



Options for Revisions in the Medicaid Buy-In Program in Arkansas

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I. Purpose of Paper

This paper is intended to provide some guidance to those in Arkansas who wish to consider various options for developing state policies and practices to improve employment opportunities for persons with disabilities. The State of Arkansas has a Medicaid Infrastructure Grant (MIG) with funds provided by the Center for Medicare and Medicaid Services. Arkansas is one of forty-one states with a MIG grant. A primary original intent of the Medicaid Infrastructure Grant program was to ensure that states could learn from each other as they pursued their individual employment initiatives.

Arkansas has had a Medicaid Buy-In program since 2001 and reported in their Quarterly MIG report to CMS that there were 89 persons enrolled on December 31, 2006. One of the stated work plan goals of the Arkansas MIG is to explore the feasibility of making revisions in their Medicaid Buy-In program to consider alternatives to the unearned income limit in their Medicaid Buy-In program.

As of September 1, 2007, thirty-nine states have implemented a Medicaid Buy-In program. Some of these state programs began in 1999 and others were just implemented in July, 2007. In some states the enrollment is over 10,000 and in others less than 10. A specific purpose of this paper is to utilize analyses of the experience of other states with respect to the development, estimating enrollments and fiscal implications of changing the current unearned income limit in the Arkansas Medicaid Buy-In program. In addition, to utilize analyses of other state's experiences, on what is necessary to successfully implement the program as part of a comprehensive employment initiative for persons with significant disabilities.

Summary Estimate of Participation in a Arkansas Medicaid Buy-In Program

Estimated 1,720 participants after five years with non unearned income limits

Estimated 525 participants after five years with \$100 increase in unearned income limit.

II. SSI, SSDI and Medicaid Work Incentives and Disincentives¹

The SSI program has provided for a \$1 for \$2 gradual reduction in earnings after an initial \$85 income disregard since the program began in 1974. The monthly Federal benefit rate (for 2007, \$623 for an individual and \$934 for couples) is reduced by the amount of the individual's "countable" income, increased by a state supplement if applicable. When determining an individual's countable income, there is a general \$20 income exclusion, which is generally applied to an individual's unearned income. Then there is an earned income exclusion of the first \$65 and one-half of the remainder of earned income. These same unearned and earned income disregards are applied in determining income eligibility under other Medicaid eligibility categories for the aged and those eligible on the basis of disability or blindness.

Section 1619(a) provides continued eligibility for SSI beneficiaries when earnings exceed the Substantial Gainful Activity (SGA) earnings test for disability, until the amount of earnings would cause him or her to become ineligible for cash benefits under SSI income counting rules. Section 1619(b) provides for continued Medicaid when SSI beneficiaries lose their benefits because of earnings and provides continued attachment to SSI after earnings reduce benefits to zero. The continued Medicaid under Section 1619(b) is provided up to an earnings limit which is calculated for each state based on the SSI earned income breakeven point plus the value of Medicaid for persons with disabilities in the state. That is called the Section "1619(b) threshold" amount. That annual amount for Arkansas is \$25,371 in 2007. An individualized Section 1619(b) limit can be determined for those with very high medical expenses. The 1619 provisions allow an individual to move from SSI cash benefit status to Medicaid only status, and back again without the need for either a new application or request for Expedited Reinstatement (EXR). Thus, an individual in 1619(b) status can return to cash benefits when wages decrease.

The SSI work incentives do not have a time limit and allow for an individual to exceed the SGA earnings test for disability as a recipient and remain attached to the income assistance program. The disadvantage of the SSI and related Medicaid work incentives under Section 1619 is that they are means tested earnings limited. They also have the restrictive resources limit of the SSI program.

The SSDI program's primary work disincentive is that if an individual works above the SGA earnings test too long a period of time they will lose their eligibility for SSDI benefits because they will no longer be considered to be disabled. This is generally known as the SSDI "cash cliff." The work incentives in the SSDI program do provide for nine months of a Trial Work Period (TWP) during which time the beneficiaries earnings do not reduce their SSDI benefits. Once a TWP has been completed, there is a 36-month Extended Period of Eligibility (EPE), or re-entitlement period. The 36 months run consecutively, and allow the person whose SSDI benefits payments have stopped because of exceeding the SGA level to have their SSDI payments start again. The SSDI "cash cliff" instead of a gradual reduction in benefits with earnings and the time limited nature of the SSDI Trial Work Period and the Extended Period of Eligibility are the primary disadvantages of the SSDI work incentives.

¹ This section is drawn from a paper prepared by the author and others under a grant from the Office of the Assistant Secretary for Planning and Evaluation (ASPE) of the U. S. Department of Health and Human Services (DHHS) *Policy Frameworks for Designing Medicaid Buy-In Programs and Related State Work Incentive Initiatives*

III. The Medicaid Buy-In as a Work Incentive

The enactment of Section 4733 of the Balanced Budget Act of 1997 (BBA) and Section 201 of The Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA) authorized states to enact Medicaid Buy-In programs for workers with disabilities. These federal laws did much more however, they opened a policy window of opportunity for state policy makers to increase awareness and refocus attention on the critical policy issue of how to improve the quality of life for persons with significant disabilities by enhancing their level of economic self-sufficiency and, at the same time, reducing or eliminating their dependency on federal and state cash assistance programs.

A state Medicaid Buy-In program establishes the opportunity for persons to become eligible and remain eligible for Medicaid in three ways that were not previously available under Medicaid State Plan options and in contrast to certain work incentive provisions in the SSI and related Medicaid work incentives. Those include:

1. Individuals who are working above the SGA earnings level can qualify as initial applicants on the basis of disability for Medicaid.
2. Adults with disabilities receiving SSDI can qualify for Medicaid without a spend down or being in a Medicaid waiver program, or living in a state that has a Medicaid eligibility group for adults with disabilities based on the poverty level.
3. Persons can have earnings and stay eligible for Medicaid up to higher resources levels, and earnings levels higher than SGA or the limits in the SSI/ Medicaid work incentives under Section 1619(b).

