Congressional Research Service

Definition of Income for Certain Medicaid Provisions and Premium Credits in ACA

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February 5, 2013

Congressional Research Service
7-5700
www.crs.gov
R41997

CRS Report for Congress
Prepared for Members and Committees of Congress

Summary

Under the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended), the definition of income for eligibility for certain Medicaid populations and premium credits in the exchanges is based on modified adjusted gross income (MAGI). The initial intent of using MAGI was to standardize the definition of income for Medicaid eligibility purposes to reduce some of the variability and complexity that exists under the current program and to provide consistency between Medicaid and the health insurance exchange.

The use of MAGI, however, raised some concerns among Congress and the Obama Administration, as the definition in ACA excluded some types of income either partially or altogether. Of particular interest was the potential impact on eligibility for Medicaid and premium credits for early retirees (aged 62 through 64) receiving Social Security benefits, as some or all of their Social Security income may have been excluded from the MAGI definition of income. By excluding some types of income from the ACA definition, individuals and families with a higher percentage of total income relative to the federal poverty level may qualify for Medicaid and premium credits.

To address these concerns, P.L. 112-56 was enacted into law on November 21, 2011, which among other things, amended the definition of income for these programs and included non-taxable Social Security in the definition of MAGI. The new law, however, does not address other forms of non-taxable income that are not currently in the MAGI definition (e.g., retirement plan contributions, gifts and inheritance). In evaluating the definition of MAGI, a number of issues might be considered. First, an alternative definition may add complexity compared with the use of MAGI. Specifically, because adjusted gross income (on which MAGI is based) can be computed largely from information on an individual's federal tax return, verification of income is streamlined. If an alternative definition is used that is not based on tax return information, the administrative complexity of verifying nontaxable income from different sources comes into play. Second, the definition was developed to ensure coordination between Medicaid and premium credits in the health insurance exchange. A change in the definition of income for Medicaid also would be necessary for premium credits to ensure consistency between Medicaid and the premium credit offered to selected individuals who purchase private health insurance through the exchanges. Finally, the enactment of P.L. 112-56 focused largely on the inclusion of Social Security benefits in income definitions for eligibility purposes. However, most other low-income programs include other types of income (e.g., nontaxable pensions) and asset holdings that are also excluded from MAGI.

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Introduction

Under the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended), the definition of income for eligibility for certain Medicaid populations and premium credits in the exchanges is based on modified adjusted gross income (MAGI). The initial intent of using MAGI was to standardize the definition of income for Medicaid eligibility purposes to reduce some of the variability and complexity that exists under the current Medicaid program and to provide consistency between Medicaid and the health insurance exchange.[1]

MAGI is equal to adjusted gross income (AGI) plus certain foreign earned income and tax-exempt interest.[2] AGI is equal to gross income minus certain exclusions (e.g., public assistance payments, contributions to retirement plans) minus some above-the-line deductions (e.g., trade and business deductions, losses from sale of property, and alimony payments).

The use of MAGI, however, has raised concerns among Congress and the Obama Administration, as it excludes some income categories either partially or altogether and is, thus, different than the income definition used in most other federal low-income programs, like Supplemental Security Income (SSI) and Department of Veterans Affairs (VA) benefits, which include most sources of income, taxable and nontaxable, when determining eligibility. By excluding some types of income, individuals and families with a higher percentage of total income relative to the federal poverty level may qualify for Medicaid and premium credits.

This report first describes the relevant Medicaid and health insurance exchange provisions in ACA that rely on MAGI. It then discusses what is and is not included in this definition of income. Since Social Security income has been noted by others as a concern when defining income, the report discusses the enactment of legislation to include all Social Security benefits in the MAGI definition (and not just taxable benefits). Finally, the report raises some issues for Congress in considering changes to the definition of income for Medicaid eligibility and premium credits in the health insurance exchanges.

Medicaid Eligibility and ACA

Medicaid is a means-tested program providing health insurance to certain low-income individuals. Today, people qualify for Medicaid if they meet the program's categorical requirements and have income and assets equal to or below state-specified thresholds.[3] Section 2001 of ACA added a new mandatory coverage group to the Medicaid statute to include certain individuals (under the age of 65) with income at or below 133% of the federal poverty level (FPL) (effectively 138% FPL as a result of the 5% income disregard) by January 1, 2014, or

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[1] See *Federal Register*, vol. 76, no. 159, August 17, 2011, Proposed Rule.

[2] See IRC Section 36(B)(d)(2).

[3] For the Medicaid program, income includes anything a person receives that can be used to purchase food, clothing or shelter, including earned income (such as wages, salary and compensation for work) and unearned income (such as Social Security disability or retirement benefits, interest and dividends, and gifts). Resources encompass anything a person owns that can be converted to cash, including checking or savings accounts, real estate, cars, boats and other vehicles, stocks and bonds, and where applicable, insurance policies. See *Medicaid Manual*, Pub. 45, "General Financial Eligibility Requirements and Options," p. 3812, "Treatment of Contributions from Relatives to Medicaid Applicants or Recipients."

sooner at state option.[4] This mandatory expansion of Medicaid was included in a legal challenge of the law: *National Federation of Independent Business v. Sebelius* (NFIB). On June 28, 2012, the United States Supreme Court issued its decision in NFIB. The Supreme Court held that the federal government cannot terminate current Medicaid federal matching funds if a state refuses to expand its Medicaid program to include nonelderly, nonpregnant adults under 133% of the federal poverty level. If a state accepts the new ACA Medicaid expansion funds, it must abide by the new expansion coverage rules. However, based on the Court's opinion, a state can refuse to participate in the expansion without losing any of its current federal Medicaid matching funds. The Court's decision leaves enforcement of all other provisions of ACA intact, including the exchange provisions and the use of MAGI.

