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**State of Wisconsin
Governor Scott Walker**

**TO: Income Maintenance Supervisors
Income Maintenance Lead Workers
Income Maintenance Staff
W-2 Agencies
Workforce Development Boards
Job Center Leads and Managers
Training Staff
Child Care Coordinators**

**FROM: Shawn Smith, Bureau Director
Bureau of Enrollment Policy & Systems
Division of Health Care Access and Accountability**

DHS OPERATIONS MEMO					
No:		DHS 14-14 Amended			
DATE:		04/9/2014			
FS	<input type="checkbox"/>	MA	<input checked="" type="checkbox"/>	BC+	<input checked="" type="checkbox"/>
SC	<input type="checkbox"/>	CTS	<input type="checkbox"/>	FSET	<input type="checkbox"/>

SUBJECT: Non-gaming Tribal Income Exempt for Medicaid or BadgerCare Plus

CROSS REFERENCE: Operations Memo 14-15
BadgerCare Plus Handbook 16.2
Medicaid Eligibility Handbook 15.3

EFFECTIVE DATE: January 1, 2014

PURPOSE:

The purpose of this Memo is to provide information on new types of non-gaming tribal income that are exempt when determining Medicaid (MA) or BadgerCare Plus (BC+) eligibility.

BACKGROUND:

As described in Operations Memos 13-32 and 14-01, provisions in the federal Patient Protection and Affordable Care Act (PPACA or ACA), 2013 Wisconsin Act 20 (the State Biennial Budget), 2013 Wisconsin Act 116, and 2013 Wisconsin Act 117, require changes in the policies used to determine eligibility for the BC+ program.

New types of tribal-related income are now exempt from MA or BC+ eligibility determinations. Income maintenance workers should disregard these types of income when determining MA and BC+ eligibility.

NON-GAMING TRIBAL INCOME EXEMPT FROM MA AND BC+:

Sources of tribal-related income that are now exempt from MA and BC+ eligibility determinations are as follows:

- Per capita payments from a tribe that come from natural resources, usage rights, leases or royalties.
- Payment from natural resources, farming, ranching, fishing, leases or royalties from land designated as Indian trust land by the Department of Interior (including reservations and former reservations).
- Money from selling things that have cultural significance.

These newly exempt income types are in addition to the existing exempt tribal income sources listed in Chapter 15.3 of the MA Eligibility Handbook and Chapter 16.2 of the BC+ Eligibility Handbook.

If an applicant or member verifies receipt of income from any of these sources, do not count this income when determining MA or BC+ eligibility. The income source and amount must be verified in order for the income to be exempted.

TRIBAL PER CAPITA PAYMENTS FROM GAMING REVENUE:

As a reminder, tribal per capita payments from gaming revenue are only exempt for some BC+ and Medicaid determinations:

- Under non-MAGI (Modified Adjusted Gross Income) rules for BC+, and for non-LTC (Long Term Care) categories of EBD (Elderly Blind Disabled) MA, disregard the first \$500 of the monthly income from Tribal Per Capita payments from gaming revenue.
- If the payments are received less than monthly, prorate the gross payment amount over the months it is intended to cover and disregard \$500 from the monthly amount.
- Under MAGI rules for BC+, all of the income from Tribal Per Capita payments from gaming revenue is counted income.
 - Note that under MAGI rules for BC+, per capita payments from gaming revenue made under the terms of a trust that is taxable are counted as unearned income for BC+. Payments made under the terms of a trust that are not taxable would not be counted as income for BC+.

See the MA Eligibility Handbook 15.3 and the BC+ Eligibility Handbook 16.2 for additional information on income not counted for MA and BC+.

CARES:

Starting in late April, CARES Worker Web (CWW) will collect whether or not an individual receives non-gaming tribal income exempt for BC+, EBD MA, Family Planning Only Services (FPOS), LTC and Medicare Savings Program (MSP) under the "Additional Information" section on the Benefits Received page. This is part of the Single Streamlined Application changes discussed in more detail in Operations Memo 14-15.

On the Permanent Demographics page, if the response to the question, “Are you a member or a child of a member of an American Indian Tribe or an Alaskan Native?” is “Yes”, then the Non-Gaming Tribal Income question will be enabled on the Benefits Received page.

The tribal income question on the Benefits Received page is intended as an indication to workers that the member has reported that they have an exempt income type.

The exempt income will usually be reported as a distinct type of employment, self-employment or unearned income (for example, self-employment income from fishing). In rare situations, it may be reported as part of another income amount, such as self-employment (for example, if a portion of someone’s self-employment earnings are from selling items of cultural significance) or a per-capita payment from a tribe that is based on gaming revenue, as well as other sources.

