legal Services of Central New York); MRG p. 316 (redacted copy available at [http://www.otda.ny.gov/fair%20hearing%20images/2011-6/Redacted\\_5696948L.pdf](http://www.otda.ny.gov/fair%20hearing%20images/2011-6/Redacted_5696948L.pdf)).

<sup>8</sup> DOH MRG p. 316 (updated June 2010) [http://www.health.state.ny.us/health\\_care/medicaid/reference/mrg/mrg.pdf](http://www.health.state.ny.us/health_care/medicaid/reference/mrg/mrg.pdf).

<sup>9</sup> Slight change from previous law, enacted in Social Security Protection Act of 2004, Public Law 108-203 [H.R. 743], signed Mar. 02, 2004, amending 42 U.S.C. § 1382a(b)(21) - (23); See Social Security Administration Program Operations Manual System (POMS) section SI 00810.410 NYS GIS 04/MA/027

<sup>10</sup> MRG pg. 177; 18 NYCRR 360-4.6(a)(2)(x)

<sup>11</sup> 12 OHIP/ADM-5 (10/1/2012), at [http://www.health.ny.gov/health\\_care/medicaid/publications/pub2012adm.htm](http://www.health.ny.gov/health_care/medicaid/publications/pub2012adm.htm)

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<b>EARNED INCOME, LOANS, STUDENT INCOME/LOANS</b>			
Earned income	<p>Deductions: \$90 from gross earnings</p> <p>Deduct up to \$175/mo per child age 2+ or per incapacitated adult. and \$200/mo per child under age 2.</p>	<p>Deductions: \$90 from gross earnings</p>	<p>Deduct balance of \$20 unearned income disregard if not used up on unearned income. Deduct 1<sup>st</sup> \$65 of earned income (\$65 total for couple). Then deduct Impairment-Related Work Expenses for disabled workers. Only half the remainder is countable income. Also deduct reasonable work-related expenses for certified blind, including mandatory payroll deductions, transportation, union dues, guide dog <sup>12</sup></p> <p>Also, if less than \$10 of earned income received which is unexpected or irregular, disregard it.</p>
Self-employment	Count income after deducting business expenses		
Earnings of persons under age 21	<p>Part-time earnings are fully disregarded whether part-time or full-time student.<sup>13</sup></p> <p>Full-time earnings of full-time student are disregarded for up to 6 mo/year (summer earnings are disregarded)<sup>14</sup></p> <p>Full-time earnings of PART-time student are COUNTABLE.</p> <p>Payments to dependent minor disregarded up to 6 mo/year if derived through Job Training Partnership Act program.</p> <p>Payments by program for training expenses also disregarded.</p>		<p>Effective January 1, 2005 income up to \$1,410 per calendar month, but not more than \$5,670 per calendar year. Eff. 4/1/05 does not matter if student lives with parents or head of own household.<sup>15</sup></p>
Child Care (income)	<p>\$5/day per child disregarded for homemaker providing family day care for other children.<sup>16</sup></p> <p>Payments made for childcare for recipient of employment-related or JOBS-related childcare &amp; transitional child care are disregarded.<sup>17</sup></p>		
Educational grants - Graduate students	<p>Grants for GRADUATE students only are not counted if use for educational purposes. Grants for living expenses are counted.<sup>18</sup></p> <p>Graduate assistantships - if school verifies that it is a grant, then treated as above. If school considers it employment, then earning income disregards apply.<sup>19</sup></p>		

<sup>12</sup> 18 NYCRR 360-4.6(a)(2)(iii)(iv)(v)(vi)

<sup>13</sup> 18 NYCRR 360-4.6(a)(3)(ii)

<sup>14</sup> 18 NYCRR 360-4.6(a)(3)(ii)

<sup>15</sup> MRG pg. 180

<sup>16</sup> MRG pg. 151, 211; 18 NYCRR 360-4.6(a)(3)(viii)

<sup>17</sup> MRG pg. 151, 211; 18 NYCRR 360-4.6(a)(1)(xxiv)

