

Eligibility

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Non-Financial Requirements

In addition to income and resource requirements that must be met to qualify for Virginia’s Medicaid programs for the Aged, Blind, or Disabled (ABD), several non-financial requirements must also be met.

A. Aged, Blind, or Disabled

For the ABD Medicaid covered groups, an individual must be either “Aged,” “Blind,” or “Disabled” to be eligible. To qualify as **Aged**, an applicant meets this qualification so long as s/he **is 65 years old or older**.

Blind is defined as having a visual acuity of not greater than 20/200. Someone who is eligible as Blind is either **receiving Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) based on Blindness, or has been determined Blind by Virginia Disability Determination Services (DDS)**, through the Virginia Department of Aging and Rehabilitative Services (DARS).

Disabled means that someone is unable to do any substantial gainful activity or work because of a severe, medically determinable physical or mental impairment that has lasted (or is expected to last) for 12 continuous months or more, or is expected to result in death. **Someone who is eligible as Disabled either receives SSI, SSDI, or Railroad Retirement from the US Social Security Administration based on disability, OR has been determined disabled by the DARS DDS.**

An applicant may be determined disabled by either the (Federal) Social Security Administration (SSA) or the (Virginia) DARS DDS. **If someone is denied federal disability through the SSA, that denial is usually binding for 1 year.** Often, in these instances, there is a multi-level appeals process needed to establish that someone is disabled. Individuals seeking a disability determination may want to be prepared with legal representation for such cases.

Someone can apply for a DARS DDS disability determination at the same time they apply for Medicaid. If they do, their Medicaid eligibility determination and that disability determination together require a longer processing time than other Medicaid applications. It can take up to 90 days instead of the usual 45 days.

B. Virginia Residence

Applicants must be residents of Virginia. This means that they must live in, and intend to remain living in, Virginia. Self-declaration of residency is all that is required. (*Regardless of the individual’s immigration status, accept declaration of Virginia residency on the application as verification of residency.* Medicaid Policy Manual Sections M0230.001-C and M0220.500-A1)

A fixed address is not required, even a homeless person may be eligible. For an eligible resident who does not have a fixed address, the Local DSS address may be used. The person would be told to pick up correspondence at that office.

C. Assignment of Third Party Payment Rights

Medicaid requires the applicant to assign any rights to third party payments to the state. This means, for example, that a personal injury settlement received for an enrolled individual would be assigned to Virginia to reimburse the state for any medical bills it paid for the injury. This assignment is listed in the Rights & Responsibilities section (Step 5) of the *Application* and the family/individual agrees to it when s/he signs the application.

D. Social Security Number

Social Security Numbers (SSNs) are required for **most applicants** seeking enrollment in Virginia's state-sponsored health insurance programs. The application does ask for SSNs for non-applicants on a voluntary basis. Providing SSNs for **non-applicants is not required** and not listing them will not impact the eligibility of anyone else on the application. Including the SSN of a non-applicant is, however, helpful to the LDSS or Cover Virginia Central Processing Unit (CPU) in verifying income information.

An individual who is not eligible for a SSN, or does not have one and is eligible only for a non-work SSN, **does not need to provide or apply for a SSN**.

E. US Citizenship or Immigration Status Requirements

The ABD Medicaid covered groups, including the Medicare Savings Programs, are for US citizens or lawfully residing non-citizens. Lawful permanent residents (LPRs) may be eligible for coverage after the first five years of residence in the US. Most LPRs and conditional entrants who entered the US before August 22, 1996 are eligible.

Certain immigrant categories considered "**Mandatory Coverage Categories**" are eligible for Medicaid. These include **Refugees and Asylees** from certain countries. They may be eligible for coverage for the first 7 years they are in the US. Honorably discharged veterans, or active-duty US military personnel (including spouses/unmarried dependent children under 18, or children 18-23 attending a Veteran's Administration-approved school, or a "helpless" child who became disabled after age 18) may be eligible regardless of when they entered the US. The "Alien Code Chart" from the *Medicaid Eligibility Manual* is on [pages 3.21-3.23](#) and shows which categories of immigrants are eligible for full benefits, and which are eligible for "emergency services only".

Applicants will have their US citizenship or alien status and identity verified electronically (with the Social Security Administration or the US Citizenship

& Immigration Services) based on the information they provide on their application. There may be cases where the information can not be verified. In these cases, if the applicant is eligible for coverage in all other respects, s/he will **be enrolled in coverage and will have 90 days to provide documentation** verifying his/her citizenship, identity and/or immigration status. (For examples of acceptable forms of documentation for citizenship, identity and immigration status, see the *Medicaid Eligibility Manual* on line at: <https://www.dmas.virginia.gov/for-applicants/eligibility-guidance/eligibility-manual/> and refer to sections M02.)

Individuals who would otherwise be eligible for Medicaid as ABD (i.e., those who meet income, resource, and covered group requirements, but do not qualify due to immigration status requirements) may be eligible to receive **Medicaid payment for emergency services**. Emergency services can be covered when approved by DMAS even if the individual is not legally present in the US. An individual would use the same application to apply for Medicaid coverage of emergency services as for "regular" Medicaid. Hospitals often assist individuals with applying for emergency services in order to receive payment for those services.

Those who do not qualify for ABD Medicaid due to the 5-year US residency requirement, and those who are not offered premium-free Medicare Part A, may be eligible to receive tax credits and subsidies toward the purchase of private insurance through the Health Insurance Marketplace.

F. Other Insurance

The full-benefit ABD Medicaid programs are available to people who already have other health insurance. Medicaid can supplement their existing insurance - paying for care that is not covered under the private insurance. Medicaid is the "payer of last resort".

G. Residents of Institutions

Applicants who are inmates in a public institution (i.e. correctional facility, regional or local jail) can be eligible for Medicaid provided they meet all the eligibility requirements. While they are incarcerated, however, they can only receive inpatient hospitalization services.

