
POLICY TRANSMITTAL NO. 08-32	DATE: JUNE 10, 2008
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:10-3-32 and 10-3-33.

EXPLANATION: OAC 340:10-3-32 Instructions to Staff are revised to clarify calculation of self-employment income. The worker must use the net income shown on the tax return if a tax return was filed and reflects the current income situation.
OAC 340:10-3-33 Instructions to Staff are revised to clarify the handling of expenses in regards to applicants and recipients who work.

Original signed on 6-10-08

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WF # 08-H (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

REMOVE

340:10-3-32

340:10-3-33

INSERT

340:10-3-32, pages 1-4, revised 6-1-08

340:10-3-33, pages 1-5, revised 6-1-08

340:10-3-32. Determination of earned income

Revised 7-1-07

Earned income results from self-employment or other employment sources.

(1) **Earned income from self-employment.** ■ 1 If the income results from the person's activities primarily as a result of the person's own labor from the operation of a business enterprise, the countable earned income is determined by deducting 50% of the gross income as business expenses or by using the net business profit for the most recent tax year as reported on the person's income tax return. ■ 2 Self-employment income that represents a household's annual support is prorated over a 12-month period, even if the income is received in a shorter period of time. ■ 3

(A) **Room or board.** Earned income from a room rented in the home is determined by considering 25% of the gross amount received as business expenses. Earned income from room and board paid by a person in the home is determined by considering 50% of the gross income received as a business expense. ■ 4

(B) **Rental property.** Income from rental property is considered income from self-employment if none of the activities associated with renting the property is conducted by an outside person or agency. ■ 5

(C) **Profit sharing.** Households who operate S corporations, general or limited partnerships, or limited liability companies may receive profit sharing that is reported on the household's personal income tax return. When a household member:

(i) actively participates in the operations, the income from profit sharing is considered part of the household's self-employed earned income; or

(ii) does not actively participate in the operations, the income from profit sharing is considered part of the household's unearned income.

(2) **Earned income from sources other than self-employment.**

(A) **Earned income from wages, salary, or commission.** If the income is from wages, salary, or commission, the earned income is the gross income or true wage prior to payroll deductions and withholdings. ■ 6 This includes earned income from contract employment. ■ 7 Money from the sale of whole blood or

blood plasma is considered as earned income.

(B) Earned income from work and training programs.

(i) **Workforce Investment Act (WIA).** WIA earned income received by the payee or spouse as wages is considered as any other earned income. WIA earned income of a dependent child(ren) is considered when received in excess of six months in any calendar year. ■ §

(ii) **On-the-job training (OJT).** Earned income from regular employment for OJT is considered as any other earned income.

INSTRUCTIONS TO STAFF 340:10-3-32

Revised 6-1-08

1. See OAC 340:10-3-33 for earned income deductions.
2. (a) If the person filed a federal income tax return form for the most recent year, the worker uses the net self-employment income shown on the person's federal income tax return and divides the income by 12 or the number of months the business has been in existence, if less than 12 months, to determine monthly income unless it is not representative of the person's current situation.

(b) When the person did not file an income tax return on his or her self-employment income for the most recent year, the worker uses (1) through (3) to determine the net monthly self-employment income.

(1) The gross self-employment income is computed using the person's self-employment business records for the past 12 months, or the number of months the person has been in business.

(2) If the person declares he or she incurred business expenses, the worker then subtracts 50% of the gross self-employment income as business expenses. If the household did not incur business expenses, a business expense deduction is not given.

(3) If the person's self-employment enterprise has been in existence for at least one year, the worker divides the net self-employment income by 12. If the person's self-employment enterprise has been in existence for less than a year, the worker divides the net self-employment income by the

number of months the person has been in business.

(c) Self-employment income tax return forms include but are not limited to:

(1) Form 1040 with Schedule C for sole proprietors and some limited liability companies;

(2) Form 1065 with Schedule 8865 K-1 for partnerships;

(3) Form 1120-S with Schedule K-1 for S corporations; or

(4) Form 1040 with Schedule F for farmers.

3. For example, self-employment income received by a crop farmer is averaged over a 12-month period if the income represents the farmer's annual support.

4. If the roomer or boarder is a non-relative of the opposite sex, see OAC 340:10-3-57(e)(3).

5. When the client does not manage the rental property, it is considered as unearned self-employment. The client is then entitled to have 50% of his or her business expenses subtracted from the income but is not eligible for a work related expense deduction.

6. If a person receives a benefit allowance from his or her employer, the worker counts the regular gross earnings plus any excess money left after deducting the insurance cost from the benefit allowance. For example, a person:

(1) is given a \$300 benefit allowance to purchase insurance and uses the entire amount to purchase the insurance. None of the benefit allowance is counted as income;

(2) is given a \$300 benefit allowance but only purchases \$280 in insurance. The remaining \$20 that is given to the client as an excess benefit allowance is counted as income; or

(3) has an option of purchasing insurance and would receive a \$300 benefit allowance if insurance was purchased but the person elects not to purchase the insurance. In this situation, the employer makes \$150 of the \$300 benefit allowance available as cash. The \$150 is an excess benefit allowance and is counted as income.

- 7. Income from contract employment received by persons, such as school employees, is annualized over a 12-month period even if the income is received over a period of time shorter than 12 months.**
- 8. See OAC 340:10-3-40(17), Income disregards.**

340:10-3-33. Individual earned income exemptions

Revised 10-1-06

Exemptions from each individual's earned income include a monthly standard work related expense and one-half of the remaining earned income. Exemptions are also allowed for child and adult dependent care expenses the individual is responsible for paying if expenses are not paid through other state and federal funds and the dependent care is in a licensed facility or home. ■ 1 Exempt income is income which by law is not considered in determining need for financial assistance in the Temporary Assistance for Needy Families (TANF) category. Income exempt for one individual is not taken into consideration in determining the need of any other individual for assistance in the State Supplemental Payment (SSP) for the aged, blind, and disabled and TANF.

