

Sneede/Gamma and Section (§) 1931(b)

Here are some tips on **WHEN, WHAT AND HOW** to apply Sneede and Gamma to families.

WHEN?

Only apply Sneede/Gamma procedures if:

1. the combined countable income of the family is too high to make them eligible for free Medi-Cal, ***and***
2. any of the following situations exist:
 - A. one of the children has his/her own income, ***or***
 - B. an unmarried parent or a stepparent lives in the home, ***or***
 - C. a caretaker relative cares for the child seeking Medi-Cal.¹

Example: Jodie, Jimmy and Jack (Jodie's child from a previous marriage) live together. Jimmy and Jodie are married. Jimmy is the only one who works and he works part-time. They all apply for §1931(b). The welfare office lumps the family's combined income together. The family's combined income falls below 100% of the FPL for a family of 3. Since they are eligible for free §1931(b) Medi-Cal [See generally [Section 1931\(b\) Medi-Cal for Children, Parents and Caretaker Relatives](#) issue brief]. You don't need to apply Sneede/Gamma!

WHAT?

- Sneede was a court decision about when and how the County (i.e. a Medi-Cal eligibility worker) can count other people's income or resources when determining an individual's Medi-Cal eligibility.² The process of counting someone else's income or resources against an individual's Medi-Cal eligibility is called "*deeming*." Sneede rules only allow the County to deem (i.e. count) a parent's income to a child and a spouse's income to his/her spouse. No one else's income can be counted (unless the County knows they are actually giving the person money).
- Gamma was a court decision that says the County must first allocate (i.e. subtract) an amount for personal living expenses to a parent or spouse before it deems income or resources from that parent or spouse to other family members for whom they are legally responsible.³ This is called the "personal needs allowance" and must be subtracted from the income of the parent or spouse before any "deeming" to others.

HOW?

Follow these steps: **DON'T - P.A.N.I.C.!!**

- D = Deduct the income exemptions and disregards**
- P = Subtract the personal needs allowance**
- A = Allocate the income**
- N = Number your budget units**
- I = Income add up**
- C = Compare to income limits**

Step 1 - Deduct the Income Exemptions and Disregards:

This is necessary to determine the family's "countable income." (See page 2 of the [Section 1931\(b\) Medi-Cal for Children, Parents and Caretaker Relatives](#) issue brief for more information on income exemptions and disregards for 1931(b) applicants and recipients⁴).⁵ For §1931(b) **applicants**, a child's earned income is exempt when determining whether the principal wage earner (PWE) is unemployed under the 100-hour rule.⁶ For determining §1931(b) income eligibility, applicants and recipients can deduct \$90 of earned income for each working person, dependent care costs (with some limits), court-ordered child support or alimony paid, \$50 in child support or alimony received, certain education expenses, self-employed business expenses, and \$240 from the *combined* family disability-based income. If the resulting income (i.e. the families "countable income") is at or below 100% of the federal poverty level (FPL), the family is income eligible for 1931(b).⁷ This is called the "**Applicant**" or "**Alternative B**" test by the State Department of Health Services (DHS).

Recipients can use either the **Applicant/Alternative B** test (described above) or the "**Recipient**" test (called the "**Alternative A**" test by DHS) (described below). The **Applicant/Alternative B** test is preferable for recipients with more *unearned* income. The **Recipient/Alternative A** test is best for recipients with more *earned* income. Using the, **Recipient/Alternative A** test, a recipient applies the same deductions as used in the **Applicant/Alternative B** test, except working persons cannot deduct \$90 from their earned income. In addition, **recipients** can deduct: 1) any unused portion of the \$240 disability-based income deduction from the *combined* earnings of the two highest earners; 2) \$120 for *each additional* earner (if more than 2); and 3) half of the remaining family member's combined earned income. If the resulting income after these deductions is below the "Recipient Test A" limits, the recipient family is or remains 1931(b) eligible.⁸ *Disclaimer:* everyone in the recipient's budget unit must use the same test. (See "Number your budget units" below).