States that choose to participate in this ACA expansion will cover most nonelderly citizens (including childless adults, parents, and individuals with disabilities) up to 133% FPL, and the income that is compared with this threshold for individuals in this group will be based on MAGI. (Greater detail about what is and is not included in MAGI will be discussed later in this report.) In addition to individuals eligible under the ACA expansion group, ACA also requires the new MAGI counting rule to be used to assess the financial eligibility for *most* of Medicaid's other nonelderly populations eligible under prior law.[5]

Under ACA, certain groups are exempt from income eligibility determinations for Medicaid based on MAGI. Prior law's income determination rules under Medicaid will continue to be used for determining eligibility for the following groups: (1) individuals who are eligible for Medicaid through another federal or state assistance program (e.g., foster care children and individuals receiving SSI), (2) the elderly, (3) certain disabled individuals who qualify for Medicaid on the basis of being blind or disabled without regard to whether the individual is eligible for SSI, (4) the medically needy, and (5) enrollees in a Medicare Savings Program (e.g., Qualified Medicare Beneficiaries for whom Medicaid pays the Medicare premiums or coinsurance and deductibles).[6] In addition, MAGI does not affect eligibility determinations through Express Lane enrollment (to determine whether a child has met Medicaid or CHIP eligibility requirements), for Medicare prescription drug low-income subsidies, or for determinations of eligibility for Medicaid long-term services and supports.[7]

During a transitional period between April 1, 2010, and January 1, 2014, states have the option to extend Medicaid to individuals eligible under the new eligibility group up to 133% FPL as long

[4] As a conforming measure, ACA also changes the mandatory Medicaid income eligibility level for poverty-related children aged 6 to 19 from 100% FPL to 133% FPL (as applied under prior law to children under the age of 6). MAGI income counting rules and the 5% income disregard will apply to all poverty-related children (except those determined eligible through an Express Lane eligibility determination as permitted under the State Children's Health Insurance Reauthorization Act, CHIPRA, P.L. 111-3).

[5] During the summer of 2012, the Centers for Medicare and Medicaid Services (CMS) circulated a letter to solicit public input on two potential methodologies for converting current state Medicaid and CHIP income eligibility standards to equivalent MAGI standards pursuant to sections 2002 and 2101(b) of the Affordable Care Act. The CMS letter, *Conversion of Net Income Standards to Equivalent Modified Adjusted Gross Income Standards and Solicitation of Public Input*, is available at the following link: http://medicaid.gov/Federal-Policy-Guidance/Downloads/CIB-06-21-12.pdf.

[6] For background information on the Medicaid program, see CRS Report RL33202, *Medicaid: A Primer*, by Elicia J. Herz.

[7] Long-term services and supports include institutional services, such as nursing facility care, and home- or community-based services, such as home care, personal care, transportation, and care management, furnished under the state plan or a waiver.

as the state does not extend coverage to (1) individuals with higher income before those with lower income or (2) parents unless their children are enrolled under the state plan, a waiver, or in other health coverage. Prior to 2014, states are not required to use the MAGI counting rules when determining income eligibility for the new eligibility group up to 133% FPL. States that pick up this option may apply a different income counting methodology, such as that used by SSI, as long as it is approved by the Secretary. During this transitional period, states may apply less restrictive income counting methodologies as long as such methodologies are available to all members in a given group.[8]

Premium Credits Under ACA

ACA requires health insurance exchanges to be established in every state by January 1, 2014, either by the state itself or by the Secretary of Health and Human Services (HHS).[9] The ACA exchanges are not insurance companies; rather, they will coordinate the offer of private health plans to qualified individuals and small businesses.[10] Generally, the plans offered through the exchanges will provide comprehensive coverage and meet all ACA market reforms, as applicable.

To make exchange coverage more affordable, eligible individuals may receive premium assistance in the form of tax credits.[11] Eligibility for the premium credit is based, in part, on income and relies on the MAGI definition.[12]

Income Eligibility for Premium Credits

Beginning in 2014, qualifying individuals will be able to receive premium tax credits toward the purchase of exchange coverage. The credit is an advanceable, refundable tax credit, meaning taxpayers need not wait until the end of the tax year to benefit from the credit (advance payments will actually go directly to the insurer[13]) and may claim the full credit amount even if they have little or no federal income tax liability.

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[8] Center for Medicare and Medicaid services, Center for Medicaid and State Operations, letter to state health officials and state Medicaid Directors (SMDL# 10-005, ACA #1), *New Option for Coverage of Individuals Under Medicaid*, April 9, 2010.

[9] §1311(b).

[10] Exchanges are designed to offer individual (nongroup) policies and small group plans. Before 2016, states will have the option to define "small employers" either as those with (1) 100 or fewer employees, or (2) 50 or fewer employees. Beginning in 2016, small employers will be defined as those with 100 or fewer employees. Beginning in 2017, large groups may participate in exchanges, at state option.

[11] For additional information about the premium credits under ACA, see CRS Report R41137, *Health Insurance Premium Credits in the Patient Protection and Affordable Care Act (ACA)*, by Bernadette Fernandez and Thomas Gabe.

[12] In addition to premium credits, cost-sharing (e.g., deductibles and copayments) subsidies may also be available to certain individuals who receive premium credits. §§1401-15 and 10105 of P.L. 111-148 as amended by §§1001 and 1004 of P.L. 111-152.

[13] §1412(a)(3).