If someone reports that they have exempt tribal income, “Yes” should be selected from the dropdown. When navigating off of the page, a warning will appear on the Benefits Received page to remind the worker to disregard the exempt income when determining MA and/or BC+ eligibility. If someone has already reported this type of income and “Yes” has been selected, a warning message will also appear upon load of the page:

Benefits Received Cancel Reset

The following events have occurred:

⚠️ AE561: The response to 'Non-gaming Tribal Income' has changed to Yes. CARES will not reduce the income for this individual. Make sure you deduct this income from the Employment, Self Employment or Unearned Income page for BC+ and/or Medicaid.

Total: 1

Benefits Received [1 of 2]

Effective Period

Begin Month: 04 / 2014 Last Updated: 04/03/2014

Additional Information

Individual: 33F PP

Has the individual received any of the following benefits?

* Other State SNAP:	<input type="text"/>	* Verification:	<input type="text"/>
* Tribal Commodities:	<input type="text"/>	* Verification:	<input type="text"/>
* SSDI Payments:	<input type="text"/>	* Verification:	<input type="text"/>
* SSI Payments:	No	* Verification:	<input type="text"/>
* SSI Letter:	<input type="text"/>	* Verification:	<input type="text"/>
* Foster Care/Subsidized Guardianship:	No	* Verification:	<input type="text"/>
* Foster Care Court Order?:	<input type="text"/>	* Verification:	<input type="text"/>
* QDWI Referral:	No	* Verification:	<input type="text"/>

Workers must use the following processes in CWW to enter non-gaming tribal income if it should be counted for FoodShare (FS), Child Care (CC) or **Wisconsin Works** (W-2) but not BC+ or MA:

Earned income: Enter the income on the Employment Page. Update the Override MA Gross Amount and Override BC+ Taxable Amount fields to zeros. You will also need to update the Month Override Hours. This can be the same as the hours listed in the Monthly Total Hours.

Unearned income: Use the following codes as appropriate to enter the exempt income on the Unearned Income Page so that it counts only for programs other than BC+ and MA:

OTFS: Other-FS Only

OTTF: Other-TANF Only **(must be used for CC or W-2)**

Self-Employment: As described above, in rare instances, exempt income may be reported as a part of a self-employment business that also has non-exempt income. In this situation, the non-exempt income should be entered on the Self-Employment page in the Gross Income Field. The amount exempt for BC+ and MA should then be entered on the Unearned Income Page as OTFS or OTTF, depending on the programs requested.

Child Care authorization workers will need to consider all of the Child Care countable income and manually calculate the maximum hours of Child Care that can be authorized for the self-employed individual. The authorized hours calculated by the Child Care Statewide Administration on the Web (CSAW) application will be incorrect in these cases. The worker will need to divide the countable self-employment income by state minimum wage and 4.3 to obtain the maximum hours that can be authorized for the self-employment:

$$\frac{[\text{Monthly self-employment income} + \text{OTTF amount}]}{[\text{State minimum wage}] \div [4.3 \text{ weeks per month}]} = \text{Maximum weekly hours}$$

Example 1: Connie is an enrolled member of an American Indian Tribe and is receiving BC+, FS, CC and W-2. She reports that she earns \$500/month from self-employment. Of this income, \$200/month is from selling items that have cultural significance. The worker should count \$300/month of Connie's self-employment income (\$500 - \$200 = \$300) for the BC+ eligibility determination while counting the full \$500/month for FS, CC and W-2. To do so, the worker should enter \$300 as self-employment income, \$200 as OTFS on the Unearned Income page for FS, and \$200 as OTTF on an additional Unearned Income page for CC and W-2.

Example 2: Jim is an enrolled member of an American Indian Tribe and is receiving both BC+ and FS. He reports that he receives a \$350/month payment from royalties from land designated as Indian trust land by the Department of Interior. The worker should enter this \$350 payment as unearned income. On the Unearned Income page, the worker should choose Income Type "OTFS Other-FS Only" so that this income is counted for FS but not MA or BC+. The worker should add a case comment explaining this action.

Prior to late April, CWW will not have a tribal income indicator on the Benefits Received page, but workers should follow a similar process to verify, exempt and document any exempt tribal income sources reported for months on or after January 1, 2014.

CONTACTS:

BEPS CARES Information & Problem Resolution Center

*Program Categories – FS – FoodShare, MA – Medicaid, BC+ – BadgerCare Plus, SC – Senior Care, CTS – Caretaker Supplement, FSET – FoodShare Employment and Training,

DHS/DHCAA/BEPS/RW,AA