



## COMBINED MEDICAID 603-1 Deeming

**Supersedes:** FMA 603-1 (01/01/08); MA 601-2(07/01/08) MA 603-1 (01/01/15); MA 603-2 (01/01/15) & MA 603-3 (01/01/08)

**Reference:** ARM 37.82.101, .903, .1106 & .1107; 42 CFR 435.601, .822 & .831; 20 CFR 416.1160, .1165, .1166, .1168 & Subpart K; PL 104-193.

### **Overview:**

**ACA:** Deeming does not apply.

**ABD and Family Medically Needy:** Certain financially responsible individuals who live in the home, but are not included in the assistance unit have a portion of their income deemed to the assistance unit.

**Family Medically Needy:** Resources are not deemed, except in the case of Alien Sponsor deeming.

### **PARENT TO CHILD DEEMING:**

**ABD:** Parents and stepparents are financially responsible for their minor child/stepchild.

1. When the minor child lives in the same home as the parent/stepparent, parent/stepparent income and resources are deemed to the child.
2. When the minor child lives somewhere other than with the parent/stepparent for at least 30 days and covering a full benefit month, only income and resources actually contributed to the child are considered in the child's financial eligibility, beginning the month after they no longer live together.

**NOTE:** If the child returns to the household for visits, but does not intend to remain with the parent/stepparent, the rule in #2 above applies.

Parental Deeming is not required in certain circumstances:

1. The blind/disabled child receives SSI;
2. Certain waiver program; and
3. Certain situations of institutional coverage.

**Ineligible Child Allocation:** Parents whose income is deemed to their child receive an ineligible child allocation for each ineligible child in their home. The ineligible child must be under age 21 and be the ineligible parent's child or stepchild. The ineligible child allocation is the difference between the SPA (ABD 014) for one and two, less the ineligible child's own income. **NOTE:** An ineligible child under age 18's or a dependent student age 18 through 21's earnings are reduced by up to \$1780 per month (to a

maximum of \$7180 per calendar year) before determining the child's ineligible child allocation (see CMA 502-1, 'Children's Earned Income').

**Family Medically Needy:** Stepparent income is deemed to their stepchild when the stepchild is receiving medically needy Medicaid. **NOTE:** The stepparent must currently be married to the child's parent, and the parent must be living in the home for deeming to apply. Stepparent income is not deemed if the child's parent is not in the home. **NOTE:** If the stepparent's child is included in the medically needy filing unit, income is not deemed as the stepparent's income is considered in full.

#### **SPOUSE TO SPOUSE DEEMING:**

**ABD:** When the client has a living spouse, income and resources are considered as follows:

1. Both spouses' income and resources are considered for spouses who live together (as long as neither is applying for or enrolled in a HCBS Waiver program). **NOTE:** When they live together, both spouses' income and resources are considered when determining MSP eligibility, even when one or both spouses are participating in an HCBS Waiver program.
2. Each spouse is treated as an individual beginning the calendar month after the spouses cease living together, and in months in which they live apart the entire month, as long as neither spouse resides in an institution or requests HCBS Waiver coverage. Income and resources of the estranged spouse are only considered if actually contributed.
3. When spouses no longer live together due to one entering a residential medical facility, or requesting waiver services, the institutionalized/waiver spouse's resource eligibility is determined by completing a resource assessment using both spouses' resources, and calculating a resource maintenance allowance.
4. If both spouses are enrolled in a waiver program and/or institutionalized. Each spouse is treated as an individual (each spouse must be residing in an institution/enrolled in waiver for a period of at least 30 days). Spousal impoverishment policies do not apply.

**NOTE:** Common law marriage is a legal marriage in Montana, in exactly the same manner as any other legal marriage. If individuals claim common-law marriage, request a statement signed by both spouses which indicates the date the couple began to consider themselves as married. Common law marriage may not be recognized as a legal marriage for those living on a reservation (reservations are sovereign nations with their own laws).

**ABD:** In spouse-to-spouse deeming, the ineligible spouse receives an ineligible child allocation for each ineligible child in their home. See 'Ineligible Child Allocation' above.

Processing guidelines for institutionalized/waiver individuals and spouses are found in the ABD 800 section, based on the appropriate institutional setting.

#### **ALIEN SPONSOR DEEMING:**

**ABD:** When a sponsored aged, blind or disabled alien, who does not receive SSI applies for Medicaid, their sponsor's income (and sponsor's spouse's income, if living together) is deemed to the alien as income.

Income policies in the 500 section apply to the sponsor's income in the same manner as the applicant, with the exception that vendor/in-kind income is not included in the deeming process. When more than one alien is sponsored by the same sponsor/couple, the deemed income is considered available **in full** to each sponsored alien; it is not prorated among sponsored aliens.

The current SPA (ABD 014) is used to determine the amount of income allocated to the alien. If the sponsor is single, or does not live with their spouse, use the SPA for one; the SPA for a couple is used when the sponsor is married & lives with their spouse or when the alien is co-sponsored by two single sponsors. If the alien is co-sponsored by two couples, income is deemed from each couple separately. The sponsor is allowed an income allocation for each dependent equal to ½ the current SPA; however, the dependent's income is not subtracted from the dependent allocation. A dependent in this situation is the same as a dependent when determining Family Income Maintenance Allowance (ABD 805-2).

**Family Medically Needy:** Sponsor income (sponsor and spouse, if married) is deemed to sponsored aliens. A sponsor is:

1. A U.S. citizen or alien admitted for permanent lawful residence;
2. 18 years or older;
3. Residing in any U.S. state or District of Columbia; and
4. Petitioning for the alien's admission under Section 213 of the INA.

When the sponsor signs an 'Affidavit of Support' (I-134) but refuses to cooperate in providing and verifying their income, the alien's Medicaid may be authorized. Sponsors are required to reimburse all means-tested benefits the alien and their family receives. The sponsor and their spouse's income and resources are deemed to the sponsored alien.

**Effective Date:** July 01, 2016