ACA specifies that premium credits will be available to "applicable taxpayers" in a "coverage month" beginning in 2014.[14]

An *applicable taxpayer* is an individual who

- is part of a tax-filing unit;
- is enrolled in an exchange plan; and
- has household income (defined as MAGI) between 100% and 400% of the federal poverty level (with exception[15]).

A *coverage month* refers to a month in which the applicable taxpayer paid for coverage offered through an exchange, not including any month in which the taxpayer was eligible for "minimum essential coverage,"[16] other than through the individual health insurance market, with exceptions.[17]

Amount of Premium Credits

The amount of the tax credit will vary from person to person: it depends on the MAGI of the tax-filer (and dependents), the premium for the exchange plan in which the tax-filer (and dependents) is (are) enrolled, and other factors. In certain instances, the credit amount may cover the entire premium and the tax-filer will pay nothing toward the premium. In other instances, the taxpayer may be required to pay part (or all) of the premium.

For this latter scenario, the amount that a taxpayer who receives a premium credit would be required to contribute toward the premium is capped as a percentage of MAGI. That percentage will be less for those with lower MAGI compared with those with higher MAGI, where income is measured based on MAGI relative to the FPL. For taxpayers with MAGI between 100% FPL and 133% FPL, the amount they would be required to contribute toward the premium will be capped at 2% of MAGI. For taxpayers with income 300%-400% FPL, their premium contribution will be capped at 9.5% of MAGI. ACA further specifies the "applicable percentages" that premium credit recipients, whose incomes are between those two MAGI bands, would be required to pay toward the cost of exchange coverage.[18] The premium credit amount would be the arithmetical difference

[14] § 1401(a) of ACA; new § 36B(c)(1) of the IRC.

[15] An exception is made for lawfully present aliens with income below 100% FPL, who are ineligible for Medicaid. The income of these taxpayers will be considered to be exactly 100% FPL for premium credit purposes.

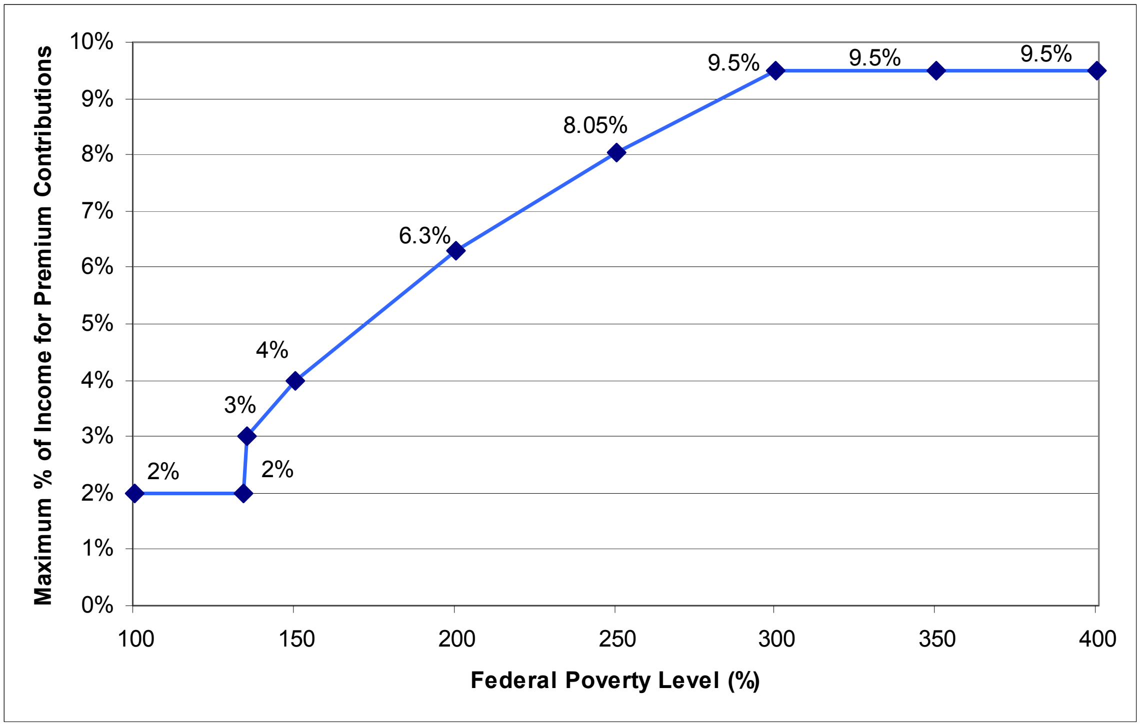
[16] ACA broadly defines minimum essential coverage to include Medicare Part A, Medicaid, the State Children's Health Insurance Program, Tricare, Tricare for Life, a health care program administered by the Department of Veterans Affairs, the Peace Corps program, any government plan (local, state, federal) including the Federal Employees Health Benefits Program, any plan established by an Indian tribal government, any plan offered in the individual health insurance market, any employer-sponsored plan, any grandfathered health plan, and any other coverage (such as a state high risk pool) recognized by the HHS Secretary, in coordination with the Treasury Secretary.

[17] An individual who is eligible for, but not enrolled in, an employer-sponsored plan may still be eligible for premium credits if the employer's coverage either (1) is not affordable; that is, the employee's premium contribution toward the employer's self-only plan would exceed 9.5% of household income; or (2) does not provide minimum value; that is, the plan's payments cover less than 60% of total allowed costs, on average.

[18] In years after 2014, the percentages would be adjusted to reflect any percentage by which premium growth exceeded income growth.