<sup>18</sup> MRG pg. 155

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	<b>Parent/caretaker of child under 21, Pregnant Women, Persons under 21</b>	<b>Single Adults &amp; Childless Couples Over 21 and Not Disabled (S/CC)</b>	<b>Disabled, Aged 65+, &amp; Blind (“DAB”) or (SSI-Related)including disabled children ONLY if using disability budgeting)</b>
Educational grants - college students	Grants, scholarships, fellowships, and work-study disregarded. For VA Educational grants (GI bill), only part for educational expenses is exempt. <sup>20</sup>		
Student Loans	Disregarded for college and graduate students. Interest on loans is countable as income. <sup>21</sup>		
Bona Fide Loan	All bona fide loans from an institution or a non-legally responsible relative are exempt, including loans to family under Federal Economic Opportunity Act. There must be a written agreement, signed by lender <i>and</i> the recipient, indicating intent to repay within a specified time. Agreement must state how recipient intends to repay (specify with what property or future income). Remains exempt as long as satisfies these requirements. Interest accrued is not exempt. <sup>22</sup> Please note, for SSI related Medicaid the proceeds of a loan are NOT a disregarded resource.		
<b>ROOM, BOARD &amp; RENTAL INCOME</b>			
Roomer/ Boarder Income	<p>For all categories, if can document that actual expenses incurred in providing the room or board exceed the standard roomer/boarder deduction for that category (below), the actual expenses are disregarded and the balance is counted as income.<sup>23</sup></p> <p>Deductible expenses (if exceed standard deduction below) -- prorate expenses based on the number of rooms designated for rent compared to the number of rooms (other than bathrooms) in the house. (EX: Donald Trump has a 3-bedroom apt and rents out one bedroom. The apt. also has a kitchen and living room, with total of 5 rooms. Donald can deduct 1/5 of the following expenses:</p> <ul style="list-style-type: none"> <li>• property, school, water and sewer taxes;</li> <li>• interest payments on mortgages;</li> <li>• food (if board included in rent)</li> <li>• utilities;</li> <li>• cost of essential repairs;</li> </ul> <p>If income received for room or board is less than the allowable expenses of providing room or board, the excess expenses are deducted from the next month's roomer/boarder income. EX.: Donald charges the roomer above \$300/mo. for the room, but the pro-rata share of expenses is \$500/mo. The net countable income for this month is \$-0-, and for the next month is \$200.</p> <p>A person providing room/board as part of a business, may deduct allowable business expenses paid the same taxable year to the extent the expenses are attributable to the rented portion of the property.</p> <p>Below is standard deduction for each category (unless prove expenses higher) and whether considered earned or unearned income.</p>		

<sup>19</sup> MRG pg. 156

<sup>20</sup> MRG pg. 156, 187; 18 NYCRR 360-4.6(a)(1)(xviii)

<sup>21</sup> MRG pg. 156; 18 NYCRR 360-4.6(a)(1)(xix)

<sup>22</sup> MRG pg. 150, 175; 18 NYCRR 360-4.6(a)(1)(xxv)

<sup>23</sup> General information on roomer/boarder income for all categories in MRG pp. 77-79.

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	Deduct \$90/mo from room or board income unless prove actual expense is more. <sup>24</sup>  EARNED income	Deduct \$15/mo if just rent room (lodger) and \$60/mo if room & board, unless prove actual expense is more. <sup>25</sup>  EARNED income	Deduct \$90/mo from room or board income unless prove actual expense more. <sup>26</sup>  EARNED income if in business of renting rooms, apartments, and not just for convenience of family/friends. Otherwise UNEARNED.
Rental Income <sup>27</sup>	Rental Income is EARNED income.  <i>Con'd</i>		EARNED income if in business of renting rooms, apartments, and not just for convenience of family/friends. Otherwise UNEARNED.  <i>Con'd</i>
RENTAL INCOME - Continued -	<p>For all categories, countable income is “net rental income” = gross rent less the <i>ordinary and necessary</i> expenses paid in the same taxable year.</p> <p>DEDUCTIBLE EXPENSES<sup>28</sup> - cost of:</p> <ol style="list-style-type: none"> <li>(1) Taxes --Property, school, water and sewer;</li> <li>(2) Utilities if they are included in the rent;</li> <li>(3) Insurance (fire, windstorm, flood, theft and liability);</li> <li>(4) Interest on mortgages;</li> <li>(5) Essential maintenance &amp; repairs (i.e., minor correction to an existing structure, snow removal);</li> <li>(6) Wages paid to employees for maintaining the property;</li> <li>(7) Other expenses necessary to maintenance</li> </ol> <p>NOT DEDUCTIBLE -- expenses not directly related to maintenance, including payment on mortgage principal, improvements to property, depreciation.</p> <p>Expenses are deducted when paid, not when incurred.</p> <p>When the rental property is also the A/R’s homestead (i.e., two-family residence), the allowable expenses are prorated based on the number of units designated for rent compared to the total no. units</p>		

<sup>24</sup> MRG pg. 100, 154; 18 NYCRR 360(a)(1)(xvii)

<sup>25</sup> MRG pg. 100, 213

<sup>26</sup> MRG pg. 100, 180

<sup>27</sup> MRG pg. 100 - 102 (general info on rental income for all categories)

<sup>28</sup> In addition to MRG section on rental income generally, pp 100-102, also see for Disabled, Aged, Blind (SSI) category p, 176 “EXPENSES OF OBTAINING INCOME - Income does not include that part of a payment that is an essential expense incurred in receiving the payments (legal fees, and other expenses connected with a claim)

