

**A RESOURCE GUIDE TO EFFECTIVELY IMPLEMENT  
OHIO'S MEDICAID BUY-IN PROGRAM  
FOR WORKERS WITH DISABILITIES**

**WITH OHIO STATUTORY AND  
ADMINISTRATIVE CODE REFERENCES**

**PREPARED FOR  
MANAGEMENT AND PROFESSIONAL STAFF  
OF THE  
FRANKLIN COUNTY BOARD OF  
DEVELOPMENTAL DISABILITIES**

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## Executive Summary

The Resource Guide To Effectively Implement Ohio's Medicaid Buy-In Program For Workers With Disabilities provides insight into the regulatory history of this program based on applicable federal and Ohio law. The guide reviews the applicable regulatory provisions in Ohio law and Ohio Administrative Code sections. Both the statutory provisions under Ohio Revised Code Sections 5111.70 through 5111.711 and the rule for Ohio's MBIWD in Ohio Administrative Code **5101:1-41-30** are reviewed and referenced in appendices.

Within the guide is a walk through of the basic information required in the Ohio Job and Family Services application for the MBIWD including specific recommendations and clarifications where needed. The guide explores basic, income and resource eligibility with several specific income eligibility examples. It also identifies five scenarios for calculating premiums based on the rules. It highlights critical considerations for assisting individuals on the MBIWD to comply with specific regulations when employment is lost, paying premiums, and resource allowance adjustments.

The benefits of the MBIWD are identified in the concluding thoughts as:

1. Allows continued participation in Medicaid even when income reaches significant levels;
2. Maintains health care and long-term care benefits which are largely irreplaceable through employment;
3. Eliminates Medicaid spenddown under Basic Medicaid;
4. Eliminates patient liability for Medicaid long-term care;
5. Increases the resource eligibility limit to over \$10,000 under the MBIWD compared to \$1,500 under basic Medicaid or long-term care;
6. Establishes premiums for income over 150% of the federal poverty level but below 450% of the FPL at 7.5 percent of the amount over the 150% level;
7. Establishes premiums for income over 450% of the federal poverty level 10 percent of the amount over the 150% level;
8. Provides ways to have third parties pay premiums when allowed;
9. Allows a six-month window for participation in the MBIWD when employment is lost;
10. Establishes a fairly easy process for enrollment;
11. Individuals who are not on SSI or SSDI (presumably zeroed out of cash benefits) but are otherwise eligible in terms of disability eligibility are eligible for the MBIWD; and
12. Provides several hundred thousands of dollars in savings to the Franklin County Board of DD in patient liability expense.

Throughout the guide critical rules are cited and the applicable language is either incorporated in the guide or provided in the appendices. Other tables reference federal poverty levels based on family size and on various percentages in the rules. The guide should provide the user with the necessary information to effectively implement the MBIWD for individuals with developmental disabilities who want to work and earn improved wages while maintaining Medicaid.

Please note that all the references, tables and scenarios are based on 2010 regulations. As regulations change, it is important to update the applicable changes such as rules, federal poverty levels and other standards.

## **I. Introduction and Regulatory History for Ohio's Medicaid Buy-In for Workers with Disabilities**

Medicaid Buy-In programs allow states to expand Medicaid coverage to workers with disabilities whose income and assets would ordinarily make them ineligible for Medicaid. Buy-In programs were authorized by the Balanced Budget Act of 1997 (BBA) and the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA). The federal Ticket to Work and Work Incentives Improvement Act of 1999 established two new populations that a state's Medicaid program may cover. However, a state may cover the second population only if it also covers the first. These two optional eligibility expansions are popularly known as the Medicaid buy-in.

The first population consists of individuals who, but for earnings in excess of a limit established under federal law, would be considered to be receiving Supplemental Security Income, are at least age 16 but less than age 65, and have assets, resources, and income not exceeding such limitations, if any, as the state may establish.

The second population consists of employed individuals with a medically improved disability who have assets, resources, and income not exceeding such limitations, if any, as the state may establish. An "employed individual with a medically improved disability" is defined as an individual who

- (1) is at least age 16 but less than age 65,**
- (2) is earning at least the applicable minimum wage requirement specified in federal law and working at least 40 hours per month or is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures,**
- (3) has ceased to be eligible for Medicaid as part of the first population described above because the individual, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer meet federal definitions of disability, and**
- (4) continues to have a severe medically determinable impairment as determined under federal regulations**

Currently in 2010, thirty-nine states have a Medicaid Buy-In program for workers with disabilities. Like Medicaid, each state can develop their own rules and regulations in accordance with federal rules. Such variations can be in asset levels, allowed resources like pension plans, or in length of time after employment is lost that the person can remain on the buy-in program.

