

**Subpart C. ELIGIBILITY REQUIREMENTS**

| Chap. |  | Sec.   |
|-------|--|--------|
| 140.  | SPECIAL MA ELIGIBILITY PROVISIONS .....  | 140.1  |
| 141.  | GENERAL ELIGIBILITY PROVISIONS .....   | 141.1  |
| 142.  | MONTHLY REPORTING .....  | 142.21 |
| 143.  | [Reserved] .....   | 143.21 |
| 145.  | AGE .....  | 145.1  |
| 147.  | RESIDENCE .....  | 147.1  |
| 148.  | MA RESIDENCE PROVISIONS FOR CATEGORICALLY<br>NEEDY NMP-MA AND MNO-MA .....                 | 148.1  |
| 149.  | CITIZENSHIP AND ALIENAGE .....   | 149.1  |
| 150.  | CITIZENSHIP AND ALIENAGE PROVISIONS FOR<br>CATEGORICALLY NEEDY NMP-MA AND MNO-MA .....     | 150.1  |
| 151.  | SPECIFIED RELATIVES .....  | 151.1  |
| 153.  | DEPRIVATION OF SUPPORT OR CARE .....   | 153.1  |
| 155.  | ENUMERATION .....  | 155.1  |
| 161.  | PERSONS IN INSTITUTIONS .....  | 161.1  |
| 163.  | GUARDIANS AND TRUSTEES .....   | 163.1  |
| 165.  | ROAD TO ECONOMIC SELF-SUFFICIENCY THROUGH<br>EMPLOYMENT AND TRAINING (RESET) PROGRAM ..... | 165.1  |
| 166.  | EMPLOYMENT AND COMMUNITY WORK EXPERIENCE<br>PROGRAM .....                                  | 166.1  |
| 167.  | [Reserved] .....   | 167.1  |
| 168.  | CHILD CARE .....   | 168.1  |
| 169.  | [Reserved] .....   | 169.1  |

**Cross References**

This subpart cited in 55 Pa. Code § 255.71 (relating to policy); and 55 Pa. Code § 255.84 (relating to procedures).

**CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS**

| Subchap. |   | Sec.    |
|----------|---|---------|
| A.       | THE CATEGORICALLY NEEDY HEALTHY BEGINNINGS<br>PROGRAM FOR PREGNANT WOMEN AND QUALIFIED<br>CHILDREN .....            | 140.1   |
| B.       | ELIGIBILITY PROVISIONS FOR THE HEALTHY HORIZONS<br>PROGRAM FOR THE ELDERLY/DISABLED .....                           | 140.201 |
| C.       | ELIGIBILITY PROVISIONS FOR EMC UNDER THE<br>CATEGORICALLY NEEDY PROGRAM FOR TANF-RELATED<br>CATEGORIES .....        | 140.401 |
| D.       | ELIGIBILITY PROVISIONS UNDER THE MEDICAID FOR<br>CHILDREN WITH SPECIAL NEEDS CATEGORY .....                         | 140.601 |
| E.       | THE CATEGORICALLY NEEDY BREAST AND CERVICAL<br>CANCER PREVENTION AND TREATMENT PROGRAM<br>FOR QUALIFIED WOMEN ..... | 140.701 |

**Subchapter A. THE CATEGORICALLY NEEDY HEALTHY  
BEGINNINGS PROGRAM FOR PREGNANT WOMEN  
AND QUALIFIED CHILDREN**

**GENERAL PROVISIONS**

- Sec.  
140.1. Policy on Healthy Beginnings.  
140.2. Definitions.

**GENERAL ELIGIBILITY REQUIREMENTS**

- 140.21. Conditions of eligibility.

**INCOME REQUIREMENTS**

- 140.31. Income eligibility limitations.  
140.32. Applicable income.

**TYPES OF INCOME NOT COUNTED**

- 140.41. Educational loans and grants.  
140.42. Other types of income not counted.  
140.43. Income and benefits not counted under Federal and State statutes.

**EARNED INCOME COUNTED**

- 140.51. Gross earned income.  
140.52. Profit from self-employment.  
140.53. [Reserved].  
140.54. [Reserved].

**UNEARNED INCOME COUNTED**

- 140.61. Benefits, dividends and interest.  
140.62. Support.  
140.63. Contributions.  
140.64. Income of a child.  
140.65. [Reserved].  
140.66. Rental property income.

**RESTRICTED INCOME NOT COUNTED**

- 140.71. Nonservice connected veterans benefits.  
140.72. Income of an SSI recipient.  
140.73. Income received as representative payee for a child.

**INCOME DEDUCTIONS**

- 140.81. Deductions from earned income.
- 140.82. Unearned income expense deductions.
- 140.83. Deductions from delayed or retroactive benefits.
- 140.84. Rental property agency fees.
- 140.85. Guardian fee deductions.

**RESOURCE REQUIREMENTS**

- 140.91. Resources.
- 140.100. Resources of children under 21 years of age and families with children under 21 years of age.

**VERIFICATION REQUIREMENTS**

- 140.101. Verification of pregnancy.
- 140.102. Verification of date of birth for qualified children.
- 140.103. Verification of income.

**REDETERMINATION/REAPPLICATION REQUIREMENTS**

- 140.111. Redetermination/reapplication requirements.

**BENEFIT COVERAGE**

- 140.121. Category designation.
- 140.122. Postpartum eligibility.
- 140.123. Continuation of coverage to qualified children.
- 140.124. Eligibility begin date.
- 140.125. Eligibility end date.
- 140.126. Notification of eligibility/ineligibility.
- 140.127. Notification of termination.

**PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN**

- 140.141. Presumptive eligibility.
- 140.142. Presumptive eligibility begin and end dates.
- 140.143. Notification of presumptive eligibility/ineligibility.
- 140.144. Appeal rights for presumptive eligibility.
- 140.145. Notice and appeal rights for MA applicants.
- 140.146. Overpayments during the presumptive eligibility period.

**Authority**

The provisions of this Subchapter A issued under section 403(b) of the Public Welfare Code (62 P. S. § 403(b)), unless otherwise noted.

**Source**

The provisions of this Subchapter A adopted September 2, 1988, effective October 1, 1988, 18 Pa.B. 4004, unless otherwise noted.

**GENERAL PROVISIONS****§ 140.1. Policy on Healthy Beginnings.**

(a) The Department provides MA under the Categorically Needy Healthy Beginnings Program to pregnant women and qualified children who are otherwise eligible with family income that does not exceed the percentage of the Federal Poverty Income Guidelines (FPIGs) for mandatory coverage set forth in section 1902 of the Social Security Act (42 U.S.C.A. § 1396a). Future Federally mandated changes to the income or age standards will be published as a notice in the *Pennsylvania Bulletin* and will be made available upon request at the CAOs.

(b) The Department also provides MA under the Categorically Needy Healthy Beginnings Program to pregnant women and infants up to age 1 who are otherwise eligible with family income up to 185% of the FPIGs, as allowed under the optional provisions set forth in section 1902 of the Social Security Act.

(c) MA will be provided under the Program which is most advantageous for the client based on individual circumstances. Eligibility for MA benefits under both the NMP-MA and MNO-MA Programs will also be explored.

**Authority**

The provisions of this § 140.1 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

**Source**

The provisions of this § 140.1 adopted September 2, 1988, effective October 1, 1988, 18 Pa.B. 4004; amended September 18, 1992, effective upon publication for the OBRA 1989 requirement retroactive to April 1, 1990, and effective July 1, 1991, for the OBRA 1990 requirements, 22 Pa.B. 4694; amended April 2, 1993, effective upon publication and applies retroactively to January 1, 1993. Immediately preceding text appears at serial page (175162).

**Cross References**

This section cited in 55 Pa. Code § 140.31 (relating to income eligibility limitations).

**§ 140.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Applicant*—A pregnant woman or qualified child, or an individual applying on their behalf.

*Budget group*—A pregnant woman or qualified child.

*Earned income*—Money or other compensation received in return for services rendered.

*Emancipated*—An individual, under the age of 19, whether residing in or out of the parental household, who is no longer under the care and control of the parent.

*Family*—Parents, spouses and their children under the age of 21, when living together.

*Immediate family*—The child, the biological or adoptive parent of a child under 21 years of age, the spouse of the parent, and the brother, sister, step-brother, step-sister, half-brother or half-sister who are under 21 years of age. The immediate family members must be living together.

*LRR*—Legally Responsible Relative—The spouse of a pregnant woman, or the biological or adoptive parent of an unemancipated child under the age of 19.

*Nonrecurring income*—Income that is received in a single payment and not expected to continue.

*Qualified child*—A child who meets the age standards in section 1902 of the Social Security Act (42 U.S.C.A. § 1396a).

*Qualified provider*—An MA provider designated by the Department for the purpose of determining presumptive eligibility.

*Restricted income*—Income limited by the payer for the use of a specified person.

*Unearned income*—Money or other compensation received for which a service is not rendered.

**Authority**

The provisions of this § 140.2 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

**Source**

The provisions of this § 140.2 amended June 15, 2001, effective June 16, 2001, 31 Pa.B. 3196. Immediately preceding text appears at serial page (211574).

**Cross References**

This section cited in 55 Pa. Code § 140.100 (relating to resources of children under 21 years of age and families with children under 21 years of age).

**GENERAL ELIGIBILITY REQUIREMENTS**

**§ 140.21. Conditions of eligibility.**

Eligibility for MA is based on the following:

- (1) An individual shall meet one of the following criterion:
  - (i) Be pregnant.
  - (ii) Be a qualified child.
- (2) An individual shall also meet the appropriate eligibility conditions in this title. The specific eligibility conditions which shall be met are the following:
  - (i) Chapter 148 (relating to MA residence provisions for categorically needy NMP-MA and MNO-MA).
  - (ii) Chapter 149 (relating to citizenship and alienage).
  - (iii) Chapter 155 (relating to enumeration).

- (iv) Signing forms—An applicant/recipient is required to complete and sign the application/reapplication forms designated by the Department.
- (v) Chapter 255 (relating to restitution).
- (vi) Chapter 257 (relating to reimbursement).
- (vii) Responsibility for reporting changes—An applicant/recipient is responsible for reporting accurately, within 1 week, a change in circumstances affecting eligibility.
- (viii) Third party liability—An applicant/recipient shall cooperate in identifying and providing information to assist the Department in pursuing a third party who may be liable to pay for medical care and services.

### INCOME REQUIREMENTS

#### § 140.31. Income eligibility limitations.

(a) Net family income after applicable deductions and disregards cannot exceed the following:

(1) The percentage of the Federal Poverty Income Guidelines (FPIGs) for the appropriate family size for mandatory coverage set forth in section 1902 of the Social Security Act (42 U.S.C.A. § 1396a).

(2) The percentage of the FPIGs for the appropriate family size for the optional coverage established in § 140.1(b) (relating to policy on healthy beginnings) for pregnant women and infants under 1 year of age.

(b) The unborn child is counted as a family member when determining eligibility of the pregnant woman, including her presumptive eligibility.

#### Source

The provisions of this § 140.31 adopted September 2, 1988, effective October 1, 1988, 18 Pa.B. 4004; amended September 18, 1992, effective upon publication for the OBRA 1989 requirements retroactive to April 1, 1990, and effective July 1, 1991, for OBRA 1990 requirements, 22 Pa.B. 4694; amended April 2, 1993, effective upon publication and applies retroactively to January 1, 1993, 23 Pa.B. 1562. Immediately preceding text appears at serial page (175164).

#### § 140.32. Applicable income.

Earned and unearned income of family members, except when designated in this subchapter as being income that is not counted or restricted, is considered when determining eligibility of the budget group.

(1) If the applicant is pregnant and residing in the parental household, parental income is not considered when determining the eligibility of the applicant under one of the following circumstances:

- (i) If the applicant is age 18 or older and does not meet the requirements of an AFDC child in § 145.43 (relating to requirements).
- (ii) If the applicant is married.
- (iii) If the applicant is an emancipated child under the age of 19.

(2) If the applicant is an unemancipated child, pregnant and residing in the parental household, the income of siblings is disregarded when determining the

eligibility of the applicant unless the applicant elects to have the sibling and the income of the sibling counted.

(3) If the applicant is a pregnant adult, the income of her children or stepchildren residing in the household is disregarded when determining her eligibility unless the applicant elects to have the child and the income of the child counted.

(4) If the applicant is pregnant and living with the individual who voluntarily acknowledges that he is the father of her unborn child, the father is counted as a family member and his income is considered when determining eligibility.

(5) If the applicant is pregnant and living with her husband, including a common-law husband, he is counted as a family member and his income is counted when determining eligibility.

(6) If an application is made for a qualified child only, income of a step-parent in the household is not considered when determining the eligibility of the qualified child. Income of siblings is disregarded when determining the eligibility of a qualified child, unless the applicant elects to have the sibling and the income of the sibling counted.

#### TYPES OF INCOME NOT COUNTED

##### § 140.41. Educational loans, grants and work-study income.

The following do not count as income:

- (1) Educational assistance in the form of loans, grants and scholarships.
- (2) Work-study income.

##### Authority

The provisions of this § 140.41 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P.S. §§ 201(2) and 403(b)); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; section 1902(a)(10)(A) of the Social Security Act (42 U.S.C.A. § 1396a(a)(10)(A)); and the Federal TANF regulations in 45 CFR 260.10—265.10.

##### Source

The provisions of this § 140.41 amended September 13, 2002, effective September 14, 2002, 32 Pa.B. 4435. Immediately preceding text appears at serial page (211577).

##### Cross References

This section cited in 55 Pa. Code § 140.64 (relating to income of a child).

##### § 140.42. Other types of income not counted.

The following types of income are not counted:

- (1) *Funds subject to reimbursement.* Funds for which a Department reimbursement agreement has been executed.

(2) *MA copayment rebates.* A refund to the applicant/ recipient or family member authorized as a rebate for payment made in excess of the amount required as copayment for MA services.

(3) *Retroactive cash assistance payments.* Retroactive cash assistance payments authorized to correct underpayments to previous recipients of cash assistance.

(4) *Corrective cash assistance payment.* A corrective, cash assistance payment when authorized retroactively as a result of a prehearing conference, a fair hearing decision or a court order.

(5) *Refund of assigned support payment.* An assigned court order or voluntary support payment refunded to the applicant/recipient or family member due to a month of suspension of the monthly cash assistance payment.

(6) *Donations from public or private agencies.* Money, goods or services an applicant/recipient receives from a public or private agency or organization.

(7) *Donations from individuals.* In-kind goods or services provided by a person to an applicant/recipient or family member or third-party payments made to a vendor on behalf of an applicant/recipient or family member.

(8) *Gifts, loans or borrowed money.* Gifts, loans or borrowed money, regardless of the amount, are treated as a resource and have no effect on eligibility.

(9) *Home produce.* The value of home produce of the applicant/recipient or family member which is used by the applicant/recipient and the household of the applicant/recipient for the personal consumption of the applicant/recipient household and not for sale.

(10) *Day care.* Money received from providing day care for children in an approved family day care home.

(11) *Earned Income Tax Credit (EITC).* The advance monthly payment or year-end payment which an applicant/recipient receives.

#### Source

The provisions of this § 140.42 amended December 28, 1990, effective December 29, 1990, and apply retroactively to October 1, 1989, 20 Pa.B. 6387. Immediately preceding text appears at serial pages (130388) to (130389).