(if any) after subtracting the maximum premium contribution amount from the premium for the second-lowest-cost silver plan[19] in the enrollee's local area.

Figure 1. Maximum Premium Contribution as a Share of MAGI for Premium Credit Eligible Individuals, by Federal Poverty Level



Source: The Congressional Research Service analysis of ACA, as amended.

While premium credits will not be available until 2014, for illustrative purposes, consider what the maximum premium contributions would be for exchange enrollees if premium credits were available in 2012. For example, an exchange enrollee who is eligible for the credit with MAGI at 200% FPL may be required to pay up to 6.3% of MAGI toward the cost of exchange coverage. In 2012, 6.3% of MAGI at 200% FPL for one person is equal to approximately $117 per month[20] (see **Table 1**). In other words, the required monthly contribution for self-only coverage is $117, if premium credits were available in 2012. If the premium for the second-lowest-cost silver plan is greater than $117 per month, that excess would be the amount of that enrollee's premium credit (provided that the premium for the plan in which the person actually enrolled was more than the excess amount). With respect to this premium credit calculation, an individual who enrolls in an

[19] One of the requirements that nearly all exchange plans must meet is to provide a certain level of coverage generosity, based on actuarial value. Actuarial value is a summary measure of a plan's generosity, expressed as the percentage of medical expenses estimated to be paid by the issuer for a standard population and set of allowed charges. Most exchange plans must meet one of four levels of actuarial value specified in ACA. Each actuarial value level has a corresponding precious metal designation: bronze (60%), silver (70%), gold (80%), and platinum (90%).

[20] For 2012, 200% of the federal poverty level for one person, residing in one of the 48 contiguous states or the District of Columbia, is $22,340 for the year or $1,862 per month. CRS computation based on "Annual Update of the HHS Poverty Guidelines," 77 *Federal Register* 4034, January 26, 2012, http://aspe.hhs.gov/poverty/12fedreg.pdf.

exchange plan that is more expensive than the second-lowest-cost silver plan will have to pay the additional premium amount.

Table 1. Maximum Monthly Premium Contributions, by Family Size, if Premium Credits were Available in 2012

For the 48 contiguous states and the District of Columbia

Federal Poverty Line (FPL)	Maximum Premium Contribution as a % of Income ("Applicable Percentages")	Maximum Monthly Premium Contribution (2012), by Family Size			
		1	2	3	4
100%	2.0%	$19	$25	$32	$38
133.00%	2.0%	$25	$34	$42	$51
133.01%	3.0%	$37	$50	$63	$77
150%	4.0%	$56	$76	$95	$115
200%	6.3%	$117	$159	$200	$242
250%	8.05%	$187	$254	$320	$387
300%	9.5%	$265	$359	$453	$547
350%	9.5%	$310	$419	$529	$639
400%	9.5%	$354	$479	$605	$730

Source: CRS computation based on ACA, and "Annual Update of the HHS Poverty Guidelines," 77 *Federal Register* 4034, January 26, 2012, http://aspe.hhs.gov/poverty/12fedreg.pdf.

Notes: Under ACA, premium credits for eligible exchange coverage will not be available until 2014; the data in this table are for illustrative purposes only. Different income levels, as measured against the FPL, apply separately to Alaska and Hawaii (see "Annual Update of the HHS Poverty Guidelines" referenced under Source). The poverty guidelines are updated annually for inflation. If individuals enroll in more expensive plans than the second lowest-cost silver plan in their respective areas, they would be responsible for the additional premium amounts. The monthly premium contribution amounts are rounded to the nearest dollar.

The Definition of Income Under ACA as Amended

ACA created Sec. 36(B) of IRC to define household income based on MAGI for purposes of Medicaid eligibility for certain populations and premium credits for coverage through the health insurance exchanges. Specifically, gross income is total income minus certain exclusions (e.g., public assistance payments, contributions to retirement plans).

From gross income, adjusted gross income (AGI) is calculated to reflect a number of deductions, including trade and business deductions, losses from sale of property, and alimony payments. MAGI is defined as AGI plus certain foreign earned income and tax-exempt interest.[21]

As originally enacted under ACA, AGI (and consequently MAGI) includes only sources of income that are taxable. Thus, some sources (or types) of income that may be considered

[21] See IRC Section 36(B)(d)(2).

resources for determining whether a person (or couple) is low-income were only partially included, whereas others were not included at all. Two sources of income that were partially included in the initial ACA MAGI definition were non-taxable Social Security benefits and non-taxable pension and annuity income. Examples of other sources of income that are not included in MAGI are fringe benefits, cafeteria plan benefits, gifts (cash, property, or in-kind), and inheritances (see **Table 2**). These may be considered resources for determining low-income. In addition, as discussed later, many other low-income programs include some measure of liquid assets as resources when determining eligibility.

This definition of MAGI raised concerns, especially with respect to exclusion of non-taxable Social Security benefits. Generally, Social Security beneficiaries aged 65 and older are eligible for Medicare coverage for health care services. However, under the initially enacted ACA definition of MAGI, individuals and households who choose to receive their Social Security benefits early at the ages of 62 through 64 could potentially qualify for Medicaid if their MAGI was no higher than 133% of the FPL (or 138% of FPL because of the 5% disregard), or for premium credits in the newly established health care exchanges if their MAGI was between 100% to 400% of the FPL, even if their total income was much higher. Specifically, if the ACA definition of MAGI was used, not all Social Security income would be included in the MAGI definition and, for the majority of Social Security beneficiaries, no Social Security income would be included in MAGI.[22]

To address this concern, the original ACA definition of MAGI was later amended under P.L. 112-56, which among other things, included non-taxable Social Security in the definition of MAGI. This change did not affect the treatment of non-taxable pension and annuity income, which continues to be partially excluded under the amended definition of MAGI.

