

## January – March 2021 Summary of Changes

<b>Chapter</b>	<b>Passage</b>	<b>Summary</b>
<b>1410</b>	1410.2700	Replaced offence with offense
<b>1630</b>	1640.0576.08 1640.0576.09	Include individuals under 65 years of age Include individuals under 65 years of age and update ACS Recovery Services contact numbers
<b>2600</b>	2630.0108 2640.0119.01	Updated the income tax deduction line on IRS form 2040 Removed: A community spouse who refuses to make his assets available to his institutionalized spouse is not entitled to a community spouse income allowance (refer to Chapter 1600).

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Technical changes and changes in non-substantive information may be excluded from this summary.

# Listing of Amended Passages

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## **1410.2700 DISQUALIFICATION FOR CERTAIN CONVICTED FELONS (FS)**

An individual is disqualified for food stamps if:

(1) the individual is convicted as an adult, which resulted in a federal or state felony, for one of the following crimes:

- a. aggravated sexual abuse,
- b. murder,
- c. sexual exploitation and other related abuse of children,
- d. offense involving sexual assault, or
- e. ~~offense~~ offense under state law similar to one of the above.

(2) the individual is not in compliance with the terms of their sentence, probation, or parole; and

(3) the individual committed either of the crimes listed above, after February 7, 2014.

The individual's statement is sufficient, unless questionable. If the individual's statement is questionable and compliance cannot be verified by the eligibility worker, the eligibility specialist must pend the household for proof of compliance. An example of compliance includes confirmation from the Department of Correction's Probation Office that the individual has successfully completed or is satisfactorily serving the probation or parole sentence term.

## **1640.0576.08 Exceptions for Trusts Set Up 10/1/93 or Later (MSSI, SFP)**

The policies listed above in passage 1640.0576.07 do not apply to the following trusts:

1. Trusts established by a will (see passage 1640.0576.03).
2. Trusts for the disabled under age 65.
3. Pooled trusts for the disabled [under age 65](#).
4. Qualified income trusts (see passage 1840.0110).

All special trusts must be forwarded to the Region or Circuit Program Office for review and Circuit Legal Counsel's written approval before the case can be approved, per guidelines in the Appendix-A-22.4, A-22.5 and A-22.6.

The following special trusts may be created on or after October 1, 1993, for disabled individuals if the trust meets the specific criteria indicated below:

**Trusts for the disabled under 65:** A trust containing the assets of a disabled individual under age 65, if:

1. it was established on or after 10/01/93; and
2. it was established for the benefit of the individual by, a parent, grandparent, the disabled individual himself, legal guardian or a court order; and
3. the trust stipulates the state will receive the balance in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual.

**Pooled trusts for the disabled:** A trust containing the assets of an individual who is disabled, if:

1. it was established on or after 10/01/93;
2. the trust is established and managed by a nonprofit association;
3. a separate account is maintained for the beneficiary of the trust but, for purposes of investment and management, the trust pools the accounts;

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New language in passages appear [blue](#) in color and ~~strikethrough~~ is used for deleted language.

The Introduction and Appendices are excluded.

## Listing of Amended Passages

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4. the trust is established solely for the disabled individual by a parent, grandparent, legal guardian, court or the individual himself; and
5. to the extent that amounts remaining in the trust upon the individual's death are not retained by the trust, the trust pays to the state an amount equal to the total amount of medical assistance paid on behalf of the individual.

Both of the above special trusts can only be set up to benefit individuals who meet SSI disability criteria. Trusts for the disabled under 65 can be established only for individuals who are under 65. Pooled trusts for the disabled can be established for individuals of any age.

Disability must be determined for both of the above special trusts via regular policy; that is, the person must receive Social Security disability or SSI benefits or the Department must make an independent determination to show that the individual meets the disability requirement.