(1) **Work related expenses.** The standard deduction for work related expenses such as income tax payment, Social Security taxes, and transportation to and from work, is automatically determined monthly for each full-time or part-time employed member of the assistance unit. ■ 2

(A) The standard deduction for work related expenses is:

(i) \$240 for a recipient employed a minimum of 30 hours per week; ■ 3

(ii) \$120 for a recipient employed less than 30 hours per week; and

(iii) \$120 for an individual whose income is considered in determining the amount of the TANF cash assistance. ■ 4

(B) The standard deduction for work related expenses is not applied to earnings of participants in the Work Supplementation Program (WSP).

(2) **One-half remainder.** For all countable income earned by each member included in the assistance unit, as well as a stepparent who is not included in the assistance unit, one-half of the remaining earned income is exempted. [OAC 340:10-3-57(f)(1)] The one-half remainder exemption is not applied to earnings received by participants in WSP. An applicant is only eligible for one-half of the remainder exemption when:

(A) an individual in the TANF assistance unit was included in a TANF benefit in any of the 50 states in addition to the Virgin Islands, Puerto Rico, and Guam, during one of the four months preceding the application; or

(B) the total income of all members minus work related expenses and dependent care expenses is less than the TANF need standard found on Oklahoma Department of Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, for the appropriate number of individuals.

(3) **Dependent care expenses.** ■ 5 Dependent care expenses are applied after all other earned income exemptions.

(A) Dependent care expenses are not deducted from earnings of participants in WSP. Dependent care expenses may be deducted when:

(i) suitable care for a child or incapacitated adult included in the TANF assistance unit is not available from responsible individuals living in the home or through other sources;

(ii) the employed TANF assistance unit member whose income is considered in computing the amount of the benefit must purchase care;

(iii) the gross earned income equals or exceeds the work related and dependent care expenses combined; ■ 6

(iv) the child or incapacitated adult receives care in a properly licensed facility or from an approved in-home provider as required by Oklahoma law; and ■ 7

(v) the stepparent of the child(ren) for whom TANF is requested is living in the home and has dependents not included in the assistance unit who are also living in the home. [OAC 340:10-3-57(f)(1)]

(B) Dependent care expenses must be verified. The actual amount paid per month is deducted up to a maximum of \$200 for a dependent under the age of two or \$175 for a dependent age two or older or for an incapacitated adult. In considering the dependent care expense, only actual work hours and travel time between work and the care facility is allowed. Payment for dependent care is the individual's responsibility. The individual must immediately report any changes in the plan of care. ■ 8

(C) Dependent care provided by another individual in the household who is not a member of the assistance unit may be considered as long as the caregiver meets applicable state, local, or tribal law.

INSTRUCTIONS TO STAFF 340:10-3-33Revised 6-1-08

1. **(a)** The work related expenses, one half of the remainder, and adult and child dependent care exemptions are not applied in determining the amount of overpayment for a month any individual included in the assistance unit or whose income is considered in determining the amount of the benefit has failed to make a timely report of earned income.

(b) In calculating these exemptions, dollars and cents are used to determine the monthly amount for each individual's exemption. After the monthly amount of each exemption has been determined, cents are rounded to the nearest dollar for each exemption. For example: 1 cent - 49 cents, round down; 50 cents - 99 cents, round up. The payment standard minus the net income equals the amount of the assistance payment.

(c) Formulas used to determine net earned income to be considered against the budgetary requirements are:

(1) for income from self-employment, gross income:

(A) minus business expenses. See OAC 340:10-3-32 Instructions to Staff 2 to calculate business expenses;

(B) minus work related expenses;

(C) minus one half of the remainder;

(D) minus dependent care;

(E) equals net income.

(2) net earned income from employment other than self-employment.
Gross income:

(A) minus work related;

(B) minus one half of the remainder;

(C) minus dependent care;

(D) equals net income.

- 2. The system determines the amount of work related expense allowed based on the number of hours the worker enters in the "TANF Work Hours" field of the Family Assistance/Client Services (FACS) Eligibility Notebook Income tab and the age of the youngest child.**
- 3. A recipient with a child under age six, employed a minimum of 20 hours, is eligible for the \$240 work related expense. An applicant is only eligible for the \$120 work related expense.**
- 4. See OAC 340:10-3-57(f)(1) for information on allocating or diverting income for these persons.**
- 5. When dependent care services are needed for reasons other than employment, the worker makes a determination of dependent care as outlined in OAC 340:40-7-1.**
- 6. When the work related and dependent care expenses exceed the gross amount of earned income, the worker determines dependent care as outlined in OAC 340:40-7-1.**
- 7. When licensed dependent care facilities and approved in-home providers are not available and the individual arranges for care outside the home, an immediate referral is made on Form 08MP013E, Information/Referral - Social Services.**
 - (1) The cost of dependent care is considered until the worker receives notification from the Division of Child Care (DCC) licensing worker that the home does not meet licensing standards or registration.**
 - (2) If licensing or registration is denied, the recipient is allowed 30 calendar days after notification to make other dependent care arrangements, during which time the dependent care exemption continues to be allowed.**
- 8. The worker is responsible for:**
 - (1) helping the family select a caregiver capable of providing adequate dependent care, training, and supervision, per OAC 340:40;**
 - (2) advising the family of their responsibility to pay for dependent care; and**

(3) advising the family to immediately report any change in the plan of care.