

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 12

MED-QUEST DIVISION

CHAPTER 1724.2

MODIFIED ADJUSTED GROSS INCOME (MAGI) BASED INCOME
METHODOLOGY

Subchapter 1 General Provisions

- §17-1724.2-1 Purpose
- §17-1724.2-2 Repealed
- §17-1724.2-3 Special provisions for eligibility renewals
- §17-1724.2-4 MAGI-based income determination
- §17-1724.2-4.1 Income of the sponsor of a non-citizen
- §17-1724.2-5 Repealed
- §§17-1724.2-6 to 17-1724.2-10 (Reserved)

Subchapter 2 Household Composition

- §17-1724.2-11 Purpose
- §17-1724.2-12 General requirements
- §17-1724.2-13 MAGI-related households
- §§17-1724.2-14 to 17-1724.2-18 (Reserved)

Subchapter 3 Budget Periods

- §17-1724.2-19 Purpose
- §17-1724.2-20 Budget periods
- §§17-1724.2-21 to 17-1724.2-25 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS

§17-1724.2-1 Purpose. This chapter describes the modified adjusted gross income (MAGI) based income methodology. MAGI-based income methodology, established by the Affordable Care Act, is used to determine financial eligibility for individuals described in chapters 17-1715 (Children Group), 17-1716 (Pregnant Women Group), 17-1717 (Parents and Other Caretaker Relatives Group), and 17-1718 (Adults Group), collectively referred to as "MAGI groups." MAGI-based income methodology incorporates a household's composition, size, and the treatment of certain types of income. These conditions are generally based on information from the previous tax year, whether the household expects to file a tax return for the taxable year in which medical assistance is sought, and any expected change in circumstance. [Eff 09/30/13; am and comp **NOV 10 2016**] (Auth: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.603; 26 C.F.R. §1.36B) (Imp: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.603; 26 C.F.R. §1.36B)

§17-1724.2-2 REPEALED. [R **NOV 10 2016**]

§17-1724.2-3 Special provisions for eligibility renewals. (a) Individuals who were beneficiaries prior to October 1, 2013, and were transferred to a MAGI group shall not have eligibility re-determined under the MAGI-based income methodology until March 31, 2014, or at the next scheduled re-determination of eligibility, whichever is later.

(b) Individuals eligible under a MAGI group whose eligibility renewal would have occurred from October 1, 2013 through March 31, 2014 shall have their eligibility period extended by six months. [Eff 09/30/13; am and comp **NOV 10 2016**] (Auth: HRS §346-14; 26 C.F.R. §1.36B; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603) (Imp: HRS §346-14; 26 C.F.R. §1.36B; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603)

§17-1724.2-4 MAGI-based income determination.
(a) MAGI-based income shall be calculated using the same methodology used to determine the modified

adjusted gross income as defined in 26 C.F.R. §1.36B-1(e)(2). The Internal Revenue Service (IRS) Form 1040 is used as a guide to identify taxable income.

- (1) Income included in the MAGI-based determination includes the following:
 - (A) Wages, salaries, tips, etc.;
 - (B) Taxable interest;
 - (C) Tax-exempt interest;
 - (D) Ordinary dividends;
 - (E) Qualified dividends;
 - (F) Taxable refunds, credits, or offsets of state and local income taxes;
 - (G) Alimony received;
 - (H) Business income or (loss);
 - (I) Capital gain or (loss);
 - (J) Other gains or (losses);
 - (K) Taxable amount of IRA distributions;
 - (L) Taxable amount of pensions and annuities;
 - (M) Rental real estate, royalties, partnerships, S corporations, trusts, etc.;
 - (N) Farm income or (loss);
 - (O) Unemployment compensation;
 - (P) Taxable amount of social security benefits; and
 - (Q) Other income.
- (2) Income excluded from the MAGI-based determination includes the following:
 - (A) Child support;
 - (B) Worker's compensation;
 - (C) Veteran's benefits; and
 - (D) Depreciation of business expenses.
- (3) Deductions allowed for the MAGI-based determination include the following:
 - (A) Educator expenses;
 - (B) Certain business expenses of reservists, performing artists, and fee-basis government officials;
 - (C) Health savings account deduction;
 - (D) Moving expenses;
 - (E) Deductible part of self-employment tax;
 - (F) Self-employed SEP (simplified employee pension), SIMPLE (savings incentive match plan for employees), and qualified plans;

