

# Health Advocate

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## Modified Adjusted Gross Income (MAGI): A Primer

Prepared by: [Byron Gross](#)

### Key Resources

Explaining Health Reform: The New Rules for Determining Income Under Medicaid in 2014, Kaiser Family Foundation, June 2011, [here](#).

Research Brief: Modified Adjust Gross income (MAGI) Income Conversion Methodologies, US Dept. of Health and Human Services, March 1, 2013, [here](#).

Issue Brief: How States Can Implement the Standardized Modified Adjusted Gross Income (MAGI) Conversion Methodology From State Medicaid and CHIP Data, US Dept. of Health and Human Services, January 2013 (Updated April 2013), [here](#).

### Coming in May's Health Advocate:

Focus on California

### General Description of MAGI Methodology

One of the significant changes to the Medicaid program generated by the Affordable Care Act (ACA) is the introduction of a new methodology for evaluating income to determine eligibility: Modified Adjusted Gross Income (MAGI). MAGI will be used to evaluate available income for most Medicaid applicants and enrollees, beginning in 2014, as well as for determining eligibility for the Children's Health Insurance Program (CHIP) and for Advance Premium Tax Credits (APTCs) and Cost Sharing Reductions (CSR) for applicants for financial assistance under the new insurance Exchanges.<sup>1</sup> In the past couple of years, both regulatory and sub-regulatory guidance has been given on the subject of MAGI, though some questions about how states will actually apply the new rules remain unanswered. This issue of the Health Advocate broadly reviews some of the general issues regarding the change-over to the MAGI methodology, but does not purport to cover all the specific MAGI details. NHeLP plans to publish an Advocate's Guide to MAGI that will address the issue in a much more detailed fashion.

The goal of MAGI was to replace the previous income methodology used in Medicaid, which uses various income deductions and disregards that vary from state to state, with a more simplified methodology that will be uniform across the states and across insurance affordability programs. MAGI is defined under Section 36B of the Internal Revenue Code (IRC). Subject to a few exceptions, eligibility will be based on adjusted gross income as reported for federal income tax purposes. Also, significant under the MAGI rules is how "households" are defined in order to calculate eligibility for applicants for assistance.

In contrast to prior Medicaid income counting, and aside from a 5% of Federal Poverty Level (FPL) across-the-board income disregard (explained further below), none of the previous deductions and disregards will be applied under the MAGI-methodology, simplifying the calculation. Although the concept is to achieve consistency across all health care affordability programs, there remain some differences between how MAGI is applied for Medicaid purposes and how it will be applied for determining eligibility for financial assistance under the insurance Exchanges.

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<sup>1</sup> See Section 1902(e)(14)(A) of the ACA.

Significantly, and in addition to the income counting rules, the ACA prohibits consideration of assets when determining eligibility for MAGI-based eligibles.<sup>2</sup> Currently, many states already disregard assets when determining children's eligibility, and nearly half of the states have eliminated the asset test for parents. Even under the new rules, however, assets will still be considered for certain categories of persons whose Medicaid eligibility will be determined under existing Medicaid eligibility rules.

## Persons for Whom MAGI will be used

Medicaid MAGI-populations will include most children, caretaker relatives, pregnant women, and adults under age 65 in the Medicaid Expansion category. Notable Medicaid MAGI exceptions are those 65 or over, SSI beneficiaries, disabled individuals, long term care patients, and the medically needy. Aged, blind and disabled individuals, however, are only excepted from MAGI methodologies for purposes of determining eligibility on the basis of age, blindness or disability; if such individuals qualify as caretaker relatives, their eligibility may be determined under MAGI-based methods.<sup>3</sup>

Additionally, although the ACA provides that MAGI-methodologies do not apply to the determination of financial eligibility for the medically needy, CMS has recognized that the retention of prior income counting methods solely for the purpose of determining medically needy eligibility may impose administrative burdens for states. CMS has thus, in a recent proposed rule, stated that it is examining a potential option to avoid such a burden by allowing states the option of using MAGI to determine financial eligibility for the medically needy.<sup>4</sup> Further guidance is needed on that issue.

## Types of Income Included/Excluded

In determining MAGI, one significant difference from existing IRS rules will be the inclusion of the non-taxable portion of Social Security benefits in determining MAGI for Medicaid and other insurance affordability programs.<sup>5</sup> Also, for Medicaid purposes, certain other income is exempt, such as: lump sums, (e.g., lottery winnings), certain educational scholarships, and income for Native Americans and Alaska Natives.

As mentioned above, existing income deductions, disregards and exemptions have been replaced by one single deduction (or "disregard") which will reduce an applicant's income by 5% of the FPL. For example, if an applicant's MAGI-determined income was equal to 138% of the FPL, the 5% disregard would reduce it to 133% of the FPL; the disregard does NOT equal 5% of the applicant's income. Under the recent proposed rule issued in January 2013, CMS has changed its original interpretation and has proposed to apply the 5% disregard only where it would make a difference in determining eligibility, rather than in every MAGI calculation.<sup>6</sup>

Income evaluation between Medicaid and Exchange subsidies differs in timing. Medicaid employs a "point in time principle," which considers current monthly income for the purposes of eligibility determination.<sup>7</sup> Eligibility for advanced premium tax credits (APTCs), on the other hand, is based on annual income. To avoid any resulting gaps in coverage between Medicaid and the Exchange, the regulations require that states apply IRC methodologies for determining Medicaid eligibility, including the use of annual income, when MAGI-based methods under Medicaid

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<sup>2</sup> See 42 C.F.R. §435.603(g).