The BBA Buy-In provision limits eligibility to those who would be eligible for SSI, except for earned income, although it did allow individuals with disabilities to work above the Substantial Gainful Activity (SGA) level and to earn up to 250% of the federal poverty level. While the BBA Buy-In option was fairly restrictive, states were able to use the authority under section 1902(r)(2) of the Social Security Act to apply more liberal income and resource standards.² CMS guidance simply states that under Section 1902(r)(2) a state may use more liberal income and resource methodologies than are used in SSI in determining eligibility for Medicaid for aged, blind or disabled individuals.

Eleven states use the Balanced Budget Act of 1997 as the basis for their Medicaid Buy-In programs. Of those states, only South Carolina and West Virginia restrict eligibility to those with unearned income equal to the SSI benefit rate plus the general \$20 disregard. So almost all states with BBA Buy-In programs use the Section 1902 (r) (2) to disregard unearned income and cover some or all

² Section 1902 (r) (2) states as follows:

(2)(A) The methodology to be employed in determining income and resource eligibility for individuals under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), (a)(10)(A)(ii), (a)(10)(C)(i)(III), or (f) or under section 1905(p) may be less restrictive, and shall be no more restrictive, than the methodology-

(i) in the case of groups consisting of aged, blind, or disabled individuals, under the supplemental security income program under title XVI, or

(ii) in the case of other groups, under the State plan most closely categorically related.

(B) For purposes of this subsection and subsection (a)(10), methodology is considered to be "no more restrictive" if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.

SSDI beneficiaries who work. A state can totally ignore unearned income or allow unearned income up to a level set by the state.

Just two years after the Balanced Budget Act was enacted, Congress gave states additional flexibility. The TWWIA Buy-In Basic Coverage provision says that the state can provide Medicaid coverage for working individuals who would be eligible for SSI except “for earnings in excess of the limit,” which is similar to BBA eligibility. However, the law then grants states the flexibility to cover those “whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish” [PL 106-170, Section 201].

IV. Use of Unearned Income Limits in SSI and Medicaid

What is Counted as “Unearned Income?”

Under the SSI law and related Medicaid eligibility, all income which is not from earnings is “unearned income.” While the primary form of unearned income for Medicaid Buy-In participants is Social Security Disability Insurance (SSDI), some percent of SSI and SSDI beneficiaries receive Veterans Administration benefits or private disability benefits. In December 2004, 31 percent of SSI beneficiaries age 18 through 64 received Social Security benefits. Also, in December 2004, 8.1 percent received other forms of unearned income.

In addition, SSI counts in-kind support and maintenance as unearned income. SSI law and regulations provide that when an individual lives in the household of another and receives support and maintenance in kind (that is, generally, room and board) from the householder, the federal SSI benefit rate is reduced by one-third in lieu of counting the actual value of the support and maintenance as unearned income. The value of food or shelter-related items the individual receives in-kind from persons other than the householder (including in-kind assistance from outside the household in which the individual lives) is counted as unearned income, up to an amount equal to one-third of the applicable federal benefit rate plus \$20.

In December 2002, 3.4 percent of all SSI aged and disabled beneficiaries, or 185,602 individuals nationwide, had their SSI benefits reduced by one-third of the Federal SSI benefit rate.³ It is not known how many individuals were denied SSI benefits because their SSDI benefits plus in-kind support and maintenance exceeded the Federal SSI benefit amount. It could be projected that it would be at least as many as those receiving the reduced SSI amount because of the household of another benefit reduction.

If the 3.4 percent is applied against the number of SSI beneficiaries in Arkansas ages 18 – 64 eligible on the basis of disability or blindness (60,476 in December 2004) then approximately 2,056 individuals are denied SSI because of counting in-kind unearned income received from living in the household of another. An option for Arkansas to provide Medicaid Buy-In for this subset of the SSDI population is discussed later.

³ Source: US House of Representatives Committee on Ways and Means Green Book, 2004 <http://waysandmeans.house.gov/media/pdf/greenbook2003/Section3.pdf> page 3-19

Unearned Income Limits in SSI

States currently use “unearned income limits” to restrict eligibility for Medicaid for persons with disabilities. That is accomplished either by default or by specific action. If a state does not have an SSI state supplement of the Federal SSI benefit standard, then by default it has accepted the Federal SSI benefit standard plus the \$20 income disregard as an “unearned income limit.” Alternatively, if a state has a \$50 state SSI supplement for all those on SSI then the state has taken action to allow additional SSDI beneficiaries eligibility for Medicaid under a higher “unearned income limit.”

State SSI Supplement Unearned Income Limits

Through the structure of their SSI state supplement a state may restrict eligibility for specific amounts of state SSI state supplement funds to categories of individuals based primarily on need for and availability of defined living arrangements. Thus, states are able to target an increase in the “unearned income limit” for Medicaid” to defined categories of individuals - not through a Medicaid eligibility group but through an optional SSI state supplement. However, to do so they must spend state funds for SSI state supplements, which is not federally matched.

State Poverty-Level-Based Unearned Income Limits

States have the option to increase the “unearned income limit” for Medicaid separately from eligibility for SSI by use of the option of providing Medicaid based on a percentage of the Federal Poverty Level. A state can provide Medicaid up to 100 percent of the Federal Poverty Level or some percentage of the FPL. Some states also provide for an additional income disregard in determining countable income under the 100 percent of FPL limit authority for Medicaid eligibility.

Medically Needy A state can have a higher “unearned income limit” than SSI if they have a Medically Needy program with a Medically Needy Income Level above the SSI standard, although in most states it is less than the SSI standard. Medicaid waivers, because of their restrictions on cost and/or participants, uses other means to restrict eligibility even though there are upper income limits on those allowed to participate.

V. Unearned Income Limits in the Arkansas’s Medicaid Buy-In Program – Working Disabled Program

Arkansas responded to the option for a Medicaid Buy-In program, but with a limited and restrictive set of eligibility criteria which has resulted in very few individuals with disabilities participating in the program. The primary restriction is that unearned income of participants cannot exceed the SSI Federal benefit standard plus the \$20 standard income disregard.

Arkansas’ Medicaid Buy-In program, known as Working Disabled, was implemented February 1, 2001. The program is based on the authority in the Ticket to Work and Work Incentives Improvement Act (TWWIIA). An individual can qualify for the program with countable income up to 250% of the federal poverty level for their family size, after applying the SSI income exclusions.