Inpatients in an Institution for the Treatment of Mental Disease (IMD) aged 21-65 are not eligible for Medicaid. *Note: An individual who is age 22 or over, but under age 65 and who is already enrolled in Medicaid at the time of admission to an IMD may remain enrolled in Medicaid.*

An individual who lives in a public residential facility that serves more than 16 residents is NOT eligible for Medicaid. Also residential facilities located on the grounds of, or adjacent to, a public institution with more than 16 beds is also ineligible. This type of facility does not include an IMD or an Institution for Individuals with Intellectual Disabilities (ICF-ID).

H. Cooperation with Child Support Enforcement

If an adult is applying for Medicaid, he/she is required to agree to cooperate with the Division of Child Support Enforcement (DCSE), if requested. If the applicant fails to cooperate (and does not establish “good cause for failure to cooperate”) s/he will be ineligible for Medicaid. Cooperation is considered to be met when the applicant signs the medical assistance application.

I. Requirement to Apply for Other Benefits

If an applicant is or looks to be eligible for any annuities, pensions, retirement, disability, or other entitlement benefits, s/he must take all necessary steps to apply for and obtain them, unless s/he can show good cause for not doing so. These benefits include: Social Security (Retirement, Disability, or Survivor’s benefits); Veterans’ Compensation; Worker’s Compensation; Railroad, Civil Service, or Federal Employee Retirement; and Black Lung Benefits.

This can be a “catch-22,” as receiving these new benefits after applying for them may make the person ineligible due to being over the income and/or resource limits.

An individual **is not required to apply** for: Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or payments such as child support, alimony, or accelerated life insurance.

J. Special Nonfinancial Requirements Based on Covered Group

Supplemental Security Income (SSI) Recipients Covered Group

To qualify for ABD Medicaid as an SSI recipient, an applicant **must be receiving SSI benefits** from the US Social Security Administration. SSI is a federal program funded by US Treasury general funds, which provides financial help to adults and children with disabilities or blindness, and who have limited income and resources.

Auxiliary Grant Recipients Covered Group

Those who have an Auxiliary Grant (AG) do not need to complete a separate application to be assessed for Medicaid eligibility. **An application for an AG through the LDSS also constitutes an application for Medicaid.**

An AG is a supplement to income for recipients of SSI, and certain other aged, blind, or disabled individuals residing in:

- An assisted living facility, or
- An adult foster care home, or
- A Supportive Housing arrangement approved by the state

AGs are available through local Departments of Social Services to help individuals maintain a standard of living that meets a basic level of need.

300% of SSI Covered Groups

For the 300% of SSI groups, someone **must meet the definition of being “institutionalized”** to be considered. This includes individuals who are living in a medical institution, or those who are in hospice, or those who would normally need a level of care provided in either a hospital or nursing facility, and would be eligible for Medicaid if institutionalized, but are receiving this care in the community instead (“Community-Based Care”).

A person would be considered institutionalized if s/he is receiving Medicaid-covered Long-Term Services and Supports (LTSS, sometimes known as “Long-Term Care” or LTC) for 30+ days, or has signed a hospice election that has been in effect for 30+ days, or has been screened and approved to receive Medicaid-covered LTSS in a home or community-based setting, and it is anticipated that s/he will receive those services for 30+ days.

“Protected Cases” Covered Groups

Some individuals are eligible for ABD Medicaid as part of a group of “protected cases.” If they previously received SSI or certain other Social Security benefits, but no longer do, there is a good chance they may still be eligible for Medicaid. These groups include:

- Certain former SSI Recipients
- Those who are eligible due to the Pickle Amendment* (who would be eligible for SSI if certain cost-of-living increases since 1977 were disregarded).
- Disabled widow/er
- Former disabled child or adult
- Qualified Severely Impaired Individuals who are ineligible for SSI due to earnings
- Former Auxiliary Grant Recipients
- Blind or disabled individuals who were eligible in December 1973, or their spouses (“conversion cases”)

Specific information about the qualifications for a Protected Case group can be found in Virginia’s *Medical Assistance Eligibility Manual* at <https://www.dmas.virginia.gov/for-applicants/eligibility-guidance/eligibility-manual/>, in Chapter M03: Covered Groups Requirements:

- M0320.201 Former Money Payment Recipients August 1972
- M0320.202 Conversion Cases
- M0320.203 Former SSI/AG Recipients*
- M0320.204 Protected Widows or Widowers
- M0320.205 Qualified Severely Impaired Individuals (QSII)-1619(b)
- M0320.206 Protected Adult Disabled Children
- M0320.207 Protected SSI Disabled Children.

*See the Pickle Amendment screening tool on [pages 3.19-3.20](#).

Financial Requirements: Resources

Virginia’s Medicaid programs for individuals who are Aged, Blind, and Disabled (ABD) differ in several key ways from the programs for children and families (sometimes called the “MAGI” programs, since they use Modified Adjusted Gross Income as their basis for counting income and household composition). One of the biggest differences is that ABD programs include a **resource test** for eligibility.

The countable resource limits differ for the different ABD covered groups.

Countable Resource Limits: Full Coverage Groups

Covered Group	Countable Resource Limit	
	Individual	Couple
ABD with income ≤80% FPL	\$2,000	\$3,000
Individual Receiving SSI		
300% of SSI Covered Groups <i>(Nursing Home, Community-Based Care, or Hospice)</i>		

Note: those receiving an Auxiliary Grant automatically meet countable resource guidelines.

Countable Resource Limits: Medicare Savings Program

Covered Group	Countable Resource Limit	
	Individual	Couple
Qualified Medicare Beneficiary (QMB)	\$8,400	\$12,600
Special Low-Income Medicare Beneficiary (SLMB)		
Qualified Individual (QI)		
Qualified Disabled and Working Individual (QDWI)	\$4,000	\$6,000

What is a Resource?

A resource is anything the applicant (and/or sometimes, the applicant’s spouse):

- **Owns,**
- **Has the ability to convert to cash** (if not cash already), and
- **Is not legally restricted from using.**

This can include cash, real property, and personal property.

