



Date: August 31, 2017

DMS Operations Memo 17-41

To: Income Maintenance Supervisors  
Income Maintenance Lead Workers  
Income Maintenance Staff

<b>Affected Programs:</b>	
<input checked="" type="checkbox"/> BadgerCare Plus	<input type="checkbox"/> Caretaker Supplement
<input type="checkbox"/> FoodShare	<input type="checkbox"/> FoodShare Employment and Training
<input type="checkbox"/> Medicaid	
<input type="checkbox"/> SeniorCare	

From: Rebecca McAtee, Bureau Director  
Bureau of Enrollment Policy and Systems  
Division of Medicaid Services

**Exclusion of Certain Types of Income Earned by Live-In Care Providers  
in the Determination of Eligibility for BadgerCare Plus**

**CROSS REFERENCE**

BadgerCare Plus Eligibility Handbook, [Section 16.2 Income Types Not Counted](#) and [Section 16.4.1 Specially Treated Wages](#)

**EFFECTIVE DATE**

Immediately

**PURPOSE**

The purpose of this Operations Memo is to clarify a policy to not count certain types of income earned by live-in care providers when determining eligibility for BadgerCare Plus under Modified Adjusted Gross Income (MAGI) budgeting rules. The Memo also provides directions for how to enter these types of payments into CARES Worker Web (CWW).

**BACKGROUND**

Financial eligibility for BadgerCare Plus under MAGI budgeting rules is generally based on taxable income. In January 2014, the IRS issued [Notice 2014-7](#), which advised taxpayers that certain payments received by live-in care providers under a state Medicaid Home and Community-Based Services Waiver (HCBW) program are considered “difficulty of care payments” and are, therefore, exempt under federal tax rules.

Based on this IRS policy change, payments made to live-in care providers that are exempt from federal income tax will not be counted when determining BadgerCare Plus eligibility. This change in policy does not apply to the income counting rules for Medicaid for the Elderly, Blind or Disabled (EBD Medicaid).

## **POLICY**

For purposes of determining BadgerCare Plus eligibility, certain payments to live-in care providers will no longer be counted as income. The status of these payments as exempt income should be verified using a new agency form.

### ***PAYMENTS NOT COUNTED FOR BADGERCARE PLUS***

Effective immediately, certain payments received by live-in care providers under an HCBW program are not counted for BadgerCare Plus under MAGI budgeting rules. Live-in care providers are typically paid as employees, but some may be self-employed. They may be related to or not related to the person receiving care. In order to not be counted, payments to live-in care providers must meet all of the following criteria:

- The payments are for HCBW services provided to a member enrolled in one of the following Wisconsin HCBW programs:
  - Community Integration Program I (CIP 1A and CIP 1B)
  - Community Integration Program II (CIP II)
  - Community Options Program Waiver (COP-W)
  - Program of All-Inclusive Care for the Elderly (PACE)
  - Family Care Partnership
  - Children's Long Term Support waiver programs (CLTS)
  - Include, Respect, I Self-Direct (IRIS)
  - Family Care
- The payments are made to a live-in care provider for services provided to an HCBW member under the member's written HCBW plan of care. Payments made for skilled services that only a nurse or other health professional may perform are not eligible for this exemption.
- The payments are made to a live-in care provider for services provided while the care provider and the HCBW member are living in the same home. The live-in care provider may be related to or not be related to the HCBW member.
- The live-in care provider is not providing care to more than 10 people younger than age 19 at the same time, or five people age 19 or older, at the same time.

If the payments received by the live-in care provider do not meet all of these criteria, the payments must be treated like other countable earnings or self-employment income.

This exemption only applies to BadgerCare Plus eligibility and does not apply to categories of Medicaid determined under non-MAGI rules.

### ***VERIFICATION OF PAYMENTS TO LIVE-IN CARE PROVIDERS***

Because employers may or may not treat payments to a live-in care provider as exempt from federal taxation, workers must not rely on paystubs or data exchanges to verify whether the payments are tax exempt.

Instead, if an applicant or member claims to be a live-in care provider with tax-exempt income, workers must provide the member with [Verifying Tax-Exempt Income for Live-in Care Providers, F-02193](#), and ask them to complete it to attest to meeting the criteria that makes this income exempt. If there is a reason to question some or all of the information provided on the form, workers may seek additional verification by any of the following methods:

- Use interChange to verify member enrollment into a LTC managed care program, including PACE, Family Care Partnership and Family Care. **Note:** Members enrolled in an HCBW program, including CIP IA, CIP 1B, COP-W, CLTS, and IRIS, may (but may not always) have a Medicaid Waiver benefit plan and medical status code in interChange.
- Ask the member to provide contact information for the organization that authorized the live-in care services.
- Ask a member for a copy of the written HCBW plan of care.
- Request other documentation that supports the person’s claim.

### CARES

For payments to live-in care providers who are working as employees, workers must enter payment information in the Employment page in CWW as follows:

1. Verify the payments meet the criteria to be considered exempt for BadgerCare Plus.
2. Enter the payments on the Employment page as earnings from employment.
3. Enter **0** in the Override BC+ Taxable Amount field.

Totals and Comments		Calculate
Monthly In-kind Amount:	\$ [ ] . [ ]	Verification: [ ]
Total Amount Per Pay Period:	\$ 682 . 66	
Monthly MA Gross Amount:	\$ 1365 . 32	
Override MA Gross Amount:	\$ 1365 . 32	Verification: AF - AGENCY FORM
Monthly BC+ Pre-Tax Deductions Amount:	\$ [ ] . [ ]	
Monthly BC+ Taxable Amount:	\$ 1365 . 32	
<b>Override BC+ Taxable Amount:</b>	<b>\$ 0 . [ ]</b>	<b>Verification: AF - AGENCY FORM</b>
Monthly Converted Amount:	\$ 1467 . 72	
Override Converted Amount:	\$ 1467 . 72	Verification: AF - AGENCY FORM
Monthly Total Hours:	[ 136 ]	
Monthly Override Hours:	[ 136 ]	

Figure 1 Employment Page

These exempt payments are still counted as income for all other categories of Medicaid as well as other programs of assistance. To ensure payments are counted correctly for these programs, workers must enter the payment amounts in the Override MA Gross Amount and Override Converted Amount fields.

For payments to live-in care providers who are self-employed, workers must enter payment information on the Self Employment page. Workers must then enter an amount equal to the BadgerCare Plus net monthly self-employment income as an ongoing tax deduction on the BC+ Tax Deductions page. Workers should add a case comment as well.

**BC+ Tax Deductions** Cancel

Total: 1

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**Effective Period**

\* Begin Month: 12 / 2015      End Month: MM / YYYY      Last Updated: 12/01/2015

Delete Reason:

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**BC+ Tax Deduction Information**

\* Individual:       Sequence: 1

\* Deduction Type: OO - OTHER - ONGOING DEDUCTION

Deduction Selected: Ongoing MAGI Tax Deduction

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**Ongoing Deduction Information**

\* Frequency Period: MO - MONTHLY

\* Total BC+ Amount: \$ 1200 . 0      \* Verification: TX - TAX RECORDS

\* Monthly BC+ Amount: \$ 1200 . 00

Figure 2 BC+ Tax Deductions Page

## CONTACTS

BEPS CARES Information and Problem Resolution Center

DHS/DMS/BEPS/JL, AA