Table 2. Composition of Income Under Different Definitions

Income Source	Gross Income	Adjusted Gross Income	Modified Adjusted Gross Income[a]
Fully Included			
Wages, Salary	Yes	Yes	Yes
Interest	Yes	Yes	Yes
Dividends	Yes	Yes	Yes
Alimony and Separate Maintenance Payments	Yes	Yes	Yes
Life Insurance and Endowment Contracts	Yes	Yes	Yes
Estate or Trust Interest Income	Yes	Yes	Yes
Interest on State and Local Bonds (tax-exempt interest)	No	No	Yes
Prizes or Awards	Yes	Yes	Yes
Reimbursement of Moving Expenses	Yes	Yes	Yes

[22] According to the Congressional Budget Office, 39% of all Social Security beneficiaries were affected by the income taxation of Social Security benefits in 2005. This is the most recent data available. Because the income thresholds to determine the taxation of Social Security benefits are not indexed for inflation or wage growth, the share of beneficiaries affected by these thresholds is expected to increase over time.

Income Source	Gross Income	Adjusted Gross Income	Modified Adjusted Gross Income[a]
Social Security and Tier 1 Railroad Retirement Benefits	Yes	Yes	Yes
Partially Included in MAGI			
Annuities	Yes	Yes (partial)	Yes (partial)
Pension benefits	Yes (partial)	Yes (partial)	Yes (partial)
Partnership Gross Income	Yes	Yes (less deductions)	Yes (less deductions)
Earned Income of U.S. Citizens Living Abroad	Yes (partial)	Yes (partial)	Yes (partial)
Retirement contributions	Yes (partial)	Yes (partial)	Yes (partial)
Business (Including Property, Rental, or Royalties) Income	Yes	Yes (less deductions)	Yes (less deductions)
Fully Excluded from MAGI			
Income From Discharge of Indebtedness	Yes	Yes	Yes
Gifts and Inheritance	Yes	Yes	Yes
Death Benefits	Yes	Yes	Yes
Cafeteria Plans	Yes	Yes	Yes
Certain Fringe Benefits	Yes	Yes	Yes
Contributions to Defined Contribution Plans	Yes	Yes	Yes

Source: Table prepared by CRS.

a. The definition of MAGI in ACA as amended is different from the definition in other areas such as income-related premiums under Medicare which still exclude non-taxable Social Security benefits.

Issues for Congress

There has been increased interest in Congress to change the ACA definition of income for determining Medicaid eligibility for new enrollees and premium credit eligibility to be more inclusive and more consistent with other low-income programs. A number of issues might be considered in exploring the consequences of the change. First, the initial intent of ACA was to standardize current rules governing Medicaid eligibility for a majority of Medicaid-eligible groups (e.g., non-disabled children, parents, pregnant women, and caretaker relatives) in order to reduce the variability and complexity of these definitions under the current Medicaid program. An alternative definition may add complexity compared with MAGI. In addition, because adjusted gross income (on which MAGI is based) can be computed largely from information on an individual's federal tax return, verification of income is streamlined. If an alternative definition is used that is not based on tax return information, the administrative complexity of verifying nontaxable income from different sources comes into play. Third, the definition was developed to be consistent so that qualifying for Medicaid and qualifying for premium credits in the exchange would be mutually exclusive. So changing the definition for Medicaid should also apply to premium credits. Finally, many of the current legislative proposals have focused largely on the inclusion of Social Security benefits in income definitions for eligibility purposes. However, most other low-income programs include other types of income (e.g., nontaxable pensions) and asset holdings that are also excluded from MAGI.

This section discusses these issues in greater detail and identifies how other federal low-income programs define and verify income for eligibility purposes.

Variability and Complexity of Current Medicaid Income Definitions

Under today's general rules for determining income eligibility for Medicaid, states are required to follow the same rules and processes used by the most closely related cash assistance program in their state to determine eligibility.[23] For example, children eligible for Medicaid who are receiving child welfare services follow the income eligibility rules of the Title IV-E foster care and adoption assistance programs. Low-income families with children follow the income counting rules of the former Aid to Families with Dependent Children (AFDC) program,[24] and aged, blind, or disabled individuals follow the eligibility rules of the Supplemental Security Income (SSI) program, except in states that have elected the option of not providing Medicaid for all SSI recipients (209(b) states). Differences in income eligibility determination rules across different Medicaid eligibility categories increase the complexity of determining eligibility for the Medicaid program.

For Medicaid eligibility groups that rely on the former AFDC income eligibility rules, not only were the rules complex but there was large variability across the states. For example, the state AFDC methodologies had both mandatory[25] and optional[26] income exclusions and disregards. Some of these disregards applied to recipients but not applicants, meaning that it was harder to become eligible for AFDC than to continue receiving benefits. To further complicate matters, a gross income test equal to 185% of a state's standard of need applied after certain exclusions and disregards were taken into account (e.g., the first $50 of child support) but before others (e.g., earned income disregards). In addition, many states obtained waivers to operate their AFDC programs outside of the standard rules—including those that applied to disregards.[27] Program rules also defined the group of individuals whose income, resources, and needs were considered as a family or a unit for purposes of determining eligibility and payment amounts.[28]

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[23] Section 1902(a)(10) of the Social Security Act.

[24] The AFDC program was replaced by Temporary Assistance for Needy Families (TANF) block grant program under the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193). However, there is no Medicaid link to TANF under current law.