Real property includes:

- Home and/or Mobile Home
- Land
- Water/Mineral/Timber rights
- Undivided Estates
- Life Interests
- Cemetery Plots

Personal property includes:

- Checking accounts, savings accounts, or Certificates of Deposit (CD)
- Cash Value of Life Insurance
- Burial accounts
- Annuities, stocks, or bonds
- Deeds of trust or trust funds
- Automobiles

Some resources are completely excluded, some resources are excluded up to a certain amount, some resources are excluded for a certain period of time, and some resources are fully countable.

Most resources that are countable are counted in the month following the month in which they are received, and in any months thereafter that the applicant still owns them, has the ability to convert them to cash (if not cash already), and is not legally restricted from using them. If an applicant is resource-eligible for Medicaid for **one day in a month**, s/he is considered resource-eligible **for the whole month**.

Virginia's *Medical Assistance Eligibility Manual* devotes an entire Chapter (M11) to Resources.

Whose Resources Count?

An applicant is always part of an **Assistance Unit** (AU). For the ABD Medicaid covered groups, the size of the AU is always either 1 or 2 people. The AU for Resources is defined by whether an applicant is 1) single or married, 2) if married, whether or not his/her spouse lives in the home, and 3) whether s/he or his/her spouse is institutionalized (including in a Nursing Facility, Hospice, or Community-Based Care).

An applicant is only looked at as a Resource Assistance Unit of 2 if s/he is: married, and living with his/her spouse, and not institutionalized (including in hospice or receiving community-based care). If an applicant is single, or if the applicant's spouse is living separately, s/he would be considered a Resource AU of 1. If the applicant (or the applicant's spouse) is becoming institutionalized, s/he would initially be considered a Resource AU of 2. For ongoing eligibility, s/he would have only his/her resources examined (AU of 1).

What Resources Don't Count (Excluded Resources)?

Some resources are only partially countable toward the eligibility limit for the ABD Medicaid covered groups. Certain resources are excluded from being counted. For a full list of exclusions from Virginia's *Medical Assistance Eligibility Manual*, please see [pages 3.10-3.12](#).

Resource Types:

I. Personal Property: Cash and Bank Accounts

Cash is considered a countable resource so long as the applicant owns it and is not legally restricted from using it. This includes cash on hand, even if it is hidden under a mattress or buried in the yard!

Bank accounts are considered personal property, and the portion of an account that is owned by the applicant, able to be converted to cash, and that the applicant is not legally restricted from using is considered a countable resource. The **countable resource value** of a bank account **is the lower of the balance before any income is deposited, or the ending balance of a bank account (minus any income deposited during the month)**.

If a bank account is **jointly owned**, funds in the account are assumed to be **evenly divided across all owners if all owners are applying** (for example, if two spouses own a joint bank account). If only **one owner** of the bank account **is applying** for Medicaid as ABD, then **all funds in the account are assumed to be owned by the applicant, unless** the applicant specifies that **some portion of the funds are not available to him/her**.

Funds that are owned by the applicant and are transferred from one bank account to another (e.g., from a checking account to a savings account, or to another checking account) do not get "double-counted." If an individual sells, exchanges, or replaces a resource, what s/he receives in return is not an additional resource; it is just a different form of the same resource.

II. Real Property: Home Exclusion

In most cases, the applicant's home is not considered a countable resource. The home may become a countable resource **ONLY if**:

- The applicant is institutionalized for 6+ months, **and**
- The applicant does not plan to return home, **and**
- The applicant's home is not occupied by a spouse or dependent relative.

Contiguous property adjacent to the home **is not counted as a resource, in the ABD ≤ 80% FPL covered group or the MSPs** (QMB, QI, SLMB, and QDWI). **All other covered groups exclude \$5,000-worth of contiguous property.**

III. Personal Property: Life Insurance

The **cash-surrender value** (CSV) of life insurance (value during insured person's lifetime) **may be counted as a resource**. If a portion of CSV is held as a **burial trust or fund, \$3,500 of that portion is not a countable resource**. **Term life insurance has no CSV, so would not be a countable resource**.

The CSV of a person's life insurance is counted as **a resource only if**:

- The insured person is 21+ years old, **and**
- The face value of the policy(ies) insuring that person totals >\$1,500, **and**
- The applicant (or in some cases, his/her spouse) is the owner of the policy

The face value (FV) of a life insurance policy does not include any annual dividends paid by the insurer due to surplus company earnings, nor does it include additional sums payable in the event of the insured's accidental death (or because of any other special provisions). It does not include the amounts of term life insurance coverage that may be provided to other family members of the insured. Dividends that accumulate toward the policy's CSV may become countable resources if they are not excluded under another provision.

The eligibility worker processing an application for an ABD covered group will request documentation to calculate both the FV and the CSV of an applicant's life insurance policy.

IV. Personal Property: Motor Vehicles

Vehicles include cars, trucks, boats, and even animals if they are used primarily for transportation. Animals that are kept for recreational purposes, including horses, are not considered vehicles if they are not used primarily for transportation.

One vehicle per household is excluded from being counted as a resource.* If the applicant owns two or more vehicles, the vehicle with the **highest equity value is excluded**. For all other vehicles, the countable resource value is the vehicle's equity value (**current market value minus amount owed on the vehicle**). The current market value (CMV) of a vehicle is the average trade-in value listed in the *National Automobile Dealers Association Guide*.

**Exception: One vehicle is not automatically excluded for the QDWI Medicare Savings Program, unless it is used primarily for work or medical transportation.*

An applicant is assumed to be the owner of a vehicle if his/her name appears on the deed. But, if an applicant can prove that s/he should not be considered the "owner" of the vehicle (i.e., if s/he can present a statement indicating why the vehicle is under his/her name but is used and kept by someone else, and evidence that another person has made all the payments on it), its equity value would not be considered a countable resource.

V. Resources: Important Exclusions

Jewelry and other “personal effects,” including clothing, personal care items, prosthetics, and educational/recreational items like books, musical instruments, or hobby materials, **are not counted as resources. Neither are household goods** like furniture, appliances, dishes, and other items customarily found in the home and used in connection with its maintenance, use, and occupancy.

Certain income-producing real property (rental property) may be excluded from resources. Certain types of personal property that generate income are excluded from being counted as resources. For example: if a farmer owns a tractor that generates income, the value of that tractor might be excluded, since the income resulting from its ownership would be evaluated as income already.