Special Sneede Rules: There are some important differences in the rules used when applying income deductions under the Sneede/Gamma procedures for both applicants and recipients:

1. When determining income eligibility using Sneede/Gamma procedures, each individual can deduct the applicable §1931(b) applicant or recipient disregards.⁹ For example, when using the **Applicant/Alternative B** test, *each individual* with disability-based income can deduct \$240 whereas under non-Sneede §1391(b) procedures, the \$240 disability-based income deduction is subtracted from the *combined* family disability income.¹⁰ Similarly, using the **Recipient/Alternative A** test, *each individual* can deduct \$240 (first from disability-based income or the unused portion from earned income), and then deduct half of any remaining income.
2. Another difference under Sneede/Gamma procedures using the **Recipient/Alternative A** test is that the \$50 court-ordered spouse or child support is prorated among those for whom payments were intended. In non-Sneede §1391(b) procedures, one \$50 deduction is applied to the combined court-ordered spouse or child support received.¹¹
3. The \$120 income deduction which applies using the **Recipient/Alternative A** test in the non-Sneede §1391(b) procedures does not apply in the Sneede/Gamma context.¹²

Step 2 - Subtract the Personal Needs Allowance (PNA):

Each birth or adoptive parent or spouse gets to subtract a personal needs allowance (PNA) from their income. If the family is a §1931(b) **applicant** family (i.e. using Applicant/Alternative B test), each parent can deduct 100% of the FPL for one person of one (\$851 in 2007). If the parent is pregnant, she can subtract a PNA equal to 100% of the FPL for *two* people. If the family is a §1931(b) **recipient** family, the parents have a choice: If the recipient budget unit has decided to use Applicant/Alternative B test, each parent in that unit can deduct 100% of FPL. (See above). If the **recipient** budget unit has decided to use the Recipient/Alternative A test (see above), each parent can deduct \$1 less than the CalWORKs Minimum Basic Standard of Adequate Care (MBSAC) of one (\$398-1= \$397).¹³ A pregnant woman gets to subtract a \$1 less than the MBSAC of 2 persons (\$653-1= \$652).

Step 3 - Allocate the Rest of the Money:

After subtracting the PNA in Step 2, allocate the remaining income or resources evenly among the family members in the household for whom that parent or spouse is legally responsible (i.e. their spouse and birth/adopted children). **Note:** Stepparents are not responsible for stepchildren and couples are not responsible for one another unless they are married so they should not allocate income or resources to them.

Example: Natasha and her separate child, Bullwinkle, are applying for §1931 (b) Medi-Cal as applicants along with Natasha's boyfriend, Boris, and their child in common, Rocky. Natasha and Boris each earn \$1,150 a month in net nonexempt income. Each works less than 100 hours per month. You've already determined that you must go through the Sneede/Gamma calculations

because the total *countable* income (\$2,300) exceeds the §1931(b) Applicant/ Alternative B test income limit for a family of 4 (\$1,721 in 2007).¹⁴ Boris subtracts a personal needs allowance of \$851 from his income of \$1150. The remaining \$299 is divided by 1 (Rocky, his child). Natasha also subtracts a personal needs allowance of \$851 from her income. The remaining \$299 is divided by 2 (Bullwinkle and Rocky, both her children).

Step 4- Number Your Budget Units:

Break the family into budget units (also called “mini-budget units” or MBUs). Apply the following budget unit rules:

- A pregnant woman is counted as two in a budget unit.
- Each child with his/her own nonexempt income or property is in a separate budget unit.
- Spouses are in the same budget unit. Their mutual children with no income/property are included in the parents’ budget unit.
- When spouses have non-mutual children, parent A’s separate children with no income/property are together in their own separate budget unit. Parent B’s separate children with no income/property are in their own separate budget unit.
- Unmarried couples are in separate budget units. Their mutual children with no income/property are together in their own separate budget unit. Each parent’s separate children with no income/property are in the unmarried parent’s budget unit.
- Non-parent caretaker relatives are in their own separate budget unit. Ineligible family members are included in the budget unit.¹⁵ Excluded children or persons receiving public assistance never go in a budget unit.¹⁶

Example: In the above example, there are three mini-budget units: 1) Natasha and Bullwinkle; 2) Boris; and 3) Rocky.