### **1640.0576.09 Treatment of Qualified Disabled Trusts (MSSI, SFP)**

After the trust is approved by the Circuit Legal Counsel as meeting the criteria of a qualified trust for the disabled under age 65 or a pooled trust for [individuals under age 65](#), apply the following policies to determine the individual's eligibility for Medicaid benefits:

1. Do not consider the corpus of the exempt trust as an asset to the individual beginning with the month the assets are placed into an executed qualified disabled trust or pooled trust;
2. Do not consider the funding of a qualified disabled or pooled trust as a transfer of assets or income subject to imposition of a penalty period, provided the trust purchases items and services at fair market value for the sole benefit of the disabled individual (refer to 1640.0609.06);
3. Do not count any income deposited into the trust as income to the individual when determining the individual's eligibility;
4. Do not consider disbursements from the trust to third parties as income to the individual;
5. Do not consider any income earned by the trust which remains in the trust as income to the individual;
6. Count any payments made directly to the individual as income to the individual;
7. Count all income placed into the trust (along with countable income outside the trust) when computing patient responsibility. Standard spousal impoverishment policies apply.

If income is deposited into the trust, the trustee must provide quarterly statements identifying the deposits (and disbursements) made to the trust for each month.

Any funds paid directly to the individual from the trust must be counted as income to the individual. Disbursements not paid to the individual are not counted as income to the individual.

Fax or send a copy of the approved qualified disabled or pooled trust to:

ACS Recovery Services  
Post Office Box 12188  
Tallahassee, Florida 32317-2188  
Fax: ~~(866) 443-5559~~ [\(844\) 845-8352](#)

When you receive inquiries regarding the settlement of remaining funds in the trust after a recipient's death, tell them to make checks payable to Agency for Health Care Administration and send to the above address. Also advise them to clearly identify the individual by including a note with the individual's full name and social security number or Medicaid number. If there are further questions, refer callers to ACS Recovery Services (~~866~~[877](#)) 357-3268.

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### **2630.0108 Budget Computation (MFAM)**

Financial eligibility for Family-Related Medicaid is determined using the household's Modified Adjusted Gross income (MAGI). The MAGI is the household's adjusted gross income as calculated by the Internal Revenue Service plus any foreign earned income and interest income exempt from tax.

In computing the assistance group's eligibility, the general formula is:

**Step 1** - (Gross Unearned + Gross Earned) = (Total Gross Income).

**Step 2** - Deduct any allowable income tax deductions ([Schedule 1 \(form 1040\) line 22](#)~~lines 23-35 from 1040~~). Deduct any allowable deductions for financial aid or self-employment to obtain the Modified Adjusted Gross Income.

**Step 3** - Deduct the appropriate standard disregard. This will give the countable net income.

**Step 4** - Compare the total countable net income to the coverage group's income standard.

If less than or equal to the income standard\* for the program category, **STOP**, the individual is eligible. If greater than the income standard for the program category, continue to **Step 5**.

**Step 5** - Apply a MAGI deduction (5% of the FPL based on SFU size).

If the 5% disregard would make the individual eligible, include the disregard. Otherwise the individual is ineligible for Medicaid.

Individuals determined ineligible for Medicaid will be enrolled in Medically Needy and referred, as appropriate, to Florida KidCare and/or the Federally Facilitated Marketplace (FFM).

\*Note: Children aged 6-18 do not receive the standard disregard. They do receive the 5% MAGI disregard, if it's needed to determine the assistance group eligible.

### **2640.0119.01 Community Spouse Income Allowance (MSSI)**

The following policy applies to the ICP, Institutionalized MEDS, Institutionalized Hospice, SMMC LTC, or PACE Programs. When an institutionalized individual has a community spouse whose gross income is less than the state's minimum monthly maintenance needs allowance (MMMNA) plus the CS excess shelter expense costs, a portion of the individual's income may be allocated to meet the needs of his community spouse.

~~A community spouse who refuses to make his assets available to his institutionalized spouse is not entitled to a community spouse income allowance (refer to Chapter 1600).~~