

American Indian Health Commission for Washington State **Guidance for American Indian & Alaska Native Income Exemptions under MAGI Methodology in Washington State**

Purpose of this Guidance

This document provides a broad overview of the American Indian and Alaska Native income exemptions for purposes of applying for health care coverage in health care exchanges operated under the Patient Protection and Affordable Care Act as well for Medicaid Expansion. Our guidance also provides general income tax exclusions applicable to the public at large. Information contained in this document is subject to change. **Please read carefully the disclaimer provided in the footnote below and check for updates at www.aihc-wa.com.**

American Indian/Alaska Native Income Exemption Background

The Patient Protection and Affordable Care Act (ACA) requires states to use Modified Adjusted Gross Income (MAGI) in determining eligibility for most individuals applying for Medicaid. These individuals include pregnant women, children, families, and the “newly eligible” adult group. As of January 1, 2014, the newly eligible group includes individuals between the ages of 19 up to 65 with income up to 138% of the federal poverty level (FPL) based on MAGI. The MAGI methodology and the information contained in this document do not apply to non-MAGI individuals (includes aged, blind or disabled individuals, foster care children and Supplemental Security Income (SSI) recipients).

Federal regulations significantly change the Medicaid eligibility determination process for individuals within the MAGI group. American Indians and Alaska Natives (AI/AN) have been given special income exemptions for determining MAGI. These income exemptions are derived from two sources: (1) the federal Medicaid regulations;¹ and (2) IRC and IRS notices and rulings. Effective March 23, 2012, the Department of Health and Human Services (HHS) established the methodologies for States to determine financial eligibility based on MAGI for most individuals in 42 CFR 435.603. These methodologies implement the definition of MAGI and household income in the Internal Revenue Code, 26 USC 36B(d)(2)(B) with certain exceptions. In addition, there are no asset or resource (e.g., homes, vehicles, bank accounts) limits or requirements to be eligible under the new Medicaid MAGI group.

Advising an AI/AN with Questions Regarding Income Exemptions and MAGI

¹ 42 CFR 435.603(e)(3)(i-vi).

The table below provides an overview of the major MAGI AI/AN income exemptions. If an AI/AN inquires what he or she should report for income, inform him or her that there are certain income exemptions for AI/AN and refer to the table below. If an individual has more detailed questions, in-person assisters, navigators, tribal assisters, and call center representatives are not expected to, nor should they provide tax assistance. The statement below is suggested language to use when providing assistance on income reporting:

Tax laws and regulations change frequently, and their application can vary widely based on the specific facts and circumstances involved. Individuals/you are responsible for consulting with your own professional tax advisors concerning specific tax/income questions. We cannot advise on any personal income tax requirements or issues. Use of any information we communicate to you is for general information only and does not represent personal tax advice either express or implied. We disclaim any responsibility for the accuracy or adequacy of any positions taken by individuals when completing their income tax documents or any other documents requiring personal tax information. We inform you that this communication is not intended, and cannot be used by any person for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another person to act in accordance with the information you received from us.

Non-Inclusive List of AI/AN Income Exemptions for Computing MAGI	
INCOME EXEMPTION	LEGAL SOURCE/IRS REFERENCE
1. Per Capita Payments from U.S. Settlement Trusts	
Distributions from Settlement Trusts for tribal claims that the United States mismanaged monetary assets and natural resources held in trust for the benefit of the Tribe by the Department of the Interior.	IRS Notice 2013-1 IRS Notice 2013-36 25 U.S.C. § 117b(a)
Distributions from Alaska Native Corporations and Settlement Trusts.	42 CFR 435.603 (e)(3)(i)
2. Land & Treaty Income	
Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior.	42 CFR 435.603 (e)(3)(ii)

Non-Inclusive List of AI/AN Income Exemptions for Computing MAGI	
INCOME EXEMPTION	LEGAL SOURCE/IRS REFERENCE
Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from— (A) Rights of ownership or possession in any lands held in trust located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior; OR (B) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources.	42 CFR 435.603 (e)(3)(iii)
Distributions resulting from real property ownership interests related to natural resources and improvements— (A) Located on or near a reservation or within the most recent boundaries of a prior Federal reservation; OR (B) Resulting from the exercise of federally-protected rights relating to such real property ownership interests.	42 CFR 435.603 (e)(3)(iv)
Indian treaty fishing rights. Members of a qualified Indian tribe that have fishing rights secured by treaty, executive order, or an Act of Congress as of March 17, 1988, do not include in your income amounts you receive from activities related to those fishing rights. The income is not subject to income tax, self-employment tax, or employment taxes.	IRC Section 7873 (fishing) Publication 525 (fishing)
3. Unique Religious, Spiritual, Traditional, Cultural	
Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom.	42 CFR 435.603(e)(3)(v)
Tribal government program payments or reimbursements for travel expenses (transportation, food, and lodging) to attend an Indian tribe’s cultural, social, or community activities such as pow-wows, ceremonies, and traditional dances	IRS Notice 2012-75, Section 5.02(2)(e)(i)
Tribal government program payments or reimbursements for travel expenses (transportation, food, and lodging) to visit other Indian reservations or sites that are culturally and historically significant for the tribe	IRS Notice 2012-75, Section 5.02(2)(e)(ii)
Tribal government program payments or reimbursements for travel expenses the costs of receiving instruction about an Indian tribe’s culture, history, and traditions (for example, traditional language, music, and dances);	IRS Notice 2012-75, Section 5.02(2)(e)(iii)
Tribal government program payments or reimbursements for funeral and burial expenses and expenses of hosting or attending wakes, funerals, burials, or similar bereavement events.	IRS Notice 2012-75, Section 5.02(2)(e)(iv)

