

December 4, 2013

OFFICIAL OPINION 2013-8

The Honorable Luke Kenley
The Honorable Tim Brown
Indiana General Assembly
200 W. Washington St.
Indianapolis, IN 46204

RE: Applicability of Modified Adjusted Gross Income Methodology to State Plan Amendment

Dear Senator Kenley and Representative Brown:

We have received your letter dated October 17, 2013, regarding the State’s Office of Medicaid Policy and Planning’s (“OMPP”) intent to submit an amendment to the State Medicaid Plan (the “State Plan”) incorporating the modified adjusted gross income (“MAGI”) methodology for calculating Medicaid eligibility.

You have asked for our analysis of why the State Plan needs to be amended to incorporate the MAGI methodology in light of the Supreme Court’s ruling that Medicaid expansion provisions of the Affordable Care Act are not enforceable.

BRIEF ANSWER

The MAGI methodology is a newly-adopted federal standard for establishing financial eligibility of all individuals who apply for Medicaid. Pursuant to the Affordable Care Act, MAGI is the required eligibility standard for purposes of all income-based Medicaid recipients. This required usage of the MAGI standard was not impacted by the Supreme Court decision and applies regardless of whether a state chooses not to expand Medicaid coverage.

ANALYSIS

Established under 42 U.S.C. § 1396, Medicaid “is a cooperative endeavor in which the Federal Government provides financial assistance to participating States to aid them in furnishing health care to needy persons.” *Harris v. McRae*, 448 U.S. 297, 308 (1980). Prior to the passing of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act (“ACA”), each state was responsible for determining its own income qualification formula (within federal guidelines) for its Medicaid program. The ACA, however, now requires states to use the applicant’s MAGI to determine whether an individual qualifies for Medicaid or the Children’s Health Insurance Program (CHIP). 42 USC § 1396a(e)(14) and 42 CFR § 435.603 (*effective* January 1, 2014). The MAGI method of determining eligibility is required for all classes of individuals whose eligibility in Medicaid is based on income. *Id.*¹

¹ Note, individuals who fall in one of the groups listed under 42 CFR § 435.603(j) do not have their eligibility determined by MAGI or any other income based formula. Additionally, an injunction is currently in place pursuant

Historically, only pregnant women, children, needy families, the blind, the elderly, and the disabled qualified for Medicaid. *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 132 S.Ct. 2566, 2581 (2012). Under the ACA, however, Congress attempted to expand Medicaid to low-income, non-disabled adults (“expansion group”). 42 USC § 1396a(a)(10)(A)(i)(VIII). Nevertheless, in a somewhat fragmented opinion, the United State Supreme Court held that the coercive sections of the ACA forcing states to either cover the expansion group under their Medicaid programs or risk losing future and existing Medicaid funding was not a valid exercise of Congress’s power. *Sebelius*, 132 S.Ct. at 2608. Therefore, a state may exclude the expansion group from its program and keep its current funding, or it may expand its program to include the expansion group and receive the additional federal funding under the ACA. The federal government cannot, however, withhold all Medicaid funds under 42 USC § 1396c from states failing to include the expansion group.

The *Sebelius* opinion’s discussion of Medicaid expansion was limited to whether a state was required to include the expansion group under its Medicaid program. It did not discuss the ACA’s requirement for states to use an individual’s MAGI for the purpose of determining Medicaid eligibility. Therefore, for the traditional income based classes of eligibility, states are now required to use the individual’s MAGI to determine Medicaid eligibility. 42 USC § 1396a(e)(14) and 42 CFR § 435.603 (*effective* January 1, 2014).²

To recap, below is a chart that explains where MAGI is required to be used in State Plans and whether he required usage is impacted by state Medicaid expansion decisions:

<i>Eligibility Category</i>	<i>Eligibility Standard</i>	<i>Affected by state Medicaid program expansion decision?</i>
Income based	MAGI	No
Non-income based (e.g. disabled, pregnant women, blind)	Category-specific eligibility	No
Expansion group	MAGI	Yes – because this category wouldn’t be covered absent decision to expand

to *Brenda Reed, et al. v. Debra Minott, et al.*, Cause Number 1:85-cv-1353-WTL-DKL that prohibits OMPP from considering sibling income when determining Medicaid eligibility. A Motion to Vacate this injunction is currently pending with the U.S. District Court for the Southern District of Indiana.

² See MAGI: Medicaid and CHIP’s New Eligibility Standards available at: <http://medicaid.gov/AffordableCareAct/Medicaid-Moving-Forward-2014/Downloads/Modified-Adjusted-Gross-Income-and-Medicaid-CHIP.pdf>.

CONCLUSION

In summary, MAGI is a standard of expansive application that is applicable to categories of individuals beyond those falling under the expansion group. OMPP is required to amend the State Plan to adopt the MAGI methodology for determining the financial eligibility of all individuals whose eligibility is contingent upon income.

We hope this analysis is responsive to your inquiry. Please advise if you need anything further in this regard.

Sincerely,

Gregory F. Zoeller
Attorney General

Matthew J. Light
Chief Counsel