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<b>OTHER INCOME DISREGARDS</b>			
Americorps/ VISTA	Payments to volunteers in VISTA , Retired Senior Volunteer Program under the Domestic Volunteer Services Act, Foster Grandparent disregarded as income and resources. Assistance to an individual OTHER THAN wages or salaries under the Older Americans Act of 1965 is disregarded <sup>29</sup>		
Blood Plasma Settlements	Payments received from class action for hemophilia patients infected with HIV by blood transfusion <sup>30</sup>		
Census	Earnings for US Census are disregarded. <sup>31</sup>		
Crime Victims Assistance Funds	Not disregarded	Excluded in month received and for next 9 months <sup>32</sup>	
Disaster Relief	World Trade Center or other federal, state, or local disaster relief is disregarded <sup>33</sup>		
Earned Income Tax Credit	Exempt in the month received and in the following month <sup>34</sup>	Exempt in month received and for 9 months after month of receipt, if after 3/2/04 <sup>35</sup>	
Energy	Federal Energy Assistance Payments (HEAP) <sup>36</sup>		
Foster care	Foster care payments received for care of foster children <sup>37</sup>		
GI Bill	Portion of military person’s pay deducted to fund GI bill <sup>38</sup>		
Hostile Fire Pay	Payment received while on active military duty disregarded <sup>39</sup>		
HUD Block Grants	HUD Community Block Grants are disregarded <sup>40</sup>		

<sup>29</sup> MRG pg. 182

<sup>30</sup> MRG pg. 150

<sup>31</sup> MRG pg. 156, 181

<sup>32</sup> MRG 175; 18 NYCRR 360-4.6(a)(1)(iv)

<sup>33</sup> MRG 151, 175

<sup>34</sup> 18 NYCRR 360-4.6(a)(1)(xxiii) MRG pg. 152

<sup>35</sup> MRG pg. 322; SSA POMS 01130.675 <http://policy.ssa.gov/poms.nsf/lnx/0501130675>

<sup>36</sup> 18 NYCRR 360-4.6(a)(1)(iii)

<sup>37</sup> MRG pg. 152, 177, 211; 18 NYCRR 360-4.6(a)(1)(iv)

<sup>38</sup> MRG pg. 152, 177

<sup>39</sup> MRG pg. 177

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In-Kind Income	In-kind income is received in goods or services rather than cash. It is only counted as income if: <ul style="list-style-type: none"> <li>provided by a legally responsible relative (e.g., parent for minor child or spouse to spouse) living outside the household (but not if it is clothing), OR</li> <li>it represents earned income (i.e., provided in return for services rendered).</li> </ul> If the in-kind income is countable, the fair market value is budgeted. If it is shelter, the amount counted as income cannot exceed the PA shelter allowance. <sup>41</sup>		
Insurance payments	Insurance payments to repair or replace a disregarded resource (personal property) are exempt for indefinite time. Interest on the payment also exempt.	Payments exempt for 9 months after month of receipt only.	
Job Corps	Money receive by family for child enrolled in Job Corps <sup>42</sup>		
Native American payments	Disregarded <sup>43</sup>		
Nazi, other Persecution Payments	Benefits received by Japanese-Americans, Aleuts, Pribiolo Islanders under wartime restitution laws. <sup>44</sup> Payments made to individuals because of their status as victims of Nazi persecution - restitution or charitable payments. Interest earned on these accounts excluded as income eff. 7/1/04, but if retained into the following month, counts as a resource		
PASS plan - Plan to Achieve Self Support	Not disregarded		Disabled or blind persons may set aside countable income in plan to achieve self-support. Plan must be in writing and meet specific criteria - refer to local independent living center.
Preventative Housing Services	Payments made as Preventative Housing Service exempt <sup>45</sup>		
Real Property Sale	Proceeds of sale disregarded for reasonable period up to 6 months while reinvests proceeds	Must reinvest within reasonable time, not to exceed six months, after receive proceeds	
Relocation Assistance - State or Local	Not disregarded		Disregarded for 9 months following month of receipt <sup>46</sup>
Relocation Assistance - Federal	Disregarded <sup>47</sup>		

<sup>40</sup> MRG pg. 177

<sup>41</sup> MRG, Income at 150-153; 18 NYCRR § 360-4.3(e).

