

801—10.19 (35D) Income. This rule describes the treatment of income, as defined at rule 801—10.1(35D), in the computation of member support as described at rule 801—10.14(35D).

10.19(1) For members living on Title XIX certified units who are eligible for Title XIX medical assistance, rule 441—75.5(249A) shall apply. For those members participating in the Title XIX medical assistance program, the difference between the \$140 personal needs allowance and the Title XIX personal needs allowance shall be returned to the member out of individual member participation.

10.19(2) For members living on units which are not Title XIX certified and members living on Title XIX certified units who are not eligible for Title XIX, the following shall apply:

- a.* The following types of income are exempt in the computation of member support:
- (1) The earned income of the spouse or dependents.
 - (2) Unearned income restricted to the needs of the spouse or dependents (Social Security, DVA, etc.).
 - (3) Any other income that can be specifically identified as accruing to the spouse or dependents.
 - (4) Nonrecurring gifts, contributions or winnings, not to exceed \$60 in a calendar quarter.
 - (5) Interest income of less than \$20 per month from any one source.
 - (6) State bonus for military services.
 - (7) Any earnings received by a member for that member's participation in money-raising activities administered by veterans organizations or auxiliaries.
 - (8) Any money received by a member from the sale of items resulting from a therapeutic activity.
 - (9) The first \$150 received by a member in a month for participation in the incentive therapy or other programs as described at rule 801—10.30(35D), for members in the domiciliary level of care. For members in the nursing level of care, the first \$75 shall be exempted.
 - (10) Personal loans.
 - (11) In-kind contributions to the member.
 - (12) Title XIX payments.
 - (13) Yearly DVA compensation clothing allowance for those who qualify.
 - (14) Other income as specifically exempted by statute.
 - (15) Any income similar in its origin to the assets excluded in subparagraphs 10.16(2) "a"(6) and (7).
 - (16) Income from participating as outlined in the community reentry program (IVH policy #174) or the IVH discharge planning policy (IVH policy #265).

b. Personal needs allowance. All members shall have an amount exempted from their monthly income intended to cover the purchase of clothing and incidentals.

- (1) All income up to the first \$140 shall be kept as a personal needs allowance.
- (2) The personal needs allowance shall be subtracted from the member's income prior to determination of moneys to which the spouse may be entitled.

c. Any type of income not specifically exempted shall be considered for the payment of member support as provided in rule 801—10.14(35D).

d. Determining income from property.

(1) Nontrust property. Where there is nontrust property, income paid in the name of one person shall be available only to that person unless the document providing income specifies differently. If payment of income is in the name of two persons, one-half is attributed to each. If payment is in the name of several persons, the income shall be considered in proportion to their ownership interest. If the member or spouse can establish different ownership by a preponderance of evidence, the income shall be divided in proportion to the ownership.

(2) Trust property. Where there is trust property, the payment of income shall be considered available as provided in the trust. In the absence of specific provisions in the trust, the income shall be considered as stated above for nontrust property.

e. The amount of income to consider in the computation of member support shall be as follows:

(1) Regular monthly pensions and entitlements. The amount of income to be considered is the amount of the monthly entitlement or pension received.

(2) Investments or nonrecurring lump-sum payments. Net unearned income from investments or nonrecurring lump-sum payments shall be determined by deducting income-producing costs from the gross unearned income. Income-producing costs include, but are not limited to, brokerage fees, property manager's salary, maintenance costs and attorney fees.

(3) Property sold on contract. The amount of income to consider shall be the amount received minus any payments for mortgage, taxes, insurance or assessments still owed on the property.

(4) Earned income from a rental, sole or partnership enterprise. The amount of income to consider shall be the net profit figure as determined for the Internal Revenue Service on the member's income tax return.

EXCEPTION: The deductions of the previous year's state and federal taxes and depreciation on the income tax return are not allowable deductions for the purpose of the computation of member support. If a tax return is not available, the member or legal representative shall provide all information and verification needed in order to correctly compute member support.

(5) Partnership income. The member's share of the net profit shall be determined in the same manner as the partnership percentage as determined for Internal Revenue Service's purposes.

10.19(3) Member income diversion to dependent spouse not living at IVH. A portion of the member's income shall be diverted to the spouse according to the following:

a. Spouse living in the community. One-half the income in exclusion of an amount equal to aid and attendance and after reduction of personal needs allowance.

b. Spouse in another nursing home not on Title XIX. The same amount as a spouse living in the community in accordance with paragraph 10.19(3) "a."

c. Spouse in nursing home on Title XIX. Member shall be treated as single. If member is in receipt of DVA pension, the amount of income provided Title XIX spouse would be the DVA pension dependency amount.

d. Spouses living in a residential care facility. Spouses shall be treated under the same rules as a spouse living in the community in accordance with paragraph 10.19(3) "a."

e. All current court order proceedings and guardian/conservatorship appointments regarding financial obligations, except child support or alimony, shall be honored.

10.19(4) Income disbursements.

a. All monthly diversions to spouse or valid court orders shall be mailed as designated or on a monthly basis.

b. All checks shall be mailed no later than the eighth day of any given month to proper recipient or, at IVH's option, five business days after the member's last income deposit for that month.

c. Monthly income disbursements to a community spouse may be delayed or canceled if there is an overdue amount owed for support payments.