Certain real property is also excluded so long as it cannot be sold without undue hardship on other owners, OR a reasonable effort is being made to sell it. Certain federal compensation payments for exposure to radiation and/or Agent Orange are excluded.

Burial spaces or plots held for an applicant or family member are not counted. *Exception for QDWI: Burial spaces in excess of one per person are not excluded for this Medicare Savings Program.*

A list of **important resource exclusions and the relevant references for each** from the Virginia *Medical Assistance Eligibility Manual* (M1110.210: Excluded Resources) follows:

Exclusion	Eligibility Manual Reference Chapter	No Limit on Value and/or Length of Time Excluded	Limit on Value and/or Length of Time Excluded
Home serving as the principal place of residence, including the land on which the home stands (*contiguous property exempt for QDWI, QMB, SLMB, QI and ABD ≤ 80% FPL).	M1130.100	* X	X
Funds from sale of a home if reinvested timely in a replacement home.	S1130.110		X
Jointly-owned real property which cannot be sold without undue hardship (due to loss of housing) to the other owner(s) - For QMB, QDWI, SLMB, QI and ABD ≤ 80% FPL only.	S1130.130 Appendix 1 Appendix 2	X	
Real property for as long as the owner’s reasonable efforts to sell it are unsuccessful.	M1130.140	X	

Exclusion	Eligibility Manual Reference Chapter	No Limit on Value and/or Length of Time Excluded	Limit on Value and/or Length of Time Excluded
Restricted, allotted Indian land if the Indian/owner cannot dispose of the land without the permission of other individuals, his/her tribe, or an agency of the Federal Government.	S1130.150	X	
Life insurance, depending on its face value.	S1130.300		X
Burial space or plot held for an eligible individual, his/her spouse, or member of his/her immediate family.	M1130.400	X	
Burial funds for an individual and/or his/her spouse.	M1130.410		X
Certain prepaid burial contracts.	M1130.420		X
Household Goods and Personal Effects.	M1130.430	X	
Property essential to self-support.	S1130.500- S1130.504		X
Resources of a blind or disabled person which are necessary to fulfill an approved plan for achieving self-support.	M0810.430 S1130.510		X
Retained retroactive SSI or RSDI benefits.	S1130.600		X
Radiation Exposure Compensation Trust Fund payments.	S1130.680	X	
German reparations payments made to World War II Holocaust survivors.	S0830.710 S1130.610	X	
Austrian social insurance payments.	S0830.715 S1130.615	X	
Japanese-American and Aleutian restitution payments.	S0830.720	X	
Federal disaster assistance received because of a Presidentially declared major disaster, including accumulated interest.	S0830.620 S1130.620	X	
Cash (including accrued interest) and in-kind replacement received from any source at any time to replace or repair lost, damaged, or stolen excluded resources.	S0815.200 S1130.630		X
Certain items excluded from both income and resources by other Federal statutes.	S0830.055 S1130.640	VARIABLES	
Agent Orange settlement payments to qualifying veterans and survivors.	S0830.730 S1130.660	X	



Exclusion	Eligibility Manual Reference Chapter	No Limit on Value and/or Length of Time Excluded	Limit on Value and/or Length of Time Excluded
Victim's compensation payments.	S0830.660 S1130.665		X
Tax refunds related to Earned Income Tax Credits.	S0820.570 S1130.675		X
Achieving a Better Life Experience (ABLE) accounts.	M1130.740		X

Financial Requirements: Income

Virginia’s Medicaid programs for individuals who are Aged, Blind, and Disabled (ABD) count income differently from the programs for children and families (sometimes called the “MAGI” programs, since they use Modified Adjusted Gross Income as their basis for counting income and household composition). Certain income types count for the ABD covered groups that do not count for the programs for children and families.

The countable income limits differ for the different ABD covered groups.

Countable Monthly Income Limits: Full Coverage Groups

Covered Group	Countable Resource Limit	
	Individual	Couple
ABD with income ≤80% FPL	\$906	\$1,221
300% of SSI Covered Groups <i>(Nursing Home, Community-Based Care, or Hospice)</i>	\$2,523	N/A*
“Protected Cases”** <i>(Former SSI recipients, etc.)</i>	\$841	\$1,261

Note: those receiving SSI or an Auxiliary Grant automatically meet countable income guidelines. Since an application for an Auxiliary Grant is also an application for Medicaid, those receiving an Auxiliary Grant do not need to apply separately for Medicaid. Those receiving SSI still need to apply separately for Medicaid.

**Individuals who are being assessed for eligibility under the 300% of SSI Covered Groups are always looked at as individuals for the purposes of calculating their countable income.*

***Individuals or couples being evaluated as “Protected Cases” (see [page 3.5](#) for a list) have other income exclusions. See M0320.200 in the Virginia Medical Assistance Eligibility Manual for additional details on income exclusions that apply specifically to Protected Cases.*

Countable Monthly Income Limits: Medicare Savings Programs

Covered Group	Countable Resource Limit	
	Individual	Couple
Qualified Medicare Beneficiary (QMB)	\$1,133	\$1,526
Special Low-Income Medicare Beneficiary (SLMB)	\$1,359	\$1,831
Qualified Individual (QI)	\$1,529	\$2,060
Qualified Disabled and Working Individual (QDWI)	\$2,265	\$3,052

What is Income?

Income eligibility is **based on monthly income**, which includes **either cash, or cash-related items** (checks, money orders, or electronic transfers). Income is sub-divided into **earned and unearned income**.

Earned income includes wages, net earnings from self-employment, earnings from work in a sheltered workshop, royalties earned in connection with work, and honoraria (payments, rewards, or donations in consideration of services rendered, when no payment can be enforced). Earned income always comes from a BUSINESS of some kind. If it is not from a business, it is not earned income.