Step 5 - Income Add-Up:

Add up the income in each mini-budget unit. For each person, add their own income, as well as income deemed from a spouse or from a birth/adoptive parent (whenever applicable). Remember, for each parent or spouse only count their PNA or their actual countable income, *whichever is less*.

Example: In the above example, mini-budget unit #1 (Natasha and Bullwinkle) consists of \$851 (Natasha’s PNA) + \$149.50 (½ of Natasha’s remaining \$299 which was deemed to Bulwinkle), for a total of \$1000.50. Mini-budget unit #2 (Boris) consists of \$851 (Boris’ PNA). Mini-budget unit #3 (Rocky) consists of \$149.50 (the other ½ of Natasha’s remaining \$299– deemed to Rocky) + \$299 (all of Boris’ remaining money which was deemed to Rocky) for a total of \$448.50.

Step 6 - Compare to the Applicable Income Limits:

Compare the mini-budget unit's total countable income to the applicable Medi-Cal program income limit. So, if a §1931(b) **applicant** family is involved, the 100% FPL limits apply under the Applicant/Alternative B test. If it is a §1931(b) **recipient** family, the applicable limit is either the 100% FPL or the §1931(b) income limits, if using the Recipient/Alternative A test, depending on which deductions the budget unit chose (see above).

Special Income Limit rules: If any parent is in the mini-budget unit, the units' total income is compared to the full income limit for a unit of that size. If a budget unit contains *only a child or children*, but one or both parents live in the same household, the unit's total countable income is compared to and must fall below a **prorated income limit** to be eligible.¹⁷ Those prorated income limits are set out on the [Section 1931\(b\) and Medically Needy Sneed v. Kizer Personal Needs Allowance and Prorated Income Limits](#) chart.

Example: In the above example, Mini-budget unit #1 (Natasha and Bullwinkle) are income eligible because their total \$1000.50 falls below the 100% FPL income limit for two (\$1,141 in 2007). Mini-budget unit #2 (Boris) is *income* eligible for §1931(b) because his total countable income (\$851) is at the income limit (100% FPL) for one person. (**NOTE:** *DHS takes the position that parents must have a deprived child eligible for no share of cost Medi-Cal to be §1931(b) eligible.*¹⁸ So Boris' §1931(b) eligibility will depend on whether Rocky is eligible for no share of cost Medi-Cal). Mini-budget unit #3 (Rocky) is eligible for §1931(b) because his total countable income (\$448.50) is below the prorated 100% FPL income limit for a child with two parents in the home (\$477) (See [Prorated Income Limit](#) chart). Therefore, since Rocky is eligible for free Medi-Cal, Boris is also eligible.

What if a mini-budget unit is not § 1931(b) eligible: What's Next?

Test the ineligible mini-budget units' eligibility for the Medically Needy (MN) program. (Note: if an ineligible parent or child has a disability, he or she may be tested under the [ABD-MN program](#)). If there is a share of cost, test the children's eligibility for one of the [federal poverty level \(FPL\) programs](#). These next steps depend on which mini-budget units and persons are ineligible for §1931(b). While there are exceptions to these rules, generally, you do the following:

First, lump all of the §1931(b) income ineligible persons together into one unit (regardless of which mini-budget unit they were in above) to see if they fall below the Medically Needy Income Level (MNIL) for a unit of their size. Use the total net-nonexempt income amounts (after applying deductions, Step1 above, using the appropriate Medically Needy deductions). **Important rules:** 1) Section 1931(b) ineligible parents get to deduct any amounts which were allocated to their §1931(b) eligible children or spouse;¹⁹ 2) Only the net nonexempt income of the §1931(b)

ineligible child counts – not any amounts allocated to them from their § 1931(b)-eligible parent(s) in the Sneede/Gamma calculations done above.²⁰ If it hasn't been done already, subtract the allowable MN deductions. If the resulting total is below the applicable MNIL for a unit of that size, stop there and do not apply Sneede/Gamma.

