



From: **Maureen M. Corcoran, Director**

To: **Ohio Department of Medicaid Clearance Reviewers**

Subject: **Sponsored Non-Citizens and Deeming**

This transmittal contains one new rule which is being proposed in Chapter 5160:1-2 of the Administrative Code and two rules that are being amended from Chapter 5160:1-3 of the Administrative Code, adopted under section 111.15 of the Revised Code. The rules from Chapter 5160:1-3 are being evaluated as part of a five-year review in accordance with section 111.15 of the Revised Code.

The information contained in this clearance transmittal is for informational purposes only and is not intended to be part of the clearance review. Your review of and comments on the attached material are appreciated.

Chapter 2

5160:1-2-12.1 Medicaid: Sponsored Non-Citizens

This new rule is being proposed to describe the requirement to deem income and resources from a sponsor to a non-citizen, exemptions from the sponsor deeming requirement, and the process for calculating the amount of income and resources to deem.

Chapter 3

5160:1-3-03.3 Medicaid: Deeming of Income

Proposed changes to this rule include removing language regarding sponsored non-citizens, adding further income types excluded per federal law, and minor grammatical modifications for clarity. This rule is also being evaluated for a five-year review.

5160:1-3-05.20 Medicaid: Deeming of Resources

Proposed changes to this rule include removing language regarding sponsored non-citizens and minor grammatical modifications for clarity. This rule is also being evaluated for a five-year review.

Fiscal Impact

The Ohio Department of Medicaid (ODM) supplies funding to Ohio's counties through the Ohio Department of Job and Family Services, which funds counties to conduct eligibility determinations and complete casework for the Medicaid program. The revisions to the rules in this clearance do not impose any new requirements on county agencies and the implementation of these rule changes should result in no fiscal impact on the county agencies.

Questions pertaining to this clearance should be sent to Rules@Medicaid.Ohio.gov.

To receive notification when ODM posts draft rules for public comment please register via the Common Sense Initiative eNotifications Sign-up: [eNotifications Sign Up | Governor Mike DeWine \(ohio.gov\)](#). The Ohio Department of Medicaid will use this list to notify subscribers when draft rules are posted for public comment.

To receive notification when ODM original, revise, refile, or final files a rule package please register for Joint Committee on Agency Rules Review's (JCARR) RuleWatch at www.rulewatchohio.gov where an account can be created to be notified of rule actions by the rule number or department.

The main ODM web page includes links to valuable information about its services, programs, and rules; the address is <http://www.medicaid.ohio.gov>.

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5160:1-2-12.1 **Medicaid: sponsored non-citizens.**

(A) This rule describes the requirement to deem income and resources from a sponsor to a non-citizen, exemptions from the sponsor deeming requirement, and the process for calculating the amount of income and resources to deem.

- (1) In accordance with 8 U.S.C. 1182 (as in effect October 1, 2024), certain non-citizens seeking lawful permanent resident (LPR) status are required to provide an affidavit of support from a sponsor(s). A sponsor must agree to assume financial support for the non-citizen.
- (2) When determining the non-citizen's eligibility for medical assistance, the income and resources of the sponsor and the sponsor's spouse, when the spouse also signed an affidavit of support, must be counted.
- (3) Divorce does not end the sponsorship obligation.
- (4) Deeming of income and resources applies regardless of whether the sponsor and the sponsored non-citizen live in the same household or whether the sponsor actually provides support to the sponsored non-citizen.

(B) Definitions. For the purposes of this rule:

- (1) "Allocation," for the purpose of this rule, means an amount deducted from income subject to deeming, which is considered to be set aside for the support another individual.
- (2) "Child," for deeming purposes, means an individual under age eighteen who lives in a household with one or both parents and who is neither married nor the head of household. The deeming of parental income applies through the month in which the child attains eighteen years of age. A child's income and resources are never deemed to parent(s) or sibling(s).
- (3) "Deemed income" means income attributed to another person whether or not the income is actually available to the person to whom it is deemed.
- (4) "Deemed resources" means resources attributed to another person whether or not the resource is actually available to the person to whom they are deemed.
- (5) "Eligible child," for the purpose of this rule, means a child in the household who has applied for non-modified adjusted gross income (MAGI) medical assistance and meets all the applicable non-financial and income eligibility criteria.
- (6) "Ineligible parent," for the purpose of non-MAGI determinations, means an eligible child's parent who has not applied for non-MAGI medical assistance.
- (7) "Ineligible spouse," for the purpose of non-MAGI determinations, means the member of the married couple who has not applied for non-MAGI medical assistance.
- (8) "Parent" means a natural, adoptive, or stepparent living in the same household as the eligible child. For the purpose of non-MAGI determinations, the income of a stepparent who lives with the eligible child is deemed to the child only when the natural or adoptive parent also lives in the household with the stepparent and the child. When the natural or adoptive parent divorces a stepparent and the child is living with the stepparent, the stepparent is not considered a parent or spouse for deeming purposes.

