

9050.0700 INCOME.

Subpart 1. **Evaluation of income.** The facility financial staff shall evaluate only income received by or on behalf of an applicant or resident when determining the maintenance charge payable by or on behalf of an applicant or resident. All payments, unless specifically excluded in subpart 3, must be counted as income. All income must be counted in the calendar month received, except for lump sum retroactive benefit payments calculated according to part 9050.0550, subpart 4. Income becomes property if retained after the month in which it is received, unless this part specifically states otherwise.

Subp. 2. **Availability of income.** Income must be attributed to the person who earns it or to the beneficiary of the income according to items A and B.

A. Funds distributed from a trust, whether from the principal holding or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to or on behalf of an applicant or resident. Trusts are presumed legally available unless an applicant or resident can document by court order that the trust is not legally available. Trusts established other than by will by the person or the person's spouse under which the person may be the beneficiary of all or part of the payments from the trust and the distribution of the payments are determined by one or more trustees who may exercise discretion about the distribution to the person must be considered an available resource. This item applies regardless of whether the trust is irrevocable or is established for purposes other than to enable a person to qualify for admission to a facility operated by the commissioner of veterans affairs or whether the discretion of the trustees is exercised. A trust fund established by the applicant or resident on behalf of another person within 12 months before admission or during the resident's stay in a facility operated by the commissioner of veterans affairs must be considered transferred property under part 9050.0650.

B. Income from jointly owned property must be divided equally among the property owners unless the terms of ownership provide for a different distribution of equity.

Subp. 3. **Excluded income.** The facility financial staff shall exclude the following from calculation of the applicant's or resident's gross income:

A. earnings derived from participation in a work therapy program while the person is a participant in the program; and

B. 50 percent of income received by or paid to an applicant or resident and spouse, jointly.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; L 2008 c 297 art 2 s 29*

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