Initially, the program’s eligibility criteria did not include an unearned income limit, and it grew quickly, reaching an enrollment of 170 in the second month. However, this rapid growth raised concerns within the Department of Human Services, and the eligibility criteria were revised to add an unearned income limit, effective September 1, 2001. Applicants were also required to document that their earnings were reported to the IRS.

With the addition of the unearned income limit, the program has a two step process for determining income eligibility. First, unearned income cannot exceed the federal SSI benefit, after disregarding \$20. Second, the applicant's countable income (earned plus unearned) after SSI income exclusions cannot exceed 250% of the federal poverty level for their family size.

While the unearned income limit results in more restrictive eligibility than most states, Arkansas used the TWWIA flexibility to liberalize eligibility in several ways:

- Only the earned and unearned income of the individual is counted. Unlike SSI, no portion of the income of the spouse and other family members is counted.
- The resource (asset) limits are \$4,000 for a single person and \$6,000 for a couple, or double the SSI limits on countable resources.
- A second vehicle is disregarded if it is used by the spouse to maintain employment, unlike SSI.
- Retirement savings accounts such as IRAs, 401Ks, Keogh plans, and employer pension plans are disregarded, unlike SSI.
- In addition, an "approved account" can be established by the individual, similar to an SSI Plan to Achieve Self-Support (PASS), but more flexible. The approved account may be used to save for any expense that will enhance an individual's independence and/or increase employment opportunities, such as education, work-related expenses, home or vehicle purchase or modification, etc. Up to \$10,000 in such an approved account can be disregarded.

Despite these criteria, which are liberal compared to most other Medicaid categories, the unearned income limit makes it difficult for the largest group of disability beneficiaries to participate. The average SSDI benefit for disabled workers in Arkansas was \$887 per month in 2005,⁴ well in excess of the Buy-In unearned income limit, \$579. Most SSDI beneficiaries can only qualify for the Buy-In after they complete their 9 month Trial Work Period, plus a 3 month grace period, then work at the Substantial Gainful Activity level (>\$900 per month in 2007), so that their SSDI cash benefits are suspended.

As a consequence, the Buy-In program appears to have had little impact on the employment rate of Arkansas disability beneficiaries. Arkansas is below the national averages in employment outcomes for both SSDI and SSI disability beneficiaries.

A recent Social Security Administration report on SSI employment ranks Arkansas 43rd in participation in section 1619, and 40th in the percentage of blind and disabled SSI recipients (all ages) who work, at 4.6%.⁵ As will be discussed later, Arkansas ranks 35th in the percentage of SSI beneficiaries aged 18-64 with earnings in Arkansas, at 7 percent, although ahead of most southeast and south central states.

While the data on SSDI employment is limited, Arkansas ranks below the national average in the two employment indicators available for SSDI beneficiaries. In December, 2006, the percentage of

⁴ Social Security Administration, Office of Policy, Office of Research, Evaluation, and Statistics. *State Statistics for 2005: Arkansas*. April, 2007.

⁵ Social Security Administration, Office of Policy, Office of Research, Evaluation and Statistics. *SSI Disabled Recipients Who Work, 2006*. April, 2007.

Arkansas SSDI beneficiaries with benefits withheld because of substantial work was $\frac{3}{4}$ of the national average, while the number with benefits terminated during 2006 was $\frac{2}{3}$ of the national average.⁶

VI. Flexibility for States to Increase Unearned Income Limit in Medicaid Buy-In Programs

Congress provided a very clear record of legislative intent in the House Commerce Committee report on H.R. 1180 that a state can have a higher unearned income limit in their TWWIA Medicaid Buy-In program than the SSI limit. This report includes a plain language explanation of each provision, including this explanation of the Medicaid Buy-In Basic Coverage option (Section 101(a) in this version of the bill, Section 201(a) in the TWWIA Act):

Section 101(a) provides that, for purposes of Medicaid eligibility, States would be able to establish more liberal income and resource limits than are currently required for certain individuals with disabilities. They would have the option to establish one or two new Medicaid eligibility categories.

First, States would have the option to cover persons with disabilities who would be eligible for SSI, except for earned income that exceeds the SSI limits. States may establish limits on assets, resources, and earned or unearned income that differ from the Federal requirements. This means that income levels set by the State could exceed 250 percent of the Federal poverty level (as provided by BBA 97) and resources levels could exceed \$2,000 for individuals, and \$3,000 for couples; and the \$20 exclusion or disregard of monthly unearned income could be increased.⁷

Throughout TWWIA's legislative process, the language of the Medicaid Buy-In Basic Coverage option remained the same in H. R. 1180 and two related bills, except for the addition of the 16-64 age limit. The explanations of the provision also remain consistent, from the Senate Finance Committee report in March, to the House Commerce report in July, to the House Ways and Means report (Report 106-393, Part 1). All state that "...the \$20 exclusion or disregard of monthly unearned income could be increased." This is a clear statement in plain language of Congressional intent.

VII. Medicaid Buy-In Unearned Income Eligibility Limits in Other States and their Impact on Enrollment and Employment Outcomes

The current Arkansas Medicaid Buy-In program with an unearned income limit equal to the SSI standard does, in effect, result in SSDI beneficiaries having to lose their SSDI benefit to become eligible for the Arkansas program. However, if the unearned income limit is increased to above that limit then those individuals would not have to wait until they lost their SSDI after a Trial Work Period to become eligible for the Buy-In.

⁶ Social Security Administration, Office of Policy, Office of Research, Evaluation and Statistics. *Annual Statistical Report on the Social Security Disability Insurance Program, 2005*. September, 2006.

⁷ U. S. House of Representatives, Committee on Commerce. July 1, 1999. *Report 106-220*. This is the Commerce Committee's report on H.R. 1180, which became the Ticket To Work and Work Incentives Improvement Act of 1999 (PL 106-170). The explanation of the Medicaid Buy-In provisions cited here is found at pages 28-29.