To calculate monthly earned income from a job, the eligibility worker will add up the earned income reported for the month and **find the average income for the time period. Then s/he will apply the following conversion factors based on frequency of pay:**

- From **weekly income** – multiply by **4.3**
- From **biweekly income** (paid every two weeks) – multiply by **2.15**
- From **twice monthly income** - multiply by **2**
- For **monthly income** – just **use the gross figure reported**.
- From irregular income – determine average weekly income over a 3-month period and multiply by 4.3

*For example: An applicant reports he is **paid weekly** and provides **four paystubs** showing the following gross income amounts: \$180; \$195; \$190; and \$185.*

*The LDSS eligibility worker adds the amounts of the four paystubs up and divides by four (# of stubs) **to find the weekly average pay amount:***

$$\$180 + \$195 + \$190 + \$185 = \$750/4 = \mathbf{\$187.50}.$$

*The worker will then **multiply that average pay amount by the appropriate conversion factor** (weekly income in this case): $\$187.50 \times 4.3 = \mathbf{\$806.25}$. The result is the **applicant's monthly earned income prior to any allowed exclusions**.*

Net Earnings from Self-Employment (NESE) is the gross income from any trade or business less any allowable deductions for that trade or business. It also includes any profit or loss in a partnership. **NESE is determined on a tax year basis, then it is divided equally among the months in the tax year to get the monthly NESE.** It can be documented by providing a recent Federal income tax return, business records, or in the absence of other records, a signed attestation of NESE can be obtained from the applicant.

Evidence of NESE can be found in the following places on a Federal income tax return:

- Schedule SE - Net Earnings Section A Line 4 or Section B Line 4. C.; Net Loss Section A Line 3 or Section B Line 4. C.
- Schedule C - Line entitled "Net Profit or Loss"
- Schedule C (EZ) - Line entitled "Net Profit"
- Schedule F - Line entitled "Net Profit or Loss"

A 7.65% **deduction is applied to net profit when determining NESE if the self-employment profit is greater than \$400. Any net profit greater than \$400 is multiplied by 0.9235 to determine countable yearly NESE, then that amount is divided by 12 to calculate a monthly countable NESE** amount. If there is less than \$400/year in NESE, there is a net loss reported, or if no tax return was filed, this deduction is not made. For a detailed explanation of what NESE to count, see the *Virginia Medica Assistance Eligibility Manual* Section M0820.210-.220.

Unearned income is any income that is not earned income. This includes pensions, annuities, retirement, disability payments, alimony and support payments, dividends and interest, and rents received.

A **\$20 income "disregard" is automatically applied to income** for the ABD covered groups. **If there is both earned and unearned income, the \$20 is excluded** from the **unearned income portion**. If the amount of unearned income is less than \$20, the remainder of the disregard is then applied to any earned income.

The following types of **unearned income are countable** for the ABD Medicaid covered groups, but are not countable for the "MAGI" covered groups (for children and families). Any income from these income types are requested on *Appendix D* of the *Application for Health Coverage & Help Paying Costs*:

- Worker's compensation
- Certain Veteran's Administration Benefits
- Child support received
- Gifts and inheritances
- Life insurance proceeds

What is **Not** Income?

Some things may look like cash or cash-related items, but they are **NOT** considered income:

- Medical, personal, and social services
- Capital gains
- Rebates/refunds

- Proceeds on a loan
- Income tax refunds and credits
- Bills paid by a third party
- Erroneous payments (if refunded in the same or following month)
- Employer contributions that are not wages (example: employer contribution to a retirement plan)

An **exhaustive list of cash and cash-related items** that are **not income** is found in the Virginia *Medical Assistance Eligibility Manual* in M0815.

Whose Income Counts?

Figuring out the assistance unit (AU) for income is a little more complex than figuring out the AU for resources. An applicant's income AU may even be different from the resource AU, since it depends on whether the applicant's spouse (if s/he is married) meets certain qualifications, beyond just whether or not the spouse lives in the home.

An **AU of 1 for income** could be:

- A single person or a married individual that is separated
- An institutionalized individual (in a nursing facility, receiving community based care, or in hospice for 30 days or more)
- A married applicant living with his/her spouse who is not applying and the spouse has no income that is deemable to the applicant. (If the only income the non-applicant spouse has is SSI, TANF, Veteran's Administration pensions, General Relief payments, etc. or other need-based income, it cannot be deemed.)

An **AU of 2 for income** could be:

- A married couple living together who are both applying for coverage
- A married applicant living with his/her spouse that is not applying and the spouse has income that is deemable to the applicant.

Excluded Income

A significant **portion of earned income is automatically excluded** from the income eligibility calculation for those who are **ABD with income ≤80% FPL, and** those being evaluated **for the Medicare Savings Programs**. For these groups, **\$65 is subtracted from earned income, and the remainder is divided in half**.

*For example: The LDSS eligibility worker determines reported monthly income to be \$806.25. The earned income exclusion is then applied: $\$806.25 - \$65 = \$741.25/2 = \370.65 . The result is **the countable monthly earned income that will be added to any unearned income and then compared to the income guidelines**.*

If any portion of the earned income is either **infrequent or irregular**, **\$10 is subtracted** from it to arrive at the countable portion.

Infrequent means the income is **received less than once per quarter**.

Irregular means person **cannot “reasonably expect” to receive it again**. If wages are **significantly irregular**, the **eligibility worker processing the application may disregard the irregular portion of earnings entirely**.

Other income types are **excluded from the income calculation for all ABD covered groups except the 300% of SSI covered groups**:

- Supplemental Security Income (SSI) lump sums and monthly payments*
- Auxiliary Grant (AG) payments*
- Temporary Assistance for Needy Families (TANF) payments
- Foster Care Maintenance payments
- Virginia Fuel Assistance Program payments
- Income Tax Refunds
- Earned Income Tax Credit (EITC)


**Note: Remember that if an individual is receiving SSI or an AG, s/he should already qualify for Medicaid! Those receiving an AG do not need to complete a separate application for Medicaid. Those receiving SSI do need to apply for Medicaid.*

The following **income deductions** also apply for the ABD covered groups, **except the 300% of SSI covered groups**:

Blind Work Expenses (BWE), which are expenses that enable a blind individual to work. BWE includes expenses like Federal, state and local income taxes and Social Security taxes; professional association or union dues; transportation; meals; a service animal’s expenses; and more, if applicable. **These expenses are deducted after the \$65 earned income disregard and the income amount is divided in half.**

Certain Impairment-Related Work Expenses (IRWE), which are expenses that enable a person with a disability to work. IRWE includes expenses like home modifications, attendant care, and prosthetics. **These expenses are deducted after the \$65 earned income disregard, but before the income amount is divided in half.**

When calculating the BWE and IRWE that will be deducted from earned income, **the conversion factors listed on [page 3.14](#) play into the calculations**. For example, if an expense is reported as weekly, the LDSS eligibility worker would add up the expenses reported, divide by the number of weeks reported to get the average weekly amount and then multiply the result by 4.3 to get the average monthly amount of the deductible expense.