[25] Examples of mandatory income exclusions and disregards included income tax refunds (which instead counted as a resource), the first $50 of child support received monthly, the income of individuals receiving SSI payments or on behalf of whom foster care or adoption assistance payments are made, grants and loans to undergraduate students for educational purposes, federal low-income home energy assistance program benefits, and certain monthly earned income disregards—including the earned income of recipient children who are students and not full-time employees, the first $90 of earnings per worker, a time-limited $30, a time-limited one-third of remaining earnings for recipients, and up to $175 of the actual cost of care for each dependent child or incapacitated adult (up to $200 for those under the age of 2).

[26] Examples of optional income exclusions and disregards used by most or all states included gifts up to $30 per recipient in any quarter, food stamps, government rent or housing subsidies, the earned income of applicant children who are fulltime students, and assistance from other agencies and organizations that complements and does not duplicate cash payments under AFDC. See 45 CFR 233.20 and U.S. Department of Health and Human Services, Characteristics of State Plans for Aid to Families with Dependent Children, 1990- 91 Edition.

[27] For more information, see Congressional Distribution Memo, *Overview of Medicaid and Medicaid-Expansion SCHIP Eligibility for Children and Rules for Counting Income*, November 29, 2007, by April Grady.

[28] In general, when determining income eligibility, states may consider only income and resources actually available to (continued...)

As with the former AFDC program, not all income and resources are counted in the SSI income methodologies. In general, the SSI program assesses unearned income[29] as well as earned income for the purpose of determining eligibility. Examples of monthly unearned income exclusions permitted under the SSI program's income counting rules include food stamps, housing assistance, energy assistance, student grants and scholarships for educational expenses, and a general income exclusion of $20 that applies to income that is not needs-based. Examples of monthly earned income exclusions permitted under the SSI income counting rules include the first $65 of earnings, one-half of earnings over $65, and impairment-related expenses for blind and disabled workers. In some cases, the income and resources of non-recipients (e.g., a parent or spouse) are counted in determining eligibility and payment amounts.[30]

In addition, while the Medicaid statute requires states to start by using the same rules and processes (or methodology) as the cash assistance programs, the statute also gives states the authority to cover higher-income individuals under many eligibility pathways by using additional disregards (i.e., less restrictive methodologies) that reduce their countable income to the threshold that is normally allowed. These statutory authorities permit states to cover higher-income individuals under many eligibility pathways. Although some information is available, with the flexibility that states are provided for determining countable income under Medicaid, it is difficult to identify the full range of exclusions and disregards that states may use in practice today.

The transition to MAGI income counting rules for most Medicaid-eligible populations (e.g., non-disabled children, parents, pregnant women, and other caretaker relatives) beginning in 2014 (or sooner at state option) was intended, in part, to reduce the variability and complexity of the definition of income under the current Medicaid program.[31] However, because the MAGI definition of income is less inclusive than the definitions of income used in many social programs, it may result in permitting individuals and families with a higher percentage of total income relative to the federal poverty level to qualify for Medicaid.

For example, under today's Medicaid income counting rules, any voluntary contributions made by relatives or friends are to be taken into account by the state in determining Medicaid eligibility.[32] Under the MAGI income counting rules, gifts (cash and in-kind) and inheritances are not taken into account when determining income eligibility for populations where MAGI income counting rules will apply. It is possible that an individual eligible under the new mandatory eligibility pathway with annual income less than 133% of FPL could be determined eligible for Medicaid, and while receiving gifts (cash and in-kind) to cover, for example, the cost of food,

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(...continued)

the individual. The agency may not consider income or assets of relatives or other members of the household to be available to a Medicaid applicant except for parents of a child who is under the age of 21, blind or disabled, or the spouse of an adult. Special rules apply when one spouse is in a medical institution and the other remains in the community. See (See Sections 1109 and 1902(a)(17) of the Social Security Act.

[29]According to SSI's income counting rules, Social Security retirement benefits—along with other types of annuities or pensions related to past work—are treated as unearned income. See (20 C.F.R. §416.1121(a)).

[30] See CRS Report RS20294, *Supplemental Security Income (SSI): Income/Resource Limits and Accounts Exempt from Benefit Determinations*, by Umar Moulta-Ali. A more extensive list of income exclusions is contained in SSI program regulations and guidance.

[31] See *Federal Register*, vol. 76, no. 159, August 17, 2011, Proposed Rule, p. 51152.

[32] *State Medicaid Manual*, Pub. 45, 3812.

rent, and other living expenses that are not counted as income. The same also may be true for groups exempted from the MAGI income counting rules.[33]

It is also possible that an individual eligible for Medicaid under one of the optional eligibility groups that are explicitly exempt from MAGI income counting rules (beginning in 2014) may also meet the income eligibility test for the new mandatory eligibility group that will rely on MAGI income counting rules.[34] In general, that individual may choose the pathway that is in the best interest of the recipients.[35] For example, the individual might choose the pathway that would entitle him or her to more benefits, or one that uses the MAGI income eligibility definition in lieu of the SSI income definition rules to protect funds (e.g., gifts) not taken into account when determining the individual's eligibility for Medicaid. For individuals who would be eligible under more than one category, Medicaid regulations specify that the individual will be determined eligible for the category he or she selects.[36]