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Non-Inclusive List of AI/AN Income Exemptions for Computing MAGI	
INCOME EXEMPTION	LEGAL SOURCE/IRS REFERENCE
4. Education	
Student financial assistance provided under the Bureau of Indian Affairs education programs	42 CFR 435.603 (e)(3)(vi)
Tribal Educational Programs	IRS Notice 2012-75, Section 5.02(2)(b)
5. General Welfare Assistance	
<p>Certain payments made to or on behalf of individuals by governmental units under legislatively provided social benefit programs for the promotion of the general welfare are not included in a recipient's gross income.</p> <p>This exclusion includes payments to tribal members by Indian tribal governments qualify for the general welfare exclusion if the payments are (1) made pursuant to a governmental program of the tribe; (2) for the promotion of general welfare (that is, based on individual or family need, and, uniquely in the case of programs of Indian tribal governments, to help establish Indian-owned businesses on or near the reservation); and (3) not compensation for services. These Tribal government programs include:</p> <ul style="list-style-type: none"> (a) Housing program assistance; (b) Educational programs; (c) Elder and disabled programs; (d) Other qualifying assistance programs; and, (e) Cultural and religious programs (see Section above) 	IRS Notice 2012-75
6. Qualified Indian Health Benefits	
For benefits and coverage provided after March 23, 2010, the value of any qualified Indian health care benefit is not taxable. These benefits include any health service or benefits provided by the Indian Health Service, amounts to reimburse medical care expenses provided by an Indian tribe, coverage under accident or health insurance, and any other medical care provided by an Indian tribe.	IRC Section 139D (as added by PPACA) http://www.irs.gov/pub/irs-tege/139d_faqs_final_2_oc.pdf
7. Other	
Any other IRS Notices and Ruling regarding American Indian/Alaska Natives income exemptions. PLEASE SEE YOUR TAX ADVISOR FOR THESE OTHER EXEMPTIONS.	

General Income Exclusions (applies to both AI/AN and non-AI/AN individuals)	Legal Source/IRS Reference
Exclude Gifts and Inheritances	IRC §102
Exclude from income the value of property acquired by gift, inheritance, devise or bequest. But not if the gift is income from such property.	
Exclude Compensation for injuries or Sickness	IRC § 104
Amounts received under Worker's Compensation as compensation for personal injuries or sickness	
Amounts received because of personal physical injury or physical sickness	
Amounts received through accident or health insurance for personal injuries or sickness	
Exclude Amounts Received under Accident and Health Plans	IRC §105
Part of the amounts received may be excluded	
Exclude reimbursement received for medical care expenses for self, spouse, or dependents	Regs. §1.105-2
Exclude Income from Discharge of Indebtedness	IRC §108
When a person is insolvent, indebtedness is from a principal residence, qualified farm indebtedness, title 11 bankruptcy	
Exclude income from Qualified Scholarships	IRC § 117
Exclude amounts received from a qualified scholarship by an individual who is a candidate for a degree at an educational organization.	

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General Income Exclusions (applies to both AI/AN and non-AI/AN individuals)	Legal Source/IRS Reference
Exclude gain from the sale of a primary residence, if residence occupied as primary residence for at least 2 years in a 5 year period	IRC § 121
Exclude Income from Educational Assistance Programs	IRC § 127
Exclude from gross income amounts paid or expenses incurred by employer for educational assistance on behalf of the employee in a qualified assistance program, but include amounts exceeding \$5,250.	
Exclude income from Dependent Care Assistance programs	IRC § 129
Exclude certain personal injury liability assignments	IRC § 130
Exclude Qualified Foster Care Payments and Difficulty of Care Payments	IRC § 131; §131(c)
Exclude certain fringe benefits	IRC §132
Exclude certain military benefits	IRC § 134
Exclude Income from US savings bonds used to pay higher education tuition and fees	IRC§ 135
Exclude subsidies for energy conservation provided by public utilities	IRC § 136
Exclude income from Adoption Assistance Programs	IRC §137
Exclude income from Medicare Advantage MSA	IRC §138
Exclude income from Disaster relief payments	IRC § 139
Exclude income from Federal subsidies for prescription drug plans	IRC §139 A; Social Security Act 1860D-22

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General Income Exclusions (applies to both AI/AN and non-AI/AN individuals)	Legal Source/IRS Reference
Exclude any qualified state and local tax benefit and any qualified payment received as a volunteer firefighter and emergency medical responder	IRC § 139B
Exclude COBRA premium assistance	IRC § 139C