<sup>3</sup> See 42 CFR §435.603(j)(2-4).

<sup>4</sup> See 78 Fed. Reg. 4611-12, Jan. 22, 2013.

<sup>5</sup> See IRC Sec. 36B(d)(2)(B), amended Nov. 21, 2011.

<sup>6</sup> See 78 Fed. Reg. 4625-26.

<sup>7</sup> See 42 CFR §435.603(h)(1).

would result in a gap in coverage.<sup>8</sup> Further, states are given some flexibility in determining income for Medicaid when an applicant's income is inconsistent throughout the year.

## Household Composition for MAGI Purposes

Generally, states must determine eligibility for Medicaid and Exchange subsidies based on household income, which is defined as the sum of MAGI-based income of every individual included in the household. Determining the composition of the "household" will pose complexities in some situations, such as multi-generational households or divorced households where the non-custodial parent is claiming the APTCs. This will be one of the complex areas that will challenge advocates who must learn the new policies. As a basic rule, the ACA requires application of tax relationships in determining household composition.<sup>9</sup> One significant change for Medicaid households is that the rules require income from stepparents and siblings to be deemed to a child, much to the consternation of many advocates. Income from grandparents and other non-responsible relatives will, however, still NOT be counted for Medicaid purposes, even when they claim the child as a tax dependent. The rules also account for individuals who do not file tax returns.<sup>10</sup>

## MAGI Conversion

In order to adjust to the new MAGI-methodology, current income eligibility standards must be converted to equivalent MAGI-based income eligibility standards. One purpose of this conversion is ostensibly to maintain coverage for persons currently eligible for Medicaid and CHIP. CMS has interpreted this to mean that currently eligible persons "in the aggregate" should not lose coverage, so not everyone will be protected by the conversion. The conversion process is quite complex, because of the number of existing state income disregards and because of the various eligibility cut-off percentages that must be converted.

After considering more than one possible conversion method and seeking public comment, CMS has adopted a standardized MAGI conversion methodology. This methodology will adjust the applicable Medicaid income eligibility standard for each current eligibility group (e.g., Section 1931 parents and caretaker relatives) by calculating the average size of disregards for those whose income falls within 25% of the FPL below a state's particular net income standard. This disregard average is then added to the net income eligibility standard for that eligibility category in the state. For example, in a state with a 100% FPL eligibility level for a particular category, the average disregard for individuals between 75% and 100% of the FPL will be calculated. If this average disregard is 9%, the converted MAGI standard would be 109% of the FPL.

States may rely on one of two sources of data to perform these calculations, either national survey data, from the Survey of Income and Program Participation Data (SIPP), weighted for each state, or available state data. States may choose to use the state data instead of the data provided by CMS, and do the calculations themselves, or also may elect to use an alternative methodology altogether, which must be approved by CMS. CMS will be providing the conversion calculation to states using the SIPP data by the end of April. States must submit their conversion plans by the end of May, and CMS will issue final approval of the conversion plans, including any alternative state plans, by June 15. Until advocates actually see the results of the MAGI conversions, it is difficult to determine whether most current Medicaid enrollees (or those new applicants with income equivalent to current cut-off limits) will retain eligibility for Medicaid or be forced to seek coverage through the Exchanges.

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<sup>8</sup> See 42 CFR §435.603(i).

<sup>9</sup> See §1902(e)(14)(A) of the ACA.

<sup>10</sup> See §435.603(f)(5).

## When Will the Use of MAGI Become Effective?

Eligibility for new applicants for Medicaid and CHIP will be determined using methodologies based on MAGI for coverage starting January 1, 2014. However, MAGI will not apply to beneficiaries who are enrolled on or before December 31, 2013 until the later of March 31, 2014 or the next regularly scheduled renewal.<sup>11</sup>

## Conclusion

The most significant outstanding issue in how MAGI will work is what the actual MAGI conversions will look like and how successfully these will serve in replacing the current income levels for eligibility. Legal services advocates, navigators and assisters will need significant training to ensure they are knowledgeable and comfortable with working with this new methodology ahead of 2014 when it goes into effect.

## About Us

The National Health Law Program protects and advances the health rights of low income and underserved individuals. The oldest non-profit of its kind, NHeLP advocates, educates and litigates at the federal and state level.

## Author

The following NHeLP attorney contributed to this month's *Health Advocate*:

[Byron Gross](#)  
Of Counsel,  
LA office



## Offices

### Washington, DC

1444 I Street NW, Suite 1105  
Washington, DC 20005  
(202) 289-7661  
[nhelpdc@healthlaw.org](mailto:nhelpdc@healthlaw.org)

### Los Angeles

3701 Wilshire Blvd, Suite 750  
Los Angeles, CA 90010  
(310) 204-6010  
[nhelp@healthlaw.org](mailto:nhelp@healthlaw.org)

### North Carolina

101 East Weaver Street, Suite G-7  
Carrboro, NC 27510  
(919) 968-6308  
[nhelpnc@healthlaw.org](mailto:nhelpnc@healthlaw.org)

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<sup>11</sup> See 42 C.F.R. §435.603(a)(3).