

# **State of Rhode Island and Providence Plantations**

## **Executive Office of Health & Human Services**



### **Access to Medicaid Coverage under the Affordable Care Act**

#### **Section 1307:**

#### **“MAGI” Income Eligibility Determinations**

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**Rhode Island Executive Office of Health and Human Services**  
**Access to Medicaid Coverage under the Affordable Care Act**  
**Rules and Regulations Section 1307:**  
**“MAGI” Income Eligibility Determinations**

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## *Introduction*

These rules related to **Access to Medicaid Coverage Under the Affordable Care Act, Section 1307 of the Medicaid Code of Administrative Rules entitled, ““MAGI” Income Eligibility Determinations”** are promulgated pursuant to the authority set forth in Rhode Island General Laws Chapter 40-8 (Medical Assistance), including Public Law 13-144; Title XIX of the Social Security Act; Patient Protection and Affordable Care Act (ACA) of 2010 (U.S. Public Law 111-148); Health Care and Education Reconciliation Act of 2010 (U.S. Public Law 111-15); Rhode Island Executive Order 11-09; and the Code of Federal Regulations 42 CFR Parts 431, 435, 436 *et seq.*

Pursuant to the provisions of §42-35-3(a)(3) and §42-35.1-4 of the General Laws of Rhode Island, as amended, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulations; and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified and these regulations are promulgated in the best interest of the health, safety, and welfare of the public.

These regulations shall supersede all previous requirements related to Medicaid coverage provided under the federal Affordable Care Act as contained in Section 1307 of the Medicaid Code of Administrative Rules entitled, ““MAGI’ Income Eligibility Determinations” promulgated by the Executive Office of Health and Human Services and filed with the Secretary of State as a technical amendment on March 6, 2014.

## 1307 “MAGI” Income Eligibility Determinations

### 1307.01. Scope and Purpose

To implement the federal Affordable Care Act (ACA), Rhode Island took the option under the law to establish its own new web-based eligibility system with the capacity to determine whether an individual or family qualifies for affordable health care coverage paid for by Medicaid or in whole or in part by federal tax credits or other subsidies. The Executive Office of Health and Human Services (EOHHS), the Medicaid Single State Agency, and the recently established Rhode Island Health Benefits Exchange, known as [HealthSourceRI](#) (HSRI), are using this new eligibility system to make determinations for all forms of affordable coverage available under the ACA, including Medicaid.

One of the principal goals of the ACA is to improve access to affordable coverage by simplifying and streamlining the application and eligibility determination process. Toward this end, the Act established a distinct income standard – Modified Adjusted Gross Income or MAGI – to determine eligibility for affordable coverage across payers (e.g., Medicaid, tax credits, state subsidies, employers) and populations (families, pregnant women, children, adults without children). Effective January 1, 2014, the MAGI standard will be used to determine eligibility for all new applicants for Medicaid coverage in the Medicaid Affordable Care Coverage (MACC) groups identified in section 1301 of the Medicaid Code of Administrative Rules (MCAR). The process for applying for Medicaid affordable coverage using the new eligibility system is located in MCAR section 1303.

The purpose of this rule is to: describe the MAGI and explain how it will be applied; and establish the role and responsibilities of the Medicaid agency and consumers when determining MAGI-related eligibility.

### 1307.02. Definitions

**“Advance payments of the premium tax credit (APTC)”** means payment of the federal health insurance premium tax credit on an advance basis to an eligible person enrolled in a qualified health plan through a health insurance exchange.

**“Affordable Care Act (ACA)”** means the federal Patient Protection and Affordable Care Act of 2010. The law is also sometimes referred to as “Obamacare” and federal health reform.

**“APTC/CSR eligibility”** APTC/CRS eligibility means the application of the IRS-based measure of income known as “Modified Adjusted Gross Income” for determining eligibility for affordable health care through health insurance exchanges/marketplaces established under the ACA. Also, APTC means advanced premium tax credits and CSR means cost sharing reductions.

**“Attestation”** means the act of a person affirming through an electronic or written signature that the statements the person made when applying for Medicaid eligibility are truthful and correct.