Administrative Costs of Using a More Inclusive Income Measure

The problem with not using MAGI (or any income measure tied to the tax return) is that validation of income would no longer be done primarily through tax returns. While non-taxable Social Security income is reported for informational purposes on a tax return, not all non-taxable income is reported on an individuals' tax return. For example, as shown in Error! Reference source not found., individuals applying for SSI must provide documentation directly to an entity that must ensure that those documents are complete and valid. This could be administratively cumbersome to collect and validate. These administrative costs would be highest for premium credits largely because it is an entirely new program and because of the expected volume of potential applicants. CBO estimates that approximately 19 million individuals would receive premium credits in 2019.[37] For Medicaid eligibility this would be less of an issue because many

[33] The Medicaid eligibility proposed rule, "Medicaid Program; Eligibility Changes Under the Affordable Care Act" acknowledges the differences in the treatment of income under the Internal Revenue Code as compared with pre-ACA Medicaid program rules as well as circumstances under which the change to MAGI income may have varying impacts on the Medicaid eligibility of potential beneficiaries. "The Administration is concerned about this unintended consequence and is exploring options to address it, including a modification of the section 36B treatment of Social Security benefits through regulation." The proposed rule identifies three types of income (e.g., lump sum payments, including inheritance, educational scholarships, and grants) in which the Administration proposes to codify current Medicaid rules and seeks comments on these proposed policies. See *Federal Register*, vol. 76, no. 159, August 17, 2011, Proposed Rule, p. 51157. Section 435.603 of the Medicaid eligibility final rule acknowledges the statutory change enacted on November 21, 2011 under P.L. 112-56 that changed the definition of income for Medicaid eligibility to include non-taxable social security benefits. The final rule also confirms that MAGI-based income means income calculated using the same financial methodologies used to determine MAGI as defined in section 36B(D)(2)(B) of the Code, with certain specified exceptions (e.g., lump sum income will only be counted in the month in which they are received, and scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income). See *Federal Register*, vol. 77, no. 57, March 23, 2012, Final Rule, p. 17206.

[34] See *Federal Register*, vol. 77, no. 57, March 23, 2012, Final Rule, p. 17167.

[35] Medicaid statute provides that eligibility determination will be made in a manner consistent with simplicity of administration and the best interest of the recipient. Section 1902(a)(19) of the Social Security Act.

[36] See 42 CFR §435.404. For individuals who would be eligible under more than one category, the state may assign eligibility based on a pre-determined eligibility hierarchy. With regard to state reporting systems, if no eligibility category is selected the system may be programmed to default to a specified eligibility category. Also see, *Federal Register*, vol. 77, no. 57, March 23, 2012, Final Rule, p. 17167.

[37] The premium credit estimate is from CBO's and JCT's final estimate of ACA, dated March 20, 2010, which includes the provisions in both, P.L. 111-148 and the amendments in P.L. 111-152. It is available at http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf.

states already use SSI definition for other categories of Medicaid eligibility and have set up processes for income verification. Under current law, the Medicaid program requires states to collect applicants' Social Security numbers and wage information from agencies administering state unemployment compensation laws,[38] as well as wage income and other information from the Social Security Administration and the Internal Revenue Service.[39] Employers are also required to make quarterly wage reports to a state agency.[40] The health insurance exchanges, on the other hand, would have to develop and support an administrative process to verify nontaxable income not currently included in MAGI.

Consistency Between Medicaid and Premium Credit Definition of Income

The definition of income in ACA (as amended by P.L. 112-56) was developed to be consistent between the Medicaid and premium credit provisions. As long as a person is eligible for Medicaid and can access those benefits through a state Medicaid program, that person may *not* receive a premium credit. ACA further requires state exchanges to identify individuals eligible for Medicaid and premium credits. Likewise, Medicaid programs must be able to determine applicants' eligibility for subsidized exchange coverage. These eligibility determination and enrollment provisions ("ACA screen and enroll requirements") were intended to ensure that there is coordination between the exchanges and Medicaid.[41]

Definitions of Income Used in Selected Low-Income Programs

If the MAGI definition of income is changed, the key question becomes what definition of income should be used. In determining this, it is instructive to understand key differences between using the current definition of income derived from a tax return versus income definitions used by other low-income programs for eligibility purposes.

Definitions of income and household (or family unit) are different between the tax system and low-income programs, reflecting the different purposes of the systems. In general, the purpose of the income tax system is to collect income taxes, and the definitions of income and tax unit were developed to meet this purpose. A tax unit (or tax filing unit) is the taxpayer and, if married, the taxpayer's spouse. The tax unit may have qualified children or qualified relatives associated with the tax unit as dependents for certain tax provisions. For tax purposes this is the "household." A household, using the Census definition, may consist of a number of tax units. For example, a single household may have three tax units: (1) a married couple with minor children; (2) an adult child of the married couple; and (3) an elderly parent of the married couple. All three of these tax units would be evaluated separately for Medicaid eligibility. Beginning in 2014, tax unit 2 would

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[38] IRC Section 3304(a)(16).

[39] IRC Section 6103(1)(7).

[40] Agencies will exchange information that may be of use in establishing or verifying eligibility or benefit amounts under any other program (such as child support programs under Part D of Title IV of the Social Security Act, any state program under a plan approved under Title I, X, XIV, or XVI of the Social Security Act).

[41] See CRS Report R41210, *Medicaid and the State Children's Health Insurance Program (CHIP) Provisions in ACA: Summary and Timeline*, by Evelyne P. Baumrucker et al.

have a Medicaid eligibility pathway not currently available. Use of MAGI may permit entitlement to Medicaid that would not exist under current income rules for tax units 1 and 2.

Income for tax purposes is the income that is taxed at that level; in this case, the personal income tax level. Generally, income is only the income of the taxpayer, and if married the taxpayer's spouse. However, under certain circumstances, the income of minor children may be included. Some types of income may be excluded partially or fully from income for tax purposes because they have been, or will be, taxable to other personal income tax units, or at other levels (such as business, gift, or estate taxes). Also, some types of income are excluded to encourage (or reward) certain behavior by tax units, such as saving for retirement.