For a **complete list of the type and amount of allowed deductible work expenses for BWE and IRWE**, see the chart in the *Virginia Medical Assistance Eligibility Manual* in Section S0820.555.

Income used to fulfill an approved Plan to Achieve Self-Support (PASS) allows a disabled or blind person to set aside income and/or resources for a work goal such as education, vocational training, or starting a business. Individuals can also set aside funds to purchase work-related equipment. PASS can help an individual establish or maintain SSI eligibility and can also help increase or help maintain the individual's SSI payment amount. The Social Security Administration determines if an SSI recipient is entitled to a PASS exclusion. Income, whether earned or unearned, of a blind or disabled recipient may be excluded if such income is needed to fulfill a PASS.

A Quick and Easy Method of Screening for Medicaid Eligibility Under the Pickle Amendment: 2022 Update

The Pickle Amendment requires that an individual is to be deemed an SSI recipient (which in most states means automatic Medicaid eligibility)¹ if the individual:

1. Was simultaneously entitled to receive both Social Security [Old Age, Survivors or Disability Insurance (OASDI)] and Supplemental Security Income (SSI) in some month after April 1977;²
2. Is currently eligible for and receiving OASDI;
3. Is currently ineligible for SSI; and
4. Receives income that would qualify the individual for SSI after deducting all OASDI cost-of-living adjustments (COLA) received since the last month in which the individual was eligible for both OASDI and SSI.

Screening for Medicaid eligibility under the Pickle Amendment is quick and simple. The screening process will eliminate the great majority of those who are not eligible without the necessity of performing any mathematical calculations. For those who survive the initial screening and for whom mathematical calculations are required, the table below provides a simple formula for performing the necessary calculations.

The screening process is as follows:

Step 1: Ask the person, “Are you now receiving a Social Security check?” If the answer is no, the person cannot be Pickle eligible. If the answer is yes, go on to the next step.

Step 2: Ask the person, “After April 1977, did you ever get an SSI check at the same time that you got Social Security, or did you get SSI in the month just before your Social Security started?” If the answer is no, the person cannot be Pickle eligible. If the answer is yes, go on to step 3.

Step 3: Ask the person, “What is the last month in which you received SSI?”

Step 4: Look up the month in which the person last received SSI in the following table. Find the percentage that applies to that month. Multiply the present amount of the person’s Social Security (OASDI) benefits by the applicable percentage. (If married, see note below.)³

Step 5: You have just calculated the person’s countable Social Security income under the Pickle

Amendment. Add the figure that you have just calculated to any other countable income the person may have. If the resulting total is less than the current SSI income criteria in your state, the person is Pickle eligible, from the standpoint of income, for Medicaid benefits. (The person must still satisfy separate Medicaid resource and non-financial requirements.)

Example

Ms. Ima Gherkin received both Social Security and SSI checks in 1976-78. However, her SSI was terminated in March 1978 because she started receiving a private pension that, added to her Social Security benefits, raised her income to an amount above the 1978 SSI income limits. There have been gradual increases in her income since 1978. She now receives a Social Security benefit of \$1,657 per month, which happens to be the average monthly benefit for retired workers. Her private pension is \$300 a month, giving her a total of \$1,957 monthly.

In 2022, the income limit for SSI (taking into account a \$20 general income disregard) is \$861 for an individual. Thus, Ms. Gherkin’s income is over twice the SSI income limit, which her state has adopted as the Medicaid limit for persons who are aged, blind or disabled.⁴

You screen Ms. Gherkin for Pickle eligibility as outlined above. Determining that the last month in which she received both Social Security and SSI was March 1978, you look up that time period in the following table and find the corresponding reduction factor (0.226). You multiply Ms. Gherkin’s current Social Security benefit of \$1,657 by that factor, to determine her current countable “Pickle” income.

$\$1,657 \text{ multiplied by } .226 = \374 (“Pickled” Social Security income, rounded downward)

$\$374 \text{ countable Social Security income} + \$300 \text{ private pension} = \$674 \text{ total countable “Pickle” income.}$

Since \$674 is less than the current SSI income limit (including the standard \$20 disregard) of \$861, Ms. Gherkin is eligible for Medicaid, even though she is ineligible for SSI.

Source: This is a screening tool and chart, originally created by Gordon Bonnyman of the Tennessee Justice Center and updated by NHeLP, to determine if clients may be Medicaid eligible under the Pickle Amendment. Source: <https://healthlaw.org/resource/a-quick-and-easy-method-of-screening-for-medicaid-eligibility-under-the-pickle-amendment-2022-update/>

Reduction Factors for Calculating Medicaid Eligibility Under the Pickle Amendment During 2022

If the last month a person received SSI while, or immediately prior to, receiving Social Security (OASDI) was in any of the periods below, multiply the present amount of her Social Security by the corresponding factor.