Ohio adopted its Medicaid Buy-In for Workers with Disabilities and it was signed into law in 2007. Rules were promulgated thereafter and the program became

operational in 2009. The statutory provisions contained in Appendix A provide general authority for the following:

1. 5111.70 Definition of Terms and cross references to other statutes;
2. 5111.701 Qualifications for assistance under program;
3. 5111.702 Resource eligibility limit-annual adjustment;
4. 5111.703 Individual income eligibility limit;
5. 5111.704 Amount of annual individual premium;
6. 5111.705 Eligibility not denied due to RC 5111.851 services (Home and Community Based Waiver Services);
7. 5111.706 Continued participation where employment ceases;
8. 5111.707 Director to make federally required amendments;
9. 5111.708 Program implementing rules - disregarded income.
10. 5111.709 Medicaid buy-in advisory council; and
11. 5111.7010 Consultation with advisory council.

The statutes form the foundation and structure for Ohio's Medicaid Buy-In Program and establish the parameters for administrative rules, which amplifies Ohio law.

## II. Ohio Administrative Rules for the Medicaid Buy-In program

### A. Basic Eligibility

The rules under Section C of Ohio Administrative Code **5101:1-41-30** “**The Medicaid Buy-In Program (See Appendix B)** are more specific and distinguish between the basic covered group and the medically improved group as required by federal regulations.

***“(1) To be eligible for the MBIWD basic covered group an individual must:***

- (a) Meet the citizenship/qualifying immigrant status requirements outlined in rule 5101:1-38-02.3 of the Administrative Code (Appendix C);***
- (b) Be a resident of Ohio as set forth in rule 5101:1-39-54 of the Administrative Code (This rule has been rescinded);***
- (c) Meet the definition of disability used by the social security administration (SSA), except that employment, earnings, and substantial gainful activity must not be considered when determining whether the individual meets the disability criterion for MBIWD. An individual may be eligible for MBIWD regardless of whether the individual is receiving SSI or SSDI;***
- (d) Be at least sixteen years of age but younger than sixty-five years of age;***
- (e) Meet the financial eligibility requirements described in paragraph (D) of this rule;***
- (f) Pay the premium, as calculated in paragraph (E) of this rule; and***
- (g) Be working.”***

Under this basic covered group, “work” or “working”, for the purpose of this rule, means full or part-time employment or self-employment from which state or federal income and payroll taxes are paid or withheld.

### B. Medically Improved Group

Eligibility for the “Medically Improved Group” is as follows:

**(2) To be eligible for the MBIWD medically improved covered group an individual must:**

- (a) Have participated in the MBIWD basic covered group as defined in paragraph (C)(1) of this rule the previous calendar month and continue to meet all eligibility criteria described in paragraph (C) of this rule except that the individual no longer meets the disability criterion defined in paragraph (C)(1)(c) of this rule; and**

**(b) Work at least forty hours per month earning at least state or federal minimum wage, whichever is lower.**

Please note that the definition of “work” has changed for this second “medically improved group” to be as stated in 2 (b) above.

**(3) An individual participating in MBIWD with a medically improved disability, whose medical condition is determined, at the time of a regularly scheduled continuing disability review, to have regressed may be reevaluated for the MBIWD basic covered group in accordance with paragraph (C)(1) of this rule.**

**(4) If the individual eligible for MBIWD under the basic or medically improved group ceases to work, the individual may continue to participate in MBIWD for up to six months beginning the first day of the month after the month the individual is no longer working when:**

- (a) The individual intends to return to work or look for a new job; and**
- (b) The individual continues to pay MBIWD premiums, if applicable; and**
- (c) The individual continues to meet all other eligibility requirements for MBIWD.**

It is important to understand that the intention of this section is that the individual intends to return to work.

If the individual is not intending to return to work, the individual needs to communicate this with services and support administration staff so that a return to previous basic or waiver Medicaid programs may be initiated.

Prime Candidates for the Medicaid Buy-In Program for Workers with Disabilities are working individuals who are in the following groups:

- 1) Individuals who are on Basic Medicaid for Aged, Blind and Disabled and are subject to spenddown pursuant to Ohio Administrative Code 5101:1-39-10 Medicaid: eligibility through the spenddown process Appendix D; and
- 2) Individuals who are on long-term care such as a Medicaid Home and Community Based Services waiver or in an intermediate care facility for MR program and are subject to patient liability under OAC 5101:1-39-24 Medicaid: determining patient liability Appendix E.

Other individuals who may be prime candidates for MBIWD enrollment are those who are on Medicaid and may have increased earnings that make them vulnerable to either spenddown or patient liability or even loss of Medicaid because of exceeding the income limits for Medicaid eligibility.

Spenddown amounts can be obtained for each individual from the Franklin County Job and Family Services. Patient liability amounts can be obtained from the Franklin County Board of Developmental Disabilities Office of Medicaid Services. A listing of applicable spenddown and patient liability amounts per individual has been obtained effective August 2010 and resides with the FCBDD, Director of Service and Support Administration. According to current FCBDD policy, spenddown payments are the responsibility of individuals and patient liability is paid by the Franklin CBDD. An easy to understand Ohio Job and Family Services document on how spenddown is calculated is in Appendix F.



### **C. The Medicaid Buy-In Program Application**

Each individual seeking to apply must fill out Form JFS 07211 Appendix G for the Medicaid Buy-In program and the Rights and Responsibilities Form JFS 07236 Appendix H. If the individual currently is not on any Medicaid program, Form JFS 07200 in Appendix I must also be completed and submitted.