This section provides information on those thirteen states which have some form of unearned income eligibility limits in their Medicaid Buy-In program. The table is divided into categories as to the nature of those unearned income limits including:

1. States where unearned income limit does not apply to SSDI income (2 states)
2. States where Medicaid Buy-In unearned income limits are the same as state's non-Medicaid Buy-In poverty-level based Medicaid Program. (5 states)
3. States with Unearned Income Limit as a Percent of Poverty & No Similar Program in Regular Medicaid (1 state)
4. States with indirect earnings levels requirements related to unearned income limits. (2 states)
5. States in which unearned income limit is Federal SSI standard plus \$20 income disregard (3 states)

The table also includes in the third column comments about some factors which may be impacting enrollment and level of earnings. The fourth column provides information on the percent of Medicaid Buy-In participants with earnings shown in Unemployment Insurance (UI) information and the level of earnings. The fifth column shows the Medicaid Buy-In enrollment, the number of SSDI disabled workers and the percent that the enrollment is of the disabled workers. The sixth column shows the percent of SSI beneficiaries ages 18 – 64 with earnings.

There is wide variation in how states have used unearned income limits in their Medicaid Buy-In programs and the relationship between that eligibility limitation and other factors impacting enrollment in the state Medicaid Buy-In programs. As listed above and as shown in the following table, unearned income limitations can have very little impact where it only applies to non-SSDI income compared to unearned income limits severely limiting enrollment when the limit is the same as the Federal SSI standard.

1. States where Unearned Income Limit that Does not Apply to SSDI Income

In the states of New Jersey and Vermont the unearned income limit does not apply to SSDI income and thus there is little impact of the limitation. While the Vermont program is only a year older than the New Jersey Medicaid Buy-In program, the percentage of participation of SSDI beneficiaries is considerably higher. As noted in the third column for Vermont, the state has an extensive benefits counseling and work incentives assistance program which is integrated with the state Vocational Rehabilitation program and the community mental health centers.

2. States where Medicaid Buy-In Unearned Income Limit is Same as State's Non-Medicaid Buy-In Poverty-Level Based Medicaid Program

The states of Maine and Alaska have Medicaid Buy-In programs that have been in place over five years, with unearned income limits that exceed the Federal Poverty Level (FPL). These states also provide Medicaid under non-Buy-In programs up to the same amount as the unearned income limit. Therefore, the Medicaid Buy-In program does not create an incentive for individuals to move into the program to avoid a Medicaid spend down under a Medically Needy program.

The circumstances and variables impacting enrollment are different in the states of Michigan, Rhode Island and Virginia, each of which had a Poverty-Level based Medicaid program before the implementation of their Medicaid Buy-In program with the same unearned income limit as in their Medicaid Buy-In program. Michigan has had a gradual increase in the enrollment with the most dramatic increase happening when eligibility workers were required to get past an eligibility screen

for redetermination that required asking the recipient whether they were interested in working under the state Medicaid Buy-In program. Rhode Island has confronted implementation problems which have limited enrollment and Virginia just began their program on January 1, 2007.

3. States with Unearned Income Limit as a Percent of Poverty and No Similar Program in Regular Medicaid

The state of Nevada developed a Medicaid Buy-In program which established an unearned income limit of 80 percent of the Federal Poverty Level. The state does not have a regular Medicaid program that provides eligibility up to that level. The state has had very low enrollment in the Medicaid Buy-In program with it never having more than twenty-five enrolled. The state legislature has decided to repeal the unearned income limit effective October 1, 2007.

4. States with Indirect Earnings Levels Requirements Related to Unearned Income Limits

Nebraska's and New Mexico's Medicaid Buy-In programs are unique, and were two of the first states to develop and implement a Medicaid Buy-In program. CMS has not approved any other state Medicaid Buy-In program like these. New Mexico has a unique Medicaid Buy-In program that appears to serve more as a means to provide Medicaid to fill the health care gap for individuals who have lost their SSI because they are newly eligible for SSDI and are in the 24 month waiting period for Medicare. Enrollment in the New Mexico program is also part of the same eligibility process as applying for assistance under the SLMB and QMB programs of assistance for low income Medicare beneficiaries. The Center for Medicare and Medicaid Services (CMS) has not approved a Medicaid Buy-In program like that in New Mexico since that program was approved as one of the early programs.

As explained elsewhere in this paper, the state of Nebraska has a Poverty Level based Medicaid program and their Medicaid Buy-In program has the unique provision of an unearned income limit of the Federal SSI standard but which is not applied to SSDI benefits if there is a significant work effort. This is the strongest indirect earnings level provision in any state Medicaid Buy-In program.

5. States with Unearned Income Limit of Federal SSI Standard + \$20 Income Disregard

South Carolina and West Virginia join Arkansas with the most restrictive unearned income limits in their Medicaid Buy-In program with a limit equal to the Federal SSI benefit standard plus the standard \$20 income disregard.

State Medicaid Buy-In Programs with Unearned Income Limits					
1. States where Unearned Income Limit that Does not Apply to SSDI Income					
	Separate Un-earned Income Limit	Other Factors Impacting Enrollment & Earnings Level	Percent of MBI with UI Reported Earnings- 2004 Earnings Level- 2004	* MBI Enrollment Dec. 06 * # SSDI Disabled Workers * MBI as % of Disabled Workers	Percent SSI Ages 18 – 64 with Earnings
New Jersey	Unearned incomes limit of Federal Poverty Level but it does not apply to SSDI or SSI income.	Medicaid for adults with disabilities with unearned income up to Federal Poverty Level	88% \$8,100	2245 148,650 1.5%	9.7%

Vermont	SSDI & Veterans benefits not counted toward unearned income limit of Medically Needy Protected Income Level plus \$500 (MNIL is \$750)	Unearned income limit does not apply to SSDI MBI enrollment may be higher due to State's extensive benefits planning program integrated with mental health services and vocational rehabilitation	89% \$7,200	580 15,210 3.8%	13.6%
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2. States where Medicaid Buy-In Unearned Income Limit is Same as State's Non- Buy-In Poverty-Level Based Medicaid Program