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(9) "Sponsor" means an individual who signs an affidavit of support agreeing to assume financial support of a sponsored non-citizen as a condition of the non-citizen's admission for permanent residence in the United States. A sponsored non-citizen may have more than one sponsor. For deeming purposes, a sponsor does not include an organization such as the congregation of a church, a service club, or an employer who only guarantees employment for a non-citizen upon entry but does not sign an affidavit of support.

(10) "Sponsored non-citizen," for the purpose of this rule, means an individual lawfully admitted for permanent residence in the United States who is supported by a sponsor(s). Such an individual has applied for medical assistance and meets all the applicable non-financial eligibility criteria.

(11) "Spouse" means a person who is legally married to another under Ohio law.

(C) The following non-citizens, even when they have sponsors who signed an affidavit of support, are not subject to the sponsor deeming requirements:

(1) A non-citizen being determined for non-citizen emergency medical assistance (NCEMA) as described in rule 5160:1-5-06 of the Administrative Code.

(2) A lawfully residing pregnant woman, including those in their postpartum period.

(3) A lawfully residing child.

(4) A non-citizen who has forty qualifying work quarters or who can be credited with such quarters, as described in rule 5160:1-2-12 of the Administrative Code.

(D) The administrative agency has the responsibility to make determinations for the following two exemptions to the sponsor deeming requirements, in accordance with 8 U.S.C. 1631(e) and 1631(f) (as in effect October 1, 2024):

(1) A victim who has been battered or subjected to extreme cruelty.

(a) None of the sponsor's income or resources are counted when determining the non-citizen's eligibility when this exemption applies.

(b) The initial exemption is in effect for twelve months from the date the administrative agency makes the determination of abuse or cruelty. The exemption can be extended only when the battery or extreme cruelty is recognized by the department of justice, an administrative law judge, or the United States department of homeland security (DHS).

(2) An indigent non-citizen.

(a) A non-citizen is considered indigent when all of the following conditions are met:

(i) The non-citizen is not living with a sponsor;

(ii) The non-citizen's total income received is less than the current supplemental security income (SSI) federal benefit rate (FBR); and

(iii) The resources available to the non-citizen are under the applicable resource limit for an individual as described in rule 5160:1-3-05.1 of the Administrative Code.

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- (b) A non-citizen will not be granted an indigent exemption when living with a sponsor, as it is assumed the sponsor is providing food and shelter.
- (c) When a non-citizen is determined to be indigent, beginning on the date the determination is made, only the actual amount of income and resources provided by the sponsor to the non-citizen is counted for twelve months.
- (d) The administrative agency may extend this exemption for additional twelve-month periods but must make a new indigency determination for each period.
- (e) When the administrative agency has determined a sponsored non-citizen to be indigent, the agency must provide written notice to DHS, including the name of the non-citizen and the sponsor.
- (f) The administrative agency must notify the sponsored non-citizen that a finding of indigence will be reported to DHS so the non-citizen can decide whether or not to request consideration for the indigence exemption.

(E) Deeming of income.

(1) MAGI-based eligibility.

- (a) When the non-citizen is not claimed as a tax dependent of the sponsor or when the sponsor claims the non-citizen as a tax dependent but is not the spouse or parent of the non-citizen, any cash contributions given to the non-citizen are considered countable unearned income.
- (b) When the sponsor is the spouse or parent of the non-citizen, the household composition and income calculations as described in rule 5160:1-4-01 of the Administrative Code must be followed.

(2) Non-MAGI-based eligibility.

- (a) When a non-citizen is sponsored by an ineligible spouse or ineligible parent(s), apply spouse-to-spouse or parent-to-child income deeming calculations as described in rule 5160:1-3-03.3 of the Administrative Code.
- (b) When a non-citizen has a sponsor and has an ineligible spouse or ineligible parent(s) who is not the individual's sponsor, apply both sponsor-to-non-citizen income deeming as described in this rule and spouse-to-spouse or parent-to-child income deeming calculations as described in rule 5160:1-3-03.3 of the Administrative Code.
- (c) When a non-citizen is sponsored by an individual who is not a spouse or parent, follow the sponsor-to-non-citizen income deeming process as follows:
 - (i) Items described in 20 C.F.R. 416.1161 (as in effect October 1, 2024) are not considered countable income for the deeming process.
 - (ii) Total all countable earned and unearned income of the sponsor.
 - (iii) Deduct the appropriate allocation as follows from the total countable income for each sponsor, each sponsor's spouse, and each child of each sponsor.
 - (a) The allocation amount for each sponsor is the current SSI FBR for an individual.

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(b) The allocation amount for each sponsor's spouse and each child of each sponsor is one-half of the current SSI FBR for an individual.

(iv) The remaining amount of income is deemed to the sponsored non-citizen as unearned income.

(v) When there are multiple non-citizens who are sponsored by the same individual, the deemed amount is applied in full to each sponsored non-citizen.

(vi) Combine the sponsored non-citizen's unearned (including the deemed income) and earned income, applying all appropriate exclusions, such as the twenty dollar general income exclusion, listed in rule 5160:1-3-03.2 of the Administrative Code.