- (G) Self-employed health insurance deduction;
- (H) Penalty on early withdrawal of savings;
- (I) Alimony paid;
- (J) IRA (individual retirement account) deduction;
- (K) Student loan interest deduction;
- (L) Tuition and fees; and
- (M) Domestic production activities deduction.

(b) The following are exceptions to the determination of MAGI-based income:

- (1) Lump sum amounts shall be counted only in the month received;
- (2) Scholarships, awards, or fellowship grants used for educational purposes (not for living expenses) shall be excluded;
- (3) Certain American Indian/Alaska Native income as defined in 42 C.F.R. §435.603 shall be excluded:
 - (A) Distributions from Alaska Native Corporations and Settlement Trusts;
 - (B) Distributions from any property held in trust that are subject to Federal restrictions and located within the most recent boundaries of a prior Federal reservation or otherwise under the supervision of the Secretary of the Interior;
 - (C) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from:
 - (i) Rights of ownership or possession in any lands described in subparagraph (B); or
 - (ii) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;
 - (D) Distributions resulting from real property ownership interests related to natural resources and improvements:
 - (i) Located on or near a reservation or within the most recent boundaries of a prior Federal reservation;

- (ii) Resulting from the exercise of federally-protected rights relating to such real property ownership interests;
 - (E) 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; and
 - (F) Student financial assistance provided under the Bureau of Indian Affairs education program.
- (c) After applying subsections (a) and (b), as applicable, add the following to arrive at the MAGI-based income:
- (1) Foreign income excluded from gross income under §911 of the Code;
 - (2) Tax-exempt interest; and
 - (3) Tax-exempt social security income.
- (d) The household income is the sum of the MAGI-based income, as determined under this section, of all individuals included in the applicant's or beneficiary's household, except for the income of:
- (1) An individual included in his or her natural or biological, adopted, or step parent's household who is not expected to be required to file a tax return for income not exceeding the taxable year's filing threshold, regardless of whether or not the individual files a tax return;
 - (2) A tax dependent other than a spouse or natural or biological, adopted, or step child who is not expected to be required to file a tax return for income not exceeding the taxable year's filing threshold, regardless of whether or not the tax dependent files a tax return. When §17-1724.2-13(b)(2) is applied, such tax dependent shall be considered for eligibility as a separate household. The income of such tax dependent, who is described in §17-1724.2-13(b)(2), is counted in its entirety when determining the tax dependent's own eligibility. [Eff 09/30/13; am and comp NOV 10 2016] (Auth: HRS §346-14; 26 C.F.R. §1.36B; 42 C.F.R.

§§435.4, 435.601, 435.602, 435.603) (Imp:
HRS §346-14; 26 C.F.R. §1.36B; 42 C.F.R.
§§435.4, 435.601, 435.602, 435.603)

§17-1724.2-4.1 Income of the sponsor of a non-citizen. (a) The sponsor of a non-citizen who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (INA) on or after December 19, 1997, shall have their income and their spouse's income deemed as available to a non-citizen requesting medical assistance. For the purposes of this section:

- (1) "Sponsor" means an individual who is either required to execute or has executed an affidavit of support.
- (2) "Affidavit of support" means a document that an individual completes and signs to accept financial responsibility for another person, who may be, but is not required to be, a relative who is coming to the United States to live permanently. The person who completes and signs the affidavit of support becomes the sponsor of the relative (or other individual) coming to live in the United States.