	Separate Un-earned Income Limit	Other Factors Impacting Enrollment & Earnings Level	Percent of MBI with UI Reported Earnings- 2004 Earnings Level- 2004	* MBI Enrollment Dec. 06 * # SSDI Disabled Workers * MBI as % of Disabled Workers	Percent SSI Ages 18 – 64 with Earnings
Maine	Unearned income less than 100% of FPL + \$75	Medicaid for adults with disabilities with unearned income up to Federal Poverty Level plus \$75	91% \$8,500	729 43,580 1.7%	9.7%
Alaska	Unearned income less than Adult Public Assistance (APA) Income Limit of \$1156 in 2007. APA is Alaska SSI supplement	Medicaid for adults with disabilities up to Adult Public Assistance limit of \$1156	55% \$12,000	210 9,380 2.2%	9.1%
Michigan	100 % FPL	Medicaid for adults with disabilities with unearned income up to Federal Poverty Level Program Began in 2005	\$8,100	825 226,060 .4%	6.6%
Rhode Island	Unearned income no more than 100% of FPL Or would meet the eligibility requirements under the	Medicaid for adults with disabilities with unearned income up to Federal Poverty Level	No program in 2004	14 27,730 .05%	8.8%

	states Medically Needy program.	Relatively new Medicaid Buy-In program. Began in 2005			
Virginia	Unearned income limit no more than 80% of FPL	Medicaid for adults with disabilities with unearned income up to 80% Federal Poverty Level Program began January 1, 2007	No program until 2007	No program until 2007	8.3%

3. States with Unearned Income Limit as a Percent of Poverty & No Similar Program in Regular Medicaid

	Separate Un-earned Income Limit	Other Factors Impacting Enrollment & Earnings Level	Percent of MBI with UI Reported Earnings- 2004 Earnings Level- 2004	* MBI Enrollment Dec. 06 * # SSDI Disabled Workers *MBI as % of Disabled Workers -	Percent SSI Ages 18 – 64 with Earnings
Nevada	Unearned Income limit of \$699 in 2006 Repealed unearned income limit effective October 1, 2007		No data	19 44,570 .04%	8.4%

4. States with Indirect Earnings Levels Requirements Related to Unearned Income Limits

Nebraska	Unless an individual is in a Trial Work Period or Extended Period of Eligibility, SSDI income must be less than the SSI standard plus \$20 income disregard	Medicaid for adults with disabilities with unearned income up to Federal Poverty Level High Indirect earnings requirement	91% \$8,300	93 31,910 .3%	20.4%
New Mexico	Unearned income of less than \$1,178 a month	Earnings sufficient to count toward quarter of Social Security required for participation in	45% \$8,100	1650 42,150 3.9%	7.2%

		Medicaid Buy-In MBI enrollment may be higher due to coordination of Benefits Planners & Navigators under State VR Agency, plus Medicaid application process.			
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5. States with Unearned Income Limit of Federal SSI Standard + \$20 Income Disregard					
	Separate Un-earned Income Limit	Other Factors Impacting Enrollment & Earnings Level	Percent of MBI with UI Reported Earnings- 2004 Earnings Level- 2004	* MBI Enrollment Dec. 06 * # SSDI Disabled Workers *MBI as % of Disabled Workers –	Percent SSI Ages 18 – 64 with Earnings
Arkansas	Individual's un-earned income level can not exceed SSI Federal benefits level plus \$20 disregard.		54% \$9,586 (From Table E.1 Mathematica May 2006 Buy-In report)	89 102,860 .09%	7%
South Carolina	Individual's un-earned income level can not exceed SSI Federal benefits level plus \$20 disregard.		89% \$14,100	33 123,460 .03%	7.7%
West Virginia	Individual's un-earned income level can not exceed SSI Federal benefits level plus \$20 disregard.		88% \$11,800	419 76,340 .5%	3.7%

VIII. Options for Modifying the Arkansas Medicaid Buy-In Program's Unearned Income Eligibility Limit

This section presents a number of different options for modifying the provision in the current Arkansas Medicaid Buy-In that limits eligibility to those with unearned income equal to the Federal SSI benefit standard. Those options include the following with estimated numbers for some as to additional enrollees after five years.

An appendix to this report is a table which lists the options and the estimate of the additional enrollees after five years if the option is implemented in Arkansas.

1. No Unearned Income Limit: 1,720 additional enrollees after 5 years

A separate paper includes a projection of the enrollment in an Arkansas Medicaid Buy-In program if there was no unearned income limits. As described in that section the projection uses the experiences of the states of Iowa, Kansas and North Dakota in developing that estimate. It also uses the relative experience in Arkansas to those states as to the percentage of SSI beneficiaries with earnings as a measure of the likelihood of participation in a Medicaid Buy-In program in Arkansas.

2. Incremental Increase in Unearned Income Limit of \$100 – 595 Additional Enrollees after Five Years

The separate paper also includes an estimate of enrollment if there was an incremental increase in the Arkansas Medicaid Buy-In eligibility rules to provide that those with unearned income up to an amount equal to \$100 over the Federal SSI standard plus \$20 would be eligible. The estimate of such an incremental change is that the number of participants would be 595 after five years.

3. Targeted Disregard of Unearned Income Based on Sources or Specific Expenses

a. Disregard In-Kind Unearned Income from Living with Others: 144 Additional Enrollees after Five Years

An option for Arkansas would be to disregard in-kind unearned income received by individuals who are living with others. As discussed earlier, SSI counts in-kind support and maintenance as unearned income. SSI law and regulations provides that when an individual lives in the household of another and receives support and maintenance in kind (that is, generally, room and board) from the householder, the federal SSI benefit rate is reduced by one-third in lieu of counting the actual value of the support and maintenance as unearned income. The value of food or shelter-related items the individual receives in kind from persons other than the householder (including in-kind assistance from outside the household in which the individual lives) is counted as unearned income, up to an amount equal to one-third of the applicable federal benefit rate plus \$20.

In December 2002, 3.4 percent of SSI beneficiaries or 185,602 individuals had their SSI benefits reduced by one-third of the Federal SSI benefit rate.⁸ If the 3.4 percent is applied against the number of SSI beneficiaries in Arkansas ages 18 – 64 eligible on the basis of disability or blindness (60,476 in December 2004) then approximately 2,056 individuals are denied SSI because of counting in-kind unearned income received from living in the household of another.