(vii) When the resulting countable income of the sponsored non-citizen is less than or equal to the current income standard for an individual for the specific non-MAGI category, the sponsored non-citizen is financially eligible for medical assistance.

(F) Deeming of resources.

(1) Resources will only be deemed from a sponsor when the non-citizen is seeking eligibility for a category of medical assistance where individuals are subject to a resource limit.

(2) When a non-citizen is sponsored by an ineligible spouse or ineligible parent(s), apply spouse-to-spouse or parent-to-child resource deeming calculations as described in rule 5160:1-3-05.20 of the Administrative Code.

(3) When a non-citizen has a sponsor and also has an ineligible spouse or ineligible parent(s) who is not the individual's sponsor, apply both sponsor-to-non-citizen resource deeming as described in this rule and spouse-to-spouse or parent-to-child resource deeming calculations as described in rule 5160:1-3-05.20 of the Administrative Code.

(4) When a non-citizen is sponsored by an individual who is not a spouse or parent, follow the sponsor-to-non-citizen resource deeming process as follows:

(a) Combine the resources of the sponsor (and sponsor's spouse, when applicable) and apply all appropriate exclusions described in rule 5160:1-3-05.14 of the Administrative Code.

(b) After the exclusions are applied, only the amount of the sponsor's countable resources that exceed the applicable resource limit are deemed to the non-citizen.

(i) When the sponsor does not live with a spouse, the resource limit is two thousand dollars.

(ii) When the sponsor lives with a spouse, the resource limit is three thousand dollars.

(iii) When the sponsor lives with a spouse and the spouse is also a sponsor of the non-citizen, the resource limit is four thousand dollars.

(c) A non-citizen is not eligible for non-MAGI medical assistance when his or her countable resources plus the value of the sponsor's resources deemed to the non-citizen exceed the resource limit for an individual described in rule 5160:1-3-05.1 of the Administrative Code.

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5160:1-3-03.3 Medicaid: deeming of income.

- (A) This rule describes the process for calculating the amount of income to deem from an ineligible spouse, or ineligible parent, ~~or sponsor~~ when determining eligibility for medical assistance for an eligible spouse, or eligible child, ~~or sponsored alien~~.
- (1) When an eligible spouse resides in the same household with his or her an ineligible spouse, or an eligible child under age eighteen resides in the same household with his or her an ineligible parent(s), a portion of the income and resources of such spouse or parent are included in determining the eligible spouse's or eligible child's financial eligibility for medical assistance for the aged, blind, or disabled. ~~For spouse-to-spouse deeming to apply, the eligible spouse must be eligible based on his or her own income.~~
- (2) For spouse-to-spouse deeming to apply, the eligible spouse must be eligible based on his or her own income.
- ~~(2) If a sponsored alien is sponsored by his or her ineligible spouse or ineligible parent(s), apply spouse-to-spouse or parent-to-child deeming calculations.~~
- ~~(3) If a sponsored alien has a sponsor and also has an ineligible spouse or ineligible parent(s) who is not his or her sponsor, apply both sponsor-to-alien and spouse-to-spouse (or parent-to-child) deeming calculations.~~
- (B) Definitions. For the purposes of this rule:
- (1) "Allocation," for the purpose of this rule, means an amount deducted from income subject to deeming, which is considered to be set aside for the support of ~~certain individuals other than the eligible~~ another individual.
- (2) "Child," for deeming purposes, means an individual under age eighteen who lives in a household with one or both parents and who is neither married nor the head of household. The deeming of parental income applies through the month in which the child ~~becomes~~ attains eighteen years ~~old~~ of age. An eligible or ineligible child's income ~~and/or resources are~~ is never deemed to parent(s) or sibling(s).
- (3) "Deemed income" means income attributed to another person whether or not the income is actually available to the person to whom it is deemed.
- (4) "Eligible child" means a child in the household who has applied for medical assistance for the blind or disabled, and who meets all the applicable non-financial eligibility criteria for medical assistance.
- (5) "Eligible parent" means a parent in the household who has applied for medical assistance for the aged, blind, or disabled, and who meets all the applicable non-financial eligibility criteria for medical assistance.
- (6) "Eligible spouse" means the member of the married couple who has applied for medical assistance for the aged, blind, or disabled, and who meets all the applicable non-financial eligibility criteria for medical assistance.
- (7) "Household" means the eligible spouse, the ineligible spouse, and any of the couple's children or the children of either member of the couple; or the eligible child, the eligible child's parent(s), and other children of the parent(s).