#### Cross References

This section cited in 55 Pa. Code § 140.63 (relating to contributions); and 55 Pa. Code § 140.64 (relating to income of a child).

### **§ 140.43. Income and benefits not counted under Federal and State statutes.**

The following are not counted by Federal and State statutes:

(1) *Food stamp program benefits.* The value of free stamps received by an applicant/recipient or family member who is participating in the food stamp program under section 8 of the Food Stamp Act of 1964 (7 U.S.C.A. § 2017(b)).

(2) *Value of United States Department of Agriculture surplus food donation.* The value of United States Department of Agriculture donated foods—surplus commodities—distributed under section 32 of the Agricultural Adjustment Act (7 U.S.C.A. § 612c).

(3) *Food assistance and free school lunches.* The value of supplemental food assistance received under the Child Nutrition Act of 1966 (42 U.S.C.A. §§ 1771—1789) and the special food services program for children under section 2 of the National School Lunch Act (42 U.S.C.A. § 1751).

(4) *LIHEAP.* Home energy assistance payments or services received under LIHEAP.

(5) *Experimental housing allowance program.* Experimental Housing Allowance Program (EHAP) payments made under annual contribution contracts entered into before January 1, 1975, under the United States Housing Act of 1937 (42 U.S.C.A. §§ 1437—1440).

(6) *Subsidies paid for housing or utilities.* Subsidies paid for housing or utilities under the United States Housing Act of 1937 and housing rehabilitation grants under the Housing and Community Development Act of 1974 (Pub.L. 93-383, 88 Stat. 633).

(7) *Uniform relocation assistance and real property acquisition policies.* Money received under Subchapter II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C.A. §§ 4621—4638, specifically § 4636).

(8) *Job Training Partnership Act.* Money received as need based payments or payments for supportive services from the Job Training Partnership Act (29 U.S.C.A. §§ 1501—1781).

(9) *Alaska Native Claims Settlement Act.* Tax exempt portions of payments made under the Alaska Native Claims Settlement Act (43 U.S.C.A. §§ 1601—1628).

(10) *Payments to Indian tribes.* The following payments to Indian tribes:

(i) Funds distributed per capita to, or held in trust for, members of an Indian tribe under the act of March 18, 1972 (Pub.L. 92-254, 86 Stat. 64) (25 U.S.C.A. §§ 1261—1265) or the act of October 19, 1973 (Pub.L. 93-134, 87 Stat. 466) (25 U.S.C.A. §§ 1401—1408).

(ii) Effective October 17, 1975, receipts distributed to members of certain Indian tribes referred to in section 5 of the act of January 4, 1975 (Pub.L. 93-638, 88 Stat. 2216) (25 U.S.C.A. § 459d).

(iii) Effective January 12, 1983, interest and investment income accrued on Indian Judgement funds while held in trust under the Per Capita Act (25

U.S.C.A. §§ 117a—117c) and the act of October 19, 1973 (Pub.L. 93-134, 87 Stat. 466) (25 U.S.C.A. §§ 1401—1408).

(11) *Payment to volunteers.* Payment to volunteers under any of the following provisions:

(i) Payments to volunteers under Subchapter I of the Domestic Volunteer Service Act of 1973 (42 U.S.C.A. §§ 4951—4993). Payments for volunteer work in VISTA, Service Learning Programs and Special Volunteer Programs.

(ii) Payments for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides or senior companions and other programs established under Subchapter II of the Domestic Volunteer Service Act of 1973 (42 U.S.C.A. §§ 5001—5024), if the payments when divided by the number of hours served, result in an amount that is less than the Commonwealth's minimum hourly wage.

(12) *Congregate meals.* Benefits received under Subchapter III, Part C of the Older Americans Act of 1965 (42 U.S.C.A. §§ 3030e—3030g).

(13) *Senior Citizen Rebate and Assistance Act.* Money received as a rent rebate or as property tax assistance under the Senior Citizen Rebate and Assistance Act (72 P. S. §§ 4751-1—4751-12).

(14) *Adoption subsidies.* Maintenance subsidies received under the Adoption Opportunity Act (62 P. S. §§ 771—774) for the use of the special need child.

(15) *Foster care payments.* Payments received for providing foster care under Title IV-E of the Social Security Act (42 U.S.C.A. §§ 670—676) or Article VII of the Public Welfare Code (62 P. S. §§ 701—735).

(16) *Support.* The first \$50 per month of court-ordered and voluntary support payments received, excluding arrearages.

(17) *Home energy assistance (HEA) benefits.* HEA benefits furnished in-kind by a certified, private, nonprofit organization or furnished as cash or in-kind assistance by a certified supplier of home heating oil or gas, by a certified entity providing home energy whose revenues are primarily derived on a rate-of-return basis and regulated by the Public Utility Commission or by a certified municipal utility providing home energy. HEA benefits include, but are not limited to, payments for heating or cooling, storm doors, weatherization services and blankets. HEA benefits do not include food or clothing.

(18) *Support or maintenance assistance benefits.* In-kind support or maintenance benefits provided by a certified, private, nonprofit organization. Benefits include, but are not limited to, in-kind provision of food, clothing, temporary emergency shelter, furniture, toys and appliances.

(19) *Japanese-American and Aleutian restitution payments.* Restitution payments made by the United States government to eligible Japanese-Americans and Aleuts who were interned or relocated during World War II. If the eligible

Japanese-Americans are deceased at the time of payment, payments will be made to certain of their survivors as specified under the Civil Liberties Act of 1988 (50 App. §§ 1989b and 1989b-1—1989b-9). This payment is also excluded. This provision does not apply to eligible Aleuts who are covered under the Aleutian and Pribilof Islands Restitution Act (50 App. §§ 1989c and 1989c-1—1989c-8). Interest received on retained restitution payments is also not excluded but is subject to the usual regulations governing interest as specified in this chapter.

(20) *Agent orange settlement payments.* Payments made from the Agent Orange Settlement Fund or another fund established pursuant to the settlement in the agent orange product liability litigation.

#### Source

The provisions of this § 140.43 adopted September 2, 1988, effective October 1, 1988, 18 Pa.B. 4004; amended March 22, 1991, effective upon publication in the *Pennsylvania Bulletin* and applies retroactively to August 10, 1988, 21 Pa.B. 1182; amended August 27, 1993, effective August 28, 1993, with the exception of the Agent Orange Settlement Payments requirement which is retroactive to January 1, 1989, 23 Pa.B. 4071. Immediately preceding text appears at serial pages (155136) and (156995) to (156996).

#### Cross References

This section cited in 55 Pa. Code § 140.64 (relating to income of a child).

### EARNED INCOME COUNTED

#### § 140.51. Gross earned income.

Gross earned income, including, but not limited to, wages, tips, salaries, commissions and bonuses from employment is counted as earned income.

#### § 140.52. Profit from self-employment.

Profit from self-employment is counted as earned income. Self-employment includes, but is not limited to, operating a business or farm, practicing a profession, renting nonresident real property, renting rooms or apartments contained in the resident property and providing board. Profit from self-employment is determined using one of the following methods:

(1) From self-employment gross receipts, the verified costs to the applicant/recipient or family member of producing or continuing the income are deducted. Depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods, are not included in the deductions.

(2) From renting rooms or apartments contained in the resident property and providing board to individuals and providing room and board to tenants, the following amounts are deducted from the gross receipts:

- (i) From total room and apartment rent, \$10 plus an amount equal to 50% of the remainder.
- (ii) From board payments, the maximum food stamp coupon allotment for the household size based on the total number of boarders.
- (iii) From room and board payments, 40% of the total gross payment added to the maximum food stamp coupon allotment for the household size equal to the total number of roomers and boarders.
- (iv) Where there are roomers, boarders, and room and boarders, the following amounts are deducted from the gross receipts and the results are added to determine the profit as follows:
  - (A) From total room or apartment rent, \$10 plus an amount equal to 50% of the remainder.
  - (B) From room and board payments, 40% of the total room and board payments.
  - (C) From board payments and the balance of the room and board payments after the deduction in clause (B), the maximum food stamp coupon allotment for the household size equal to the total number of boarders and room and boarders.

#### Cross References

This section cited in 25 Pa. Code § 140.452 (relating to income from self-employment).

### § 140.53. [Reserved].

#### Source

The provisions of this § 140.53 reserved September 13, 2002, effective retroactively to March 3, 1997, September 14, 2002, 32 Pa.B. 4435. Immediately preceding text appears at serial page (211582).

### § 140.54. [Reserved].

#### Source

The provisions of this § 140.54 reserved December 28, 1990, effective December 29, 1990, and apply retroactively to October 1, 1989, 20 Pa.B. 6387. Immediately preceding text appears at serial page (130393).

## UNEARNED INCOME COUNTED

### § 140.61. Benefits, dividends and interest.

Annuities, pensions and other periodic payments which include, but are not limited to, private pensions, social security benefits including Part B Medicare premiums, disability benefits, veterans benefits, workmen's compensation, railroad retirement, unemployment insurance benefits, dividends, interest and royalties are counted as unearned income.

**§ 140.62. Support.**

Child support, spousal support and alimony are counted as unearned income, regardless of whether the payment or support is voluntary or court ordered. The first \$50 per month of court-ordered and voluntary support received, excluding arrearages, is disregarded.

**Cross References**

This section cited in 55 Pa. Code § 140.63 (relating to contributions).

**§ 140.63. Contributions.**

(a) Cash contributions by an LRR, including the putative father of a qualified child, are considered support as defined in § 140.62 (relating to support). The mother or the putative father shall acknowledge in writing that the payment from the putative father is child support.

(b) Cash contributions by an individual other than an LRR are counted as unearned income unless exempt under § 140.42(8) (relating to other types of income not counted).

**§ 140.64. Income of a child.**

(a) Income paid on behalf of a child included in the applicant/recipient group is counted in determining income eligibility. If the income covers more than one child, each child covered is considered to have an equal share unless the payer or the court order specifies otherwise.

(b) Income of a child who is an applicant/recipient or a family member is not counted in determining income eligibility if it is:

(1) Income which is exempt under §§ 140.41, 140.42(1)—(10) and 140.43 (relating to educational loans, grants and work-study income; other types of income not counted; and income and benefits not counted under Federal and State statutes).

(2) RSDI benefits paid under Title II of the Social Security Act (42 U.S.C.A. §§ 401—433) to a representative payee who does not live in the same household as the child and which the representative payee does not actually make available for the support of the child.

**§ 140.65. [Reserved].**

**Source**

The provisions of this § 140.65 reserved September 13, 2002, effective September 14, 2002, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (211583) to (211584).

**§ 140.66. Rental property income.**

Income from a rental property owned by an applicant/recipient or family member but handled by a rental agency is counted as unearned income if the applicant/recipient or family member has no specific responsibility for the management of the property.

**RESTRICTED INCOME NOT COUNTED****§ 140.71. Nonservice connected veterans benefits.**

The amount of increased nonservice connected veterans benefits which the applicant/recipient or family member was eligible to receive, but elected not to receive, under the Veterans' Pension Act of 1959 (38 U.S.C. §§ 503, 506, 521, 522, 541—543, 617 and 3203) is not counted. The person does not have to apply for the increase if the person qualified for veterans benefits on June 30, 1960 and elected not to receive the increase in benefits provided under the Veterans' Pension Act of 1959.

**§ 140.72. Income of an SSI recipient.**

The income of an SSI recipient is not considered available to meet the needs of an applicant/recipient except those payments made to the applicant/recipient for goods, services and room and board. The person receiving SSI is not included as a family member when determining the eligibility of the Healthy Beginnings applicant.

**§ 140.73. Income received as representative payee for a child.**

If a member of the applicant/recipient group or family member is payee for a benefit for a child and the benefit is legally restricted to the use of that child, the income is not counted in determining income eligibility if the child is not a Healthy Beginnings applicant/recipient.

**INCOME DEDUCTIONS****§ 140.81. Deductions from earned income.**

Each employed individual in the Healthy Beginnings family whose income is used to determine the eligibility of the budget group is entitled to the following deductions from earned income, in the following order:

- (1) *Work expenses.* The first \$90 per month from the earned income of each individual who is employed if the employed individual or family member is not eligible to receive an earned income incentive deduction as described in paragraph (2) or if the \$90 per month deduction is more advantageous to the applicant or recipient group.
- (2) *Earned income incentive deductions.*

(i) Each employed individual in the applicant or recipient group or family member is eligible to receive an earned income incentive deduction if one of the following exists:

(A) The employed individual is a recipient of Healthy Beginnings.

(B) The employed individual has been a recipient of cash assistance, NMP-MA or MNO-MA in a TANF-related category in 1 of the 4 calendar months before the date of the application for Healthy Beginnings.

(C) The employed individual has been a recipient of NMP-MA or MNO-MA in a GA-related category with a child who was simultaneously a recipient of MA in a TANF-related category in 1 of the 4 calendar months before the date of the application for Healthy Beginnings.

(ii) Each employed individual in the applicant or recipient group, including a family member who meets one of the requirements in subparagraph (i), is eligible to receive a continuous 50% earned income incentive deduction or the first \$90 per month work expense deduction from earned income and a \$30 plus 1/3 remainder earned income incentive deduction per requirements in subparagraph (iii), whichever is most advantageous to the applicant or recipient group.

(iii) The application of the \$30 plus 1/3 remainder earned income incentive deduction is treated as follows:

(A) The employed applicant or recipient or family member is eligible to receive the \$30 plus 1/3 remainder earned income incentive deduction for 4 consecutive months if:

(I) Twelve consecutive months have elapsed since the employed applicant or recipient has been a recipient of Healthy Beginnings or the income of the individual has not been considered when determining the eligibility of the Healthy Beginnings recipient. The count of months begins with the first month following the month of termination for Healthy Beginnings regardless of whether the employed applicant or recipient received the entire 8 consecutive months of the \$30 income incentive deduction described in clause (B).

(II) An applicant or recipient whose receipt of 4 consecutive months of the work incentive is interrupted due to loss of income or a decrease in income. The applicant or recipient is eligible for a new 4 consecutive month period.

(B) Each employed person in the applicant/recipient group who received 4 months of the \$30 plus 1/3 income incentive deduction is eligible for an income deduction of \$30 per month during the next 8 consecutive months. The application of the \$30 incentive is treated as follows:

(I) The applicant/recipient is entitled to the \$30 income incentive deduction during any month of the 8-month period for which the income of the applicant/recipient is sufficient to qualify.

(II) The 8 months of eligibility for the \$30 income incentive deduction begins with the month following the end of the 4 consecutive calendar months of the \$30 and 1/3 income incentive deduction.

(III) The 8 months of eligibility are counted consecutively, whether or not Healthy Beginnings is interrupted or income is sufficient to qualify for it.

(3) *Dependent care expenses.* The actual work-related cost of care of dependent or incapacitated persons living in the home of the applicant/recipient or family member, if no other sound plan can be made for their care, up to a maximum of:

(i) One hundred seventy-five dollars per month per child 2 years of age or older or incapacitated person when the applicant/recipient or family member is employed full-time.

(ii) One hundred fifty dollars per month per child 2 years of age or older or incapacitated person when the applicant/recipient or family member is employed part-time.

(iii) Two hundred dollars per month per child under age 2 regardless of whether the applicant/recipient or family member is employed full-time or part-time.

