



Date: December 15, 2023

DMS Operations Memo 23-45

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 | |

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2024 Policy Changes for Counting Income and Allowing Deductions in Determining BadgerCare Plus Eligibility

CROSS REFERENCE

- BadgerCare Plus Handbook, [Section 16.3, Income Deductions](#), and [Section 16.4.1, Specially Treated Wages](#)
- Operations Memo, [20-18, "Policy Changes for Counting Income and Allowing Deductions in Determining BadgerCare Plus Eligibility"](#)

EFFECTIVE DATE

January 1, 2024

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 made by a member were an allowable income deduction unless the payments are designated as non-taxable (see [BadgerCare Plus Handbook, Section 16.3.3 #4, Spousal support, alimony, or maintenance](#)).
- Out-of-pocket costs for a job-related move that met certain criteria were an allowable income deduction (see [BadgerCare Plus Handbook, Section 16.3.3 #10, Out-of-pocket costs for a job-related move](#)).
- Up to \$4,000 of higher education expenses that were required to be paid to the institution as a condition of enrollment or attendance were an allowable annual income deduction (see [BadgerCare Plus Handbook, Section 16.3.3 #2, Higher education expenses](#)).
- Any housing or housing utility allowances that were received as compensation for services by an ordained, licensed, or commissioned minister were not counted as income (see [BadgerCare Plus Handbook, Section 16.4.1 Specially Treated Wages, #2 Housing Allowances for Members of the Clergy](#)).

In recent years, the following changes related to these policies have occurred:

- The federal Tax Cuts and Jobs Act of 2017 (Pub. L. 115-97) changed the Internal Revenue Service's (IRS) 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 federal Consolidated Appropriations Act, 2021 (Pub. L. 116-260) repealed the income tax deduction for higher education expenses.
- The IRS has communicated a change in how any housing or housing utility allowance is counted as income for members of the clergy and religious workers.

The following policy changes are in response to these changes in federal law and IRS guidance.

POLICY

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

- Alimony, Spousal Support or Maintenance
- Moving Expenses
- Higher Education Expenses

The rules for counting income to determine MAGI have been changed for the following item:

- Housing Allowances for Members of the Clergy

These changes are effective January 1, 2024. Although the federal laws that changed the rules for alimony or spousal support or maintenance, moving expenses, and higher education expenses were enacted prior to 2023, these changes to BadgerCare Plus policy could not be made sooner due to the federal COVID-19 public health emergency.

ALIMONY, SPOUSAL SUPPORT, OR MAINTENANCE

Alimony, spousal support, or maintenance 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. 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 payments made under the agreement cannot be claimed as a tax deduction.

Per existing policy, income maintenance (IM) workers must verify 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 made should be allowed as a deduction.

IM workers must apply the new policy for all new applications received on or after January 1, 2024. For ongoing cases, IM workers must apply the new policy at the next reported income change or renewal that occurs on or after January 1, 2024, 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.

IM workers should continue to allow any existing deductions but apply the new policy at the next renewal that occurs on or after January 1, 2024, and for all new applications that occur on or after January 1, 2024.

HIGHER EDUCATION EXPENSES

Expenses for higher education, such as tuition and amounts paid for books or fees, that are required to be paid to the institution as a condition of enrollment or attendance can no longer be claimed as a tax deduction.

IM workers should continue to allow any existing deductions but apply the new policy beginning with eligibility determinations that occur on or after February 24, 2024.

HOUSING ALLOWANCES FOR MEMBERS OF THE CLERGY

If a member of the clergy receives a housing allowance but does not use the entire amount of the housing allowance for housing, the unused portion must be counted as income.

According to the Internal Revenue Service, if a minister receives as part of their salary an amount officially designated in advance of payment as a housing allowance, and the amount is not more than reasonable pay for the minister's services, do not count as income the lesser of the following amounts:

- The amount officially designated in advance of payment as a housing allowance;
- The amount actually used to provide or rent a home; or
- The fair market rental value of the home (including furnishings, utilities, garage, etc.).

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IM workers must apply the new policy for all new applications received on or after January 1, 2024. For ongoing cases, IM workers must apply the new policy at the next reported income change or renewal that occurs on or after January 1, 2024, whichever occurs first.

CONTACTS

DHS CARES Problem Resolution Team

DHS/DMS/BEEP/NAH

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