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- (a) A household does not exist ~~if~~when an individual or a group of individuals does not have a residence. In such a case, only the eligible individual's income is used to determine eligibility for medical assistance.
- (b) ~~If~~When a child is born in an institution (e.g., a hospital), the child is a member of the household at the time of birth unless the parents have completed the required paperwork to give the child up for adoption or the child has been placed in the temporary custody of a public children's services agency (PCSA) or private child placing agency (PCPA).
- (c) An eligible individual or an ineligible spouse or ineligible parent who is temporarily absent, as defined in rule 5160:1-1-01 of the Administrative Code, is still considered to be a member of the household for deeming purposes.
- (8) "Ineligible child" means a child in the household who has not applied for medical assistance for the blind or disabled.
- (9) "Ineligible parent" means an eligible child's parent who has not applied for medical assistance for the aged, blind, or disabled.
- (10) "Ineligible spouse" means ~~an eligible spouse's husband or wife~~the member of the married couple who has not applied for medical assistance for the aged, blind, or disabled.
- (11) "Parent" means a natural or adoptive father or mother living in the same household as the eligible child. The income of a ~~step-parent~~stepparent who lives with the eligible child is deemed to the child only when the natural or adoptive parent also lives in the household with the ~~step-parent~~stepparent and the eligible child. ~~If~~When the natural or adoptive parent divorces a ~~step-parent~~stepparent and the child is living with the ~~step-parent~~stepparent, the ~~step-parent~~stepparent is not considered a parent or spouse for deeming purposes.
- ~~(12) "Sponsor" means an individual who signs an affidavit of support agreeing to support an alien as a condition of the alien's admission for permanent residence in the U.S. A sponsored alien may have more than one sponsor. For deeming purposes, a sponsor does not include an organization such as the congregation of a church or a service club, or an employer who only guarantees employment for an alien upon entry but does not sign an affidavit of support.~~
- ~~(13) "Sponsored alien," for purposes of this rule, means an individual lawfully admitted for permanent residence in the U.S. who is supported by a sponsor(s). Such an individual has applied for medical assistance for the aged, blind, or disabled, and meets all the applicable non-financial eligibility criteria for medical assistance.~~
- ~~(14)~~(12) "Spouse" means a person who is legally married to another under Ohio law.
- (C) In accordance with 20 C.F.R. 416.1161 (as in effect ~~on October 1, 2018~~October 1, 2024), when determining the income of an ineligible spouse, an ineligible parent, ~~or sponsor of an alien,~~ or of an ineligible child in the household, the following items shall not be considered income:
- (1) Income excluded by federal laws other than the Social Security Act as described in ~~paragraph (D)(1) of~~

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rule 5160:1-3-03.2 of the Administrative Code;

- (2) Items not considered income as described in ~~paragraph (E) of~~ rule 5160:1-3-03.1 of the Administrative Code;
- (3) Any public income-maintenance (PIM) payments, as defined in 20 C.F.R. 416.1142(a) (as in effect ~~on October 1, 2018~~October 1, 2024), received by the ineligible spouse, ineligible parent(s), or ineligible child in the household, and any income which was counted or excluded in ~~figuring~~calculating the amount of that payment;
- (4) Any of the income of the ineligible spouse or ineligible parent that is used to determine the amount of a PIM payment to someone else;
- (5) Any portion of a grant, scholarship, fellowship, or gift used or set aside to pay tuition, fees, or other necessary educational expenses;
- (6) Money received for providing foster care to an ineligible child;
- (7) The value of supplemental nutrition assistance program (SNAP), formerly known as food stamps or food assistance, and the value of foods donated by the United States department of agriculture commodity supplemental food program;
- (8) Food raised and consumed by members of the household;
- (9) Tax refunds on income, real property, or food purchased by the family;
- (10) Income used to fulfill an approved plan to achieve self-support (PASS), as defined in 20 C.F.R. 416.1181 (as in effect ~~on October 1, 2018~~October 1, 2024);
- (11) The amount of court-ordered child support payments paid by a household member for a child outside the home;
- (12) The value of in-kind support and maintenance;
- (13) Alaska longevity bonus payments made to an individual who is a resident of Alaska and who, prior to October 1, 1985, met the twenty-five-year residency requirement for receipt of such payments in effect prior to January 1, 1983, and was eligible for supplemental security income (SSI);
- (14) Disaster assistance as described in 20 C.F.R. 416.1150 and 416.1151 (as in effect ~~on October 1, 2018~~October 1, 2024);
- (15) Income received infrequently or irregularly, as defined in 20 C.F.R. 416.1112(c)(2) and 416.1124(c)(6) (as in effect ~~on October 1, 2018~~October 1, 2024);
- (16) Blind work expenses, as defined in rule 5160:1-3-03.2 of the Administrative Code, of the ineligible spouse or parent;
- (17) Income of the ineligible spouse or ineligible parent which was paid under a federal, state, or local government program to provide the eligible individual with chore, attendant, or homemaker services;