(b) The income of a non-citizen's sponsor and the sponsor's spouse shall be deemed available to the non-citizen until such time as the non-citizen:

- (1) Achieves United States citizenship through naturalization pursuant to chapter 2 of Title III of the INA; or
- (2) Has worked forty qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with such qualifying quarters as provided under 8 U.S.C. §1645. In the case of any such qualifying quarter beginning after December 31, 1996, the non-citizen must not have received any Federal means-tested public benefit during any such period.

(c) The non-citizen's failure to provide information and verification regarding the income of their sponsor and the sponsor's spouse, as applicable, shall disqualify the non-citizen from receiving medical assistance.

(d) The income of a non-citizen's sponsor and the sponsor's spouse shall not be deemed available to a non-citizen for coverage of emergency medical assistance as described in chapter 17-1723.1.

(e) Special provisions in the case of an indigent non-citizen. The deeming of income in subsection (a) shall not be applicable for a twelve-month period from the date a non-citizen is determined to be indigent as defined in this subsection.

- (1) The department may determine a non-citizen to be indigent when the non-citizen is unable to obtain food and shelter because the non-citizen's own income plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor and the sponsor's spouse, does not exceed one hundred thirty-three per cent of the federal poverty level for the non-citizen's applicable household size;
- (2) The department will only consider the actual amount of income contributed by the sponsor and the sponsor's spouse for a twelve-month period, which begins on the date of such determination of indigent status and ends twelve months after such date;
- (3) Each period of indigence is renewable for additional twelve month periods; and
- (4) The department must notify the federal Attorney General of each such determination, including the names of the sponsor and the sponsored non-citizen involved.

(f) Special provisions in the case of a non-citizen battered spouse or child. Deeming of income of the sponsor and the sponsor's spouse described in subsection (a) shall not apply for a twelve-month period if the non-citizen who was subjected to the

battery or cruelty is not residing in the same residence of the batterer.

- (1) This provision applies to:
 - (A) A non-citizen who was battered or subjected to extreme cruelty in the U.S. by a spouse or parent, or by a member of the spouse's or parent's family residing in the same residence as the non-citizen and the spouse or parent consented or acquiesced to such battery or cruelty;
 - (B) A non-citizen whose child was battered or subjected to extreme cruelty in the U.S. by the non-citizen's spouse or parent, or by a member of the spouse's or parent's family residing in the same residence as the non-citizen and the non-citizen did not actively participate in the battery or cruelty, and the spouse or parent consented or acquiesced to such battery or cruelty; or
 - (C) A non-citizen child who was residing with a parent who was battered or subjected to extreme cruelty in the U.S. by the parent's spouse or by a member of the spouse's family residing in the same residence as the parent and non-citizen child and the spouse consented or acquiesced to such battery or cruelty.
- (2) The battery or cruelty must be substantially connected to the need for public benefits which means that without the support of the batterer, the non-citizen is unable to obtain food and shelter because the non-citizen's own income plus any cash, food, housing, or assistance provided by other individuals including the sponsor, does not exceed one hundred thirty-three per cent of the poverty income level for the non-citizen's applicable household size.

- (3) After the twelve-month period ends, the department shall continue to exempt the batterer's income when the battery or cruelty is recognized in an order of a judge or administrative law judge or a prior determination of the USCIS, and the department determines that such battery or cruelty still has a substantial connection to the need for benefits.

(g) The deeming of income provisions in subsection (a) shall not apply to a lawfully present non-citizen who is a child under age nineteen years or who is a pregnant woman.

(h) The deemed income of the non-citizen's sponsor and the sponsor's spouse shall be determined in the following manner for each non-citizen's sponsor:

- (1) Count the MAGI-based income of the sponsor and his or her spouse (if living together);
- (2) Deduct one hundred thirty-three per cent of the federal poverty level for the sponsor's applicable household size which includes the sponsor, sponsor's spouse (if living together) and their dependents;
- (3) Deem any remaining balance as income to the sponsored non-citizen; and
- (4) If a sponsor sponsored more than one non-citizen, the income deemed available shall be prorated amongst the number of non-citizens sponsored by that sponsor.