Certain subsets of the SSDI population, especially those with mental retardation who are receiving Disabled Adult Children benefits and living with their parents or other relatives, could benefit from this incremental change in the unearned income limit in the Arkansas Medicaid Buy-In program. This may also be of value to those with severe mental illnesses who, because of the nature of their disability, need to live with others.

If the same percent of the estimated 2,056 individuals who are denied SSI because of this in-kind income have earnings in the SSI program (7 percent) would participate in the Arkansas Medicaid Buy-In program, then the possible additional enrollees in the Arkansas Medicaid Buy-In program would be 144. These would probably not be new cost Medicaid enrollees because of the fact that a significant percent of those with mental retardation would already be enrolled in Home and Community-Based care Medicaid waiver programs.

b. Reduce Countable Unearned Income by the Amount of Medicare Premiums Paid – 595 Additional Enrollees after Five Years

The state of Wisconsin does not have an unearned income limit in their Medicaid Buy-In program but does have a premium based on countable unearned income. . However, in determining the amount of countable unearned income there are the certain deductions. Those deductions include:

- Standard living allowance equal to the SSI standard (including a state SSI supplement)
- Impairment-related work expenses
- Medical and remedial expenses – such as attendant care and Medicare premiums.

Arkansas could consider the approach of disregarding medical and remedial expenses (including Medicare Part B premiums) incurred by a Medicaid Buy-In applicant and participant in determining an SSDI beneficiary's countable unearned income in the Arkansas Medicaid Buy-In program.

The Medicare Part B premium in 2008 is \$96.40 a month. That amount is near the proposed \$100 increase in the unearned income eligibility limit. Therefore the estimate for deducting from countable unearned income the Medicare Part B premium is the same as for increasing the unearned income limit by \$100 or 595 additional enrollees.

Data from Wisconsin⁹ shows that only 5 percent of the Medicaid Buy-In participants reported Medical and Remedial Expenses (MRE) in 2004. and the average amount was \$155 that year. However, the incentive to report MRE is different in Wisconsin than it would be if applied in Arkansas. In Wisconsin the amount makes a small difference in the amount of premiums paid. If ap-

⁸ Source: US House of Representatives Committee on Ways and Means Green Book, 2004 <http://waysandmeans.house.gov/media/pdf/greenbook2003/Section3.pdf> page 3-19

⁹ Wisconsin Medicaid Purchase Plan Evaluation Annual Report – 2004 page 14 <http://www.dhfs.state.wi.us/WIPathways/pdf/MAPP04Evalreport-010005.pdf>

plied as a disregard against unearned income to determine eligibility for an Arkansas Medicaid Buy-In program the difference is between being eligible for Medicaid and not being eligible. No attempt has been made to estimate the impact of individually determined Medical and Remedial Expenses.

c. Disregard that portion of SSDI benefits based earnings while an SSI beneficiary – No Estimate

Some SSI recipients including youth and dual eligibles run the risk of becoming ineligible for both SSI and the Buy-In through part-time employment, because their earnings will boost their SSDI benefits

There is no provision in Federal SSI law which protects SSI beneficiaries from loss of SSI and Medicaid because their SSDI Disabled Worker benefit increases based on the beneficiary's own earnings record.

The potential of working SSI beneficiaries losing their SSI because of increases in SSDI benefits is most likely for those who are concurrent SSI/SSDI beneficiaries and who have a relatively small SSI benefit which could be eliminated if the SSDI benefit increases.

An individual who receives SSI-only and is working is probably less likely to eventually become newly eligible for SSDI Disabled Worker benefits even though they have sufficient quarters of work to be considered to be an insured worker. The small likelihood of this is because if they have earnings which show an ability to work (near or over SGA), those earnings would be taken into account in determining whether they are initially eligible on the basis of disability under the SSDI disabled worker program.

A concurrent SSI/SSDI beneficiary who works and uses the provisions of Section 1619(a) and 1619(b) may work to the extent that they lose their SSDI. However, they would continue to be eligible for SSI in an amount equal to their previous combined benefits from SSI and SSDI minus the \$20 standard income disregard and would continue to be eligible for Medicaid under the provisions of Section 1619. If they wanted to have higher earnings than the State Section 1619 threshold or higher resources they could move over to a state's Medicaid Buy-In program. However then they lose protection of being able to return to SSI cash benefits if they can no longer work.

4. Significant Earnings by Medicaid Buy-In participant are required to Disregard Unearned Income above SSI Standard - 331 Additional Enrollees after Five Years.

Another option would be to disregard SSDI unearned income in determining eligibility only if a Medicaid Buy-In applicant/enrollee has earnings equivalent to an amount required for a Trial Work Period (TWP) month (\$640 in 2007) or above SGA (\$900 in 2007) – as in the Nebraska Medicaid Buy-In program.

To develop an Arkansas projection for this option, we use Iowa rather than Nebraska, because it is necessary to make projections based on a Medicaid Buy-In program without restrictions. As shown in the Iowa table below, in December 2004 of the 7,695 participants in the Iowa Medicaid Buy-In program, 6.5% had earnings over \$580 a month which was the amount in 2004 that met the Social

Security Administrations criteria to be considered a Trial Work Period (TWP) month. However, if Iowa had similar standards in documenting earnings as Arkansas, the percent of low earners (less than \$100 a month) would be reduced by an estimated one-half to about 2500 instead of 5004. The result would be that in December 2004 the percent with earnings over \$580 would be 11.2 percent.

Another state with data available on the earnings levels is Minnesota. As shown in Minnesota table on the following page, the percentage of Medicaid Buy-In participants in 2004 with earnings over \$580 a month was 27.3 percent. Minnesota did have a Poverty-Level based eligibility group for adults with disabilities that could have some impact on the higher percent with higher earnings.

If the estimate of 11.2 % from Iowa was applied to the previous estimate (1,720 additional enrollees if there wasn't an unearned income limit on the Arkansas Medicaid Buy-In), which took into account the relative percentage of SSI beneficiaries with earnings, the result would be that approximately 193 additional individuals would be enrolled in an Arkansas Medicaid Buy-In program after five years.