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- (18) Certain support and maintenance assistance as described in 20 C.F.R. 416.1157(c) (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024);
- (19) Housing assistance in accordance with 20 C.F.R 416.1124(c)(14) (as in effect October 1, 2024);
- ~~(19)~~ (20) The value of a commercial transportation ticket as described in 20 C.F.R. 416.1124(c)(16) (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024); however, ~~if~~ when such a ticket is converted to cash, the cash is income in the month the ineligible spouse or ineligible parent receives the cash;
- ~~(20)~~ (21) Refunds of federal income taxes and advances made by an employer relating to an earned income tax credit, as described in 20 C.F.R. 416.1112(c) (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024);
- ~~(21)~~ (22) Payments from a fund established by a state to aid victims of crime, as described in 20 C.F.R. 416.1124(c)(17) (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024);
- (23) Relocation assistance in accordance with 20 C.F.R 416.1124(c)(18) (as in effect October 1, 2024);
- ~~(22)~~ (24) Combat pay received from one of the uniformed services pursuant to 37 U.S.C. 310 (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024);
- ~~(23)~~ (25) Impairment-related work expenses, as described in 20 C.F.R. 404.1576 (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024), incurred and paid by an ineligible spouse or ineligible parent, ~~if~~ when the ineligible spouse or ineligible parent receives disability benefits under title II of the ~~act~~ Social Security Act;
- ~~(24)~~ (26) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which are left to accumulate and become part of separate burial funds, and interest accrued on and left to accumulate as part of the value of agreements representing the purchase of excluded burial spaces, as described in 20 C.F.R. 416.1124(c)(9) and (15) (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024);
- ~~(25)~~ (27) Interest and dividend income from a countable resource or from a resource excluded under a federal statute other than section 1613(a) of the Social Security Act, in accordance with 20 C.F.R. 416.1124(c)(22) (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024);
- ~~(26)~~ (28) Earned income of a student as described in 20 C.F.R. 416.1112(c)(3) (as in effect ~~on~~ ~~October 1, 2018~~ October 1, 2024); and
- ~~(27)~~ (29) Any additional increment in pay, other than any increase in basic pay, received while serving as a member of the uniformed services ~~if~~ when:
- (a) The ineligible spouse or ineligible parent received the pay as a result of deployment to or service in a combat zone; and
 - (b) The ineligible spouse or ineligible parent was not receiving additional pay immediately prior to deployment to or service in a combat zone.

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- (D) ~~If~~When the eligible spouse or eligible parent(s) is/are receiving Ohio works first (OWF) or SSI payments, then the payments themselves and any of the OWF- or SSI-eligible individual's own income that was used to compute eligibility for such payments are not considered available for deeming.
- (E) When an eligible spouse is living in the same household with an ineligible spouse who has income, perform the following steps to calculate the amount of income to deem to the eligible spouse in accordance with 20 C.F.R. 416.1163 (as in effect October 1, 2024):
- (1) Determine the ineligible spouse's income, applying any appropriate exclusions listed in paragraph (C) of this rule~~;~~.
 - (2) Deduct the appropriate allocation for each ineligible child in the household:
 - (a) There is no allocation for an ineligible child receiving PIM payments as described in paragraph (C)(3) of this rule.
 - (b) The allocation amount is the current SSI federal benefit rate (FBR), as published annually in the Federal Register, for a couple minus the current SSI FBR for an individual.
 - (c) The allocation for each ineligible child in the household is reduced by the amount of that ineligible child's income, minus any appropriate exclusions listed in paragraph (C) of this rule.
 - (d) The ineligible child allocation(s) must first be taken from the ineligible spouse's unearned income; any remaining allocation amount will be subtracted from the ineligible spouse's earned income.
 - (3) ~~If~~When the ineligible spouse's remaining income after subtracting the ineligible child allocation(s) is less than or equal to the current SSI FBR for a couple minus the current SSI FBR for an individual:
 - (a) Do not deem any income to the eligible spouse.
 - (b) Combine the eligible spouse's unearned and earned income, applying the appropriate exclusions listed in rule 5160:1-3-03.2 of the Administrative Code.
 - (c) ~~If~~When the eligible spouse's countable income is less than or equal to the current income standard for an individual, the eligible spouse is financially eligible for medical assistance.
 - (4) ~~If~~When the ineligible spouse's remaining income after subtracting the ineligible child allocation(s) is greater than the current SSI FBR for a couple minus the current SSI FBR for an individual, treat the spouses as if they were an eligible couple:
 - (a) Combine both the ineligible spouse's post-allocation unearned and earned income and the eligible spouse's unearned and earned income, applying any appropriate exclusions listed in rule 5160:1-3-03.2 of the Administrative Code~~;~~.
 - (b) Subtract the twenty-dollar general exclusion from the couple's combined unearned income; ~~if~~when there is less than twenty dollars of unearned income, subtract the remainder of the exclusion from the couple's combined earned income~~;~~.