#### Authority

The provisions of this § 140.81 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)) (code); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193) (PRWORA), creating the Temporary Assistance for Needy Families (TANF) Program, and amending 42 U.S.C.A. §§ 601—619, 651—669(b) and 1396u-1; section 1902(a)(10)(A) of the Social Security Act (42 U.S.C.A. § 1396a(a)(10)(A)); and the Federal TANF regulations in 45 CFR 260.10—265.10.

#### Source

The provisions of this § 140.81 amended December 28, 1990, effective December 29, 1990, and apply retroactively to October 1, 1989, 20 Pa.B. 6387; amended September 13, 2002, effective retroactively to March 3, 1997, 32 Pa.B. 4435. Immediately preceding text appears at serial pages (211584) to (211586).

#### Cross References

This section cited in 55 Pa. Code § 178.104 (relating to disposition of assets and fair consideration provisions for transfers on or after July 30, 1994); and 55 Pa. Code § 178.174 (relating to disposition of assets and fair consideration provisions for transfer on or after July 30, 1994).

### § 140.82. Unearned income expense deductions.

(a) The expenses which the applicant/recipient or family member is required to pay to be eligible for, or to receive, the unearned income are deducted. Expenses include, but are not limited to, attorney fees, transportation costs and court costs.

(b) The replacement cost of real or personal property that is covered by a personal damage award or insurance settlement is deducted.

**§ 140.83. Deductions from delayed or retroactive benefits.**

If delayed or retroactive benefits are subject to reimbursement to the Department, the amount owed under the reimbursement agreement is deducted from the amount of the delayed benefit.

**§ 140.84. Rental property agency fees.**

The amount paid to a rental agency to manage rental property owned by the applicant/recipient is deducted.



**§ 140.85. Guardian fee deductions.**

The fee paid to a guardian who controls the income or property of an applicant/recipient when the guardian has been court appointed and the guardian fee is imposed as a part of the court order is deducted.

**RESOURCE REQUIREMENTS****§ 140.91. Resources.**

Resources are not considered when determining eligibility.

**§ 140.100. Resources of children under 21 years of age and families with children under 21 years of age.**

The resources of the Healthy Beginnings child under 21 years of age and the Healthy Beginnings applicant/recipient immediate families with children under 21 years of age are excluded. If the child who is under 21 years of age is living with a caretaker who is not immediate family as defined in § 140.2 (relating to definitions) and who exercises care and control of the child, the resources of the caretaker are excluded.

**Authority**

The provisions of this § 140.100 issued under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403 (b)).

**Source**

The provisions of this § 140.100 adopted June 15, 2001, effective June 16, 2001, 31 Pa.B. 3196.

**VERIFICATION REQUIREMENTS****§ 140.101. Verification of pregnancy.**

(a) For Categorically Needy Healthy Beginnings, the pregnancy and expected delivery date shall be verified by a licensed physician, clinic or other medical source. Verification of the pregnancy is required prior to the authorization of benefits.

(b) For presumptive eligibility, the pregnancy shall be medically verified by the qualified provider at the time of the determination of presumptive eligibility.

**§ 140.102. Verification of date of birth for qualified children.**

(a) Documentation verifying the birth date of the qualified child is required. Benefits may be authorized if the stated birth date appears to be consistent and reasonable. The applicant is required to provide verification of the birth date within 30 days after date of application.

(b) Documentation of birth date is not required if previously verified and properly noted in the case record, unless a discrepancy exists.

**§ 140.103. Verification of income.**

(a) Verification of income is required prior to authorization of benefits. An applicant/recipient may not be denied MA for lack of verification if the applicant/

recipient has cooperated in the verification attempt under §§ 125.21 and 133.23 (relating to the policy; and requirements).

(b) For presumptive eligibility, the qualified provider is not required to verify the applicant's income prior to authorization of presumptive eligibility.

#### **REDETERMINATION/REAPPLICATION REQUIREMENTS**

##### **§ 140.111. Redetermination/reapplication requirements.**

(a) For Categorically Needy Healthy Beginnings, the redetermination/reapplication requirements in Chapter 133 (relating to redetermining eligibility) apply.

(b) For presumptive eligibility, no redetermination/reapplication requirements apply.

#### **BENEFIT COVERAGE**

##### **§ 140.121. Category designation.**

Pregnant women and qualified children who are eligible to receive Categorically Needy Healthy Beginnings benefits are designated as "PS" category.

##### **§ 140.122. Postpartum eligibility.**

A woman who is eligible for and receiving benefits at termination of the pregnancy, regardless of the reason for the termination, shall continue to receive MA coverage through the end of the month in which the 60-day postpartum period (beginning on the last day of her pregnancy) ends, without regard to a change in income during that period. The newborn child is also eligible through the end of the month in which the 60-day postpartum period ends. Eligibility under this section ceases if the woman changes her legal residence to another state before the end of the month in which the 60-day postpartum period ends.

##### **§ 140.123. Continuation of coverage to qualified children.**

If a qualified child is receiving inpatient care and exceeds the age limit during the hospital stay, benefits will continue until the end of the hospital stay if the income requirements continue to be met.

##### **§ 140.124. Eligibility begin date.**

The eligibility begin date for Categorically Needy Healthy Beginnings may be the date the application is signed or the date the signed application is date stamped by the county assistance office.

##### **§ 140.125. Eligibility end date.**

(a) Eligibility ends on one of the following dates:

(1) For the woman whose eligibility was based on pregnancy, the end of the month in which the 60-day postpartum period ends. The 60-day period begins with the date the pregnancy was terminated.

(2) For the qualified child, the day preceding the date that the child exceeds the age limitation.

(b) Eligibility ends effective for the first MAID Card Issuance for which the deadline can be met, following proper notification, under the following circumstances:

(1) When increased income results in ineligibility.

(2) When ineligibility occurs as the result of the loss of the \$30 plus 1/3 disregard or the \$30 disregard.

(3) When ineligibility occurs prior to the end of the month in which the 60-day postpartum period ends as the result of the woman or newborn changing legal residence to another state.

(c) When benefits are terminated because the recipient no longer meets the requirements of pregnancy or age, eligibility for continuing MA coverage under the NMP-MA and MNO-MA Programs is explored. If the recipient is determined eligible, MA benefits are continued under the appropriate program with no interruption in MA coverage.

**§ 140.126. Notification of eligibility/ineligibility.**

The applicant will be notified in writing regarding eligibility/ineligibility for benefits under the Categorically Needy Healthy Beginnings Program. If determined ineligible, the applicant has a right to appeal and fair hearing under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

**§ 140.127. Notification of termination.**

The recipient will be notified in writing regarding the termination of Categorically Needy Healthy Beginnings benefits as follows:

(1) For the woman whose eligibility was based on pregnancy, advance notice is issued at least 10 days prior to the expiration of the end of the month in which the 60-day postpartum period ends.

(2) For the qualified child, advance notice is issued at least 10 days prior to the date that the child exceeds the age limitation.

(3) For the woman or newborn who moves out of this Commonwealth prior to the end of the month in which the 60-day postpartum period ends, advance notice is issued at least 10 days prior to the termination date.

(4) If benefits are terminated due to increased income, loss of the \$30 plus 1/3 disregard, or the \$30 disregard, advance notice is issued at least 10 days prior to the termination date.

**PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN**

**§ 140.141. Presumptive eligibility.**

Temporary outpatient prenatal services are provided under the Categorically Needy Healthy Beginnings Program to pregnant women determined to be presumptively eligible. Presumptive eligibility is determined by a qualified provider as defined in § 140.2 (relating to definitions) pending a determination of eligibility for MA benefits by the CAO.

(1) Presumptive eligibility is based on the following criteria:

- (i) An individual is pregnant.
- (ii) An individual is determined income eligible by a qualified provider.
- (iii) An individual meets the following specific eligibility conditions:
  - (A) *Chapter 147* (relating to residence).
  - (B) *Chapter 149* (relating to citizenship and alienage).
  - (C) *Signing forms*. The applicant for presumptive eligibility is required to complete and sign the application forms designated by the Department.
- (2) Only one period of presumptive eligibility is granted per individual per pregnancy per qualified provider.

**§ 140.142. Presumptive eligibility begin and end dates.**

- (a) The begin date for presumptive eligibility is the date that the qualified provider makes the presumptive eligibility determination.
- (b) The end date for presumptive eligibility is whichever of the following dates is earlier:
  - (1) The date of the first MAID Card Issuance for which the deadline can be met following the determination by the county assistance office of the individual's eligibility/ineligibility for continued MA benefits.
  - (2) The 45th day following the date on which the individual was determined by a qualified provider to be presumptively eligible.

**§ 140.143. Notification of presumptive eligibility/ineligibility.**

The pregnant woman will be notified in writing by the qualified provider of eligibility/ineligibility for medical coverage under the presumptive eligibility provisions.

**§ 140.144. Appeal rights for presumptive eligibility.**

Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) does not apply to the denial or termination of presumptive eligibility coverage.

**§ 140.145. Notice and appeal rights for MA applicants.**

The presumptively eligible pregnant woman who applies for ongoing MA is entitled to:

- (1) Written notice of eligibility/ineligibility from the county assistance office under Chapter 125 (relating to application process).
- (2) Appeal and fair hearing rights under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

**§ 140.146. Overpayments during the presumptive eligibility period.**

No overpayments of medical services occur for the duration of the period of presumptive eligibility when a determination of presumptive eligibility is made by a qualified provider.

**Subchapter B. ELIGIBILITY PROVISIONS FOR THE  
HEALTHY HORIZONS PROGRAM FOR THE  
ELDERLY/DISABLED**

**GENERAL PROVISIONS**

Sec.

- 140.201. Policy on Healthy Horizons.
- 140.202. Definitions.

**ELIGIBILITY REQUIREMENTS**

- 140.221. Conditions of eligibility.

**INCOME REQUIREMENTS**

- 140.231. Income eligibility limitations.
- 140.232. Applicable income.

**ITEMS THAT ARE NOT COUNTED AS INCOME**

- 140.241. Items that are not counted as income.

**TYPES OF EARNED INCOME COUNTED**

- 140.251. Gross earned income.
- 140.252. Income from self-employment.
- 140.253. Payment for services in a sheltered workshop or work activities center.
- 140.254. Earned Income Tax Credit (EITC).

**TYPES OF UNEARNED INCOME COUNTED**

- 140.261. Benefits, dividends and interest.
- 140.262. Prizes and awards.
- 140.263. Inheritances.
- 140.264. Support.
- 140.265. Profit from rental property income.
- 140.266. Proceeds as beneficiary of life insurance policy.

**INCOME EXCLUSIONS**

- 140.271. Income exempt by Federal statutes.
- 140.272. Earned income exclusion.
- 140.273. Unearned income exclusions.

**DEDUCTIONS FROM INCOME**

- 140.281. Deductions from unearned income.
- 140.282. Deductions from earned income.
- 140.283. Deductions from self-employment.
- 140.284. Guardian fee deductions.
- 140.285. Deductions from rental income.

**TREATMENT OF LUMP SUM PAYMENTS**

140.291. Treatment of lump sum payments.

**RESOURCE REQUIREMENTS**

140.301. Resource eligibility limitations.

140.305. Resources of children under 21 years of age and families with children under 21 years of age.

**VERIFICATION REQUIREMENTS**

140.311. Verification requirements.

**REDETERMINATION/REAPPLICATION REQUIREMENTS**

140.321. Redetermination/reapplication requirements.

**BENEFIT COVERAGE**

140.331. Benefit coverage.

140.332. Category designation.

140.333. Eligibility begin date.

140.334. Eligibility end date.

140.335. Retroactive eligibility.

140.336. Notification of eligibility/ineligibility.

140.337. Notification of termination.

**RIGHT TO APPEAL/FAIR HEARING**

140.341. Appeal and fair hearing.

**Authority**

The provisions of this Subchapter B issued under section 403(b) of the Public Welfare Code (62 P. S. § 403(b)), unless otherwise noted.

**Source**

The provisions of this Subchapter B adopted October 26, 1990, effective October 27, 1990, and apply retroactively to January 1, 1989, 20 Pa. B. 5428, unless otherwise noted.

**Cross References**

This subchapter cited in 55 Pa. Code § 140.601 (relating to policy); and 55 Pa. Code § 140.603 (relating to conditions of MA eligibility).

**GENERAL PROVISIONS****§ 140.201. Policy on Healthy Horizons.**

(a) The Department provides MA under the Healthy Horizons Categorically Needy Program to elderly/disabled persons who are otherwise eligible with family income up to 100% of the current Federal Income Poverty Guidelines and resources not exceeding the SSI resource standard for the appropriate family size.

(b) The Department participates in QMB Medicare cost-sharing only under the Healthy Horizons Medicare Cost-Sharing Program for qualified Medicare beneficiaries with family income up to 100% of the current Federal Poverty Income Guidelines and resources not exceeding twice the SSI resource standard for the appropriate family size.

(c) The Department also participates in the Medicare Cost-Sharing for qualified Medicare beneficiaries found eligible for benefits under the Healthy Horizons Categorically Needy Program.

(d) The Department participates in SLMB Medicare Cost-Sharing only under the Healthy Horizons Medicare Cost-Sharing Program for SLMBs with family income which on or after January 1, 1995, is more than 100% but does not exceed 120% of the current Federal Poverty Income Guidelines and resources not exceeding twice the SSI resource standard for the appropriate family size. Prior to January 1, 1995, for calendar years 1993 and 1994, family income shall be more than 100%, but may not exceed 110% of the applicable Federal Poverty Income Guidelines and resources may not exceed twice the SSI resource standard for the appropriate family size.

(e) The Department participates in Medicare cost-sharing under the Healthy Horizons Program for qualifying individuals whose family income is at least 120% and less than 135% or at least 135% and less than 175% of the current Federal Poverty Income Guidelines and whose resources do not exceed twice the SSI resource standard for the appropriate family size. These individuals are designated as QI-1s and QI-2s, respectively.

(f) MA is provided under the program which is not advantageous for the client based on individual circumstances. Eligibility for MA benefits under both the NMP-MA and MNO-MA Programs is also explored.

#### Authority

The provisions of this § 140.201 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P.S. §§ 201(2) and 403(b)).

#### Source

The provisions of this § 140.201 amended May 24, 1996, effective May 25, 1996, and apply retroactively to January 1, 1993, for the SLMB Medicare Cost-Sharing Program for persons whose income does not exceed 110% of the FPIGs, and retroactively to January 1, 1995, for persons whose income does not exceed 120% of the FPIGs, 26 Pa.B. 2412; amended December 30, 1999, effective January 1, 2000, 30 Pa.B. 15. Immediately preceding text appears at serial page (216193).

### § 140.202. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Applicant/recipient*—A person who is applying for, or receiving, benefits under the Healthy Horizons Program.

*Calendar quarter*—A period of 3-full calendar months beginning with January, April, July or October.

*Countable net income*—Income counted in determining income eligibility for Healthy Horizons, less appropriate exemptions, deductions and disregards.

*Earned income*—Money or other compensation received in return for services rendered.

*Immediate family*—The child, the biological or adoptive parent of a child under 21 years of age, the spouse of the parent, and the brother, sister, step-brother, step-sister, half-brother or half-sister who are under 21 years of age. The immediate family members must be living together.

*Infrequent income*—Income that is received not more than once in a calendar quarter.

*Irregular income*—Income that is not subject to scheduling or is unpredictable.

*Legal guardian*—A person who is court appointed as the legal guardian.

*Personal property*—Privately owned possessions which are not real property. The term includes cash, bank accounts, stocks, bonds, mortgages, cash value of life insurance policies, household furnishings, personal effects, motor vehicles, boats and Federal, State and local tax refunds.