If the estimate of 27.3% from Minnesota was applied, the result would be that approximately 470 additional individuals would be enrolled in an Arkansas Medicaid Buy-In program after five years. The average of the estimate from Iowa and Minnesota is 19.25 percent which when applied to the 1,720 estimate without an earnings requirement would be 331 additional Medicaid Buy-In participants after five years.

Iowa Medicaid Buy-In Program Earnings and Unearned Income of Participants
December 2004

12/31/2004		Earned Income Range								
Unearned Income Range									TOTAL	
	0-100	101-250	251-500	501-750	751-1000	1001-1500	1501-2000	2001+		
0-500	271	61	70	40	29	48	15	11	545	
501-600	354	93	122	89	22	7	0	1	688	
601-700	1092	188	208	146	55	14	1	1	1705	
701-800	907	171	173	84	37	9	2	1	1384	
801-900	741	144	126	54	27	6	1	0	1099	
901-1000	542	113	75	49	12	2	1	0	794	
1001-1100	374	59	46	36	6	2	0	0	523	
1101+	723	100	80	38	13	2	1	0	957	
TOTAL	5004	929	900	536	201	90	21	14	7695	
PERCENT	65.0%	12.1%	11.7%	7.0%	2.6%	1.2%	0.3%	0.2%	100%	

Minnesota Medicaid Buy-In Program June 2004						
Income Range	Total Monthly Earned Income		Total Monthly Unearned Income		Total Monthly Gross Income	
Less than \$200	1,981	31.9	12	0.2	14	0.2
\$200-399	1,252	20.2	56	0.9	27	0.4
\$400-599	1,189	19.1	533	8.6	85	1.4
\$600-799	928	14.9	1,906	30.7	258	4.2
\$800-999	248	4.0	1,794	28.9	1,148	18.5
\$1,000-1,499	197	3.2	1,397	22.5	3,296	53.1
\$1,500-1,999	105	1.7	156	2.5	1,063	17.1
\$2,000-2,999	71	1.1	42	0.7	255	4.1

Greater than \$3,000	26	0.4	11	0.1	59	1.0
Unknown	212	3.4	302	4.9	4	0.0
	6,209	100.0	6,209	100.0	6,209	100.0

5. Most Unearned Income above SSI Standard is required to be paid as a Cost Share to Qualify for the Medicaid Buy-In Program (Oregon) – 205 Additional Enrollees after Five Years

Another option would be to allow individuals to qualify for a Medicaid Buy-In program by requiring payment of a cost share of unearned income over an amount equal to the SSI standard plus mandatory taxes and special needs amounts (Oregon Plan)

The state of Oregon’s Medicaid Buy-In program provides that Medicaid Buy-In participants pay a cost share to be able to participate in the state’s Medicaid Buy-In program. That cost share is all unearned income above the SSI income standard plus a special maintenance allowance, cost of mandatory taxes and cost of approved employment and independence expenses. In effect, they are spending down their unearned income. Participants are also required to pay a premium on earned income of between 2% and 10% of the individual’s earned income above 200% of FPL and remaining unearned income.

A primary impact of the Oregon Medicaid Buy-In cost share is that only SSDI beneficiaries with relatively high earnings (more than the amount of their cost share) participate in the Oregon Medicaid Buy-In program. It has varying impact on individuals depending on their SSDI benefit amount.

In December 2006, there were 593 participants in the Oregon Medicaid Buy-In program. Using the experience of the Oregon program to estimate what the enrollment would be in another state would require making some assumptions as to what the enrollment would have been in the state if there was not such a cost-share policy in place in Oregon.

To make such a projection it seems necessary to utilize the experience of another state with a similar Medicaid program, adjust for the size of the SSDI population and for the experience in the state as to the percentage of SSI beneficiaries with earnings.

Oregon’s Medicaid program is like Iowa’s Medicaid program by the fact that it does not have a State SSI supplement, does not have a Poverty –Level based Medicaid program and it does not have a Medically Needy program Protected Income Level above the SSI standard. A main difference is that the percentage of SSI beneficiaries with earnings in Iowa (22.8%) is over twice the percentage with earnings in Oregon (10.1%). Applying the factors of the size of the SSDI population and the relative percent of SSI beneficiaries with earnings the result is that the estimated number of participants in a Medicaid Buy-In program in Oregon if it did not have its’ cost share provision would be approximately 4,994 after five years.

Therefore, it could be estimated that having such a cost share provision reduces the estimated enrollment in a Medicaid Buy-In program to 11.9 % (594 as a percent of 4,994 = 11.9%) of what it would be if there were not such a cost share. This percent also seem reasonable in that in Iowa only about 6.5% of the Medicaid Buy-In participants had earnings over the amount for a Trial Work Period month (\$580) in December 2004.

If the 11.9 % was applied to the estimate of 1720 after five years for Arkansas Medicaid Buy-In program if there were no unearned income restrictions, the result is 205 Medicaid Buy-In participants in Arkansas after five years with a cost share provision for unearned income.

It should also be noted that at this higher earnings level it would be expected that a considerably higher percent of the Medicaid Buy-In participants would also have employer-based health insurance and thus reduce the cost of the Medicaid for the Medicaid Buy-In program population.

The state of Oregon does have a very extensive Medicaid Home and Community Based Care (HCBC) waiver program and is one of the few states that have cost share policies in their waiver program. Arkansas does not have any cost-sharing provisions for its waivers.

6. Disregard SSDI benefits during Medicare waiting period (New Mexico) - 3,630 Additional Enrollees after Five Years

The Medicaid Buy-In program in New Mexico allows an individual to become eligible by either showing a recent attachment to the workforce or they have lost SSI and Medicaid due to initial receipt of SSDI and are in the 24 month waiting period up to the time of receipt of Medicare.

To show recent attachment to the workforce they must have had quarterly earnings to meet the Social Security Administration's definition of a qualifying quarter (\$1,000 in 2007) in the current calendar quarter (or at least that amount in the last quarter of the previous year) to have that quarter qualify to count toward Social Security coverage.