**“Caretaker or caretaker relative”** means any adult living with a Medicaid-eligible dependent child that has assumed primary responsibility for that child as defined in MCAR section 1305.13.

**“Current Household Monthly Income”** means average monthly income from all members determined to be part of the household, received from all sources, and derived during the six-month period ending on the last day of the month preceding application date.

**“Custodial parent”** means a relationship that is defined by a court order or binding separation, divorce or custody agreement establishing physical custody of a minor child. If no order or agreement exists, or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

**“Federal poverty level”** or **“FPL”**, as used herein, means the most recently published federal poverty level by the U.S. Department of Health and Human Services.

**“MAGI”** means modified adjusted gross income, adjusted by any amount excluded from gross income under section 911 of the IRS Code, and any interest accrued. Social Security benefits are not included in gross income.

**“Medicaid Affordable Care Coverage (MACC) Group”** means a classification of persons eligible to receive Medicaid based on similar characteristics who are subject to the MAGI standard for determining income eligibility beginning January 1, 2014.

**“Medicaid Code of Administrative Rules (MCAR)”** means the compilation of rules governing the Rhode Island Medicaid program promulgated in accordance with the State’s Administrative Procedures Act (R.I.G.L. §42-35).

**“Medicaid member”** means a person who has been determined to an eligible Medicaid beneficiary.

**“New Applicant”** means an individual or family that was not enrolled in and receiving Medicaid coverage on the January 1, 2014, effective date this rule. The term does not apply to individual and families who were receiving coverage and where disenrolled for any reason; nor does it apply to parents with income between from 133% to 175% of the FPL who lost eligibility for Medicaid coverage beginning on January 1, 2014 as a result of the eligibility roll-backs mandated under RI law (see Public Law 13-144, section 40-8.4-4 of the Rhode Island General Laws, as amended).

**“Non-MAGI Coverage Group”** means a Medicaid coverage group that is not subject to the modified adjusted gross income eligibility determination. Includes Medicaid for persons who are aged, blind or with disabilities and persons in need of long-term services and supports as well as individuals who qualify for Medicaid based on their eligibility for another publicly funded program, including children in foster care and anyone receiving Supplemental Security Income (SSI) or participating in the Medicare Premium Assistance Program.

**“Relationship-based Household Rules”** means the Medicaid household composition rules that consider the living and familial relationships of the applicants without regard to their taxpayer household. Special Medicaid household composition rules result in exceptions to general application of the MAGI Standard.

**1307.03. Applicability of the MAGI Income Standard**  
**REV: June 2014**

On January 1, 2014, individuals and families seeking affordable health coverage may be eligible for a Medicaid-funded plan if they meet requirements set forth in MCAR section 1305 and the MAGI income standard for the program established in this rule.

**01. Subject to the MAGI** - This rule applies to all new applicants and beneficiaries in the following Medicaid Affordable Care Coverage (MACC) groups:

- (01) Families and Parents/Caretakers with income up to 133% of the Federal Poverty Level (FPL) – Includes families and parents/caretakers who live with and are responsible for dependent children under the age of 18 or 19 if enrolled in school full-time. It also includes families eligible for time-limited transitional Medicaid.
- (02) Pregnant women. Members of this coverage group can be of any age. The pregnant woman and each expected child are counted separately when constructing the household and determining family size. Eligibility extends for the duration of the pregnancy and two months post-partum. The coverage group includes all pregnant women with income up to 253% of the FPL, regardless of whether the legal basis of eligibility is Medicaid or CHIP, including pregnant women who are non-citizen residents of the State. The unborn child's citizenship and residence is the basis for eligibility.
- (03) Children and Young Adults. Age is the defining characteristic of members of this MACC group. This coverage group includes: infants under age 1, children from age 1 to age 19 with income up to 261% of the FPL; and qualified and legally present non-citizen infants and children up to the age of 19, who have income up to 261% of the FPL.
- (04) Adults 19-64. This is the new Medicaid State Plan expansion coverage group established in conjunction with implementation of the ACA. The group consists of citizens and qualified non-citizens with income up to 133% of the FPL who meet the age characteristic and are not otherwise eligible for, or enrolled in, Medicaid under any other state plan or Section 1115 waiver coverage group. Adults found eligible for Social Security benefits are also eligible under this coverage group during the two (2) year waiting period.