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- (c) Subtract sixty-five dollars from the couple's combined earned income, then subtract one-half of the remaining earned income.
 - (d) **If/When** the couple's countable income is less than or equal to the current income standard for a couple, the eligible spouse is financially eligible for medical assistance.
- (F) When an eligible child(ren) reside(s) with an ineligible parent(s), perform the following steps to calculate the amount of income to deem to the eligible child(ren):
- (1) Determine the income of each ineligible parent, applying any appropriate exclusions listed in paragraph (C) of this rule;.
 - (2) Deduct the appropriate allocation for each ineligible child in the household:
 - (a) There is no allocation for an ineligible child receiving PIM payments as described in paragraph (C)(3) of this rule.
 - (b) The allocation amount is the current SSI federal benefit rate (FBR), as published annually in the Federal Register, for a couple minus the current SSI FBR for an individual.
 - (c) The allocation for each ineligible child in the household is reduced by the amount of that ineligible child's income, minus any appropriate exclusions listed in paragraph (C) of this rule.
 - (d) The ineligible child allocation(s) must first be taken from the ineligible parent(s) combined unearned income; any remaining allocation amount will be subtracted from the ineligible parent(s)'s combined earned income.
 - (3) Subtract the twenty-dollar general exclusion from the combined unearned income of the ineligible parent(s); **if/when** there is less than twenty dollars of unearned income, subtract the remainder of the exclusion from the combined earned income of the ineligible parent(s);.
 - (4) Subtract sixty-five dollars from the combined earned income of the ineligible parent(s), then subtract one-half of the remaining earned income;.
 - (5) Combine the ~~ineligible parent(s)~~' remaining earned and unearned income; **of the ineligible parent(s)**.
 - (6) Subtract the appropriate parental living allowance for each ineligible parent;.
 - (a) There is no parental living allowance deducted for an ineligible parent who receives PIM payments as described in paragraph (C)(3) of this rule.
 - (b) **If/When** one ineligible parent resides in the household with the child(ren), subtract the current SSI FBR for an individual.
 - (c) **If/When** two ineligible parents (or one ineligible parent and ~~an~~**one** ineligible ~~step-parent~~**stepparent**) reside in the household with the child(ren), subtract the current SSI FBR for a couple.
 - (d) **If/When** both ineligible natural or adoptive parents and ~~an~~**one** ineligible ~~step-parent~~**stepparent** reside in the household with the child(ren), subtract both the current SSI FBR for a couple and the current SSI

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FBR for an individual.

- (7) Divide the remaining income by the number of eligible children in the household, and the resulting amount (rounded to the second decimal place) is deemed to each eligible child.
 - (8) Any income deemed to an eligible child from an ineligible parent is added to the eligible child's own unearned income.
 - (9) Combine the eligible child's unearned and earned income, applying any appropriate exclusions listed in rule 5160:1-3-03.2 of the Administrative Code.
 - (10) ~~If~~ When the eligible child's resulting countable income is less than or equal to the current income standard for an individual, the eligible child is financially eligible for medical assistance.
- (G) When a household is comprised of an ineligible spouse, an eligible spouse, and one or more eligible children, the ineligible spouse's income is deemed first to the eligible spouse and the remainder deemed to the eligible child(ren).
- (1) Determine the income of the ineligible spouse, applying any appropriate exclusions listed in paragraph (C) of this rule~~;~~.
 - (2) Deduct the appropriate allocation for each ineligible child in the household, as described in paragraph (E)(2) of this rule.
 - (3) ~~If~~ When the ineligible spouse's remaining income after subtracting the ineligible child allocation(s) is less than or equal to the current SSI FBR for a couple minus the current SSI FBR for an individual:
 - (a) Do not deem any income to the eligible spouse or eligible child(ren); and
 - (b) Compare the eligible spouse's and each eligible child(ren)'s own countable income, applying any appropriate exclusions listed in rule 5160:1-3-03.2 of the Administrative Code, to the current income standard for an individual.
 - (c) ~~If~~ When the eligible spouse's ~~and/or~~ and each eligible child(ren)'s own income is less than or equal to the current income standard for an individual, the eligible spouse ~~and/or~~ and each eligible child(ren) is financially eligible for medical assistance.
 - (4) ~~If~~ When the ineligible spouse's remaining income after subtracting the ineligible child allocation(s) is greater than the current SSI FBR for a couple minus the current SSI FBR for an individual:
 - (a) Combine both the ineligible spouse's post-allocation unearned and earned income and the eligible spouse's unearned and earned income, applying any appropriate exclusions listed in rule 5160:1-3-03.2 of the Administrative Code~~;~~.
 - (b) Subtract the twenty-dollar general exclusion from the couple's combined unearned income; ~~if~~ when there is less than twenty dollars of unearned income, then subtract the remainder of the exclusion from the couple's combined earned income~~;~~.
 - (c) Subtract sixty-five dollars from the couple's combined earned income, then subtract one-half of the

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remaining earned income.

- (d) ~~If~~ When the couple's countable income is less than or equal to the current income standard for a couple, the eligible spouse is financially eligible for medical assistance and no income is deemed to the eligible child(ren).
- (e) ~~If~~ When the couple's countable income is greater than the current income standard for a couple, the eligible spouse is not financially eligible for medical assistance.
- (f) The amount of the couple's income in excess of the need standard for a couple is divided by the number of eligible children in the household and the resulting amount (rounded to the second decimal place) is deemed to each eligible child.

- (5) Any income deemed to an eligible child under paragraph (G)(4)(f) of this rule is added to the eligible child's own unearned income.
- (6) Combine each eligible child's unearned and earned income, applying any appropriate exclusions listed in rule 5160:1-3-03.2 of the Administrative Code.
- (7) ~~If~~ When each eligible child's resulting countable income is less than or equal to the current income standard for an individual, the eligible child is financially eligible for medical assistance.