The primary application for the Medicaid Buy-In program is JFS 07211. It basically collects information needed by the Franklin County Department of Job and Family Services to determine the eligibility of applicants based on citizenship, age, disability, financial criteria, employment in paid, taxed work and determine if premiums are applicable based on current income. Premiums will be calculated based on the cash resources available to the individual.

Documents for verifying citizenship or immigrant status are identified and if the person is on Medicaid, Medicare or cash benefits under Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) no further verification is necessary.

Within the application there are seventeen questions some very perfunctory and some that will involve collecting information to document resources. Questions 1-3 determine disability status and whether Social Security Administration has determined that the individual is disabled, and is the individual working. Even if the individual has ceased being eligible for SSI and or SSDI, they can still apply for the Medicaid Buy-In if all other eligibility criteria are in place. In Questions 4-8, there is basic information for the applicant. Including name, phone number, social security number and social security claim number.

Question 8 allows the individual to retroactively seek payment of medical expenses for the past three months if such costs were incurred. The applicable form is JFS 07110, which is in Appendix J.

Question 9 requires the individual to document any expected changes to the individual's household over the next twelve months. There is a box to fill in the expected changes.

Question 10 requires the individual to provide proof of all sources of income including all household income from all sources such as Social Security, SSI, VA benefits, annuities, alimony, rental property income, employment or other type(s) of income like money received from friends and family on a regular basis.

Question 11 lists examples of resources owned and specific information on type of resource, account numbers, total amount, is it available (to be cashed out), date opened and closed and any joint ownership percentages.

Question 12 seeks to know if there is any property ownership in real estate beyond the residence in which the person lives.

Question 13 seeks to know if any individual in the household has other health insurance coverage and the details.

Question 14 seeks to identify if Medicare Part B premiums are taken out of any Social Security check for the individual.

Question 15 discusses "Impairment Related Work Expenses" that are paid by the individual and not by a third party insurance or organization. Such expenses are deductible for eligibility and premium determinations when paid by the individual.

**Question 16 is a critical question on where to mail a premium if required. Since the Franklin County Board of DD has chosen to pay the premiums of all MBIWD individuals who are also enrolled in their services and supports, the question should be answered "NO".**

**Please fill in the following as to where to mail the premium:**

**Name: Dot Yeager, CFO, FCBDD    Address: 2879 Johnstown Rd.  
City: Columbus    State: Ohio    Zip Code: 43219    Phone: 614-475-6440**

**Missing premiums is grounds for termination from the MBIWD program and may create problems for other Medicaid eligibility.**

Question 17 allows the individual to designate an authorized representative.

Since the application requires some significant information especially on resources, it is worthwhile briefing the individual and any applicable representatives on what is needed to complete the application. Additionally, the Rights and Responsibilities form JFS 07236 must be completed. If the individual is not on Medicaid, then Form JFS 07200 must be completed as well. If retroactive payment for three months of medical expenses is desired then JFS Form 07110 must be submitted as well.

Once these documents are completed, they are submitted to the Franklin County Department of Job and Family Services for processing by mail and no face-to-face interview is required..

## **D. The Procedures for Calculating Financial Eligibility and Monthly Premiums by the County Department of Job and Family Services**

Once the application is submitted to the county department of job and family services, the regulations require determinations of financial eligibility and any required monthly premiums. The formulae for these calculations are contained in rules.

### **Part I. Calculation of Financial Eligibility: Income and Resource Eligibility Standards**

There are two parts to financial eligibility: income eligibility and resource eligibility. The MBIWD rule for determining income and resource eligibility is in OAC 5101:1-41-30 Medicaid: Medicaid buy-in for workers with disabilities (MBIWD) as follows:

**D. (1) For the purpose of determining whether an individual is income eligible for MBIWD, the administrative agency must compare the individual's countable income to the two hundred fifty per cent federal poverty level (FPL) for one person. Only the individual's income is considered when determining eligibility for MBIWD.**

**(a) From the individual's income, apply exemptions and disregards in accordance with rule 5101:1-39-18 of the Administrative Code, but earned income disregards must be applied in the following order:**

- (i) Earned income tax credits and child tax credits;**
- (ii) Infrequent or irregular income;**
- (iii) Earned income of student children;**
- (iv) Any portion of the twenty dollar monthly general income exclusion which has not been excluded from unearned income;**
- (v) Sixty-five dollars of earned income;**
- (vi) Impairment-related work expenses;**
- (vii) One-half of remaining earned income;**
- (viii) Blind work expenses; and then**
- (ix) Any earned income used to fulfill an approved plan to achieve self-support (PASS).**

**(b) If the amount determined in paragraph (D)(1)(a) of this rule is no more than two hundred fifty per cent of the FPL, the individual meets the income eligibility requirement for MBIWD.**

**(c) If the amount determined in paragraph (D)(1)(a) of this rule exceeds two hundred fifty per cent of the FPL:**

- (i) An additional annual amount up to twenty thousand dollars of earned income must be disregarded.**
- (ii) The twenty thousand dollar earned income disregard may be applied wholly or in part in any month to reduce the individual's**

**countable income below two hundred fifty per cent of the FPL. This disregard begins the first month the individual would otherwise be eligible for MBIWD and continues within the year until the twenty thousand dollars is exhausted.**

The following examples illustrate the income eligibility calculation:

Example 1 Income under 250 percent of the federal poverty level, which equates to \$27,075 for calendar year 2010.