A detailed description of each of these Medicaid coverage groups is located in MCAR section 1301; eligibility criteria are established in MCAR 1305.

**02. Exempt from the MAGI** --The MAGI income eligibility standards IS NOT applicable to:

- (01) Parents with income between 133% and 175% of the FPL under Rhode Island law (see Public Law 13-144, section 40-8.4-4 of the Rhode Island General Laws, as amended) are subject to the MAGI if seeking non-Medicaid subsidized coverage as indicated in MCAR section 1315.

- (02) Any persons eligible for Medicaid based on participation in another program or that the Medicaid agency is not whom the state agency is not required to make an income determination, such as adoption assistance, Supplement Security Income beneficiaries;
- (03) Persons seeking eligibility under MCAR sections 0351 or 0374 who are 65 and older or who are seeking eligibility based upon blindness or a disability;
- (04) Persons seeking eligibility under MCAR section 0378 who need long-term services and supports in an institutional or home or community based setting;
- (05) Persons seeking eligibility as “medically needy” due to excess income; and
- (06) Persons eligible for Medicare cost-sharing assistance through the Medicare Premium Payment Program.

#### **1307.04 MAGI Household Construction**

Applications for MACC groups are processed by the new eligibility system. The system can be accessed directly on-line through the links on the EOHHS or DHS websites, the HSRI website, the Contact Center or kiosks located at Department of Human Services (DHS) field offices. Details of the application process are located in MCAR section 1303. Eligibility is determined through the electronic eligibility system as indicated in this rule and MCAR section 1308. The eligibility system uses this information to both assess whether an applicant meets residency, citizenship and other such requirements and perform all MAGI calculations. The principal factor for determining MAGI-based eligibility is household composition and size based on the rules for household construction.

- 01. Household composition and size --The ACA requires that states use the same general household composition rules focusing on the tax relationship of individuals when determining eligibility for affordable care. In general, the applicant’s household members are identified as part of the application process; income is then determined by comparing the standards cited below with the FPL for a household of the same size. There are certain areas in which Medicaid household construction rules diverge to assure all eligible family members have access to coverage.
- 02. General rules of household construction -- For the purposes of calculating MAGI, a household consists of an applicant and the people the applicant claims as a deduction for a personal exemption when filing federal income taxes. Under IRS rules, the taxpayer may claim a personal exemption deduction for him/herself, a spouse, and tax dependents. Non-family members may be included as tax dependents under certain circumstances and are treated as part of the tax household accordingly.
- 03. Special Medicaid rules of household construction – The following rules for constructing a household are applied when making MAGI-based Medicaid eligibility determinations:
  - (01) “Relationship-based” rules are used when an applicant is not filing taxes or is a custodial parent who, although living with a child, does not claim that child as a dependent for federal income tax purposes.

- (02) Medicaid household rules are “individual specific” within a family. Therefore, a Medicaid household must be constructed for each person within a family.
- (03) For married couples living together, each spouse must be included in the household of the other spouse, regardless of whether they expect to file a joint federal tax return or whether one spouse expects to be claimed as a tax dependent by the other spouse.
- (04) If a pregnant woman is applying for coverage or is part of another applicant’s household, the household size must be adjusted to reflect the number of children that she is expecting. Specifically, the pregnant woman is counted as one plus the number of children she expects to deliver. This pregnancy-adjusted household size must be used to determine the applicable FPL used when assessing Medicaid eligibility.

### **1307.05 Exceptions Requiring Application of Relationship Household Rules**

Relationship-based household composition rules must be applied when an applicant meets the criteria for an exception from the tax-based household rules. These alternative relationship-based rules must be used to determine both household size and the income of the household members included as part of total household income.

01. Relationship-based rules --The household is determined based upon the family members who live with the applicant. The rules vary slightly for children versus adults.