~~(H) Sponsor to alien deeming shall apply regardless of whether the sponsor and the sponsored alien live in the same household or whether the sponsor actually provides the sponsored alien any support.~~

- ~~(1) Determine the income of the sponsor and the sponsor's spouse (if applicable), applying unearned income excluded by federal laws other than the Social Security Act, in accordance with 20 C.F.R. 416 Subpart K appendix (as in effect on October 1, 2018), unless otherwise noted;~~
- ~~(2) Deduct the appropriate allocation for each sponsor, each sponsor's spouse, and child of each sponsor.~~
 - ~~(a) The allocation amount for each sponsor is the current SSI FBR for an individual.~~
 - ~~(b) The allocation amount for each sponsor's spouse and child of each sponsor is one-half of the current SSI FBR for an individual.~~
- ~~(3) The remaining amount is deemed to the sponsored alien as unearned income.~~
- ~~(4) If there are multiple sponsored aliens who are sponsored by the same sponsor, the deemed amount is applied in full to each sponsored alien.~~
- ~~(5) Combine the sponsored alien's unearned and earned income, applying any appropriate exclusions listed in rule 5160:1-3-03.2 of the Administrative Code.~~
- ~~(6) If the sponsored alien's resulting countable income is less than or equal to the current income standard for an individual, the sponsored alien is financially eligible for medical assistance.~~

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5160:1-3-05.20 Medicaid: deeming of resources.

- (A) This rule describes the deeming of resources from an ineligible spouse to an eligible spouse or from ineligible parent(s) to an eligible child who are living in the same household when determining eligibility for medical assistance.
- (B) Definitions. For the purposes of this rule:
- (1) "Child," for deeming purposes, means an individual under age eighteen who lives in the household with one or both parents and is neither married nor the head of household. The deeming of parental resources applies through the month in which the eligible child ~~becomes~~ attains eighteen years ~~old~~ of age. An eligible or ineligible child's resources are never deemed to parent(s) or sibling(s).
 - (2) "Deemed resources" means resources attributed to another person whether or not the resource is actually available to the person to whom they are deemed.
 - (3) "Eligible child" means a child in the household who has applied for medical assistance for the blind or disabled, and who meets all the applicable non-financial and income eligibility criteria for medical assistance.
 - (4) "Eligible spouse" means the member of a married couple who has applied for medical assistance for the aged, blind, or disabled, and who meets all the applicable non-financial and income eligibility criteria for medical assistance.
 - (5) "Household" means the eligible spouse, ineligible spouse, and any of the couple's children or the children of either member of the couple; or the eligible child, and the eligible child's parent(s), and other children of the parent(s).
 - (a) A household does not exist ~~if~~ when an individual or a group of individuals does not have a residence. In such a case, only the eligible individual's resources are used to determine eligibility for medical assistance.
 - (b) ~~If~~ When a child is born in an institution (e.g., hospital), the child is a member of the household at the time of birth unless the parents have completed the required paperwork to surrender the child for adoption or the child has been placed in the temporary custody of a public children's services agency (PCSA) or private child placing agency (PCPA).
 - (c) An eligible individual or an ineligible spouse or ineligible parent who is temporarily absent, as defined in rule 5160:1-1-01 of the Administrative Code, is still considered to be a member of the household for deeming purposes.
 - (6) "Ineligible child" means a child in the household who has not applied for medical assistance for the blind or disabled.
 - (7) "Ineligible parent" means an eligible child's parent who has not applied for medical assistance for the aged, blind, or disabled.
 - (8) "Ineligible spouse" means ~~an eligible spouse's husband or wife~~ the member of the married couple who has

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not applied for medical assistance for the aged, blind, or disabled.

(9) "Parent" means a natural or adoptive father or mother living in the same household as the eligible child. The resources of a ~~step-parent~~stepparent who lives with the eligible child are deemed to the eligible child only when the natural or adoptive parent also lives in the household with the ~~step-parent~~stepparent and eligible child. ~~If~~ When the natural or adoptive parent divorces a ~~step-parent~~stepparent and the eligible child is living with the ~~step-parent~~stepparent, the ~~step-parent~~stepparent is not considered a parent for deeming purposes.

~~(10) "Sponsor" means an individual who signs an affidavit of support agreeing to support a non-citizen as a condition of the non-citizen's admission for permanent residence in the U.S. A sponsored non-citizen may have more than one sponsor. For deeming purposes, a sponsor does not include an organization such as the congregation of a church or a service club, or an employer that only guarantees employment for a non-citizen upon entry but does not sign an affidavit of support.~~

~~(11) "Sponsored non-citizen", for the purpose of this rule, means an individual lawfully admitted for permanent residence in the U.S. who is supported by a sponsor(s). Such an individual has applied for medical assistance for the aged, blind, or disabled, and meets all the applicable non-financial eligibility criteria for medical assistance.~~

~~(12)~~(10) "Spouse" means a person who is legally married to another under Ohio law.

(C) ~~If~~ When deeming resources from an ineligible spouse to an eligible spouse, only the resources of those two individuals are considered. ~~If~~ When deeming resources from a ~~ineligible~~ineligible parent(s) to an eligible child, only the resources of the parent(s) are considered.

