

APA-1

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No: 560 Department or Agency: Alabama Medicaid Agency

Rule No: 560-X-25-.10

Rule Title: Income Criteria for SSI-Related Individuals

\_\_\_\_\_ New; X Amend; \_\_\_\_\_ Repeal; \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? \_\_\_\_\_ no

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? \_\_\_\_\_ yes

Is there another, less restrictive method of regulation available that could adequately protect the public? \_\_\_\_\_ no

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? \_\_\_\_\_ no

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? \_\_\_\_\_ no

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? \_\_\_\_\_ yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? \_\_\_\_\_ no

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Does the proposed rule have an economic impact? \_\_\_\_\_ no

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer: Stephanie Lindsay

Date: 7-18-2018

**ALABAMA MEDICAID AGENCY**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama Medicaid Agency

**RULE NO. & TITLE:** 560-X-25-.10 – Income Criteria for SSI Related Individuals

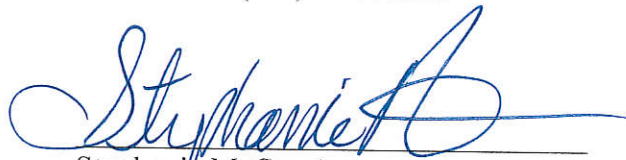
**INTENDED ACTION:** Amend 560-X-25-.10

**SUBSTANCE OF PROPOSED ACTION:** The above referenced rule is being amended to change the title to Income Criteria for Individuals in Institutions and Home and Community Based Waivers. This title change provides a more descriptive application of the contents of the rule.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** Written or oral comments may be submitted to the Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624. Agency business hours are 8:00 a.m. to 5:00 p.m. Monday through Friday.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:** Written/Oral comments concerning this change must be received by the Alabama Medicaid Agency no later than September 4, 2018.

**CONTACT PERSON AT AGENCY:** Stephanie Lindsay, Administrative Secretary, Alabama Medicaid Agency, 501 Dexter Avenue, Post Office Box 5624, Montgomery, Alabama 36103-5624. Phone: (334) 242-5833.

  
Stephanie McGee Azar  
Commissioner

**Rule No. 560-X-25-.10. Income Criteria for ~~SSI-Related~~ Individuals in Institutions and Home and Community-Based Waivers.**

(1) The income limit for the institutional Medicaid program and certain home and community-based waiver programs is determined by the Agency and published in the State Plan for Medical Assistance. The income limit is equal to 300 percent of the current SSI benefit amount payable to an individual in his own home who has no income.

(2) The income limit for certain recipients of home and community-based waiver services who are eligible for Medicaid solely because they require and receive services under a home and community-based services waiver is the SSI federal benefit rate plus the \$20.00 general disregard.

(3) Rules in 20 C.F.R. 416 Subpart K govern types of countable income and income exclusions except as further limited by §36-27-21.1 of the Code of Alabama (1975).

(4) In determining the amount of income an individual has to apply to his cost of care in an institution, the following are deducted:

(a) amounts of income protected for personal needs subject to the limits as set forth in the Agency State Plan, Attachment 2.6-A.

(b) amounts of income protected for the maintenance needs of the ineligible spouse and dependents living outside the facility.

(c) amounts of income protected for health insurance premiums that are paid by the applicant/recipient.

(d) amounts of income for incurred necessary medical or remedial care recognized under state law but not covered under the State's Medicaid Plan, nor subject to payment by Medicare or any other third party health insurance including Medicare premiums, deductibles and coinsurance.

1. The incurred necessary medical or remedial care must be determined to be medically necessary. All verification needed to make the determination of medical necessity and to allow the deduction must be furnished to the agency within six months of the date of the service.

2. A deduction for expenses incurred for medically necessary non-covered medical or remedial care will be allowed based on the lesser of the Medicaid rate, the Medicare rate, or reasonable and customary charges.

3. A deduction for incurred medically necessary non-covered medical or remedial care expenses will be allowed when the bill is incurred during a period which is no more than three months prior to the month of current application.

4. The deduction for medical and remedial care expenses that were incurred as the result of imposition of a transfer of assets penalty period is limited to zero.

5. A deduction for initial or replacement dentures will be allowed for those meeting Agency established medical necessity criteria.

6. A deduction for hearing aids will be allowed for those meeting Agency established medical necessity criteria.

7. A deduction from the individual's income for incurred necessary medical or remedial care is only applicable when the individual has available income to allow for an offset (liability amount to the nursing home is greater than zero).

(5) The following are more liberal income requirements than SSI for determining the eligibility of individuals as Qualified Medicare Beneficiaries, Specified Low Income Medicare Beneficiaries, and Qualifying Individuals-1:



- (a) The consideration of in-kind income support and maintenance in the income calculation is waived.
- (b) Fluctuating income may be averaged for the past six months and projected for twelve months.
- (c) Interest and dividend income is excluded.

**Author:** Denise Banks, Associate Director, Policy and Training, Beneficiary Services Division.

**Statutory Authority:** State Plan; Social Security Act, Titles XVI and XIX; 1902(r)(2); 42 CFR §401, et seq.; Code of Alabama, 36-27-21-.1; and 42 CFR, §435.725. 42 CFR 435.231; 42 CFR 435.726; Section 1611(b)(1); Section 1915(c) and Section 1902(a)(10)(A)(ii)(VI).

**History:** Rule effective October 1, 1982. Amended November 10, 1983; July 9, 1984; July 9, 1985; January 8, 1988; April 12, 1988; July 13, 1990; October 9, 1990; January 15, 1991; July 13, 1991; November 12, 1992; May 1, 1993; and August 12, 1993. **Amended:** Filed February 17, 2006; effective May 16, 2006. **Amended:** Filed May 22, 2006; effective August 16, 2006. **Amended:** April 20, 2018. **Amended:** Filed July 18, 2018.