*QI—Qualifying individual*—An individual who is enrolled in Medicare hospital insurance under Part A and meets the income requirements in § 140.231(c) or (d) (relating to income eligibility limitations) and resource requirements in § 140.301 (relating to resource eligibility limitations).

*QI-1s—Qualifying Individual-1s*—A qualifying individual who meets the income requirements in § 140.231(c). Eligibility for Medicaid benefits is limited to full payment of Medicare Part B premiums.

*QI-2s—Qualifying Individual-2s*—A qualifying individual who meets the income requirements in § 140.231(d). Eligibility for Medicaid benefits is limited to partial payment of Medicare Part B premiums.

*QMB—Qualified Medicare beneficiary*—An individual who is entitled to, or voluntarily enrolled in, Medicare hospital insurance under Part A.

*Real property*—Land, buildings, mobile homes and improvements thereto.

*SLMB—Specified low-income Medicare beneficiary*—An individual who meets the eligibility requirements for QMB status except for income in excess of the QMB income limit, but not exceeding the limits specified in § 140.231.

*SSI—Supplemental Security Income*—The benefit amount paid to an eligible person or to an eligible person and the eligible spouse under Title XVI of the Social Security Act (42 U.S.C.A. §§ 1381—1383c).

*Spouse*—A person who is married to another by legal ceremony or by common-law.

#### Authority

The provisions of this § 140.202 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

**Source**

The provisions of this § 140.202 amended May 24, 1996, effective May 25, 1996, and apply retroactively to January 1, 1993, for the SLMB Medicare Cost-Sharing Program for persons whose income does not exceed 110% of the FPIGs, and retroactively to January 1, 1995, for persons whose income does not exceed 120% of the FPIGs, 26 Pa.B. 2412; amended December 30, 1999, effective January 1, 2000, 30 Pa.B. 15; amended June 15, 2001, effective June 16, 2001, 31 Pa.B. 3196. Immediately preceding text appears at serial pages (262298) to (262299).

**Cross References**

This section cited in 55 Pa. Code § 140.305 (relating to resources of children under 21 years of age and families with children under 21 years of age).

**ELIGIBILITY REQUIREMENTS**

**§ 140.221. Conditions of eligibility.**

Eligibility for MA under the Healthy Horizons Program is based on the following:

- (1) An individual shall meet the following eligibility requirements:
  - (i) Chapters 125 and 127 (relating to application process; and reserved).
  - (ii) Chapter 148 (relating to residence).
  - (iii) Chapter 149 (relating to citizenship and alienage).
  - (iv) Chapter 155 (relating to enumeration).
  - (v) Chapter 178 (relating to resource provisions for categorically NMP-MA and MNO-MA).
  - (vi) Chapter 255 (relating to restitution).
  - (vii) Chapter 257 (relating to reimbursement).
- (2) Under the Healthy Horizons Categorically Needy Program, an individual shall also meet one of the following criteria:
  - (i) Be 65 years of age or older.
  - (ii) Be a disabled person who is receiving Social Security Disability benefits or disability benefits based on SSI disability criteria at § 141.71 (relating to policy).
  - (iii) Be a disabled person who meets the disability requirements of § 141.71.
- (3) Under the Healthy Horizons Medicare Cost-Sharing Program, an individual shall also be a qualified Medicare beneficiary.

**Source**

The provisions of this § 140.221 amended May 24, 1996, effective May 25, 1996, and apply retroactively to January 1, 1993, for the SLMB Medicare Cost-Sharing Program for persons whose income does not exceed 110% of the FPIGs, and retroactively to January 1, 1995, for persons whose income does not exceed 120% of the FPIGs, 26 Pa.B. 2412. Immediately preceding text appears at serial page (211594).

**INCOME REQUIREMENTS****§ 140.231. Income eligibility limitations.**

(a) For the Healthy Horizons Categorically Needy and Healthy Horizons QMB Cost-Sharing Programs, net family income after applicable deductions and disregards cannot exceed 100% of the current Department of Health and Human Services Annual Update of Federal Poverty Income Guidelines for the appropriate family size.

(b) For the Healthy Horizons SLMB Cost-Sharing Program, on or after January 1, 1995, net income after applicable deductions and disregards shall be more than 100% of the current Department of Health and Human Services annual update of Federal Poverty Income Guidelines for the appropriate family size but may not exceed 120%. Prior to January 1, 1995, for calendar years 1993 and 1994, net income after applicable deductions and disregards shall be more than 100% of the applicable Department of Health and Human Services Annual Update of Federal Poverty Income Guidelines for the appropriate family size, but cannot exceed 110%.

(c) For the Healthy Horizons Medicare Cost-Sharing Program for QI-1s, net income after applicable deductions and disregards shall be at least 120% and less than 135% of the current Department of Health and Human Services annual update of Federal Poverty Income Guidelines for the appropriate family size.

(d) For the Healthy Horizons Medicare Cost-Sharing Program for QI-2s, net income after applicable deductions and disregards shall be at least 135% and less than 175% of the current Department of Health and Human Services annual update of Federal Poverty Income Guidelines for the appropriate family size.

**Authority**

The provisions of this § 140.231 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

**Source**

The provisions of this § 140.231 amended May 24, 1996, effective May 25, 1996, and apply retroactively to January 1, 1993, for the SLMB Medicare Cost-Sharing Program for persons whose income does not exceed 110% of the FPIGs, and retroactively to January 1, 1995, for persons whose income does not exceed 120% of the FPIGs, 26 Pa.B. 2412; amended December 30, 1999, effective January 1, 2000, 30 Pa.B. 15. Immediately preceding text appears at serial page (216195).

**Cross References**

This section cited in 55 Pa. Code § 140.202 (relating to definitions).

**§ 140.232. Applicable income.**

Earned or unearned income of the applicant/recipient, except when designated in this subchapter as being income that is not counted or excluded, is considered when determining eligibility.

(1) Countable net income of the applicant/recipient is determined after the allowable deductions listed in §§ 140.281—140.285 (relating to deductions from income).

(2) If the applicant/recipient is residing with a spouse, earned or unearned income of the spouse is considered when determining eligibility of the applicant/recipient.

(i) Countable income of the spouse is determined under Chapter 181 Subchapter C (relating to the TANF and GA categories).

(ii) If countable income of the spouse is equal to, or less than, 50% of the Federal Benefit Rate for one person, the spouse is not counted as a family member and the income of the spouse is not considered when determining eligibility, unless the applicant/recipient elects to have the spouse and the income of the spouse counted.

(iii) Earned or unearned income of the spouse is combined with earned or unearned income of the applicant/recipient. The allowable deductions listed in §§ 140.281—140.285 are applied to the combined income to determine net countable income.

(3) If the applicant/recipient has children or stepchildren 20 years of age or younger residing in the household, the income of the children or stepchildren is disregarded when determining eligibility unless the applicant/recipient elects to have the child and the income of the child counted.

(i) Countable income of the child is determined in accordance with Chapter 181 Subchapter C.

(ii) Earned or unearned income of the child is combined with earned or unearned income of the applicant/recipient and earned or unearned income, if any, of the spouse. The allowable deductions listed in §§ 140.281—140.285 are applied to the combined income to determine net countable income.

(4) A lump sum payment received by the applicant/recipient or the spouse of the applicant/recipient may be considered as income if it is more advantageous to the applicant/recipient than considering the payment as a resource.

#### ITEMS THAT ARE NOT COUNTED AS INCOME

##### § 140.241. Items that are not counted as income.

The following items are not counted as income when determining income eligibility for the Healthy Horizons Program:

(1) *Receipts from conversion of a resource.* Receipts from the conversion of a resource, such as the sale, exchange or replacement of a resource. This includes cash or an in-kind item that is provided to replace or repair a resource that has been lost, damaged or stolen.

(2) *Income tax refunds.* An amount refunded on income taxes.

(3) *Payments by credit life or credit disability insurance policies.* Payments made under a credit life or credit disability insurance policy issued to, or on behalf of, borrowers to cover payments on loans or installment purchases in the event of the death or disability of the applicant/recipient which are made directly to loan companies or mortgage companies and are not available to the applicant/recipient either directly or by sale or conversion for the purposes of meeting basic needs.

(4) *Repayment of loan.* Money received from another party in repayment of a loan. Interest received on the money lent is counted as income.

(5) *Bill paid for applicant/recipient or the spouse.* A bill paid by a third party for the applicant/recipient or the spouse.

(6) *Replacement income.* Income received as a replacement of income lost, destroyed or stolen.

(7) *Weatherization assistance.*

(8) *MA copayment rebates.* A refund to the applicant/recipient authorized as a rebate for payment in excess of the amount required as copayment for MA services.

(9) *Veterans aid and attendance and housebound allowance.* The aid and attendance and household allowance portion of a veterans benefit.

(10) *Borrowed money.* Money obtained by borrowing.

(11) *Medical care and services.* Medical care and services if they are:

(i) Given free of charge or paid for directly to the provider by another person.

(ii) Room and board received during a medical confinement.

(iii) Assistance provided in cash or in-kind, including food, clothing or shelter under a Federal, State or local government program, whose purpose is to provide medical care or services including vocational rehabilitation.

(iv) In-kind assistance provided under a nongovernmental program whose purpose is to provide medical care or medical services.

(v) Cash provided by a nongovernmental medical care or medical services program or under a health insurance policy if the cash is either repayment for program approved services already paid for by the applicant/recipient or a payment restricted to the future purchase of a program approved service.

(vi) Direct payment of the applicant/recipient's medical insurance premiums by anyone on behalf of the applicant/recipient.

(12) *Social services.* Social services if they are one or more of the following:

(i) Assistance provided in cash or in-kind but not received in return for a service performed by the applicant/recipient under a Federal, State or local government program whose purpose is to provide social services including vocational rehabilitation.

(ii) In-kind assistance provided under a nongovernmental program whose purpose is to provide social services.

(iii) Cash provided by a nongovernmental social services program if the cash is either repayment for program approved services already paid by the applicant/recipient or a payment restricted to the future purchase of a program approved service such as cash provided by a private social services agency to an applicant/recipient for homemaker, attendant care and chore services.

(13) *Receipt of certain noncash items.* Noncash items which are excluded as a resource under Chapter 178, Subchapter A (relating to general provisions for MA resources common to all categories of MA). If the item is retained it is not counted as income.

(14) *Assistance for the homeless.*

#### TYPES OF EARNED INCOME COUNTED

##### § 140.251. Gross earned income.

Gross earned income, including wages, tips, salaries, commissions, severance pay and bonuses from employment is counted as earned income.

#### Notes of Decisions

##### *Unearned Income*

Disability benefits are unearned income even though the stub of the disability check from employer's insurance carrier designated the income as sick pay. *Goldstein v. Department of Public Welfare*, 654 A.2d 295 (Pa. Cmwlth. 1995).

##### § 140.252. Income from self-employment.

Income from self-employment is counted as earned income. Self-employment includes operating a business, trade or farm, practicing a profession or from renting personal or real property as a trade or business.

##### § 140.253. Payment for services in a sheltered workshop or work activities center.

A payment received for services performed in a sheltered workshop or work activities center is counted when received or when the payment is set aside for the applicant/recipient's use.

##### § 140.254. Earned Income Tax Credit (EITC).

(a) The advance monthly EITC payment which an applicant/recipient actually receives is counted as monthly earned income.

(b) An applicant/recipient with earned income who is not receiving a monthly advance EITC does not have EITC counted as monthly earned income. The EITC counts as a lump sum payment when the EITC is refunded.

(c) A reconciliation of the EITC is required for a current recipient of Healthy Horizons following the end of the tax year if the recipient verifies that the total amount of the advance EITC which was counted as earned income received during the tax year by the Department differs from the year-end EITC. The recipient is responsible for providing the information and documentation necessary to complete the reconciliation computation. This information includes the recipient's income tax return—IRS Form 1040, 1040A or 1040EZ—and the income tax refund check received or a photostatic copy of the income tax refund check.

(1) If the amount of the advance payments counted by the Department is less than the EITC verified on the income tax return—IRS Form 1040, 1040A or 1040EZ—and the income tax refund check or a copy of the income tax refund check, the additional EITC is treated as lump sum payment in the month of receipt. The EITC is attributed to the person who was employed during the tax year. Each person who was employed is considered to have an equal share of the EITC.

(2) If the amount of the advance payments counted by the Department is equal to, or more than, the EITC verified on the income tax return, no further adjustment is necessary.

(3) If the recipient fails to provide the necessary verification, IRS Form 1040, 1040A or 1040EZ and the income tax refund check or a copy of the income tax refund check, the entire amount of the available EITC—the maximum EITC the recipient could receive less the amount of the advance payments counted by the Department—is counted as the EITC refund and as a lump sum payment in the month of receipt.

## TYPES OF UNEARNED INCOME COUNTED

### § 140.261. Benefits, dividends and interest.

Annuities, pensions and other periodic payments which include private pensions, social security benefits including Part B Medicare premiums, disability benefits, veterans benefits, worker's compensation, railroad retirement, unemployment insurance benefits, dividends, interest and royalties are counted as unearned income. In some cases, the amount counted as unearned income is more than the actual amount received by the applicant/recipient. This occurs when the amount received by the applicant/recipient is reduced for a debt resulting from an overpayment of a previously received benefit, or by deduction of an insurance premium. In this situation, the actual amount to count as unearned income is the amount of the unearned income benefit to which the applicant/recipient is entitled before the deduction of an insurance premium or the reduction to recover an overpayment unless § 140.273(14) (relating to unearned income exclusions) applies.

**§ 140.262. Prizes and awards.**

A prize, which is generally something won in a contest, lottery or game of chance, is counted as unearned income. An award, which is usually something received as the result of a decision by a court, board of arbitration or something similar, is counted as unearned income.

**§ 140.263. Inheritances.**

An inheritance, which is something received as a result of someone's death, is counted as unearned income. An inheritance can be cash or in-kind, including a right or interest in real or personal property.

**§ 140.264. Support.**

Child support, spousal support and alimony are counted as unearned income, regardless of whether the payment or support is voluntary or court-ordered.

**§ 140.265. Profit from rental property income.**

Profit from rental property income is the payment received by the applicant/recipient for the use of real or personal property including payments for room and board and room rent less the deductions in § 140.285 (relating to deductions from rental income). Profit from rental property income is counted as unearned income.

**§ 140.266. Proceeds as beneficiary of life insurance policy.**

Payments received by the applicant/recipient as a beneficiary of a life insurance policy, except for an amount up to \$1,500 that the applicant/recipient verifies that he spent on the insured's last illness and burial expense, is counted as unearned income. Illness and burial expenses include related hospital and medical expenses, funeral, burial plot and interment expenses and other related costs.

**INCOME EXCLUSIONS****§ 140.271. Income exempt by Federal statutes.**

The following types of income do not count when determining income eligibility for Healthy Horizons:

- (1) *Food Stamp Program benefits.* The value of food stamps received by an applicant/recipient who is participating in the Food Stamp Program (7 U.S.C.A. §§ 2011—2029).
- (2) *Value of United States Department of Agriculture surplus food donation.* The value of United States Department of Agriculture donated food-surplus commodities distributed under section 32 of the act of August 24, 1935 (7 U.S.C.A. § 612c).