In contrast, the purpose of social programs is to provide support (financial, medical, or other) to persons and families that may not be able to provide the needed support themselves. The programs generally rely on a concept of need that uses definitions of household and income to determine the level of financial resources available from the household to support the needs of the family or individual. A social program may consider everyone related in the household (or residence) as a household regardless of the tax unit status of the members of the household.

Also, many social programs use a definition of income that is more inclusive than the definition for income taxes. This is because for social programs, the relevant factor for income is not who is responsible for paying the taxes associated with the income, but who is the final recipient of the income. For this reason many social programs require applicants and individuals receiving benefits to report gifts (cash and in-kind) and inheritances, as these gifts and inheritances can be used to support the applicant or recipient, even though they are not taxable to the applicant or recipient. Across social programs, the definition of income (what income is counted) and the specific rules for counting income are not consistent and will vary. Error! Reference source not found. shows some of the definitions of income used by various social programs.

Table 3.Definitions of Income Used by Selected Social Programs

Program	Household Basis for Income Calculation	Definition of Income for Income Calculation	Verification
Supplemental Security Income (SSI)	Individual or couple (if married).	Two types of income are considered for purposes of determining SSI eligibility and payment amounts: earned and unearned income. Earned income includes wages, net earnings from self-employment, and earnings from services performed. Most other income not derived from current work (e.g., Social Security benefits, other government and private pensions, veterans' benefits, workers' compensation, and in-kind support and maintenance) is considered "unearned." In-kind support and maintenance includes food, clothing, or shelter that is given to an individual or couple. There is also a resource limitation that includes liquid assets or any real or personal property owned that could be converted to cash and used for support and maintenance.	When applying for SSI, an individual must provide documentation that Social Security Administration uses to determine income and resource eligibility, such as a Social Security card or record of a Social Security number; a birth certificate or other proof of age; a copy of a mortgage or lease and landlord's name; payroll slips, bank records, insurance policies, car registration, and other income information; medical information if applying for disability; and proof of immigration status (if not a U.S. citizen).

Program	Household Basis for Income Calculation	Definition of Income for Income Calculation	Verification
Veterans Improved Pension and Death Pension (administered by the Department of Veterans Affairs)	Veteran and, if married, veteran's spouse. There is also the assumption that all of a child's income is available to the veteran, but this can be waived (under certain circumstances and upon application for exclusion of the child's income).	Income from nearly all sources, including all Social Security and pension income, and acquired through inheritance. There are sources of income that are not included such as: donations from public welfare or private relief organizations (including SSI and maintenance by a relative, friend or organization); profit from disposing of property (other than in the course of business); net gain from sale of a home if the gain is not rolled over into another home; amounts in joint accounts the veteran acquires by the death of the other owner(s); and certain final expenses and medical expenses. There is also a net worth limitation.	Annual verification process. All income is reported and the Department of Veterans Affairs calculates income for benefit purposes.
Refundable Tax Credits – Earned Income Credit and Additional Child Tax Credit	Taxpayer and, if married, the taxpayer's spouse. Taxpayers must have a qualified child (based on age, residency, and income) for the additional child tax credit. For the Earned Income Credit, the taxpayer, taxpayer's spouse, and any qualifying child for the credit must also have a Social Security number valid for work in the United States.	Earned income only—wages and other compensation, and net income from self-employment (without deduction for self-employment taxes).	Income reported on annual tax return.

Program	Household Basis for Income Calculation	Definition of Income for Income Calculation	Verification
Supplemental Nutrition Assistance Program (SNAP)	Married couples and groups of individuals who live together and purchase and prepare meals together. If a member of the household is elderly or disabled, that member (and the member's spouse) may be able to qualify as a separate household if they have income below 165% of FPL.	SNAP law defines income as "income from whatever source" but also explicitly excludes dozens of income sources: e.g., most educational loans, reimbursements, lump-sum nonrecurring payments (such as income tax refunds).[a] However, lump-sum nonrecurring payments will be included in a calculation of assets. SNAP has an asset limit, but many states have exercised an option they have to effectively bypass the asset limit when determining financial eligibility. SNAP also makes available a number of deductions, including a standard deduction, which will be subtracted from the gross income calculation. Regulation gives states the option, within certain parameters, to align SNAP income requirements with state TANF or Medicaid policy; as of September 2010, 39 states have opted for this alignment.	State agencies set income verification policies and procedures within federal parameters. Federal regulations make the verification of gross income mandatory and prefer documentary evidence for verification; however, the regulations also specify that a state may not require a specific document for verification. For the most part, states verify income for the entire SNAP certification period, though states vary in their requirements for reporting change of income within the certification period.

Source: Table prepared by CRS.

a. A full list of income exclusions can be found in Section 5(d) of the Food and Nutrition Act of 2008.

Conclusion

Both the Administration and Congress have recognized potential shortcomings of using MAGI to determine eligibility for Medicaid provisions and premium credits in ACA. The initial intent of using MAGI was to standardize the definition of income for Medicaid eligibility purposes in order to reduce some of the variability and complexity that exists under the current Medicaid program and to provide consistency between Medicaid and the health insurance exchange. Although changing the definition of income to include a more comprehensive measure that includes other nontaxable income sources would be more consistent with other low-income programs, such as SSI, this change may increase the administrative complexity, especially for the premium credits in the health insurance exchanges.

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Acknowledgments

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