The income is \$20,000 for the first example. Deductions were applied and the result is as expected that the individual is income eligible, a fairly easy determination since the total income was below the FPL level of \$27,075.

| Financial Eligibility Determination   | Applicable Deductions | Remaining value    |
|---|-----------------------|--------------------|
| (a) From the individual's income, apply exemptions and disregards in accordance with rule 5101:1-39-18 of the Administrative Code, but earned income disregards must be applied in the following order: |                       |                    |
| <b>TOTAL INCOME</b>   |                       | <b>\$20,000.00</b> |
| (i) Earned income tax credits and child tax credits;  | \$0.00                | \$20,000.00        |
| (iii) Earned income of student children;  | \$0.00                | \$20,000.00        |
| (iv) Any portion of the twenty dollar monthly general income exclusion which has not been excluded from unearned income;  |                       | \$20,000.00        |
| (v) Sixty-five dollars of earned income;  | \$65.00               | \$19,935.00        |
| (vi) Impairment-related work expenses;  | \$1,200.00            | \$18,735.00        |
| (vii) One-half of remaining earned income;  | \$9,367.50            | \$9,367.50         |
| (viii) Blind work expenses; and then  | \$0.00                | \$9,367.50         |
| (ix) Any earned income used to fulfill an approved plan to achieve self-support (PASS).   | \$0.00                | \$9,367.50         |

(b) If the amount determined in paragraph (D)(1)(a) of this rule is no more than two hundred fifty per cent of the FPL, the individual meets the income eligibility requirement for MBIWD.

\$27,075.00

\$9,367.50

(c) If the amount determined in paragraph (D)(1)(a) of this rule exceeds two hundred fifty per cent of the FPL:

(i) An additional annual amount up to twenty thousand dollars of earned income must be disregarded.

(ii) The twenty thousand dollar earned income disregard may be applied wholly or in part in any month to reduce the individual's countable income below two hundred fifty per cent of the FPL. This disregard begins the first month the individual would otherwise be eligible for MBIWD and continues within the year until the twenty thousand dollars is exhausted.

### **Example 2 Income above the 250% FPL**

This second example shows how the formula works for an individual over the 250 percent FPL of \$27,075. The deductions are the \$65 amount of earned income, impairment related work expenses of \$1,200 paid by the individual and not other parties, one half of remaining earned income, which amounts to \$16,867.50 (half of \$33,735). This remaining amount of \$16,867.50 is well below the \$27,075 level for 2010 so this individual is income eligible.

| Financial Eligibility Determination   | Applicable Deductions | Remaining value    |
|---|-----------------------|--------------------|
| (a) From the individual's income, apply exemptions and disregards in accordance with rule 5101:1-39-18 of the Administrative Code, but earned income disregards must be applied in the following order: |                       |                    |
| <b>TOTAL INCOME</b>   |                       | <b>\$35,000.00</b> |
| (i) Earned income tax credits and child tax credits;  | \$0.00                | \$35,000.00        |
| (iii) Earned income of student children;  | \$0.00                | \$35,000.00        |
| (iv) Any portion of the twenty dollar monthly general income exclusion which has not been excluded from unearned income;  |                       | \$35,000.00        |
| (v) Sixty-five dollars of earned income;  | \$65.00               | \$34,935.00        |
| (vi) Impairment-related work expenses;  | \$1,200.00            | \$33,735.00        |
| (vii) One-half of remaining earned income;  | \$16,867.50           | \$16,867.50        |
| (viii) Blind work expenses; and then  | \$0.00                | \$16,867.50        |
| (ix) Any earned income used to fulfill an approved plan to achieve self-support (PASS).   |                       | \$16,867.50        |
| (b) If the amount determined in paragraph (D)(1)(a) of this rule is no more than two hundred fifty per cent of the FPL, the individual meets the income eligibility requirement for MBIWD.              | \$27,075.00           | \$16,867.50        |
| (c) If the amount determined in paragraph (D)(1)(a) of this rule exceeds two hundred fifty per cent of the FPL:   |                       |                    |

(i) An additional annual amount up to twenty thousand dollars of earned income must be disregarded.

(ii) The twenty thousand dollar earned income disregard may be applied wholly or in part in any month to reduce the individual's countable income below two hundred fifty per cent of the FPL. This disregard begins the first month the individual would otherwise be eligible for MBIWD and continues within the year until the twenty thousand dollars is exhausted.