<i>If SSI was last received during this period:</i>	<i>Multiply 2022 OASDI income by:³</i>	<i>If SSI was terminated during this period:</i>	<i>Multiply 2022 OASDI income by:³</i>	<i>If SSI was last received during this period:</i>	<i>Multiply 2022 OASDI income by:³</i>
May - June 1977	0.214	Jan 1991 - Dec 1991	0.484	Jan 2005 - Dec 2005	0.689
July 1977 - June 1978	0.226	Jan 1992 - Dec 1992	0.502	Jan 2006 - Dec 2006	0.717
July 1978 - June 1979	0.241	Jan 1993 - Dec 1993	0.517	Jan 2007 - Dec 2007	0.741
July 1979 - June 1980	0.265	Jan 1994 - Dec 1994	0.531	Jan 2008 - Dec 2008	0.758
July 1980 - June 1981	0.303	Jan 1995 - Dec 1995	0.545	Jan 2009 - Dec 2011	0.802
July 1981 - June 1982	0.337	Jan 1996 - Dec 1996	0.560	Jan 2012 - Dec 2012	0.831
July 1982 - Dec 1983	0.362	Jan 1997 - Dec 1997	0.576	Jan 2013 - Dec 2013	0.845
Jan 1984 - Dec 1984	0.374	Jan 1998 - Dec 1998	0.588	Jan 2014 - Dec 2014	0.858
Jan 1985 - Dec 1985	0.388	Jan 1999 - Dec 1999	0.596	Jan 2016 - Dec 2016	0.872
Jan 1986 - Dec 1986	0.400	Jan 2000 - Dec 2000	0.610	Jan 2017 - Dec 2017	0.875
Jan 1987 - Dec 1987	0.405	Jan 2001 - Dec 2001	0.632	Jan 2018 - Dec 2018	0.892
Jan 1988 - Dec 1988	0.422	Jan 2002 - Dec 2002	0.648	Jan 2019 - Dec 2019	0.917
Jan 1989 - Dec 1989	0.439	Jan 2003 - Dec 2003	0.657	Jan 2020- Dec 2020	0.932
Jan 1990 - Dec 1990	0.459	Jan 2004 - Dec 2004	0.671	Jan 2021- Dec 2021	0.944

¹ In 8 states, known as 209(b) states, SSI eligibility does not automatically confer Medicaid eligibility: CT, HI, IL, MN, MO, NH, ND, and VA. See *Noland v. Shalala*, 12 F.3d 258 (D.C. Cir. 1994). Medicaid and CHIP Payment and Access Comm’n, *MACStats: Medicaid and CHIP Data Book, Exhibit 37* (Dec. 2021), <https://www.macpac.gov/wp-content/uploads/2021/12/MACStats-Medicaid-and-CHIP-Data-Book-December-2021.pdf>

² The person need not literally receive both SSI and OASDI checks in the same month, but need only be *entitled* to both for the same month. There is a one-month lag in OASDI payments, which are not disbursed until the month after entitlement, while SSI payments are paid in the month of entitlement. It is common for a person to receive SSI while awaiting receipt of OASDI payments. Once the person’s monthly OASDI begins, if it exceeds the SSI rate, the person receives just OASDI thereafter. In such circumstances, even though the person never actually received simultaneous payments from both programs in a single month, they meet the first Pickle requirement. This is true even if income from a retroactive OASDI payment exceeds the SSI benefit level for all months in which SSI was received. For this reason, you should ask not just if the person received both SSI and OASDI in the same month, but did they receive SSI immediately before their OASDI payments began. See 42 C.F.R. § 435.135 and 51 Fed. Reg. 12326 (April 10, 1986). **NOTE:** If it has been several years since a person lost SSI and calculations using the chart place her only a few dollars over the Medicaid limit, get her actual payment history from SSA to establish the exact OASDI amount when she lost SSI. Calculations using the table are imprecise due to SSA’s rounding rules. In close cases, be sure to get the actual record.

³ If married and the spouse's income includes OASDI, you would disregard any COLAs that are included in his income since the client lost her SSI, just as you would for her. See *Lynch v. Dawson*, 820 F.2d 1014 (9th Cir. 1987).

⁴ All but a few states supplement the federal payment by amounts varying by state from \$10 to about \$700. The SSI limit – and therefore the Pickle Amendment limit – in a given state is raised by the amount of that state’s supplement, if any.

3.20 Pickle Amendment Screening Tool

Manual Title Virginia Medical Assistance Eligibility	Chapter M02	Page Revision Date January 2022
Subchapter Subject M0220.000 CITIZENSHIP & ALIEN REQUIREMENTS	Page ending with Appendix 5	Page 1

Code	MEDICAID ALIEN CODE CHART QUALIFIED ALIEN GROUPS	Arrived Before August 22, 1996	Arrived On or After August 22, 1996	
			1 st 5 years	After 5 years
A	Qualified aliens who are Veterans or Active Military (includes spouses/dependent children); certain American Indians [Form DD 214-veteran]	Full Benefit A1	Full Benefit A2	Full Benefit A3
B	Permanent Resident Aliens (Aliens lawfully admitted for permanent residence) who have worked 40 qtrs., except Amerasians [I-151; AR-3a; I-551; I-327; I-688B-274a.12(a)(1)]	Full Benefit B1	Emergency Only B2	Full Benefit B3
C	Permanent Resident Aliens (Aliens lawfully admitted for permanent residence) who have NOT worked 40 qtrs., except Amerasians and citizens of Micronesia, Marshall Islands, Palau [I-327; I-151; AR-3a; I-551; I-688B-274 a.12(a)(1)]	Full Benefit C1	Emergency Only C2	Full Benefit effective 4-1-21 C1; Emergency Only for months prior to 4-21 C2
CC	<i>Compact of Free Association (COFA) migrants who are citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.</i>	Full Benefit CC1	Full Benefits effective 12-27-20. CC1; Emergency Only for months prior to 12-20. CC2	Full Benefit effective 12-27-20. CC1; Emergency Only prior to 12-20. CC2
D	Conditional entrants-aliens admitted pursuant to 8 U.S.C. 1153(a)(7), section 203(a)(7) of the INA [I-94]	Full Benefit D1	Emergency Only D2	<i>Full Benefit</i> D3
E	Aliens, other than Cuban or Haitian Entrants, paroled in the US pursuant to 8 U.S.C. 1182(d)(5) section 212(d)(5) of INA [I-94; I-688B – 274a(12)(c)(11)] <i>Afghan Special Immigrant Parolees paroled into the United States between July 31, 2021, and September 30, 2022 will have an I-94 form noting SQ or SI Parole (per section 602(B)(1) AAPA/Sec 1059(a) NDAA 2006). They are eligible for full coverage without a 5-year waiting period. See Appendix 4.</i>	Full Benefit E1	Emergency Only E2	<i>Full Benefit</i> E3
I	Battered aliens, alien parents of battered children, alien children of battered parents [U.S. Attorney General]	Full Benefit I1	Emergency Only I2	<i>Full Benefit</i> I3
			1 st 7 years	After 7 years
F	Aliens granted asylum pursuant to section 208 of the INA [I-94; I-688B – 274a.12(a)(5)]	Full Benefit F1	Full Benefit F2	Emergency Only F3
G	Aliens admitted as refugees pursuant to section 207 of the INA, or as Cuban or Haitian Entrants as defined in section 501(e) of Refugee Education Assistance Act of 1980 {including those under section 212(d)(5)}, or Amerasians [I-551; I-94; I-688B]	Full Benefit G1	Full Benefit G2	Emergency Only G3
H	Aliens whose deportation has been withheld pursuant to Section 243(h) or 241(b)(3) of the INA [I-688B – 274a.12(a)(10); Immigration Judge’s Order]	Full Benefit H1	Full Benefit H2	Emergency Only H3
J	Victims of a Severe Form of Trafficking pursuant to the Trafficking Victims Protection Act of 2000, P.L. 106-386 [ORR Certification/eligibility Letter]	N/A J1	Full Benefit J2	Emergency Only J3