The income of a sponsor and sponsor's spouse (if living together), who expects to claim a sponsored non-citizen as a tax dependent, shall be counted as either income deemed available according to paragraphs (1) through (4), or part of the household's MAGI-based income.

(i) If income deemed available for a sponsored non-citizen results in ineligibility for his or her household, redetermine the non-sponsored household member's eligibility in the following manner

§17-1724.2-4.1

- (1) Keep the household size the same and if applicable, continue to apply MAGI-based methodology; and
- (2) Do not count the income deemed available toward the non-sponsored household member(s). [Eff and comp NOV 10 2016] (Auth: HRS §346-53; 8 C.F.R. §§213a.1, 213a.2; 42 C.F.R. §435.406; 8 U.S.C. §§1631, 1632, 1645) (Imp: HRS §346-29; 8 C.F.R. §§213a.1, 213a.2; 42 C.F.R. §435.406; 8 U.S.C. §§1631, 1641, 1645)

§17-1724.2-5 REPEALED [R NOV 10 2016]

§§17-1724.2-6 to 17-1724.2-10 (Reserved).

SUBCHAPTER 2

HOUSEHOLD COMPOSITION

§17-1724.2-11 Purpose. This subchapter identifies and describes the composition of a household for a MAGI-based income determination. [Eff 09/30/13; am and comp NOV 10 2016] (Auth: HRS §346-14; 42 C.F.R. §435.603) (Imp: HRS §346-14; 42 C.F.R. §435.603)

§17-1724.2-12 General requirements. The MAGI related household is generally based on the tax household concept, that incorporates tax filing status and relationships, with certain exceptions. The household generally consists of the tax filer including married tax filers filing jointly or separately if living together, and all individuals who are expected to be claimed as tax dependents for the taxable year in which medical assistance is sought. [Eff 09/30/13; am and comp NOV 10 2016] (Auth: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603) (Imp: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603)

§17-1724.2-13 MAGI-related households. (a) The MAGI-related household as described in 42 C.F.R. §435.603 consists of the following individuals:

- (1) Tax filer who:
 - (A) Expects to file a tax return for the taxable year in which medical assistance is sought; and
 - (B) Does not expect to be claimed as a tax dependent by another tax filer;
- (2) Tax dependent who expects to be claimed as a tax dependent by the tax filer for the taxable year in which medical assistance is sought, except that subparagraph (b)(2) shall apply to the following tax dependents:
 - (A) Individuals other than a spouse or a natural or biological, adopted, or step child who expect to be claimed as a tax dependent by the tax filer;
 - (B) Individuals under age nineteen years who expect to be claimed by one parent as a tax dependent and are living with both parents, but whose parents do not expect to file a joint tax return; and
 - (C) Individuals under age nineteen years who expect to be claimed as a tax dependent by a non-custodial parent. For purposes of this subparagraph, custody is determined by:
 - (i) A court order or binding separation, divorce or custody agreement establishing physical custody; or
 - (ii) If there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights;
- (3) Non-tax filer who does not expect to:
 - (A) File a tax return for the taxable year in which medical assistance is sought; and
 - (B) Be claimed as a tax dependent for the taxable year in which medical assistance is sought.

(b) The household size used for initial determination or re-determination of eligibility for medical assistance for:

- (1) A tax filer, shall consist of the tax filer, who meets the requirements of subsection (a) (1), and:
 - (A) The tax filer's spouse if filing jointly or filing separately, but living together; and
 - (B) All individuals whom the tax filer expects to claim as a tax dependent. A tax dependent, who meets the requirements of subsection (a) (2), may be related or unrelated to the tax filer.
 - (C) When the tax filer cannot reasonably establish that an individual is a tax dependent of the tax filer for the taxable year in which medical assistance is sought, the inclusion of the individual shall be determined in accordance with paragraph (2).
- (2) The household of an individual who does not expect to file a tax return or does not expect to be claimed as a tax dependent for the taxable year in which medical assistance is sought, referred to as a non-tax filer, shall consist of the non-tax filer and, if residing with the non-tax filer:
 - (A) The non-tax filer's spouse;
 - (B) The non-tax filer's natural or biological, adopted, and step children under age nineteen years; and
 - (C) If a non-tax filer is under age nineteen years, the non-tax filer's natural or biological, adopted, and step parents, and natural or biological, adopted, half, and step siblings under age nineteen years.
- (3) Each spouse of a married couple residing together shall be included in the household of the other spouse regardless of whether:
 - (A) They expect to file a joint tax return; or
 - (B) One spouse expects to be claimed as a tax dependent by the other spouse for the taxable year in which medical assistance is sought.
- (4) A pregnant woman only, notwithstanding paragraphs (1) through (3), shall include

