



Date: August 22, 2024

DMS Operations Memo 24-16

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

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 checked="" type="checkbox"/> Medicaid | |
| <input type="checkbox"/> SeniorCare | |

From: Jonelle Brom, Bureau Director
Bureau of Eligibility Operations & Training
Division of Medicaid Services

Autumn Arnold, Bureau Director
Bureau of Enrollment & Eligibility Policy
Division of Medicaid Services

Medicaid Treatment of Tribal General Welfare Assistance

CROSS REFERENCE

- Medicaid Eligibility Handbook, [Sections 15.3.14 Payments to Native Americans](#)
- BadgerCare Plus Handbook, [Section 16.2 Income Types Not Counted #14 Payments to Native Americans](#)

EFFECTIVE DATE

September 1, 2024

PURPOSE

This memo announces changes to how Tribal General Welfare Assistance (GWA) payments are treated for Medicaid financial eligibility determinations.

BACKGROUND

The Tribal General Welfare Exclusion Act of 2014 added §139E to the Internal Revenue Code (IRC), which excludes Tribal General Welfare Assistance (GWA) from taxable income. The Internal Revenue Service (IRS) has clarified that payments under Indian tribal governmental programs that meet the requirements of §139E qualify for the general welfare exclusion regardless of whether the revenues used to fund the programs derive from levies, taxes, service fees, or revenues from tribally owned businesses (including casino gaming revenues).

Because GWA is not taxable, it does not count as income for BadgerCare Plus.

Prior to the changes announced in this memo, GWA was disregarded as income for Medicaid to the extent that it was based on the individual recipient's demonstration of financial need. This policy was based on the Supplemental Security Income (SSI) policy to disregard Assistance based on Need (ABON) as income. SSI defines ABON as assistance provided under a program that:

- Uses income as a factor of eligibility; and
- Is funded wholly by a State (including the District of Columbia, Indian tribes and the Northern Mariana Islands), a political subdivision of a State, or a combination of such jurisdictions.

For SSI purposes, ABON is also disregarded as an asset in the month following the month of receipt.

POLICY

Effective September 1, 2024, GWA received under the Tribal General Welfare Exclusion Act of 2014 is not counted as income for any category of Medicaid or BadgerCare Plus. This is irrespective of whether the specific GWA program uses income as a factor of eligibility.

Any unspent GWA is disregarded as an asset for 12 months following the month of receipt.

These policies apply to applications or change reports submitted on or after September 1, 2024, and for renewals due September 1, 2024, or later.

CONTACTS

DHS CARES Problem Resolution Team

DHS/DMS/BEEP/EB