(3) *Value of free or reduced price food.* The value of free or reduced price food received by women and children under sections 11(b) and 17 of the Child Nutrition Act of 1966 (42 U.S.C.A. §§ 1780(b) and 1786); and section 13(h)(3) of the National School Lunch Act (42 U.S.C.A. § 1761(h)(3)).

(4) *Assistance to prevent fuel cutoffs.* Assistance received under the Energy Crisis Assistance Program or the Emergency Energy Conservation Services Program under section 222(a)(5) of the Economic Opportunity Act of 1964 (42 U.S.C.A. § 2809(a)(5)).

(5) *Fuel assistance payments.* Fuel assistance payments and allowances under the Low Income Home Energy Assistance Act of 1981 (42 U.S.C.A. §§ 8621—8629) as amended by the Human Services Reauthorization Act of 1984 (Pub. L. 99-425) (100 Stat. 966).

(6) *Housing subsidies.* Housing subsidies paid under the United States Housing Act of 1937 (includes Section 8 Housing) (12 U.S.C.A. §§ 1437—1437g), the National Housing Act (12 U.S.C.A. §§ 1706(b)—1749bbb-21), section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C.A. § 1701s), Title V of the Housing Act of 1949 (42 U.S.C.A. §§ 1471—1490o) or other Federal housing subsidy statutes.

(7) *Uniform Relocation Assistance and Real Property Acquisition Policies.* Payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970 (42 U.S.C.A. §§ 4621—4638).

(8) *Job Training Partnership Act.* Payments received under the Job Training Partnership Act of 1982 (29 U.S.C.A. §§ 1501—1781).

(9) *Grants or loans to undergraduate students.* Grants or loans to undergraduate students for educational purposes made or insured under programs administered by the Secretary of the United States Department of Education under section 507 of the Higher Education Amendments of 1968 (20 U.S.C.A. § 1060, note and § 1091, note).

(10) *Wages, allowances or reimbursement for transportation and attendant care costs received by an eligible handicapped individual under Title VI of the Rehabilitation Act.* Wages, allowances or reimbursement for transportation and attendant care costs, unless excepted on a case-by-case basis, when received by an eligible handicapped person employed in a project under section 611(b) and (c) of Title VI of the Rehabilitation Act of 1973 (29 U.S.C.A. § 795(b) and (c)).

(11) *Alaska Native Claims Settlement Act.* Payments under section 21(a) of the Alaska Native Claims Settlement Act (43 U.S.C.A. § 1620(a)).

(12) *Payments based on age and residence in Alaska.* Payments made under a program established in Alaska before July 1, 1973, and based solely on length of residence in Alaska and attainment of age 65. This includes money received in accordance with the Alaska longevity bonus which is exempt under section 1612(b)(2)(B) of the Social Security Act (42 U.S.C.A. § 1382(b)(2)(B)).

(13) *Indian tribe per capita judgment funds.* Per capita judgment funds received by the following Indian tribes:

(i) The Blackfeet and Gros Ventre Tribes under section 4 of the act of March 18, 1972 (Pub. L. 94-540) (90 Stat. 2503) (25 U.S.C.A. § 1264).

(ii) The Grand River Band of Ottawa Indians under the act of October 18, 1976 (Pub. L. 94-540) (90 Stat. 2504).

(iii) Tribes or groups under section 7 of the act of October 9, 1973 (Pub. L. 93-134) (87 Stat. 468) (25 U.S.C.A. § 1407).

(iv) The Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation under section 2 of the act of October 10, 1978 (Pub. L. 95-433) (92 Stat. 1047) (25 U.S.C.A. § 609c-1).

(14) *Receipts from land to certain Indian tribes.* Receipts from land held in trust by the Federal government and distributed to members of certain Indian tribes under section 6 of the act of October 17, 1975 (Pub. L. 94-114) (89 Stat. 579) (25 U.S.C.A. § 459e).

(15) *Payment to volunteers.* Payment to volunteers in the Foster Grandparent Program and other similar programs under sections 404(g) and 418 of the Domestic Volunteer Service Act of 1973 (42 U.S.C.A. §§ 5044(g) and 5058).

(16) *Older Americans Act benefits.* Benefits received other than wages or salaries under section 210 of the Older Americans Act of 1965 (42 U.S.C.A. § 3020a).

(17) *Retroactive SSI and RSDI payments.* Retroactive payments received under Title II or Title XVI of the Social Security Act (42 U.S.C.A. §§ 401—433 or 1381—1383c) are exempt for 6 months after the month in which the retroactive payment is received. If a portion of the retroactive payment remains after the exclusion period, it is counted as a resource under section 1613 of the Social Security Act (42 U.S.C.A. § 1382b) under Chapter 178 (relating to resource provisions for categorically NMP-MA and MNO-MA).

(18) *Japanese-American and Aleutian restitution payments.* Restitution payments made by the United States government to eligible Japanese-Americans and Aleuts who were interned or relocated during World War II. If the eligible Japanese-Americans are deceased at the time of payment, payments will be made to certain of their survivors as specified under the Civil Liberties Act of 1988 (50 App. §§ 1989b and 1989b-1—1989b-9). This payment is also excluded. This paragraph does not apply to eligible Aleuts who are covered under the Aleutian and Pribilof Islands Restitution Act (50 App. §§ 1989c and 1989c-1—1989c-8). Interest received on retained restitution payments is also not excluded but is subject to the usual regulations governing interest as specified in this chapter.

(19) *Agent orange settlement payments.* Payments made from the Agent Orange Settlement Fund or another fund established pursuant to the settlement in the agent orange product liability litigation.

(20) *Interest from certain burial space arrangements.* Interest earned on agreements representing the purchase of burial spaces which are excluded under Chapter 178 (relating to resource provisions for categorically NMP-MA and MNO-MA) if the interest is left to accumulate. Interest that is not left to accumulate is counted as interest income.

**Source**

The provisions of this § 140.271 adopted October 26, 1990, effective October 27, 1990, and apply retroactively to January 1, 1989, 20 Pa.B. 5428; amended March 22, 1991, effective upon publication in the *Pennsylvania Bulletin*, and applies retroactively to August 10, 1988, 21 Pa.B. 1182; amended August 27, 1993, effective August 28, 1993, with the exception of the Agent Orange Settlement Payments requirement which is retroactive to January 1, 1989, 23 Pa.B. 4071. Immediately preceding text appears at serial pages (153022) to (153024) and (157009).

**§ 140.272. Earned income exclusion.**

Earned income that does not exceed \$10 in a month is excluded if it is irregular or infrequent and received from a single source.

**§ 140.273. Unearned income exclusions.**

The following do not count when determining income eligibility for Healthy Horizons and shall be excluded in the order listed:

- (1) *Refund or return of taxes paid on real property.* A refund or return from a public agency of taxes paid on real property.
- (2) *Educational expenses.* The amount of a grant, scholarship or fellowship used for paying tuition, fees or other necessary educational expenses.
- (3) *Home produce.* The value of food produced by an applicant/recipient which is used by the applicant/recipient and his household for their own personal consumption and not for sale.
- (4) *Disaster relief assistance.*
  - (i) Support and maintenance provided as disaster relief assistance, including income-in-kind, received as the result of a catastrophe declared by the President as a major disaster under the Disaster Relief Act of 1974 (42 U.S.C.A. §§ 5121—5202) or another Federal statute, if the following conditions are met:
    - (A) At the time of the catastrophe, the applicant/recipient was living in and maintaining his own home but discontinued living in his home because of the catastrophe.
    - (B) The applicant/recipient began to receive disaster assistance within 30 days after the last day of the catastrophe.
    - (C) The applicant/recipient received the disaster assistance while living in a residential facility, including a private household maintained by another person.

(D) The exclusion applies for a period beginning on the date the assistance is received and ending on the last day of the 18th full month following the month the cash was received.

(ii) Other assistance is not counted as income if received under the Disaster Relief Act of 1974 or under Federal law because of a catastrophe which the President declares to be a major disaster.

(5) *Interest on disaster relief assistance.* Interest earned on disaster relief assistance for a period beginning on the date the assistance is received and ending on the last day of the 9th full month following the month the cash was received. Interest earned for a period beginning on the date the assistance is received and ending on the last day of the 18th full month following the month the cash was received, if the applicant/recipient has good cause for not repairing or replacing the property or contracting for the repairing or replacing the property for which the disaster relief assistance was given.

(6) *German reparations payments.* Payments made under the Republic of Germany's Federal Law for Compensation of Nationalist Socialist Persecution—German Restitution Act—to certain survivors of the holocaust. The payments may be made periodically or as a lump sum.

(7) *Unearned income not exceeding \$20 in a month.* Unearned income that does not exceed \$20 in a month, if it is received irregularly or infrequently. If the total amount of infrequent or irregular unearned income is received in a month exceeds \$20 or the unearned income is received more than once in a quarter, this exclusion is not given.

(8) *Periodic payments by a state based solely on residence.* Periodic payments made by a state under a program established before July 1, 1973, and based solely on the length of residence and attainment of age 65.

(9) *Payments for providing foster care.* Payments for providing foster care to a child who is not included as a family member when determining the eligibility of the applicant/recipient and who was placed in the home of the applicant/recipient by a public or private nonprofit child placement or child care agency.

(10) *Interest earned on burial funds.* Interest earned on burial funds if the burial fund is excluded as a resource under Chapter 178 Subchapter A (relating to general provisions for MA resources common to all categories of MA) and the interest is left to accumulate and become part of the burial fund.

(11) *Certain support and maintenance assistance.* In-kind support or maintenance assistance benefits furnished in-kind by a certified private, nonprofit organization or furnished as cash or in-kind assistance by a certified supplier of home heating oil or gas, by a certified entity providing home energy whose revenues are primarily derived on a rate-of-return basis and regulated by the Pennsylvania Public Utility Commission or by a certified municipal utility providing home energy. Support and maintenance assistance includes home energy

assistance (HEA) and may include payments for heating or cooling, storm doors, weatherization services and blankets. HEA benefits do not include food or clothing.

(12) *Interest income.* Interest income if it is received only once during a calendar quarter and the total of the interest income plus infrequent or irregular unearned income received in a month in which the interest income is received does not exceed \$20.

(13) *Property tax and rent rebate payments.* Property tax and rent rebate payments and inflation dividend payments received under the Senior Citizens Rebate and Assistance Act (72 P. S. §§ 4751-1—4751-12).

(14) *Reduction in unearned income to recover a previous overpayment.* If unearned income of the applicant/recipient is reduced to cover a previous overpayment, the amount of the reduction is exempt from consideration as current income if the amount of the overpayment was considered in determining financial eligibility for Healthy Horizons at the time the overpayment was received.

(15) *Advance payments against expenses of obtaining income.* A lump sum advance to cover expenses to obtain income. The advance is considered reimbursement for expenses of obtaining the income.

#### Cross References

This section cited in 55 Pa. Code § 140.261 (relating to benefits, dividends and interest).

### DEDUCTIONS FROM INCOME

#### § 140.281. Deductions from unearned income.

(a) *Unearned income expenses.* For each applicant/recipient, the expenses which the applicant/recipient pays to be eligible for, or to receive, unearned income are deducted. These unearned income expenses include attorney fees, court costs and transportation costs. Personal income taxes are not expenses the applicant/recipient had to pay to get this income and are not allowable deductions.

(b) *First \$20 of income in a month other than income based on need.* The first \$20 of income received in a calendar month by an applicant/recipient group is deducted after allowable expense deductions in subsection (a) are deducted. The application of the deduction is as follows:

(1) The deduction does not apply to unearned income based on need and funded in whole or in part by the Federal government or by a nongovernment agency.

(2) This exception applies to income based on need and funded wholly by the State.

(3) This deduction applies to veterans benefits received by an applicant/recipient who is a veteran or is a dependent of a veteran on the basis of one of the following:

- (i) A special act of Congress.
  - (ii) Service in the Indian Wars (January 8, 1817—December 31, 1881).
  - (iii) Service in the Civil War (1861—1865).
  - (iv) Service in the Spanish-American War (April 12, 1898—July 4, 1902).
- (4) The deduction is first applied to the unearned income received by the applicant/recipient.
- (5) If the applicant/recipient does not have unearned income or has less than \$20 of unearned income in a calendar month, the remaining portion of the \$20 deduction is applied to the earned income received in the calendar month under § 140.282(1) (relating to deductions from earned income).

#### Notes of Decisions

##### *Deductions; Conflict with Handbook*

Under regulation, unavoidable bank fees, paid to access Social Security Disabilities benefits that are directly deposited into recipient's account, are deductible expenses from unearned income. Although the Department's Medical Assistance Eligibility Handbook indicates that they are not deductible, the regulation controls over the handbook, which is purely advisory. *Franks v. Department of Public Welfare*, 804 A.2d 144 (Pa. Cmwlth. 2002).

#### Cross References

This section cited in 55 Pa. Code § 140.232 (relating to applicable income); 55 Pa. Code § 140.282 (relating to deductions from earned income); and 55 Pa. Code § 140.291 (relating to treatment of lump sum payments).

### § 140.282. Deductions from earned income.

The following amounts are deducted from earned income in the order listed in determining income eligibility:

- (1) *Portion of \$20 monthly deduction not deducted from unearned income.* The portion of the \$20 monthly deduction in § 140.281(b) (relating to deductions from unearned income) which has not been deducted from unearned income is deducted from earned income in the same month for each applicant/recipient group.
- (2) *Sixty-five dollars of earned income in a month.* An employed applicant/recipient is entitled to an earned income deduction of \$65 of his gross earned income per month.
- (3) *Earned income of a disabled applicant/recipient used to pay impairment-related work expenses.* Earned income used by an applicant/recipient who is disabled and 64 years of age or younger to pay impairment-related work expenses is excluded. Impairment-related work expenses include:
  - (i) Payments for attendant care services if assistance is needed by the applicant/recipient in traveling to and from work, while at work, and at home because of impairment.

(ii) Payments for a medical device if the applicant/recipient's impairment requires use of the device to work.

(iii) Payments for a prosthetic device if the applicant/recipient's impairment requires the use of the prosthetic device to work.

(iv) Payments for impairment related nonmedical appliances and equipment and residential modifications needed by the applicant/recipient for employment.

(v) Payments for drugs, medical services and prescribed medical supplies if necessary to the applicant/recipient to control the impairment.

(vi) Payments for installing, maintaining and repairing the items listed in subparagraphs (i)—(v) that are necessary for the applicant/recipient's employment.

(vii) Payments for similar items and services not listed in subparagraphs (i)—(vi) which are directly related to the applicant/recipient's impairment and needed by the applicant/recipient to work.

(4) *One-half of remaining earned income in a month.* An employed applicant/recipient is entitled to a deduction of one-half of the remaining earned income after the deduction in paragraph (2) and when applicable, the deductions in paragraphs (1) and (3).

#### Cross References

This section cited in 55 Pa. Code § 140.232 (relating to applicable income); and 55 Pa. Code § 140.291 (relating to treatment of lump sum payments).

### § 140.283. Deductions from self-employment.

For each self-employed person, the verified costs to produce or continue the income are deducted. The deductible costs include expenses reported on the Federal income tax return except depreciation, personal business, entertainment expenses and depletion.

#### Cross References

This section cited in 55 Pa. Code § 140.232 (relating to applicable income).

### § 140.284. Guardian fee deductions.

Guardian fees are deducted from earned or unearned income if having a guardian is a requirement for receiving the income.

#### Cross References

This section cited in 55 Pa. Code § 140.232 (relating to applicable income).