Example: Lola and her husband, Micky, have a mutual child, Darren. Darren is five years old. They each have one separate child. Lola and Micky work and they earn the same amount of income. They went through the §1931(b) Sneede/Gamma applicant calculations above. As part of the calculations, Lola and Micky each had \$50 allocated to each of their children. Only their separate children ended up being §1931(b) eligible. Now, you need to see if Lola, Micky and Darren are eligible for no share of cost Medically Needy. Take the total countable income of Micky, Lola and Darren. (Don't use the personal needs allowance and allocation amounts). Subtract the total countable income by the amounts that were allocated by Micky and Lola to their two separate children in the §1931(b) Sneede/Gamma calculation. (Step 3 above). (This means Lola gets to deduct the \$50 that was allocated from her income to her separate child and Micky gets to deduct \$50 that was allocated from his income to his separate child). Compare the result to the MNIL for a family of 3 to determine their share of cost.

Second: If not eligible for no share of cost Medically Needy, then, apply Sneede if it would apply to this unit i.e. there would be improper deeming). If, for example, the §1931(b) ineligible remaining people were just the mother, husband and mutual child (like Lola, Micky and Darren above), then Sneede/Gamma would *not* apply so skip this step and go directly to the third step below. If the §1931(b) ineligible remaining people include a child with his/her own income, an unmarried parent or a stepparent living in the home or there is a caretaker relative caring for the child, then you must apply Sneede/Gamma. Follow the Don't P.A.N.I.C. steps above, except use the Medically Needy personal needs allowance levels (\$600) and the AFDC-MN (or ABD-MN if appropriate) allowable deductions (See Regular AFDC-MN Medi-Cal issue brief.)²¹ Subtract any parental allocations which were previously deemed from the MN parent in the unit to a §1931 eligible child (as part of the Sneede/Gamma §1931 calculations).²² Compare the results to the MNIL level that applies to a unit of that size. **Note:** Medically Needy prorated income levels also apply to children-only units when you are testing for Medically Needy eligibility.²³ These levels are set out on page two of the [Section 1931\(b\) and Medically Needy Sneede v. Kizer Personal Needs Allowance and Prorated Income Limits](#) chart.

Example: In the above example, let's say Lola and Micky's separate children did not pass the §1931(b) income tests, even after applying the §1931(b) Sneede/Gamma rules. You lump their income together to see if they would be eligible for Medically Needy Medi-Cal (i.e. their income does not exceed the MNIL for a family of 5). Since their combined countable income is above the income limit, you must apply Sneede/Gamma, using the Medically Needy deduction and income rules because if you do not, Lola and Micky's income

will be inappropriately deemed to their stepchildren. Apply Don't PANIC steps above with a few changes. Under Step 2, Micky and Lola would each subtract a PNA of \$600 (the MNIL for one person) and not the amount used for either the Applicant/Alternative B test or Recipient/Alternative A test for §1931(b). Under Step 3, just as with the §1931(b) Sneede/Gamma, Lola and Micky and their mutual child, Darren, would be in one mini-budget unit. Each separate child is in his/her own separate mini-budget unit. Under Step 6, when you "Compare to the Applicable Income Limit," use the Medically Needy income limits, not the §1931(b) limits. So, Micky, Lola and Darren's MN eligibility/share of cost would be determined by comparing their countable income to the MNIL for a family of 3: \$934. The two separate children would have their MN eligibility/share of cost calculated by comparing their countable income to \$375 -- *the prorated MN limit* which applies to child-only budget units living with one parent. If the children still have a share of cost, see if they still can get free Medi-Cal under one of the federal poverty level (FPL) programs (below).

Third: If the children in the mini-budget unit/s still are not eligible for free, no share of cost Medi-Cal, see if they can get free Medi-Cal through one of the FPL programs. DHS applies a **Sneede-hybrid rule** to the FPL programs as follows: 1) The FPL income limits are not prorated. Instead, the entire family is lumped together to determine the applicable FPL family size and compared to the income limit for the appropriate FPL program; 2) Only the total net nonexempt income from the birth/adoptive parents count against the §1931(b)/no-share-of-cost Medically Needy ineligible child (and that child's own separate income); 3) For this calculation, the parents do not get to subtract any amount allocated to §1931(b) eligible children.²⁴

Example: In the above example, let's say that Lola, her husband, Micky and their mutual child Darren were *not* eligible for no share of cost Medically Needy. To determine Darren's eligibility for an FPL program, add together the net nonexempt income of Lola and Micky and compare it to an FPL for a family of 5 which applies to a child of Darren's age – 133% FPL. (You use the FPL for 5 persons because you are counting Lola and Micky's separate children to determine which FPL amount to use).