### Example 3 Use of \$20,000 Disregard

In example 3, income is at \$60,000 and the same deductions apply as in example 2. The individual nearly gets below the 250% FPL level after there is a deduction of \$29,367.50 for half of the remaining earned income. Because the individual for income eligibility still is \$2,292.50 above this level, a part of an annual \$20,000 disregard is applied to reduce the income to \$27,075.

| <b>Financial Eligibility Determination</b>  | <b>Use of \$20,000 Disregard</b> | <b>Remaining value</b> |
|---|----------------------------------|------------------------|
| (a) From the individual's income, apply exemptions and disregards in accordance with rule 5101:1-39-18 of the Administrative Code, but earned income disregards must be applied in the following order: |                                  |                        |
| <b>TOTAL INCOME</b>   |                                  | <b>\$60,000.00</b>     |
| (i) Earned income tax credits and child tax credits;  | \$0.00                           | \$60,000.00            |
| (iii) Earned income of student children;  | \$0.00                           | \$60,000.00            |
| (iv) Any portion of the twenty dollar monthly general income exclusion which has not been excluded from unearned income;  |                                  | \$60,000.00            |

|   |             |             |
|---|-------------|-------------|
| (v) Sixty-five dollars of earned income;  | \$65.00     | \$59,935.00 |
| (vi) Impairment-related work expenses;  | \$1,200.00  | \$58,735.00 |
| (vii) One-half of remaining earned income;  | \$29,367.50 | \$29,367.50 |
| (viii) Blind work expenses; and then  | \$0.00      | \$29,367.50 |
| (ix) Any earned income used to fulfill an approved plan to achieve self-support (PASS).   | \$0.00      | \$29,367.50 |
| (b) If the amount determined in paragraph (D)(1)(a) of this rule is no more than two hundred fifty per cent of the FPL, the individual meets the income eligibility requirement for MBIWD.  | \$27,075.00 | \$29,367.50 |
| (c) If the amount determined in paragraph (D)(1)(a) of this rule exceeds two hundred fifty per cent of the FPL:   |             |             |
| (i) An additional annual amount up to twenty thousand dollars of earned income must be disregarded.   | \$2,292.50  | \$27,075.00 |
| (ii) The twenty thousand dollar earned income disregard may be applied wholly or in part in any month to reduce the individual's countable income below two hundred fifty per cent of the FPL. This disregard begins the first month the individual would otherwise be eligible for MBIWD and continues within the year until the twenty thousand dollars is exhausted. |             |             |

These examples illustrate the broad income eligibility standards for Ohio's MBIWD program. A person could earn nearly \$94,000 a year with a disabling condition and still be income eligible for the MBIWD.

In part 2 of Section D of this same rule, there are the requirements for resource eligibility.

- (2) For the purpose of determining whether an individual meets the resource eligibility requirement for MBIWD, an individual's countable resources must not exceed the resource eligibility limit for MBIWD as defined in paragraph (B) of this rule.**
- 1. (a) Only the individual's resources are considered when determining resource eligibility for MBIWD. In the case of resources which are jointly owned, the administrative agency must consider the total amount of the resource available to the individual in accordance with rule 5101:1-39-05 of the Administrative Code (See Appendix K).**
  - 2. (b) For the purposes of determining resource eligibility for MBIWD, resources in accordance with rule 5101:1-39-26 of the Administrative Code are exempt (See Appendix L).**

Within this rule is a long listing of such exempt resources. Here are the major ones that would apply to most individuals:

- (C) The following are considered exempt resources:**
- (1) Household goods and personal effects of a reasonable value as defined in rule 5101:1-39-28 of the Administrative Code (See Appendix M).**
  - (2) Automobiles and other modes of transportation as defined in rule 5101:1-39-29 of the Administrative Code (See Appendix N).**
  - (3) Life insurance policies as defined in rule 5101:1-39-30 of the Administrative Code (See Appendix O).**
  - (4) The home lived in, owned by, and considered the principal place of residence by the individual, the couple, or the parents with whom the eligible child is living.**
    - (a) Only one living place may be established as the principal place of residence.**
    - (b) A temporary absence of less than six months from the home does not affect the principal place of residence exemption so long as the individual has not established permanent residence elsewhere.**
    - (c) The administrative agency must obtain a signed statement, declaring the principal place of residence, when there is an indication the individual resides in more than one place.**
    - (d) Treatment of the home for institutionalized individuals is described in rule 5101:1-39-31 of the Administrative Code.**
- 3. (c) Retirement and income supplementing accounts (RISAs) are evaluated in accordance with rule 5101:1-39-22.7 of the Administrative Code. (See Appendix P).**

Under Section B of the MBIWD rule: the following definitions apply:

**(17) “Resource” means cash, personal property, and real property an individual has an ownership interest in and legal ability to access in order to convert to cash.**

**(18) “Resource eligibility limit for MBIWD”, means countable resources limited to the amount specified under section 5111.702 of the Revised Code. The resource eligibility limit for MBIWD is ten thousand dollars in calendar year 2008 and is adjusted annually with the consumer price index for urban areas (CPI-U) beginning calendar year 2009”.**

In 2010, the resource limit for the MBIWD is \$10,580. The resource limit for Medicaid without the buy-in is \$1,500 so there is a significant benefit for a working individual with disabilities to be on the buy-in beyond exemption from Medicaid spenddown and patient liability expenses.

