

Elder Law and Special Needs Section

Memorandum Regarding General Information System Message - GIS 11 MA/004

Elder # 8

October 2, 2015

General Information System message GIS 11 MA/004 advised local districts that federal income tax refunds and earned income credit payments received before January 1, 2013 should not be considered as countable income for purposes of determining eligibility and also should be disregarded in computing the NAMI. It likewise advised that these payments should be exempt from being counted as an available resource for twelve months following the month of receipt, and that no transfer of assets penalty could be imposed if they were transferred or placed into a trust during that twelve month exemption period.

This policy was required under the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, but originally did not apply to such payments received on or after January 1, 2013.

This provision was made permanent and applicable to taxable years beginning after December 31, 2012, and amounts received after that date, pursuant to Section 103(d) of Public Law 112-240 which amended that disregard provision in 26 U.S.C. § 6409. GIS 11 MA/004 has not been updated to reflect this amendment extending the disregard on a permanent basis, so local districts may be counting federal income tax refunds and earned income credit payments that are exempt under federal law pursuant to this State directive.

Accordingly, a new GIS message should be issued advising local districts that the disregards of federal income tax refunds and earned income credit payments set forth in GIS 11 MA/004 has been made permanent and the prior December 31, 2012 expiration date of that disregard has been repealed.

Memorandum prepared by: Rene Reixach, Esq.
Section Chair: Julie Ann Calareso, Esq.