



Date: July 27, 2020

DMS Operations Memo 20-18

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

**Affected Programs:**

- |   |  |
|---|--|
| <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

**Policy Changes for Counting Income and Allowing Deductions in Determining BadgerCare Plus Eligibility**

**CROSS REFERENCE**

BadgerCare Plus Eligibility Handbook, [Section 16.2 Income Types Not Counted](#), and [Section 16.3, Income Deductions](#).

**EFFECTIVE DATE**

Immediately, except where noted.

**PURPOSE**

This operations memo announces policy changes for counting income and allowing deductions in determining BadgerCare Plus eligibility under Modified Adjusted Gross Income (MAGI) budgeting rules.

**BACKGROUND**

Financial eligibility for BadgerCare Plus under MAGI budgeting rules is generally based on taxable income. In general, MAGI-based income includes all taxable earned and unearned income minus certain expenses that are deductible in determining an individual's adjusted gross income (AGI) for federal income tax purposes. Some items (e.g., non-taxable Social Security benefits) must be added to adjusted gross income to determine an individual's MAGI.

Prior to the policy changes, the following rules for counting income and allowing deductions to determine eligibility applied:

- Alimony, spousal support, or maintenance payments received by a member under a divorce or separation agreement were counted as income unless the divorce or separation agreement designates the payments as non-taxable (see [BadgerCare Plus Eligibility Handbook, Section 16.2.38](#)).
- Alimony, spousal support, or maintenance payments made by a member were an allowable income deduction unless the payments are designated as non-taxable (see [BadgerCare Plus Eligibility Handbook, Section 16.3.3.4](#)).
- Out-of-pocket costs for a job-related move that met certain criteria were an allowable income deduction (see [BadgerCare Plus Eligibility Handbook, Section 16.3.3.10](#)).

The federal Tax Cuts and Jobs Act of 2017 (Pub. L. 115-97) changed the Internal Revenue Service's treatment of alimony, spousal support, and maintenance as well as deductions related to moving expenses. On August 22, 2019, the Centers for Medicare and Medicaid Services published State Health Official Letter (SHO) 19-003 to provide guidance on how these tax law changes impact eligibility under MAGI rules. The following policy changes are in response to this guidance.

## **POLICY**

The rules for counting income and allowing deductions to determine MAGI have been changed for the following items:

- Alimony, Spousal Support or Maintenance
- Moving Expenses

Where noted, the effective date for these rule changes has been delayed until after the end of the federal COVID-19 public health emergency. The exact effective date is yet to be determined. This operations memo will be amended when all rule changes are in effect.

### ***ALIMONY, SPOUSAL SUPPORT, OR MAINTENANCE***

Alimony, spousal support, or maintenance payments received under a separation or divorce agreement completed on or after January 1, 2019 can no longer be counted as income for the individual receiving the payments. **This change in how alimony income is counted is effective immediately.**

These payments paid under a separation or divorce agreement completed on or after January 1, 2019 can no longer be claimed as a tax deduction for the individual making the payments. **The effective date for this change in allowable deductions has been delayed.**

If the separation or divorce agreement was made prior to January 1, 2019 but modified on or after that date and if the agreement states that alimony, spousal support, or maintenance is not taxable, the following is true:

- The payments received under the agreement cannot be counted as income. **This change is effective immediately.**
- The payments made under the agreement cannot be claimed as a tax deduction. **The effective date for this change has been delayed.**

Per existing policy, income maintenance (IM) workers must verify unearned income and tax deductions. IM workers may need to request a copy of the separation or divorce agreement to determine whether an alimony, spousal support, or maintenance payment received should be counted as a source of income, or if a payment made should be allowed as a deduction.

Using the effective dates noted above, IM workers must apply the new policy for all new applications. For ongoing cases, IM workers must apply the new policy at the next reported income change or renewal, whichever occurs first.

### ***MOVING EXPENSES***

Out-of-pocket costs for a job-related move cannot be deducted unless the person is an active duty member of the military who is ordered to move, and that move is a permanent change of station. The military determines whether a move is a permanent change of station. **The effective date for this policy has been delayed.**

Once this change becomes effective, IM workers should continue to allow any existing deductions for tax year 2020 but apply the new policy at renewal and for all new applications.

### **CONTACTS**

BEPS CARES Information and Problem Resolution Center

DHS/DMS/BEPS/NAH