For purposes of resource eligibility, most usual and customary household goods and personal effects are exempt. Many adults with disabilities do obtain and drive cars including to work. These are exempt also. The treatment of life insurance policies and pension depends on whether the individual has the ability to cash out the policy or plan. If cash is available from a whole life insurance plan or an individual retirement account, it will be treated as cash and a resource. Once individuals have been approved, they receive the notice contained in Appendix Q, which states **“IMPORTANT NOTICE”**. It is helpful to alert individuals of this notice in advance, as it might be intimidating to them if they don’t know it is coming.

## Part II. Calculation of Monthly Premiums

Monthly premiums are calculated by the county department of job and family services according to the following rules under (E) of the Medicaid Buy-In rules:

**“An individual eligible for MBIWD whose individual income exceeds one hundred fifty per cent of the FPL for one person must pay a premium determined as follows (rounded down to the nearest dollar at each step):**

**(1) From the gross annual family income at the time of application and subsequent redeterminations for MBIWD, the administrative agency must subtract one hundred fifty per cent of the FPL for the family size;**

**(2) From the amount determined in paragraph (E)(1) of this rule, the administrative agency must subtract the individual’s IRWE, BWE, and/or MRE;**

**(3) Multiply the amount determined in paragraph (E)(2) of this rule by ten per cent. If the family’s income is less than four hundred fifty per cent of the FPL (applicable to the family size), the premium cannot exceed seven and one half per cent of the individual’s income;**

**(4) From the amount determined in paragraph (E)(3) of this rule, the administrative agency must subtract the amount of medical insurance premiums, including Medicare premiums, paid by the family; and**

**(5) Divide the amount determined in paragraph (E)(4) of this rule by twelve and round down to the nearest whole dollar. This is the individual’s monthly premium.”**

The federal poverty levels for 2010 were left unchanged from 2009 pursuant to the explanation in Appendix R. Here are the poverty levels for 2010 based on family size:

| <b>2009 HHS Poverty Guidelines</b> |                                      |               |               |
|------------------------------------|--------------------------------------|---------------|---------------|
| <b>Size of Family Unit</b>         | <b>48 Contiguous States and D.C.</b> | <b>Alaska</b> | <b>Hawaii</b> |
| 1                                  | \$10,830                             | \$13,530      | \$12,460      |
| 2                                  | 14,570                               | 18,210        | 16,760        |
| 3                                  | 18,310                               | 22,890        | 21,060        |
| 4                                  | 22,050                               | 27,570        | 25,360        |
| 5                                  | 25,790                               | 32,250        | 29,660        |
| 6                                  | 29,530                               | 36,930        | 33,960        |
| 7                                  | 33,270                               | 41,610        | 38,260        |
| 8                                  | 37,010                               | 46,290        | 42,560        |
| For each additional person, add    | 3,740                                | 4,680         | 4,300         |

The following are the calculated levels for 150%, 250% and 450 % of the federal poverty level based on family size.

| Size of Family Unit            | 48 Contiguous States and D.C. |          |          |           |
|--------------------------------|-------------------------------|----------|----------|-----------|
|                                | 150% FPL                      | 250% FPL | 450% FPL |           |
| 1                              | \$10,830                      | \$16,245 | \$27,075 | \$48,735  |
| 2                              | \$14,570                      | \$21,855 | \$36,425 | \$65,565  |
| 3                              | \$18,310                      | \$27,465 | \$45,775 | \$82,395  |
| 4                              | \$22,050                      | \$33,075 | \$55,125 | \$99,225  |
| 5                              | \$25,790                      | \$38,685 | \$64,475 | \$116,055 |
| 6                              | \$29,530                      | \$44,295 | \$73,825 | \$132,885 |
| 7                              | \$33,270                      | \$49,905 | \$83,175 | \$149,715 |
| 8                              | \$37,010                      | \$55,515 | \$92,525 | \$166,545 |
| For each additional person add | \$3,740                       |          |          |           |

Based on the rules, here are five scenarios for various income levels and the resulting annual and monthly premiums.

Scenario 1 has an individual earning \$1,000 per month and \$12,000 per year, the 2010 level for substantial gainful activity and loss of SSDI. Because \$12,000 of income is below the 150% level of \$16,245 the individual owes no premium or any other cost sharing like spenddown or patient liability.

| Scenario # 1                                 | Annual      | Monthly    |
|--|-------------|------------|
| <b>Annual Income Under 150% of FPL</b>       | \$12,000.00 | \$1,000.00 |
| 150% of FPL                                  | \$16,245.00 | \$1,353.75 |
| Difference #1                                | -\$4,245.00 | -\$353.75  |
| Impairment Related Work Expenses, etc.       | \$4,800.00  | \$400.00   |
| Difference # 2                               | -\$9,045.00 | -\$753.75  |
| 7.5 Percent of Difference # 2 Premium Amount | -\$904.50   | -\$75.38   |
| Premium Amount                               | \$0.00      | \$0.00     |

Scenario 2 has an individual earning above the 150% level but below the higher levels of 250% and 450%. This individual has no adjustments to income such as IRWE. Because the income is below 450% of the FPL, the individual's premium is calculated at 7.5 percent and equals \$23.47 per month.