On December 31, 2006, New Mexico had 1,650 individuals enrolled in their Medicaid Buy-In program. In December 2005, there were 45,390 disabled workers in the SSDI program in New Mexico compared to 102,860 in Arkansas. This is a relatively high percent enrollment in the Medicaid Buy-In program compared to other states. The New Mexico Medicaid Buy-In program enrollment continues to increase from when it began in 2001 and has increased by about 100 each year during the past two and one-half years.

The New Mexico Medicaid Buy-In program serves the purpose of protecting individuals from loss of health care coverage by reason of becoming newly eligible for SSDI and not yet through the 24 month Medicare waiting period. Only those who have a recent work history are eligible. However, it does not appear that work incentives are the primary purpose of the New Mexico program.

The New Mexico regular Medicaid program appears to be very similar to the Arkansas Medicaid program. The percentage of SSI beneficiaries (ages 18 – 64) with earnings in New Mexico (7.2%) is very similar to the percent of SSI beneficiaries with earnings in Arkansas (7%). Therefore, while the percent of SSDI beneficiaries that participate in the New Mexico Medicaid Buy-In program is relatively high, New Mexico is in the bottom one-third of the states as to the percent of SSI beneficiaries with earnings..

What is unique about the New Mexico employment support system is the degree of coordination of the benefits planning and related work incentives assistance programs. The state vocational rehabilitation agency coordinates the following programs: Work Incentives Planning and Assistance (WIPA) project from SSA; the Disability Navigator Project funded by the US Department of La-

bor and SSA that are located in One-Stop Career Centers; an Outreach program funded by the New Mexico Medicaid Infrastructure Grant (MIG) project and a program of Peer Mentors through the MIG outreach project which is a cadre of Peer Mentors intended to encourage and assist SSI and SSDI beneficiaries as they explore employment.

It is not clear how to estimate the enrollment in a Medicaid Buy-In program in Arkansas if the Medicaid Buy-In policies in New Mexico were adopted in Arkansas. There are 2.2 times as many SSDI beneficiaries in Arkansas as in New Mexico. If that figure is multiplied times the Medicaid Buy-In program in New Mexico the resulting number is 3,630.

The impact of the multi-faceted and coordinated benefits counseling and work incentive support system in New Mexico described above could be expected to considerably increase the use of the Medicaid Buy-In program in New Mexico. In addition, applications for the New Mexico Medicaid Buy-In program are integrated into the intake process for regular Medicaid related programs. That is, the same application form for a person making an application for SLMB or QMB benefits is used to enroll a person in the New Mexico Medicaid Buy-In program.

IX. Other Variables Impacting the Cost of Raising the Unearned Income Limit for a Medicaid Buy-In Program

A. Impact of Medicare Coverage on Cost of Medicaid Buy-In Programs

Data from Minnesota shows that the Per Member Per Month (PMPM) costs were considerably less for Medicaid Buy-In participants than for standard Medicaid for Adults with Disabilities. That calculation excludes the Medicaid costs for people in long-term nursing home placements. In 2003 in Minnesota, the PMPM for those in standard Medicaid was \$2,016 and for those in Medicaid Buy-In was \$1,473. This is about 27 percent lower PMPM cost for the Medicaid Buy-In population than the standard Medicaid population of adult with disabilities. (Page 44 of MN report at <http://www.deed.state.mn.us/pte/PDFs/MAEPDfullRpt.pdf>)

B. How will Medicare Part D affect costs of serving Medicare beneficiaries?

In December 2005, 17.7 percent of the 108,717 SSDI disabled ages 18 – 64 in Arkansas were eligible on the basis of mental illnesses. That is 19,243 individuals. In December 2004, 11,925 individuals were receiving SSI benefits on the basis of their mental illnesses. Nationally about 30 percent of SSI disability recipients (3,578) are also eligible for SSDI. If that percentage is used in Arkansas, then up to approximately 15,665 mentally ill SSDI beneficiaries (19,243 – 3,578) may be receiving medications, if needed because of their symptoms from some sources – including state funding. It could be assumed that the Medicare Part D program would already serve a significant number of those individuals not now covered under Medicaid as SSI beneficiaries. That would not necessarily change because of the state having a Medicaid Buy-In program.

C. Some new Buy-In participants will already have Medicaid coverage in another category, such as a waiver

If the Buy-In unearned income limit is raised, the new enrollees will include SSDI beneficiaries who previously participated in other Medicaid disability categories, such as home and community-based service waivers, Pickle, DAC, Spend Down, QMB, SMB, and QI. The incremental cost of covering these individuals will be less than the cost of covering new Medicaid enrollees.

Arkansas has the option to provide Medicaid waiver services to Medicaid Buy-In participants. According to CMS it is a matter of a state amending their current waivers to allow participants in the Medicaid Buy-In to be eligible for waiver services. While probably not comparable to Arkansas, in Minnesota in December 2006, thirty-five percent of the Medicaid Buy-In participants were enrolled in a state Medicaid Home and Community-Based waiver. SSDI beneficiaries who are currently using Medicaid waiver services and who move to eligibility under a Medicaid Buy-In program would not increase costs for the state. In fact, depending on the premium or fees developed or if Arkansas chose to stay with current Medicaid Buy-In co-pay policies, there could be reduced cost if waiver participants' earnings were over 100% of FPL.

Appendix A

Summary Table: Estimates of Impact of Modification of the Arkansas Medicaid Buy-In Unearned Income Eligibility Limit	
Modification of Unearned Income Limit	Estimated Increase in Arkansas Medicaid Buy- In Enrollment after Five Years
1. No Unearned Income Limit	1720
2. Incremental Increase (\$100) in Unearned Income Limit	595
3. Targeted Disregard of Unearned Income Based on Sources or Specific Expenses	
a. Disregard In-Kind Unearned Income from Living with others	144
b. Reduce Countable Unearned Income by the Amount of Medicare Premiums Paid	595
c. Disregard that portion of SSDI benefits which is based earnings while an SSI beneficiary	No Estimate
4. Significant Earnings by Medicaid Buy-In participant are required to Disregard Unearned Income above SSI Standard (Nebraska)	331
5. Most Unearned Income above SSI Standard is required to be paid as a Cost Share to Qualify for the Medicaid Buy-In Program (Oregon)	205
6. Disregard SSDI benefits during Medicare waiting period (New Mexico)	3,630