Note: Special rules might apply if pregnant women, senior parents, caretaker relatives, or essential persons (stepparents married to a spouse with a deprived child) are involved. So, check the guidance listed in the endnotes for any exceptions that might apply.²⁵

ENDNOTES

1. This fact sheet only explains how Sneede/Gamma affect income. Sneede/Gamma would also apply to help families made ineligible by the resources of a child, stepparent, unmarried parent or caretaker relative. Fewer of our clients are excluded because of resources than income. The property rules can similarly be found in the resources cited, *infra*, note 26.
2. Sneede v. Kizer, 728 F.Supp. 607 (N.D.Cal.1990).
3. Gamma v. Belshe, Case No. C94-0852 (THE (N.D.Cal 1995) *reprinted in Medicare & Medicaid Guide* (CCH), ¶ 40,003.
4. "Recipients" are defined as persons or families who either received §1931(b) Medi-Cal or CalWORKS during the previous month or who were eligible for CalWORKs or §1931(b) during one of the four months prior to their application for Medi-Cal. "Applicants" are everyone else. DHS ACWDL 98-43, Attach. 1, pp. 1-2 (Sept. 30, 1998), *as amended by* ACWDL 98-43E (Nov. 12, 1998) and ACWDL 99-37 (July 16, 1999).
5. With some exceptions, the section 1931(b) program applies the same exemptions and deductions as persons applying for the AFDC-Medically Needy program, except that the deduction at 22 C.C.R. § 50555.1 for beneficiaries whose income was used to determine a family member's cash grant from a public assistance program does not apply. However, no income or Sneede allocation from any eligible §1931 (b) person is carried over to family members who did not pass § 1931(b). Income exclusions that are applicable only to ABD-MN/MI individuals (e.g. income deduction for health insurance premium) also are not used in the § 1931(b) program. The § 1931(b) program follows the more generous of the former AFDC or CalWORKS rules. DHS ACWDL 98-43, Attach 1, p. 13-14 (Sept. 30, 1998), *as amended by* ACWDL 98-43E (Nov. 12, 1998). *See also* DHS, Medi-Cal Eligibility Procedures Manual (MCEPM), Article 5S at p. 5 (7/3/03), 8G at p. 5 (11/5/02). Also note earned income is not necessarily from employment. *See, e.g.,* DHS, ACWDLs 02-44 (Aug. 27, 2002), 03-36 (July 2, 2003) (Temporary Workers Compensation and State Disability Insurance Payments treated as earned income).
6. DHS, MCEPM, Articles 5C at pp. 13-14 (12/5/02); 5S at p. 3 (7/3/03); *see also* DHS, ACWDLs 01-30 (containing Unemployed Parent Determination Worksheet, MC337 (April 2001)) and 01-52 Sept. 20, 2001)(parents who fail the 100 Hour U-Parent test using § 1931(b) deductions should be redetermined using Medically Needy deductions. Once deprivation is established, the family can be evaluated for Section 1931(b) eligibility, even if the deprivation was based on the use of the MN deductions).
7. *See* DHS, ACWDL, 03-36 (July 2, 2003) (Attachment: Sec. 1931 Applicant and Recipient Budget Form for Determining Net Non-Exempt Income and Section 1931(b) Income Eligibility for Applicants, and for Recipients Under Alternative B, MC 176 MA—1931 Group Appl/Recip (11/02)).
8. *See* DHS, ACWDL, 03-36 (July 2, 2003) (Attachment: Sec. 1931 Recipient Budget Form for Determining Net Non-Exempt Income and Section 1931(b) Income Eligibility for Recipients Under Alternative A, MC 176 MA—1931 Group Recip (2/02)).
9. *See* DHS, ACWDL, 03-36 (July 2, 2003) (Attachment: Section 1931(b) Sneede v. Kizer Net Nonexempt Income Determination and Mini Budget Unit (MBU) Determination – Applicant, MC 176-31.2A (1/03) 1931 Group; MCEPM Article 8G at p. 5 (11/5/02), pp. 42-45 (12/1/00) (Section 1931 (b) Sneede v. Kizer Net Non Exempt Income Determination and Mini Budget Unit (MBU) Determination – Recipient, MC175.31.2R (3/00) 1931 Group)).
10. DHS, ACWDLs 02-44 (8/27/2002), 03-36 (7/2/03). Disability-based income is defined as disability insurance payments paid from a public entity under a statute or other law that requires a finding of disability (such as from Social Security Administration, Permanent Workers Compensation, Veterans Administration, or Railroad Retirement Benefits) and private disability benefits. Temporary Workers Compensation and State Disability Insurance Payments are treated as earned income. *See* ACWDL 03-36 at 2; MCEPM, Article 8G at p. 5 (11/5/02).
11. MCEPM, Article 8F at p. 13 (5/10/99).