| Scenario #2                                    | Annual      | Monthly    |
|--|-------------|------------|
| <b>Annual Income above 150% but below 250%</b> | \$20,000.00 | \$1,666.67 |
| 150% of FPL                                    | \$16,245.00 | \$1,353.75 |
| Difference #1                                  | \$3,755.00  | \$312.92   |
| Impairment Related Work Expenses, etc.         | \$0.00      | \$0.00     |

|  |            |          |
|--|------------|----------|
| Difference # 2                               | \$3,755.00 | \$312.92 |
| 7.5 Percent of Difference # 2 Premium Amount | \$281.63   | \$23.47  |

In Scenario 3, the individual has income at the 250% of FPL or \$27,045. No IRWE are paid by the individual and since the income is below 450% of FPL, the premium is calculated at 7.5% which results in a monthly premium of \$67.45

| <b>Scenario #3 At 250% of FPL</b>             | <b>Annual</b> | <b>Monthly</b> |
|---|---------------|----------------|
| Annual Income above 250% FPL                  | \$27,075.00   | \$2,256.25     |
| 150% of FPL                                   | \$16,251.00   | \$1,354.25     |
| Difference #1                                 | \$10,824.00   | \$902.00       |
| Impairment Related Work Expenses, etc.        | \$0.00        | \$0.00         |
| Difference # 2                                | \$10,824.00   | \$902.00       |
| 7.5% Percent of Difference # 2 Premium Amount | \$811.80      | \$67.65        |

In Scenario 4, the individual earns \$28,000 a year, which is above the 250% level of FPL but below 450%. In this calculation, \$400 a month of IRWE is paid by the individual, which then qualifies as a deduction. The premium is still figured at 7.5%, resulting in a monthly premium of \$58.43.

| <b>Scenario #4</b>                                 | <b>Annual</b> | <b>Monthly</b> |
|--|---------------|----------------|
| <b>Annual Income above 250% FPL but below 450%</b> | \$28,000.00   | \$2,333.33     |
| 150% of FPL  | \$16,251.00   | \$1,354.25     |
| Difference #1                                      | \$11,749.00   | \$979.08       |
| Impairment Related Work Expenses, etc.             | \$2,400.00    | \$200.00       |
| Difference # 2                                     | \$9,349.00    | \$779.08       |
| 7.5 Percent of Difference # 2 Premium Amount       | \$701.18      | \$58.43        |

In Scenario 5, the individual is earning \$50,000 per year, which is at a level just over 450% of the FPL or \$48,735 for a household of one. With no IRWE deductions, the premium is calculated based on ten percent of income because the income is over the 450% threshold. The monthly premiums are at \$281.29 in this last example.

| <b>Scenario #5</b>                           | <b>Annual</b> | <b>Monthly</b> |
|--|---------------|----------------|
| <b>Annual Income above 450% FPL</b>          | \$50,000.00   | \$4,166.67     |
| 150% of FPL                                  | \$16,245.00   | \$1,353.75     |
| Difference #1                                | \$33,755.00   | \$2,812.92     |
| Impairment Related Work Expenses, etc.       | \$0.00        | \$0.00         |
| Difference # 2                               | \$33,755.00   | \$2,812.92     |
| Ten Percent of Difference # 3 Premium Amount | \$3,375.50    | \$281.29       |

All of these examples highlight the calculation of premiums, which will be much less than similar calculations for Medicaid spenddowns for individuals on Medicaid for ABD (Basic) and for those who must pay patient liability when enrolled on Medicaid Home and Community Based Services waivers and other Medicaid long-term care services. In Appendix S is the notice of premium for those earning above the 150% of the federal poverty level for reference. This notice should come to the board offices if the application was correctly filled out and number 16 directed to premium notice back to the board as payor.

## **E. Critical Considerations**

Ohio's Medicaid Buy-In program for Workers with Disabilities is a critical incentive to assist individuals with disabilities to acquire and retain gainful employment while maintaining access to health care and related supports through Medicaid ABD and HCBS waivers and other long-term care. It is critical that the regulations be followed for continued eligibility for and participation in Medicaid while working.

It is important to ensure that when required, Medicaid premiums are paid. The Franklin County Board of Developmental Disabilities has graciously decided to pay such premiums for all eligible individuals under the MBIWD. Within the MBIWD application Form 07211 (Appendix G) question 16. The following critical advice was given under the application section of this manual:

**Question 16 is a critical question on where to mail a premium if required. Since the Franklin County Board of DD has chosen to pay the premiums of all MBIWD individuals who are also enrolled in their services and supports, the question should be answered "NO".**

**Please fill in the following as to where to mail the premium:**

**Name: Dot Yeager, CFO, FCBDD    Address: 2879 Johnstown Rd.  
City: Columbus    State: Ohio    Zip Code: 43219    Phone: 614-475-6440**

**Missing premiums is grounds for termination from the MBIWD program and may create problems for other Medicaid eligibility.**

A lot of bureaucracy can be avoided by following the above advice and making sure that staff at the Franklin County Department of Job and Family Services correctly processes this request.