### § 140.285. Deductions from rental income.

(a) Expense deductions from rental income include:

(1) Necessary expenses paid for the production or collection of the rental income.

- (2) Real estate insurance costs related to the rental property, whether or not the mortgage holder requires the insurance.
- (3) The interest portion of a mortgage payment.
- (4) A repair which is an incidental correction to an existing structure, or to a piece of equipment.
- (b) Items such as depreciation or depletion, personal expenses which are not related to the rental income and capital expenditures are not allowable deduc-



tions. A capital expenditure represents an expenditure for an addition or increase in the value of fixed assets, and is subject to depreciation for income tax purposes.

(c) Allowable expenses are prorated if only a portion of the total property is designated for rent, regardless of whether it is actually rented.

**Cross References**

This section cited in 55 Pa. Code § 140.232 (relating to applicable income); and 55 Pa. Code § 140.265 (relating to profit from rental property income).

**TREATMENT OF LUMP SUM PAYMENTS**

**§ 140.291. Treatment of lump sum payment.**

(a) A lump sum payment is a nonrecurring payment. Types of lump sum payments include delayed wages, bonuses, earned income tax credit (EITC), cash prizes, cash lottery winnings, life insurance benefits, cash inheritances, personal injury and other damage awards and settlements and retroactive benefits, such as retirement, survivors and disability insurance, delayed unemployment compensation and workers compensation.

(b) A lump sum payment is counted as a resource under Chapter 178, Subchapter A (relating to general provisions for MA resources common to all categories of MA) unless it would be more helpful to the applicant/recipient group to have the lump sum treated as income.

(c) If the lump sum is treated as income, it is counted as income in the calendar month received.

(1) An earned lump sum such as delayed wages, bonuses and EITC is treated as earned income and is added to other earned income received in the calendar month. The deductions listed under § 140.282 (relating to deductions from earned income) are applied to determine countable net earned income.

(2) An unearned lump sum such as cash prizes, cash lottery winnings, life insurance benefits, cash inheritances and personal injury is treated as unearned income and is added to other unearned income received in the calendar month. The deductions listed under § 140.281 (relating to deductions from unearned income) are applied to determine countable net unearned income.

(d) The balance of the lump sum remaining subsequent to the calendar month the lump sum was received and counted as income as described in subsection (c) is considered a resource to the applicant/recipient or the spouse of the applicant/recipient.

**Authority**

The provisions of this § 140.291 amended under section 201(2) of the Public Welfare Code (55 P. S. § 201(2)).

**Source**

The provisions of this § 140.291 amended September 10, 1999, effective September 11, 1999, 29 Pa.B. 4784. Immediately preceding text appears at serial page (216199).

**RESOURCE REQUIREMENTS****§ 140.301. Resource eligibility limitations.**

(a) An applicant/recipient is resource eligible for the Health Horizons Categorically Needy Program if his total resources considered in accordance with Chapter 178, Subchapters A and B (relating to general provisions for MA resources common to all categories of MA; and aged, blind and disabled categories of MA), do not exceed the SSI resource standard for the appropriate family size.

(b) An applicant/recipient is resource eligible for the SLMB, QMB, QI-1, and QI-2 Healthy Horizons Medicare Cost-Sharing Programs if total resources considered under Chapter 178, Subchapters A and B do not exceed twice the SSI resource standard for the appropriate family size in Chapter 178, Appendix A, Part (a) (relating to NMP-MA resource limits).

**Authority**

The provisions of this § 140.301 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

**Source**

The provisions of this § 140.301 amended May 24, 1996, effective May 25, 1996, and apply retroactively to January 1, 1993, for the SLMB Medicare Cost-Sharing Program for persons whose income does not exceed 110% of the FPIGs, and retroactively to January 1, 1995, for persons whose income does not exceed 120% of the FPIGs, 26 Pa.B. 2412; amended December 30, 1999, effective January 1, 2000, 30 Pa.B. 15. Immediately preceding text appears at serial page (259598).

**Cross References**

This section cited in 55 Pa. Code § 140.202 (relating to definitions).

**§ 140.305. Resources of children under 21 years of age and families with children under 21 years of age.**

The resources of the Healthy Horizons child under 21 years of age and the Healthy Horizons applicant/recipient immediate families with children under 21 years of age are excluded. If the child who is under 21 years of age is living with a care-taker who is not immediate family as defined in § 140.202 (relating to definitions) and who exercises care and control of the child, the resources of the caretaker are excluded.

**Authority**

The provisions of this § 140.305 issued under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

**Source**

The provisions of this § 140.305 adopted June 15, 2001, effective June 16, 2001, 31 Pa.B. 3196.

**VERIFICATION REQUIREMENTS****§ 140.311. Verification requirements.**

(a) Verification requirements under Healthy Horizons are as follows:

(1) *Verification of income.* Verification of income is required prior to the authorization of Healthy Horizons benefits. However, an applicant/recipient may not be denied MA under the Healthy Horizons Program for lack of verification if the applicant/recipient has cooperated in the verification attempt under Chapter 125 (relating to the application process) and § 133.73 (relating to requirements).

(2) *Verification of resources.* Verification of ownership, the value of resources and the disposition of resources is required of an applicant/recipient or the person acting on behalf of the applicant/recipient including guardians and trustees under § 178.3 (relating to resource reporting and verification for all categories of MA).

(3) *Verification of qualified Medicare beneficiary status.* The Medicare Part A Card is considered verification of qualified Medicare beneficiary status.

(b) Under the Healthy Horizons Categorically Needy Program, the following verification is also required:



(1) *Verification of age.*

(i) Documentation verifying the date of birth for persons 65 years of age or older is required. Benefits may be authorized if the stated date of birth appears to be reasonable. The applicant/recipient is required to provide verification of age within 30 days from the date of authorization.

(ii) Documentation of date of birth is not required if previously verified and properly notated in the case record unless a discrepancy exists.

(2) *Verification of disability.*

(i) Recipient of Social Security Disability Benefits or disability benefits based on SSI disability criteria is considered verification of disability.

(ii) If the applicant is not receiving disability benefits, the following shall be submitted:

(A) Medical verification of a disability which meets the SSI disability criteria.

(B) Proof that the person has applied for disability benefits and is awaiting a decision.

**REDETERMINATION/REAPPLICATION  
REQUIREMENTS**

**§ 140.321. Redetermination/reapplication requirements.**

The redetermination/reapplication requirements in Chapter 133 (relating to redetermining eligibility) apply.

**BENEFIT COVERAGE**

**§ 140.331. Benefit coverage.**

(a) The Department will provide the following under the Healthy Horizons Categorically Needy Program:

(1) Full categorically needy benefits.

(2) Qualified Medicare beneficiaries are also eligible for the following:

(i) Buy-in of the Medicare Part A premium if the individual is enrolled in Medicare Part A and paying the Part A premium.

(ii) Buy-in of the Medicare Part B premium.

(iii) Payment of the Medicare Part A and Part B deductibles and coinsurances. The combined Medicare and Medicaid payment will not exceed the Department's Medicaid fee for the service provided.

(b) The Department will provide the following under the QMB Healthy Horizons Medicare Cost-Sharing Program:

(1) Buy-in of the Medicare Part A premium if the individual is enrolled in Medicare Part A and paying the Part A premium.

(2) Buy-in of the Medicare Part B premium.

(3) Payment of the Medicare Part A and Part B deductibles and coinsurances. The combined Medicare and Medicaid payment will not exceed the Department's Medicaid fee for the services provided.

(c) Under the Healthy Horizons SLMB Medicare Cost-Sharing Program, the Department will provide buy-in of only the Medicare Part B premium if the individual is enrolled in or eligible for Medicare Part A.

(d) For QI-1s, to the extent that Federal funding is provided, the Department will provide full Medicaid payment of the Medicare Part B Premium if the individual is enrolled in or eligible for Medicare Part A.

(e) For QI-2s, to the extent that Federal funding is provided, the Department will provide partial Medicaid payment of the Medicare Part B Premium if the individual is enrolled in or eligible for Medicare Part A. This is a reimbursement to the recipient, not a premium payment to Medicare.

(f) For QI-2s, partial payments of Medicare Part B premium payment will be made for the calendar year. For all other recipients of payments, the Department will pay the Medicare Part A premium, if appropriate, and the Medicare Part B premium beginning with the month following the month in which the applicant is determined eligible.

#### Authority

The provisions of this § 140.331 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

#### Source

The provisions of this § 140.331 amended May 24, 1996, effective May 25, 1996, and apply retroactively to January 1, 1993, for the SLMB Medicare Cost-Sharing Program for persons whose income does not exceed 110% of the FPIGs, and retroactively to January 1, 1995, for persons whose income does not exceed 120% of the FPIGs, 26 Pa.B. 2412; amended December 30, 1999, effective January 1, 2000, 30 Pa.B. 15. Immediately preceding text appears at serial pages (216201) to (216202).

#### § 140.332. Category designation.

(a) Elderly/disabled persons who are eligible to receive Healthy Horizons Categorically Needy benefits are designated as “PS” category and are identified by the appropriate program status code.

(b) Elderly persons who are eligible for Medicare Cost-Sharing only are designated as “PG” category.

(c) Disabled persons who are eligible for Medicare Cost-Sharing only are designated as “PL” category.

(d) Elderly disabled persons who are eligible for SLMB Medicare Cost-Sharing are designated as TA/TJ category and the appropriate program status code.

(e) Elderly/disabled persons who are eligible under the Healthy Horizons Medicare Cost-Sharing Program for QI-1s and QI-2s are designated as TA/TJ category and are identified by the appropriate program status code.

#### Authority

The provisions of this § 140.332 amended under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)).

**Source**

The provisions of this § 140.332 amended May 24, 1996, effective May 25, 1996, and apply retroactively to January 1, 1993, for the SLMB Medicare Cost-Sharing Program for persons whose income does not exceed 110% of the FPIGs, and retroactively to January 1, 1995, for persons whose income does not exceed 120% of the FPIGs, 26 Pa.B. 2412; amended December 30, 1999, effective January 1, 2000, 30 Pa.B. 15. Immediately preceding text appears at serial page (216202).

**§ 140.333. Eligibility begin date.**

The eligibility begin date may be the date the application is signed or the date the signed application is date stamped by the CAO.

**§ 140.334. Eligibility end date.**

(a) Eligibility ends, following proper notification, on the date that eligibility conditions are no longer met.

(b) When benefits are terminated due to increased income or resources, or because the applicant/recipient is no longer considered disabled, eligibility for continuing MA coverage under the MNO-MA Program is explored. If the individual is determined eligible, MA benefits are continued under the MNO Program with no interruption in MA coverage.

**§ 140.335. Retroactive eligibility.**

(a) The earliest possible date for retroactive Healthy Horizons Categorically Needy benefits to begin is the first day of the third month preceding the month of application. The period of eligibility for retroactive Healthy Horizons Categorically Needy benefits begins the first day of the month in which the first medical service was incurred if the applicant was otherwise eligible during that month.

(b) There is no retroactive coverage under the Healthy Horizons QMB Medicare Cost-Sharing Program, but eligibility for the SLMB Medicare Cost-Sharing Program may be retroactive for up to 3 months.

**Source**

The provisions of this § 140.335 amended May 24, 1996, effective May 25, 1996, and apply retroactively to January 1, 1993, for the SLMB Medicare Cost-Sharing Program for persons whose income does not exceed 110% of the FPIGs, and retroactively to January 1, 1995, for persons whose income does not exceed 120% of the FPIGs, 26 Pa.B. 2412. Immediately preceding text appears at serial page (211610).

**§ 140.336. Notification of eligibility/ineligibility.**

The applicant is notified in writing regarding eligibility/ineligibility for benefits under the Healthy Horizons Categorically Needy Program.

**§ 140.337. Notification of termination.**

The recipient is given advance notice in writing issued at least 10 days prior to the termination date.

**Notes of Decisions**

*Increased Resources*

The Department properly terminated recipient's Medical Assistance after she received disability insurance proceeds that caused her resources to exceed the applicable eligibility limit. *Filoon v. Department of Public Welfare*, 819 A.2d 188 (Pa. Cmwlth. 2003).

**RIGHT TO APPEAL/FAIR HEARING****§ 140.341. Appeal and fair hearing.**

The applicant/recipient is entitled to the appeal and fair hearing rights under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

**Subchapter C. ELIGIBILITY PROVISIONS FOR EMC  
UNDER THE CATEGORICALLY NEEDY PROGRAM  
FOR TANF-RELATED CATEGORIES****POLICY**

- Sec.  
140.401. Policy.  
140.402. Definitions.

**GENERAL ELIGIBILITY REQUIREMENTS**

- 140.421. Conditions of eligibility.

**INCOME REQUIREMENTS**

- 140.431. Income eligibility limits.  
140.432. Applicable income.

**TYPES OF INCOME NOT COUNTED**

- 140.441. Income not counted.

**TYPES OF EARNED INCOME COUNTED**

- 140.451. Gross earned income.  
140.452. Income from self-employment.

**INCOME DEDUCTIONS**

- 140.481. Deductions from earned income.

**RESOURCE REQUIREMENTS**

- 140.491. Resources.

**VERIFICATION REQUIREMENTS**

- 140.501. Verification of income and child care costs.

**BENEFIT COVERAGE**

- 140.511. Category designation.
- 140.512. Eligibility begin date.
- 140.513. Eligibility end date.
- 140.514. Additions to the budget group.
- 140.515. Deletions to the budget group.

**REPORTING REQUIREMENTS**

- 140.521. Reporting requirements.

**NOTICE, APPEAL AND FAIR HEARING**

- 140.531. Notice, appeal and fair hearing.

**RESTITUTION**

- 140.541. Restitution.

**OTHER EXTENDED MEDICAL COVERAGE**

- 140.551. Extended categorically needy medical benefits due to collection of support.

**POLICY**

**§ 140.401. Policy.**

(a) The Department provides EMC for up to 12 months under the Categorically Needy Program to AFDC/AFDC-U families whose Cash Assistance is discontinued due to new employment, increased hours of employment, increased income from employment or loss of the 4-month \$30 and one-third disregard or the 8-month \$30 disregard.

(b) Initial coverage under EMC shall be continuous from the date of the AFDC/AFDC-U closing, regardless of the earned income amount. A separate application is not required for EMC benefits. A recipient will be given notice of EMC eligibility or ineligibility, the reporting requirements and conditions of continued EMC eligibility in conformance with section 303 of the Family Support Act (42 U.S.C.A. §§ 602, 606, 1396r and 1396s).

(c) EMC continues for the first 6 months regardless of income or employment as long as the budget group includes a child who meets the AFDC age requirements.

(d) EMC continues for the second 6 months as long as:

(1) Average gross monthly earned income, less child care costs, does not exceed the allowable Federally established percentage of the Federal Poverty Income Guidelines updated annually by the Department of Health and Human Services and published in the *Federal Register*.

(2) The specified relative maintains employment in every month during this extended EMC period.



- (3) The budget group includes a child who meets the AFDC age requirements.

**Source**

The provisions of this § 140.401 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**§ 140.402. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Budget group*—Recipients living together who received AFDC/AFDC-U at the time the Cash Assistance case was closed.

*EMC*—Extended medical coverage.

*Gross earned income*—Earned income of the recipients who are included in the EMC budget group and received AFDC/AFDC-U at the time of the Cash Assistance closing and LRRs who return to the home during the EMC 12-month period. The term does not include earned income in § 181.261 (relating to gross earnings of a child).