12. DHS, ACWDL 99-02E (May 7, 1999); MCEPM, Articles 8G at p 42-45 (12/1/00) (Form MC 175-31.2R); 8F at p. 13 (5/10/99) (each ABD child or adult or spouse receives a full set of the applicable ABD income deductions and exemptions); 8G at p. 5 (11/5/02) ("Each...Sneede member may receive the full \$240 and ½, if applicable.")
13. MCEPM, Article 8G at p. 5 (11/5/02); DHS, ACWDL 04-35 (Nov. 3, 2004).
14. This example also assumes that you have already deducted the income exemptions and disregards.
15. Ineligible persons are defined at 22 CCR §50379.
16. 22 CCR § 50381. The budget unit rules can be found in MCEPM, Arts. 8F at pp. 3-4 (5/10/99), 8G at pp. 1-4 (11/5/02).
17. See MCEPM Art. 8F at p. 6 (Aug. 24, 1999); ACWDL 04-35, Ex. A (Nov. 3, 2004) (Section 1931(b) Determinations: Sneede v. Kizer Prorated CalWORKS-Based Income Standard and Property Levels), ACWDL 07-04-E (Feb. 14, 2007) (Section 1931(b) Determinations: Sneede v. Kizer Prorated FPL Income Standard and Property Levels – April 1, 2007).
18. MCEPM, Arts. 5c at p. 22(1/30/02), 5S at p. 4 (7/3/03), 8G at pp. 2, 4 (11/5/02).
19. MCEPM, Art. 8G at p. 5 (11/5/02) (Unmarried parents may not deduct any allocation to the unmarried parent of their mutual child).
20. *Id.* at p. 5.
21. MCEPM, Art. 8F at pp. 4, 13, 33 (5/10/99), p. 60 (9/6/00) (Maintenance Need Income Levels (MNIL) Determinations: Sneede v. Kizer Prorated MNIL Income standard and Property Levels – January 1, 1990).
22. MCEPM, Art. 8G at p. 5 (11/5/02).
23. MCEPM, Art. 8F at 60 (9/6/00) (Maintenance Need Income Levels (MNIL) Determinations: Sneede v. Kizer Prorated MNIL Income standard and Property Levels – January 1, 1990).
24. MCEPM, Art. 8G at pp. 6,8 (11/5/02).
25. To become a Sneede/Gamma expert, get copies of the following DHS policies and be on the alert for new clarifications and corrections in the Manual and in All County Welfare Director Letters: DHS, Medi-Cal Eligibility Procedures Manual Articles 5C (Deprivation), 5S (Section 1931(b) Program), 8F (Sneede v. Kizer Lawsuit Procedures as Modified By Gamma v. Belshe), 8G (MFBU Determinations for the Section 1931(b) Program). You can get copies by requesting them from the DHS Medi-Cal Eligibility Branch Releasing Clerk at (916) 653-8584.