the number of children she is expected to deliver. [Eff 09/30/13; am and comp NOV 10 2016] (Auth: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603) (Imp: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603)

§§17-1724.2-14 to 17-1724.2-18 (Reserved).

SUBCHAPTER 3

BUDGET PERIODS

§17-1724.2-19 Purpose. This subchapter identifies and describes the budget period for a MAGI-based income determination. [Eff 09/30/13; am and comp NOV 10 2016] (Auth: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603) (Imp: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603)

§17-1724.2-20 Budget periods. (a) The determination of monthly income and household size is dependent on the period for which assistance is being requested and the circumstances involved.

- (1) The following methods shall be used when determining current income:
 - (A) For a month prior to the current month, the actual income received within that month shall be considered income for that month.
 - (B) For the current month, income already received and any income anticipated to be received within the current month, shall be considered income for that month.
- (2) The following methods shall be used when determining future income:
 - (A) To account for future changes in income that can be reasonably anticipated, projected income shall be calculated by one of the following methods:

- (i) Current weekly income multiplied by 4.3333 to convert to monthly income;
 - (ii) Current bi-weekly income multiplied by 2.1667 to convert to monthly income;
 - (iii) When no significant fluctuation is anticipated, the income received in the month immediately prior to the current month can be used for the projection; or
 - (iv) If there has been fluctuation, an average of the three months income immediately preceding the current month may be utilized.
- (B) Actual changes in income and circumstances, as required to be reported by the household, including deviations from reasonably anticipated fluctuations in income, shall be acted upon by the department.

(b) The department shall determine the current and future household monthly income or the projected annual household income and household size for an applicant or beneficiary. The department shall adopt a reasonable percentage for an increase or decrease in income, and take into account verifying financial information with the Income Eligibility Verification System (IEVS) data and whether the IEVS income causes the total combined countable household income (IEVS income plus all previously reported income) to be above or below the medical assistance standard for the appropriate household size as described in chapter 17-1714.1:

- (1) The department shall continue to use the self-attested income amount when:
 - (A) The IEVS income amount is below or at ten per cent of the self-attested income amount, even if the total combined countable household's income exceeds the medical assistance income standard for the applicable household size; or

- (B) The IEVS income is above ten percent of the self-attested amount but the total combined countable household's income remains at or below the medical assistance standard; or
- (2) The department shall request for additional information from the household when the IEVS income differs more than ten per cent of the self-attested income amount. A change in the total combined countable household income requires the household to be redetermined under the appropriate category and medical assistance standard for the applicable household size. The department shall redetermine household's eligibility based on the verified income amount; unless a reasonable explanation, and if necessary, appropriate documentation, are provided.

(c) If a household's MAGI-based income is above the applicable medical assistance income standard for a household of applicable size, but the household's income does not exceed one hundred per cent of the federal poverty level for advance payments of the premium tax credits (APTC) eligibility, MAGI as defined in chapter 17-1700.1, which the Exchange employs, shall apply. Differences in methodologies between medical assistance and APTC include, but are not limited to, treatment of certain types of income, annualizing income, and household composition.

[Eff 09/30/13; am and comp **NOV 10 2016**] (Auth: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603, 435.945, 435.952) (Imp: HRS §346-14; 42 C.F.R. §§435.4, 435.601, 435.602, 435.603, 435.945, 435.952)

§§17-1724.2-21 to 17-1724.2-25 (Reserved).