**Source**

The provisions of this § 140.402 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**GENERAL ELIGIBILITY REQUIREMENTS**

**§ 140.421. Conditions of eligibility.**

Eligibility for EMC is based on the following:

- (1) A family shall meet the appropriate eligibility conditions in this chapter. The specific eligibility conditions which shall be met are the following:

- (i) Chapter 148 (relating to MA residence provisions for categorically needy NMP-MA and MNO-MA).
- (ii) Chapter 149 (relating to citizenship and alienage).
- (iii) Chapter 155 (relating to enumeration).
- (iv) Chapter 255 (relating to restitution and reimbursement).

- (2) AFDC/AFDC-U recipients whose Cash Assistance is discontinued may be eligible for up to 12 months of EMC under the NMP-MA Program beginning with the day following the closing date of Cash Assistance if Cash Assistance was discontinued for one or more of the following reasons:

- (i) New employment.
- (ii) Increased hours of employment.
- (iii) Increased income from employment.
- (iv) Termination of the 4-month \$30 and one-third disregard or the subsequent 8-month \$30 disregard.

(3) The recipient received AFDC/AFDC-U payment in at least 3 of the 6 months immediately preceding the month Cash Assistance was discontinued. Receipt of AFDC/AFDC-U is also counted under the following circumstances:

(i) When the budget group is eligible for a payment but is not issued a check because of the \$10 minimum check requirement.

(ii) When the AFDC/AFDC-U payment is withheld due to excess income in a budget month that results in a 1-month suspension.

(4) The recipient has not received AFDC/AFDC-U fraudulently during any month in the 6 months immediately preceding the month Cash Assistance was discontinued. Fraudulently received AFDC/AFDC-U means that an adjudication of fraud determined by a court must have occurred.

#### Source

The provisions of this § 140.421 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

### INCOME REQUIREMENTS

#### § 140.431. Income eligibility limits.

Gross monthly earned income, less child care costs, may not exceed the allowable Federally established percentage of the Federal Poverty Income Guidelines for the appropriate family size in Appendix A. Revisions to the percentage that is required by Federal law or regulation will be published as a notice in the *Pennsylvania Bulletin*, recommending codification in Appendix A.

#### Source

The provisions of this § 140.431 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

#### § 140.432. Applicable income.

The earned income of budget group members who were part of the AFDC/AFDC-U budget group at the time the Cash Assistance case was closed, including the earned income of an LRR who returns to the household, is considered when determining EMC eligibility.

#### Source

The provisions of this § 140.432 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

### TYPES OF INCOME NOT COUNTED

#### § 140.441. Income not counted.

The following income is excluded:

(1) Unearned income including income exempt in §§ 181.262—181.264 (relating to educational loans, grants and work-study income; other types of income not counted for the TANF and GA categories; and income and benefits not counted by Federal and State statutes for the TANF and GA categories).

(2) The Earned Income Tax Credit (EITC) received as an advance monthly payment or year-end payment.

(3) Earned income in § 181.261 (relating to gross earnings of a child).

**Source**

The provisions of this § 140.441 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**TYPES OF EARNED INCOME COUNTED**

**§ 140.451. Gross earned income.**

Gross earned income, including wages, tips, salaries, commissions and bonuses from employment is counted as earned income.

**Source**

The provisions of this § 140.451 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**§ 140.452. Income from self-employment.**

Profit from self-employment is determined in accordance with § 140.52 (relating to profit from self-employment).

**Source**

The provisions of this § 140.452 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**INCOME DEDUCTIONS**

**§ 140.481. Deductions from earned income.**

(a) An employed recipient whose income is used to determine eligibility for EMC is entitled to a deduction from earned income for dependent care expenses. Dependent care shall be needed to enable a budget group member to retain employment. A dependent care expense is the work-related cost of care of dependent children or incapacitated persons living in the home of the recipient. The allowable child care costs are actual payments made by the recipient, excluding payments received under the Transitional Child Care (TCC) provision.

(b) Dependent care services will not be considered as needed when an unemployed biological or adoptive parent, specified relative or legal guardian of the child is in the home, unless one of the following applies:

- (1) The biological or adoptive parent, specified relative or legal guardian is physically or mentally incapable of providing child care.
- (2) The biological or adoptive parent, specified relative or legal guardian is involved in employment related activities, such as education, training and job search.
- (3) The child is at risk because of suspected child abuse.

**Source**

The provisions of this § 140.481 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

### RESOURCE REQUIREMENTS

**§ 140.491. Resources.**

Resources are not considered when determining eligibility.

**Source**

The provisions of this § 140.491 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

### VERIFICATION REQUIREMENTS

**§ 140.501. Verification of income and child care costs.**

Verification of gross monthly earned income, child care costs and household composition shall be submitted in the 4th, 7th and 10th months of the 12-month EMC period.

**Source**

The provisions of this § 140.501 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

### BENEFIT COVERAGE

**§ 140.511. Category designation.**

A person eligible for EMC is eligible for the full scope of categorically needy medical benefits in the PC or PU categories.

**Source**

The provisions of this § 140.511 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**§ 140.512. Eligibility begin date.**

The eligibility begin date for EMC is the day following the termination date of TANF Cash Assistance. If the Cash Assistance should have been closed

prior to the actual closing date, the EMC begin date is the day following the date AFDC/AFDC-U should have been closed.

**Source**

The provisions of this § 140.512 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**§ 140.513. Eligibility end date.**

Eligibility for EMC ends under the following conditions:

(1) During the first 6 months:

(i) When the budget group no longer includes a child. Eligibility ends effective the first Medical Assistance Identification (MAID) Card issuance deadline date that can be met with the appropriate notice.

(ii) When the only child in the budget group exceeds the AFDC age requirements in accordance with § 145.43 (relating to requirements). Eligibility ends effective the first MAID card issuance deadline date in the month following the month the child exceeded the age requirement.

(2) During the second 6 months:

(i) When the average gross monthly earned income for the previous 3 months, less allowable child care costs, exceeds the allowable Federally established percentage of the Federal Poverty Income Guidelines for the appropriate family size. Eligibility ends effective the first MAID card issuance deadline date that can be met with the appropriate notice.

(ii) When a specified relative in the EMC budget group does not maintain employment in each of the previous 3 months and the lack of employment was not due to involuntary loss of employment, illness or good cause as set forth in § 165.52 (relating to good cause). Eligibility ends effective the first MAID card issuance deadline date that can be met with the appropriate notice. The condition of maintaining employment is met if one of the following applies:

(A) The specified relative worked in each of the 3 previous months and is employed or working at the end of the last month of the quarter.

(B) If unemployed in any of the 3 previous months, the specified relative received a definite job offer and will begin work within the first month of the next quarter.

(3) When the budget group fails to report the information required under § 140.521 (relating to reporting requirements) necessary to determine continued EMC eligibility. Eligibility ends effective the first MAID card issuance deadline date that can be met with the appropriate notice.

(4) When the 12-month EMC eligibility period expires and the budget group has received 24 semimonthly MAID cards. Eligibility ends effective the first MAID card issuance deadline date that can be met with the appropriate notice.

**Source**

The provisions of this § 140.513 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**§ 140.514. Additions to the budget group.**

Additions may be made to the EMC budget group as follows:

- (1) A newborn can be added any time in the 12-month period.
- (2) A person can be added any time in the 12-month period if the person was in the budget group at the time the AFDC/AFDC-U case was closed. Eligibility for other MA Programs is reviewed for a person who was not part of the budget group at the time the AFDC/AFDC-U Cash Assistance case was closed.

**Source**

The provisions of this § 140.514 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**§ 140.515. Deletions to the budget group.**

Deletions are made to the EMC budget group as follows:

- (1) If a person leaves the household in the first 6 months of the EMC 12-month period, the person is removed effective the first Medical Assistance Identification (MAID) card issuance deadline date that can be met with the appropriate notice. Eligibility for the remaining budget group members is determined at the first quarterly review of the second 6-month period.
- (2) If a person leaves the household in the second 6 months of the EMC 12-month period, the person is removed effective the first MAID card issuance deadline date that can be met with the appropriate notice. Eligibility for the remaining budget group members is determined at the next quarterly review.
- (3) If a child no longer meets the AFDC age requirements and other children are in the budget group, the child is removed in the month following the month the child no longer meets the AFDC age requirements effective the first MAID card issuance deadline date that can be met with the appropriate notice. Prior to terminating EMC, eligibility for other MA Programs shall be determined for the child who is deleted.

**Source**

The provisions of this § 140.515 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**REPORTING REQUIREMENTS****§ 140.521. Reporting requirements.**

The recipient shall report gross monthly earned income, allowable child care costs and household composition by the Monthly Reporting Form due date in the

4th, 7th and 10th months of the 12-month EMC period. The Monthly Reporting Form will be used to collect information to determine EMC eligibility. Good cause provisions as defined in Chapter 142 (relating to monthly reporting) apply for failure to report timely. Adverse action will not be taken for failure to report monthly.

**Source**

The provisions of this § 140.521 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**Cross References**

This section cited in 55 Pa. Code § 140.513 (relating to eligibility end date).

**NOTICE, APPEAL AND FAIR HEARING**

**§ 140.531. Notice, appeal and fair hearing.**

The notice provisions of Chapter 133 (relating to redetermining eligibility) and the appeal and fair hearing provisions of Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings) apply to recipients of EMC.

**Source**

The provisions of this § 140.531 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**RESTITUTION**

**§ 140.541. Restitution.**

The restitution requirements in Chapter 255 (relating to restitution) apply to EMC except that there is no overpayment if the recipient reports income, child care costs and household composition accurately and timely and the CAO takes action timely.

**Source**

The provisions of this § 140.541 adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164.

**OTHER EXTENDED MEDICAL COVERAGE****§ 140.551. Extended categorically needy medical benefits due to collection of support.**

(a) Extended categorically needy medical benefits are provided to AFDC or AFDC-U families whose assistance was discontinued as a result, wholly or partly, of the collection or increased collection of support and who received AFDC or AFDC-U in at least 3 of the 6 months immediately preceding the month in which Cash Assistance was discontinued.

(b) Categorically needy medical benefits will continue for 4 months beginning with the day following the termination date of cash eligibility. When a person's AFDC or AFDC-U payments are discontinued and the client has failed to report changes in a timely manner, the 4 months begin with the date on which Cash Assistance was erroneously paid.

**Source**

The provisions of this § 140.551 adopted October 16, 1992, effective upon publication and apply retroactively to December 1, 1984, 22 Pa.B. 5164.

**Subchapter D. ELIGIBILITY PROVISIONS UNDER THE MEDICAID FOR CHILDREN WITH SPECIAL NEEDS CATEGORY****GENERAL ELIGIBILITY PROVISIONS**

- Sec.  
140.601. Policy.  
140.602. Definitions.  
140.603. Conditions of MA eligibility.  
140.604. Premiums.

**Authority**

The provisions of this Subchapter D issued under sections 201(2), 403(b), 447(c) and 454 of the Public Welfare Code (62 P. S. §§ 201(2), 403(b), 447(c) and 454), unless otherwise noted.

**Source**

The provisions of this Subchapter D adopted upon receipt of written notification that the United States Department of Health and Human Services has granted the waiver requested by the Department under section 1115 of the Social Security Act, the Department will publish notice thereof in the *Pennsylvania Bulletin*. The regulations adopted by this order become effective 30 days after receipt of the Federal waiver, 35 Pa.B. 7013, unless otherwise noted.

140-50

**§ 140.601. Policy.**

(a) A child who meets the disability criteria as defined by section 1614 of the Social Security Act (42 U.S.C.A. § 1382c) and who is not receiving benefits under Title XVI of the Social Security Act (42 U.S.C.A. §§ 1381—1383f), may qualify for MA benefits under this subchapter. MA will be provided in the Medicaid for Children with Special Needs Category only if the child does not qualify in any other category of MA.

(b) Unless there is a provision to the contrary in this subchapter, Subchapter B (relating to eligibility provisions for the healthy horizons program for the elderly/disabled) applies.

**§ 140.602. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Applicant or recipient*—A child who meets the eligibility conditions of this subchapter.

*Child*—An individual under 18 years of age.

*Custodial parent*—The natural or adoptive mother or father living with an applicant or recipient.

*Family size*—Includes custodial parent, step-parent, applicant or recipient, siblings of the applicant or recipient and other dependents of the custodial parents listed on the custodial parent's Federal Income Tax Return of the previous calendar year.

**§ 140.603. Conditions of MA eligibility.**

(a) An applicant or recipient shall meet the eligibility provisions of Subchapter B (relating to eligibility provisions for the healthy horizons program for the elderly/disabled) except the following types of income are not counted:

- (1) Court-ordered child support.
- (2) Retirement, Survivor's, Disability Insurance (RSDI) benefits received from the Social Security Administration by the applicant or recipient.

(b) The applicant or recipient shall meet the following eligibility provisions:

- (1) Chapter 125 (relating to application process).
- (2) Chapter 148 (relating to MA residence provisions for categorically needy NMP-MA and MNO-MA).
- (3) Chapter 150 (relating to citizenship and alienage provisions for categorically needy NMP-MA and MNO-MA).
- (4) Chapter 155 (relating to enumeration).
- (5) Chapter 255 (relating to restitution).

(c) The custodial parent shall report and verify earned and unearned income and allowable medical and dental expense deductions specified in § 140.604(b) (relating to premiums).

(1) The verification of income is limited to the custodial parent's Federal Income Tax Return listing the reported adjusted gross income of the previous calendar year.

(2) The verification of allowable medical and dental expenses is limited to those medical and dental expenses that were not reimbursed and that the custodial parent deducted on the Federal Income Tax Return of the previous calendar year.

(3) If the Federal Income Tax Return of the previous calendar year is not available or there is a decrease in income from the previous calendar year, any of the following items may be used to verify current income:

- (i) Pay stubs.
- (ii) Pay envelopes.
- (iii) Statement by the employer.
- (iv) Other documentary proof of the income of the custodial parent.

(d) An applicant or recipient is ineligible for MA if the custodial parent does not report or verify earned or unearned income.

#### Cross References

This section cited in 55 Pa. Code § 140.604 (relating to premiums).

### § 140.604. Premiums.

(a) *Eligibility.* An applicant or recipient who meets the eligibility conditions specified in § 140.603 (relating to conditions of MA eligibility) shall be eligible for MA upon receipt of payment of a premium, if any, established by the Department under subsection (b).

(b) *Calculation of premium.*

(1) The custodial parent shall report and verify earned and unearned income and allowable medical and dental expenses.

(2) If the custodial parent's total gross adjusted earned and unearned income is greater than 200% of the Federal Poverty Income Guidelines, the custodial parent's income is considered in calculation of the premium.

(3) The medical and dental expenses reported on the custodial parent's Federal Income Tax Return of the previous calendar year are allowable deductions from the income of the custodial parent as specified in paragraph (2).

(i) The verification of income is limited to the custodial parent's Federal Income Tax Return listing the reported adjusted gross income of the previous calendar year.

(ii) If the Federal Income Tax Return of the previous calendar year is not available or there is a decrease in income from the previous calendar year, any of the following items may be used to verify current income:

- (A) Pay stubs.
- (B) Pay envelopes.
- (C) Statement by employer.
- (D) Other documentary proof of the income of the custodial parent.

(iii) The verification of allowable medical and dental expenses is limited to those medical and dental expenses that were not reimbursed and that the custodial parent deducted on the Federal Income Tax Return of the previous calendar year.