Manual Title Virginia Medical Assistance Eligibility	Chapter M02	Page Revision Date March 2011
Subchapter Subject M0220.000 CITIZENSHIP & ALIEN REQUIREMENTS	Page ending with Appendix 5	Page 2

	UNQUALIFIED ALIEN GROUPS	Arrived Before 8-22-96	Arrived On or After 8-22-96	
K	Aliens residing in the US pursuant to an indefinite stay of deportation [I-94; Immigration Letter]	Emergency Only K1	Emergency Only K2	Emergency Only K3
L	Aliens residing in the US pursuant to an indefinite voluntary departure [I-94; Immigration Letter]	Emergency Only L1	Emergency Only L2	Emergency Only L3
M	Aliens on whose behalf an immediate relative petition has been approved and their families covered by the petition who are entitled to voluntary departure under 8 CFR 242.5(a)(2)(vi) and whose departure the INS does not contemplate enforcing [I-94; I-210]	Emergency Only M1	Emergency Only M2	Emergency Only M3
N	Aliens who have filed an application for adjustment of status pursuant to §245 INA that the INS has accepted as properly filed and whose departure the INS does not contemplate enforcing [I-181; Endorsed Passport]	Emergency Only N1	Emergency Only N2	Emergency Only N3
O	Aliens granted stay of deportation by court order, statute or regulation, or by individual determination of the INS whose departure the agency does not contemplate enforcing [I-94; Court Order; INS Letter]	Emergency Only O1	Emergency Only O2	Emergency Only O3
P	Aliens granted voluntary departure pursuant to section 242(b) of the INA whose departure the INS does not contemplate enforcing [I-94; I-210; I-688B – 247a.12(a)(11) or (13)]	Emergency Only P1	Emergency Only P2	Emergency Only P3
Q	Aliens granted deferred action status pursuant to INS Operations Instruction 103.1(a)(ii) prior to 6/15/84 or 242.1a22 issued 6/15/84 and later [I-210; INS Letter]	Emergency Only Q1	Emergency Only Q2	Emergency Only Q3
R	Aliens residing in the U.S. under orders of supervision [I-220B]	Emergency Only R1	Emergency Only R2	Emergency Only R3
S	Aliens who entered before January 1972 and have continuously resided in the U.S. since January 1972 [Case Record]	Emergency Only S1	Emergency Only S2	Emergency Only S3

3.22 Medicaid Manual Alien Code Chart

Manual Title Virginia Medical Assistance Eligibility	Chapter M02	Page Revision Date January 2022
Subchapter Subject M0220.000 CITIZENSHIP & ALIEN REQUIREMENTS	Page ending with Appendix 5	Page 3

	UNQUALIFIED ALIEN GROUPS (cont.)	Arrived Before 8-22-96	Arrived On or After 8-22-96	
T	Aliens granted suspension of deportation pursuant to Section 244 of the INA and whose deportation the USCIS does not contemplate enforcing [Immigration Judge Court Order]	Emergency Only T1	Emergency Only T2	Emergency Only T3
U	Any other aliens living in the US with the knowledge and permission of the USCIS whose departure the agency does not contemplate enforcing [USCIS Contact]	Emergency Only U1	Emergency Only U2	Emergency Only U3
V	Aliens not lawfully admitted or whose lawful admission status has expired* *For a pregnant woman who is not lawfully residing in the U.S., go to Chapter M23.	Emergency Only V1	Emergency Only V2	Emergency Only V3
W	Visitors (non-immigrants): tourists, diplomas, foreign students, temp. workers, etc. [I-688B – 274a.12(b)(1)-(20); I-94; I-185: I-1186; SW-434; I-95A]	Emergency Only W1	Emergency Only W2	Emergency Only W3

	LAWFULLY RESIDING NON-CITIZENS	Effective 1/1/10	Effective 7/1/12
Y	Non-citizen (alien) children under the age of 19 and pregnant women lawfully residing in the U.S. who meet the requirements in M0220.314.	Full Benefits for Medicaid children under age 19 (FAMIS Plus)	Full Benefits for Medicaid (FAMIS Plus), Medicaid pregnant women, FAMIS and FAMIS MOMS

	AFGHAN AND IRAQI SPECIAL IMMIGRANTS	First 7 Years after Entry into U.S.	After 7 Years
Z	Afghan and Iraqi Special Immigrants admitted on a Special Immigrant Visa (SIV), including the spouse and children under age 21 living in the home with the principal visa holder. [I-551 or passport/ I-94 indicating categories SI1, SI2, SI3, SQ1, SQ2, or SQ3 and bearing Department of Homeland Security stamp or notation] <i>For Afghan special immigrants admitted prior to being granted a Special Immigrant Visa, see M0220, Appendix 4.</i>	Full Benefits Z1	Emergency Only Z2