<sup>42</sup> MRG pg. 153

<sup>43</sup> MRG pg. 154, 178; 18 NYCRR 360-4.6(a)(1)(xxvii)

<sup>44</sup> 18 NYCRR 360-4.6(a)(1)(xxi)

<sup>45</sup> MRG pg. 154, 179, 18 NYCRR 360-4.6(a)(1)(xx)

<sup>46</sup> 18 NYCRR 360-4.6(a)(2)(xxi)

<sup>47</sup> MRG pg. 152; 18 NYCRR 360-4.6(a)(1)(i)

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Reverse mortgage	Reverse mortgage & reverse annuity mortgages borrowed from equity in home are NOT counted as income OR resources.		Reverse mortgage is disregarded as income. State MRG says countable as a resource if retained beyond the month received. However, this may be inconsistent with state law, SSL 131-x. Reverse Annuity Mortgage payments are countable as income and resource.
SSI retroactive lump sum	Not disregarded		Disregarded in month of receipt and for 9 following months (expanded from 6 months in 2004). <sup>48</sup> However, retroactive Social Security Retirement or SSDI benefits may be counted as income in month of receipt (although they are also disregarded from resources for 9 months). <sup>49</sup>
Stimulus Bill one-time payment	The \$250 one-time payment given to certain recipients of Social Security, SSI, Railroad Retirement Benefits, and Veterans Benefits is exempt from income in the month of receipt, and exempt from resources for 9 following months. <sup>50</sup>		
Tax refunds	Income tax refunds exempt in the month received and in the following month. <sup>51</sup>		Exempt in month received <sup>52</sup> and in following month. <sup>53</sup> For disabled only, refunds of taxes paid on real estate or food purchases are disregarded <sup>54</sup> Federal child tax credit payments and earned income tax credits are exempt for 9 months after month of receipt. (if received after 3/2/04)

<sup>48</sup> MRG p. 180.

<sup>49</sup> MRG p. 180 only exempts “retroactive benefits under the SSI program.” The Federal guidance governing SSI, which often applies to the SSI-related category of the Medicaid program, specifically states that “retroactive RSDI benefits, whether paid in one lump sum or by installment, are counted as unearned income in the month payment is received.” SSA POMS SI § 00830.010, available at <http://policy.ssa.gov/poms.nsf/links/0500830010>.

<sup>50</sup> GIS 09 TA/DC 009 (March 19, 2009), available at <http://www.otda.state.ny.us/main/gis/2009/09dc009.pdf>

<sup>51</sup> MRG pg. 212 (S/CC), 131 (LIF), 152 (AFDC)

<sup>52</sup> This exemption is in the MRG p. 323 but does not seem to be in state regulations. It is in the SSA regulations and POMS which is generally binding for the Aged/Blind/Disabled population. <http://policy.ssa.gov/poms.nsf/links/0500815270>, citing 20 CFR 416.1103(d).

<sup>53</sup> MRG p. 323.

<sup>54</sup> MRG pg. 179



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VA Benefits	Not disregarded		<p>Special Monthly Pension enhancements to the Improved VA Pension for Aid &amp; Attendance and Housebound are exempt.<sup>55</sup></p> <p>The portion of a VA benefits attributable to Unreimbursed Medical Expenses is exempt.<sup>56</sup></p> <p>Retroactive awards of either of the above two benefits are disregarded in the month of receipt and the following month.<sup>57</sup></p> <p>The \$90 reduced VA Pension for individuals in nursing homes.<sup>58</sup></p>
Vietnam Veterans	Agent Orange Settlement Funds exempt and monthly allowances to some veteran’s children who have spina bifida <sup>59</sup>		
Youth programs	Payments from Dept of Labor Youth Education, Employment & Training Program <sup>60</sup>		

SOURCE: NYS Dept. of Health Medicaid Reference Guide [http://www.health.ny.gov/health\\_care/medicaid/reference/mrg/](http://www.health.ny.gov/health_care/medicaid/reference/mrg/); 18 NYCRR § 360 et seq.

<sup>55</sup> 20 C.F.R. §416.1103(b)(1); CMS State Medicaid Manual § 3705; SSA POMS SI 00830.308 at <http://policy.ssa.gov/poms.nsf/lnx/0500830308>; 18 N.Y.C.R.R. § 360-4.6(a)(2)(viii); MRG Income at 229 [but note that this portion of the MRG incorrectly excludes the exemption for Housebound benefits]

<sup>56</sup> 20 C.F.R. §416.1103(a)(7); CMS State Medicaid Manual §3705(A); SSA POMS SI 00830.312 at <http://policy.ssa.gov/poms.nsf/lnx/0500830312>; MRG Income at 229.

<sup>57</sup> MRG Resources at 387.

<sup>58</sup> 38 U.S.C. § 5503(c)(2); CMS State Medicaid Manual §3705(B); MRG Income at 226.

<sup>59</sup> MRG pg 157, 181; 18 NYCRR 360-4.6(a)(1)(xxii)

<sup>60</sup> MRG pp. 199,260