(4) The amount of the premium is based on income that is considered as specified in paragraph (2) less allowable medical and dental expenses specified in paragraph (3) and the family size.

(5) The premium is determined under Appendix B (relating to Medicaid for Children with Special Needs Monthly Premium Chart).

(6) Revisions to the premium amounts will be published as a notice in the *Pennsylvania Bulletin* for codification in Appendix B.

(7) The premium is established for a 12-month period.

(8) There is one premium per family.

(9) The premium can be lowered during the 12-month period if the custodial parent reports and verifies a decrease in income or an increase in family size.

(c) *Notice.* The Department will provide a written notice of a requirement for a premium or a change in a premium. The Department will provide an advance written notice at least 10 days before the date of a premium increase or requirement of a premium.

(d) *Premium payment or hardship waiver.*

(1) The premium payment is due on or before the last day of the calendar month. The premium is considered overdue when payment of the premium is not received by the last day of the calendar month.

(2) An advance written notice to discontinue MA for the recipient will be issued if the overdue premium payment is not received within 45 days of the day the payment was due.

(3) The premium payment may be waived if the requirement to pay a premium will result in an undue hardship for the custodial parent.

**Subchapter E. THE CATEGORICALLY NEEDY BREAST AND  
CERVICAL CANCER PREVENTION AND TREATMENT  
PROGRAM FOR QUALIFIED WOMEN**

**GENERAL PROVISIONS**

Sec.

- 140.701. Policy on Medical Assistance for women with breast or cervical cancer.
- 140.702. Definitions.

**ELIGIBILITY**

- 140.721. Conditions of eligibility.

**INCOME, RESOURCES AND VERIFICATION**

- 140.731. Income eligibility limitations.
- 140.732. Resource eligibility limitations.
- 140.738. Verification requirements.

**REDETERMINATION**

- 140.741. Complete redetermination.
- 140.742. Partial redetermination.

**BENEFIT COVERAGE**

- 140.751. Benefit coverage.
- 140.752. Eligibility begin date.
- 140.771. Retroactive eligibility.

**REPORTING**

- 140.781. Reporting of changes.

**RIGHT TO APPEAL AND FAIR HEARING**

- 140.791. Appeal and fair hearing.

**Authority**

The provisions of this Subchapter E issued under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)), unless otherwise noted.

**Source**

The provisions of this Subchapter E adopted May 11, 2007, effected upon publication in the *Pennsylvania Bulletin*, retroactive to January 1, 2002, 37 Pa.B. 2180, unless otherwise noted.

140-54

**GENERAL PROVISIONS****§ 140.701. Policy on Medical Assistance for women with breast or cervical cancer.**

The Department provides full MA benefits to uninsured women under 65 years of age who have been screened and diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, who are eligible under the Commonwealth's categorically needy BCCPT Program.

**§ 140.702. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*BCCPT Program—Breast and Cervical Cancer Prevention and Treatment Program*—A Federally-funded option that provides full MA benefits to uninsured women under 65 years of age who have been screened and diagnosed and are in need of treatment for breast or cervical cancer, or a precancerous condition of the breast or cervix. These women have been identified through an entity funded in full or in part by CDC.

*CDC—Centers for Disease Control and Prevention*—The lead Federal agency for protecting the health and safety of people at home and abroad by applying disease prevention and control.

*NBCCEDP—National Breast and Cervical Cancer Early Detection Program*—A program established by Congress under the Breast and Cervical Cancer Mortality Act of 1990 (Pub. L. No. 101-354, 104 Stat. 409) which authorizes the CDC to promote breast and cervical cancer screening and to pay for screening services for eligible individuals.

*Treatment for breast and cervical cancer*—Medical services, which are, or are reasonably expected to provide one of the following:

- (i) Ameliorate the direct effects of breast or cervical cancer.
- (ii) Aid in the clinical characterization of breast or cervical cancer, including testing for the effectiveness of curative treatment but excluding screening for recurrence or new primary cancers.
- (iii) Prevent the recurrence of breast or cervical cancer.

*Uninsured*—Having no “creditable coverage” as the term is defined under the Health Insurance Portability and Accountability Act (HIPAA) (Section 2701(c) of the Public Health Service Act (42 U.S.C.A. § 300gg(c)(1)).

**ELIGIBILITY****§ 140.721. Conditions of eligibility.**

Eligibility for MA under the BCCPT Program is based on the requirements in the following chapters:

- (1) A woman shall meet the following eligibility requirements:
  - (i) Chapter 125 (relating to application process).
  - (ii) Chapter 148 (relating to MA residence provisions for categorically needy NMP-MA and MNO-MA).
  - (iii) Chapter 150 (relating to citizenship and alienage provisions for categorically needy NMP-MA and MNO-MA).
  - (iv) Chapter 155 (relating to enumeration).
  - (v) Chapter 255 (relating to restitution).
  - (vi) Chapter 257 (relating to reimbursement).
- (2) Under the BCCPT Program, a woman shall be:
  - (i) Under 65 years of age.
  - (ii) Screened under the CDC's NBCCEDP and diagnosed with either breast or cervical cancer, or a precancerous condition of the breast or cervix, and need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.
  - (iii) Uninsured.
  - (iv) Otherwise ineligible for categorically needy Medicaid as defined in § 1101.21 (relating to definitions).

**Cross References**

This section cited in 55 Pa. Code § 140.781 (relating to reporting of changes).

**INCOME, RESOURCES AND VERIFICATION****§ 140.731. Income eligibility limitations.**

There are no income limits when determining eligibility under the BCCPT Program. An individual who meets the income limits to be eligible for screening by the CDC's NBCCEDP is income-eligible for the BCCPT Program.

**§ 140.732. Resource eligibility limitations.**

There are no resource limits when determining eligibility under the BCCPT Program.

**§ 140.733. Verification requirements.**

- (a) Under the BCCPT Program, the following verification is required:
  - (1) Verification that the woman was screened for breast or cervical cancer, or a precancerous condition of the breast or cervix, by a provider or facility funded in full or in part by the CDC under its NBCCEDP, and diagnosed and found to need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix. Verification of the continued need for treatment must be provided at each partial and complete redetermination.
  - (2) Verification that the woman is a United States citizen or qualified alien as the term is defined in 8 U.S.C.A. § 1641(b) (relating to definitions).
  - (3) Verification that the woman is under 65 years of age.
  - (4) Verification that the woman is a resident of this Commonwealth.
  - (5) Verification that the woman is uninsured.
- (b) The verification specified in subsection (a) must be provided on a form established by the Department.

**REDETERMINATION**

**§ 140.741. Complete redetermination.**

- (a) A complete redetermination is required at least every 12 months for women who continue to require treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.
- (b) For the BCCPT Program, the eligibility factors in § 133.84(c) (relating to MA redetermining eligibility procedures) apply.

**§ 140.742. Partial redetermination.**

- (a) A partial redetermination is required at the end of the initial period of treatment for a woman whose initial period of treatment is expected to last less than 12 months. The initial period of treatment is based on the diagnosing or treating physician's attestation regarding the woman's diagnosis.
- (b) For the BCCPT Program, the partial redetermination eligibility factors in § 133.84(d) (relating to MA redetermining eligibility procedures) apply.

**BENEFIT COVERAGE**

**§ 140.751. Benefit coverage.**

The Department will provide full MA coverage for a woman determined eligible under the BCCPT Program.

**§ 140.761. Eligibility begin date.**

The eligibility begin date is the date the woman is diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, but not prior to January 1, 2002. Retroactive BCCPT Program benefits are available under § 140.771 (relating to retroactive eligibility).

**§ 140.771. Retroactive eligibility.**

The earliest possible date for retroactive BCCPT Program benefits to begin is the first day of the third month preceding the month of application, but not prior to January 1, 2002. The period of eligibility for retroactive BCCPT Program benefits begins the first day of the month in which the first medical service was incurred if the applicant was otherwise eligible during that month.

**Cross References**

This section cited in 55 Pa. Code § 140.761 (relating to eligibility begin date).

**REPORTING****§ 140.781. Reporting of changes.**

The recipient shall report changes that would affect eligibility for the BCCPT Program under § 140.721 (relating to conditions of eligibility) to the Department within 10 days from the date of the change.

**RIGHT TO APPEAL AND FAIR HEARING****§ 140.791. Appeal and fair hearing.**

The applicant or recipient is entitled to the appeal and fair hearing rights under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

## APPENDIX A

**EXTENDED MEDICAL COVERAGE (EMC)  
MONTHLY INCOME LIMITS  
185% OF THE 2009 FEDERAL POVERTY INCOME  
GUIDELINES**

| <i>Family Size</i>     | <i>185% of the Federal<br/>Poverty Income Guidelines</i> |
|------------------------|--|
| 1                      | \$1,670  |
| 2                      | \$2,247  |
| 3                      | \$2,823  |
| 4                      | \$3,400  |
| 5                      | \$3,976  |
| 6                      | \$4,553  |
| 7                      | \$5,130  |
| 8                      | \$5,706  |
| Each Additional Person | \$577  |

## Source

The provisions of this Appendix A adopted October 16, 1992, effective upon publication and apply retroactively to April 1, 1990, 22 Pa.B. 5164; amended July 2, 1993, effective February 12, 1993, 23 Pa.B. 3168; amended April 15, 1994, effective upon publication and apply retroactively to February 10, 1994, 24 Pa.B. 1972; amended August 25, 1995, effective August 26, 1995, and apply retroactively to February 9, 1995, 25 Pa.B. 3490; amended May 10, 1996, effective upon publication and apply retroactively to March 4, 1996, 26 Pa.B. 2213; amended July 3, 1997, effective March 10, 1997, 27 Pa.B. 3235; amended November 6, 1998, effective November 7, 1998, and apply retroactively to February 24, 1998, 28 Pa.B. 5628; amended April 26, 2002, effective and apply retroactively to February 14, 2002, 32 Pa.B. 2165; amended May 2, 2003, effective retroactively to February 7, 2003, 33 Pa.B. 2227; amended May 14, 2004, effective retroactively to February 13, 2004, 34 Pa.B. 2645; amended April 28, 2006, effective January 24, 2006, 36 Pa.B. 2072; amended May 4, 2007, effective May 5, 2007, 37 Pa.B. 2158; amended April 4, 2008, effective retroactively to January 23, 2008, 38 Pa.B. 1644; amended May 22, 2009, effective retroactively to January 23, 2009, 39 Pa.B. 2648. Immediately preceding text appears at serial page (333475).

## Cross References

This appendix cited in 55 Pa. Code § 140.431 (relating to income eligibility limits).

## APPENDIX B

**MEDICAID FOR CHILDREN WITH SPECIAL NEEDS MONTHLY  
PREMIUM CHART**

| Family Size   |                                      |       |       |       |       |       |       |                              |
|---|--------------------------------------|-------|-------|-------|-------|-------|-------|------------------------------|
| Parents<br>Annual Income<br><br>At least—Less<br>Than | 2                                    | 3     | 4     | 5     | 6     | 7     | 8     | Each<br>Additional<br>member |
| \$0-\$39,999.99                                       | NO PREMIUM IF INCOME BELOW 200% FPIG |       |       |       |       |       |       |                              |
| \$40-\$49,999.99                                      | \$30                                 | \$29  | \$27  | \$26  | \$24  | \$0   | \$0   | \$0                          |
| \$50-\$59,999.99                                      | \$40                                 | \$38  | \$36  | \$34  | \$33  | \$31  | \$0   | \$0                          |
| \$60-\$69,999.99                                      | \$50                                 | \$48  | \$45  | \$43  | \$41  | \$39  | \$37  | \$0                          |
| \$70-\$79,999.99                                      | \$60                                 | \$57  | \$54  | \$51  | \$49  | \$46  | \$43  | \$0                          |
| \$80-\$89,999.99                                      | \$75                                 | \$71  | \$68  | \$64  | \$61  | \$58  | \$55  | (-\$3)                       |
| \$90-\$99,999.99                                      | \$100                                | \$95  | \$90  | \$86  | \$81  | \$77  | \$73  | (-\$4)                       |
| \$100-\$109,999.99                                    | \$150                                | \$143 | \$135 | \$129 | \$122 | \$116 | \$111 | (-\$5)                       |
| \$110-\$119,999.99                                    | \$200                                | \$190 | \$181 | \$171 | \$163 | \$155 | \$148 | (-\$7)                       |
| \$120-\$129,999.99                                    | \$250                                | \$238 | \$226 | \$214 | \$204 | \$193 | \$185 | (-\$8)                       |
| \$130-\$139,999.99                                    | \$300                                | \$285 | \$271 | \$257 | \$244 | \$232 | \$222 | (-\$10)                      |
| \$140-\$149,999.99                                    | \$350                                | \$333 | \$316 | \$300 | \$285 | \$271 | \$259 | (-\$12)                      |
| \$150-\$159,999.99                                    | \$400                                | \$380 | \$361 | \$343 | \$326 | \$310 | \$297 | (-\$13)                      |
| \$160-\$169,999.99                                    | \$475                                | \$451 | \$429 | \$407 | \$387 | \$368 | \$352 | (-\$16)                      |
| \$170-\$179,999.99                                    | \$600                                | \$570 | \$542 | \$514 | \$489 | \$464 | \$442 | (-\$22)                      |

140-60

| Family Size   |         |       |       |       |       |       |       |                              |
|---|---------|-------|-------|-------|-------|-------|-------|------------------------------|
| Parents<br>Annual Income<br><br>At least—Less<br>Than | 2       | 3     | 4     | 5     | 6     | 7     | 8     | Each<br>Additional<br>member |
| \$180-\$189,999.99                                    | \$675   | \$641 | \$609 | \$579 | \$550 | \$522 | \$497 | (-\$25)                      |
| \$190-\$199,999.99                                    | \$800   | \$760 | \$722 | \$686 | \$652 | \$619 | \$588 | (-\$31)                      |
| \$200-\$249,999.99                                    | \$925   | \$879 | \$835 | \$793 | \$753 | \$716 | \$679 | (-\$37)                      |
| \$250-\$299,999.99                                    | \$1,000 | \$950 | \$903 | \$857 | \$815 | \$774 | \$739 | (-\$35)                      |
| \$300-\$349,999.99                                    | \$1,000 | \$950 | \$903 | \$857 | \$815 | \$774 | \$739 | (-\$35)                      |
| \$350-\$399,999.99                                    | \$1,000 | \$950 | \$903 | \$857 | \$815 | \$774 | \$739 | (-\$35)                      |
| \$400-\$449,999.00                                    | \$1,000 | \$950 | \$903 | \$857 | \$815 | \$774 | \$739 | (-\$35)                      |
| \$450-\$499,999.99                                    | \$1,000 | \$950 | \$903 | \$857 | \$815 | \$774 | \$739 | (-\$35)                      |
| \$500,000 +   | \$1,000 | \$950 | \$903 | \$857 | \$815 | \$774 | \$739 | (-\$35)                      |

#### Source

The provisions of this Appendix B adopted December 30, 2005, effective upon receipt of written notification that the United States Department of Health and Human Services has granted the waiver requested by the Department under section 1115 of the Social Security Act, the Department will publish notice thereof in the *Pennsylvania Bulletin*. The regulations adopted by this order become effective 30 days after receipt of the Federal waiver, 35 Pa.B. 7013.

#### Cross References

This appendix is cited in 55 Pa. Code § 140.604 (relating to premiums).

[Next page is 141-1.]

140-62

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