(01) Adults. The relationship-based rules for adults require that the household consist of the following individuals:

- The adult applying for coverage;
- The applicant’s spouse, if living with the applicant;
- The applicant’s natural, adopted, and step-children under age 19 years, if living with the applicant.

(02) Children under age 19. The relationship-based rules for minor children require that the household consist of the following individuals:

- The child applying for coverage; any of the child’s parents (including step-parents), if living with the child;
- Any of the child’s siblings (including step-siblings), if living with the child.

02. Triggers --The exceptions that trigger the use of relationship-based rules are as follows:

(01) Applicant is not planning to file taxes. The relationship-based rules are used for applicants who do not plan to file taxes and who do not expect to be claimed as a tax dependent by another tax filer. For example, some very low-income people do not plan to file taxes because they do not meet the tax filing threshold. Full information

on who is required to file taxes under federal law is located in IRS Publication 501 (IRS Publication 501 is available at: [http://www.irs.gov/publications/p501/ar02.html#en\\_US\\_2012\\_publink1000220851](http://www.irs.gov/publications/p501/ar02.html#en_US_2012_publink1000220851)).

(02) Tax dependents meet specified criteria. In situations in which an applicant will be claimed as a tax dependent on another person’s federal tax form, the relationship-based rules apply if the tax dependent meets any of the following criteria:

- Applicant is claimed or expects to be claimed by a grandparent or other relative who is not is not the applicant’s parent or step-parent.
- Child lives with both parents, but only one parent will claim the child as a tax dependent. If the applicant is a child up to age 19 living with two parents, but only one parent plans to claim the child as a tax dependent, then the relationship-based rules apply.
- Child lives with a custodial parent, but will be claimed as a tax dependent by a non-custodial parent, the relationship-based rules must be used to construct the child’s household. This ensures that custodial parents can apply for and secure MAGI Medicaid coverage on behalf of the children who live with them and for whom they are responsible. A custodial parent is defined by a court order or binding separation, divorce or custody agreement establishing physical custody. If no order or agreement exists, or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

<i>Summary of Application of Relationship-Based Rules</i>
Applicant is not planning to file taxes
Individual is claimed by a grandparent or other relative who is not a parent
Child lives with both parents, but only one parent will claim the child as a tax dependent
Child lives with a custodial parent, but will be claimed as a tax dependent by the non-custodial parent

### **1307.06 Determination of Household Income**

To be eligible for Medicaid using the MAGI standards, an applicant’s current monthly household income must meet the standard applicable to the applicant’s MACC group when converted to the federal poverty level as shown below:

<i>MACC Groups</i>	<i>FPL Eligibility Threshold</i>
Adults	133%
Children and Young Adults	261%
Families	133%
Pregnant Women	253%

When calculating whether an applicant is income-eligible for Medicaid under one of these coverage groups, the following factors must be considered: the members of the applicant’s household that must be included; types of countable income; current income and reasonably predicted changes; and conversion of monthly income to the federal poverty level (FPL) standards.

01. Countable household income --There are several differences in the way certain types of income are treated when using the MAGI for Medicaid eligibility just as there are with the rules of household construction. The subsection below identifies all forms of countable income included when determining MAGI-based Medicaid eligibility, including those that are specific to Medicaid eligibility only.

- (01) Adjusted Gross Income (AGI). Adjusted gross income is gross income adjusted by “above-the-line” deductions. AGI includes wages and salaries and income from a broad array of other sources, such as unemployment benefits, alimony, taxable interest, and capital gains. “Above-the-line” deductions are the adjustments people can make to their gross income. These include alimony payments, interest on student loans, and other items that appear on page one of Form 1040. However, they do not include charitable contributions, mortgage interest and other “below-the-line” deductions.
- (02) Social Security benefits. All Social Security income benefits are considered countable income when using the MAGI to determine eligibility for affordable coverage. This includes Social Security benefits that considered both taxable and non-taxable income for federal tax purposes.
- (03) Interest Income. Income received from bank accounts, money market accounts, certificates of deposit, and deposited insurance dividends are considered countable taxable income. Additionally, interest on some bonds issued by and used to finance state and local government operations is also counted for the MAGI even though treated as tax-exempt for federal tax purposes.
- (04) Foreign earned income. Foreign earned income is countable for the MAGI. This includes all income received from sources within a foreign country or countries earned for services when either performed by: a U.S. citizen and a bona fide resident of a foreign country for an uninterrupted period of time that includes an entire tax year; or a U.S. citizen or resident who, during any period of 12 consecutive months, is present in a foreign country for at least 330 full days during that period.
- (05) Medicaid specific adjustments to income. Special Medicaid adjustments are as follows:
  - Lump sum payments (i.e., gifts, prizes, income and property tax refunds) are counted only in the month received.
  - Educational scholarships, awards or fellowships used for education purposes are excluded from consideration as income.
  - Certain types of income for American Indian/Alaska Native individuals are excluded.
  - Treatment of other sources of income for Medicaid eligibility are summarized in the table that follows:

<i>MAGI-Based Medicaid Eligibility Rules</i>	
<i>Income Source</i>	<i>Treatment of Income on and after January 1, 2014</i>
Self-employment income	Counted with deductions for most expenses, depreciation, and business losses
Salary deferrals (flexible spending, cafeteria and 401(k) plans)	Not counted
Child support received	Not counted
Alimony paid	Deducted from income
Veterans' benefits	Not counted
Workers' compensation	Not counted
Gifts and inheritances	Not counted
TANF and SSI	Not counted

02. Household members included in MAGI calculation -- In general, the MAGI income of all individuals in an applicant's household must be counted toward household income with the following two exceptions:

- (01) Exception for the income of children. Unless a child is "expected to be required" to file a tax return, a child's income is not counted toward household income. The child's income does not count as part of household income when evaluating both the child's eligibility and the eligibility of other household members. This treatment of children's income also applies to adult children -- not just those under age 19 -- if they are tax dependents.
- (02) Exception for the income of most other dependents. The income of dependents who are not children or spouses is included as countable in the household income of the person who is claiming them (i.e., the claiming tax filer) only if they "are expected to be required" to file a tax return. The exception for most other tax dependents does not apply to spouses who are claimed as a tax dependent.

These exceptions are based on whether or not a person is "expected" to be required to file a tax return; it does not matter whether they eventually do so or not.

- 03. Use of current income & accounting for reasonably predicted changes -- For new Medicaid applicants, the Medicaid agency must use a household's current monthly income and household size when evaluating eligibility. A prorated portion of reasonably predictable changes in income, if there is a basis for anticipating the changes, such as a signed contract for employment, a clear history of predictable fluctuations in income, or other indications of future changes in income may be considered in determining eligibility. Future changes in income and household size must be verified in accordance with the verification and reasonable compatibility requirements are delineated in MCAR section 1308.
- 04. Comparing household income to the Federal Poverty Level (FPL) -- To determine income eligibility for Medicaid based on the MAGI calculation, the Medicaid agency must compare a household's current monthly income to the FPL guidelines for the appropriate household size. The Medicaid agency must use the most recently published FPL level in effect in the month during which an applicant applies for coverage. If an applicant's FPL level is within five (5)

percentage points over the FPL for the coverage group for which they would be eligible, a disregard of five (5) percentage points of the FPL shall be added to the highest income eligibility standard listed above for that coverage group.

**1307.07. For Further Information or to Obtain Assistance**  
**REV: March 2014**

01. Applications for affordable coverage are available online on the following websites:

- [www.eohhs.ri.gov](http://www.eohhs.ri.gov)
- [www.dhs.ri.gov](http://www.dhs.ri.gov)
- [www.HealthSourceRI.com](http://www.HealthSourceRI.com)

02. Applicants may also apply in person at one of the Department of Human Services offices or by U.S. Mail. Request an application by calling 1-855-609-3304 and TTY 1-888-657-3173.

03. For assistance finding a place to apply or for assistance completing the application, please call: 1-855-609-3304 or 1-855-840-HSRI (4774).

**1307.08. Severability**

If any provisions of these Regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these Regulations which can be given effect, and to this end the provisions of these Regulations are declared to be severable.