(D) Retirement funds, described in rule 5160:1-3-03.10 of the Administrative Code, owned by an ~~ineligible~~ineligible spouse, parent(s), or sponsor are excluded from resources for deeming purposes.

(E) Spouse to spouse deeming.

(1) When an eligible spouse and ~~his or her~~an ineligible spouse live together, all resources are combined and the couple is permitted resources in the amount described in rule 5160:1-3-05.1 of the Administrative Code in addition to what is excluded as described in rule 5160:1-3-05.14 of the Administrative Code.

(2) The couple's resource ~~limitation~~limit is not affected by whether the spouse of the eligible individual is eligible or ineligible for medical assistance.

(3) ~~If~~ When the couple's countable resources are less than or equal to the resource limit for a couple described in rule 5160:1-3-05.1 of the Administrative Code, the eligible spouse is resource eligible for medical assistance.

(4) When spouses are no longer living together, each person is considered as an individual living alone beginning the month after separation. The individual resource limit, as described in rule 5160:1-3-05.1 of the Administrative Code, is then applicable.

(a) For the month of separation, the spouses are treated as an eligible couple or as an eligible spouse and ineligible spouse living together in the same household with a resource limit for a couple described

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in rule 5160:1-3-05.1 of the Administrative Code.

(b) In the month after the month of separation, resources are computed separately because each person is considered to be an individual without a spouse.

(F) Parent to child deeming.

(1) The resource limit for a child is described in rule 5160:1-3-05.1 of the Administrative Code in addition to what is excluded as described in rule 5160:1-3-05.14 of the Administrative Code.

(2) The resources of an eligible child consist of ~~whatever resources the eligible child has in~~ his or her own right resources plus ~~whatever the~~ resources that are deemed to the eligible child from ~~his or her~~the child's parent(s).

(3) ~~If~~ When determining the amount of resources to be deemed to an eligible child, the resources of the eligible child and of the ineligible parent(s) are computed separately and both the eligible child and the parent(s) are each allowed all of the resource exclusions they would normally be eligible for in their own right. Only one home and one automobile are excluded.

(a) After the exclusions are applied, only the countable resources over the resource limit of the parent(s) living in the household are deemed to the eligible child when there is only one eligible child.

(i) ~~If~~ When there is one parent in the household the parental resource limit is two thousand dollars.

(ii) ~~If~~ When both parents are in the household the parental resource limit is three thousand dollars.

(iii) ~~If~~ When both natural or adoptive parents and a ~~step-parent~~stepparent are in the household the parental resource limit is two thousand dollars for one natural or adoptive parent plus three thousand dollars for the other natural or adoptive parent with the ~~step-parent~~stepparent.

(b) When there is more than one eligible child, the resources available for deeming are shared equally among the eligible ~~child(ren)~~children.

(c) None of the parents' resources are deemed to any ineligible children.

(4) An eligible child is not eligible for medical assistance ~~if his or her~~when the child's own countable resources plus the value of the parent(s)'s resources deemed to the eligible child exceed the resource limit for a child described in rule 5160:1-3-05.1 of the Administrative Code.

~~(G) Sponsor to non-citizen deeming.~~

~~(1) Sponsor to non-citizen deeming is to apply:~~

~~(a) Regardless of whether the sponsor and the sponsored non-citizen live in the same household or whether the sponsor actually provides the sponsored non-citizen any support; and~~

~~(b) For a period of three years following a sponsored non-citizen's lawful admission to the U.S. as a permanent resident or the sponsored non-citizen's status is adjusted to permanent resident.~~

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- ~~(2) If a sponsored non-citizen is sponsored by his or her ineligible spouse or ineligible parent(s), apply spouse to spouse and parent to child deeming calculations.~~
- ~~(3) If a sponsored non-citizen has a sponsor and also has an ineligible spouse or ineligible parent(s) who is not his or her sponsor, apply both sponsor to non-citizen and spouse to spouse or parent to child deeming calculations.~~
- ~~(4) In determining the amount of resources to be deemed to a sponsored non-citizen, combine the resources of the sponsor (and sponsor's spouse, if applicable) and apply any appropriate exclusions described in rule 5160:1-3-05.14 of the Administrative Code.
 - ~~(a) After the exclusions are applied, only the countable resources over the resource limit of the sponsor are deemed to the sponsored non-citizen.
 - ~~(i) If the sponsor does not live with a spouse, the resource limit is two thousand dollars.~~
 - ~~(ii) If the sponsor lives with a spouse and the spouse is not the non-citizen's sponsor, the resource limit is three thousand dollars.~~
 - ~~(iii) If the sponsor lives with a spouse and the spouse is also a sponsor of the non-citizen, the resource limit is four thousand dollars.~~~~
 - ~~(b) A sponsored non-citizen is not eligible for medical assistance if his or her countable resources plus the value of the sponsor's resources deemed to the sponsored non-citizen exceed the resource limit for an individual described in rule 5160:1-3-05.1 of the Administrative Code.~~~~