A second critical element is loss of employment. The Franklin CBDD Department of Service Coordination needs to be alerted to loss of employment by any enrolled individual on the MBIWD as soon as it occurs. Based on Ohio Law in Section 5111.706 Continued Participation Where Employment Ceases, the individual can continue for six months on the MBIWD after loss of employment. The amplified section of the Ohio Administrative Code pursuant to 5101:1-41-30 "The Medicaid Buy-In Program (See Appendix B) under Section C:

- (4) If the individual eligible for MBIWD under the basic or medically improved group ceases to work, the individual may continue to participate in MBIWD for up to six months beginning the first day of the month after the month the individual is no longer working when:**
- (a) The individual intends to return to work or look for a new job; and**

- (b) The individual continues to pay MBIWD premiums, if applicable;**
- and**
- (c) The individual continues to meet all other eligibility requirements for MBIWD.**

It is important to know the employment status of individuals on the MBIWD so that they can be appropriately assisted to find a new job in their six-month window or if employment is not available or desired to be able to maintain enrollment on the applicable Medicaid program when the MBIWD program enrollment expires. Otherwise the individual may be subject to reapplication for Medicaid, which could jeopardize applicable benefits.

A third consideration related to the loss of employment and return to coverage under Medicaid ABD or long-term care is the resource level reduction. If the individual on the MBIWD loses employment and does not become re-employed within the required six-month timeframe, the MBIWD allowed resource level of \$10,580 must be reduced to \$1,500, the resource level for Medicaid outside of the buy-in program. The individual, therefore, may need assistance to reduce the resource limit prior to the expiration of the timeline and ensuring of the applicable Medicaid program.

Ohio's Medicaid Buy-In Program for Workers with Disabilities has been nicely constructed and creates a nice incentive for workers with disabilities to gain significant wages while maintaining essential Medicaid benefits. While decisions for any such incentive programs need to be individualized to particular circumstances, it appears that a vast majority of individuals with developmental disabilities and the agencies that fund their services and supports can greatly benefit from the MBIWD.

### **III. Concluding Thoughts: The Benefits of Ohio's Medicaid Buy-In Program**

There are many benefit considerations when individuals with developmental and other disabilities choose to acquire and retain employment. Unearned cash benefit programs like Supplemental Security Income (SSI) and Social Security Disability Income (SSDI) can be replaced by earned income from work. Substantial gainful activity and zeroing out of cash benefits at a \$1,000 or so for SSDI and about \$1,433 for SSI is not necessarily a costly choice when an individual can and wants to work at this level.

Most individuals with developmental disabilities are on either Medicaid ABD or a Medicaid Home and Community Based Services waiver. Losing either of these programs is largely unthinkable. Replacing the coverage that these programs provide could not be realistically replaced by wages in most cases. Without belaboring this point, Medicaid needs to be preserved whenever possible for individuals who choose to become gainfully employed and work at a level which, because of income eligibility, may jeopardize participation in Medicaid.

In 1999, Congress passed several acts that encouraged people with disabilities to become employed and retain particular benefits. Ticket to Work was enacted to eliminate reliance on SSI and SSDI replaced by real wages. Medicaid Buy-In programs were adopted to preserve Medicaid participation when working. Since Medicaid is a state sponsored program by federal law, states were required on a permissive basis to adopt laws authorizing Medicaid buy-in programs.

Ohio adopted its Medicaid Buy-In program as part of its state budget in 2007 and rules were adopted thereafter. Throughout this implementation manual, an attempt has been made to highlight the benefits of this program for working people with disabilities including those with developmental disabilities. The following are the major benefits:

1. Allows continued participation in Medicaid even when income reaches significant levels;
2. Maintains health care and long-term care benefits which are largely irreplaceable through employment;
3. Eliminates Medicaid spenddown under Basic Medicaid;
4. Eliminates patient liability for Medicaid long-term care;
5. Increases the resource eligibility limit to over \$10,000 under the MBIWD compared to \$1,500 under basic Medicaid or long-term care;
6. Establishes premiums for income over 150% of the federal poverty level but below 450% of the FPL at 7.5 percent of the amount over the 150% level;
7. Establishes premiums for income over 450% of the federal poverty level at 10 percent of the amount over the 150% level.
8. Provides ways to have third parties pay premiums when allowed;

9. Allows a six-month window for participation in the MBIWD when employment is lost; and
10. Establishes a fairly easy process for enrollment;
11. Individuals who are not on SSI or SSDI (presumably zeroed out of cash benefits) but are otherwise eligible in terms of disability eligibility are eligible for the MBIWD; and
12. Provides several hundred thousands of dollars in savings to the Franklin County Board of DD in patient liability expense.

Truly, the MBIWD program is a great incentive for those individuals with developmental disabilities who are employed and want to improve wages to much higher levels. It can reduce out of pocket expenses to perhaps zero or a fraction of spenddown and patient liability, maintains Medicaid benefits at thousands of dollars, and allows improved resource levels. This program can be a huge boost for those who want to and can work and earn more.