
POLICY TRANSMITTAL NO. 10-31

DATE: JUNE 2, 2010

FAMILY SUPPORT SERVICES
DIVISION

DEPARTMENT OF HUMAN SERVICES
OFFICE OF INTERGOVERNMENTAL
RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:10-3-57.

EXPLANATION: OAC 340:10-3-57 Instructions to Staff is revised to change who is considered a person acting in the role of a spouse for income consideration based on a new interpretation.

Original signed on 6-1-10

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WF # 10-L

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

340:10-3-57

INSERT

340:10-3-57, pages 1-11, revised 6-1-10

340:10-3-57. Special considerations

Revised 6-1-09

(a) **Concurrent receipt of State Supplemental Payment (SSP) for the aged, blind, or disabled.** A person who is not a recipient of Supplemental Security Income (SSI) has an option to be included in a Temporary Assistance for Needy Families (TANF) assistance unit or may be a recipient of SSP if all eligibility requirements are met. ■ 1 The person may also be included in the TANF assistance unit pending determination of eligibility for SSP or SSI if all eligibility requirements are met. ■ 2

(b) **Concurrent receipt of TANF and SSI.** A person cannot be included in a TANF benefit for the same month he or she was included in an SSI payment. ■ 3 If it appears a person included in a TANF application or an active TANF benefit might meet the eligibility conditions for TANF and SSI, the person has a choice to have eligibility determined for TANF or SSI benefits. Persons are informed of their responsibility to report to the Oklahoma Department of Human Services (OKDHS) if any member of the assistance unit makes application for SSI or becomes eligible for SSI. If any assistance unit member applies for TANF or is receiving TANF when the member makes an application for SSI, the member must inform the Social Security Administration (SSA). ■ 4

(1) When the only dependent child(ren) is receiving SSI, the natural or adoptive parent(s) or needy caretaker relative may receive TANF if all other factors of eligibility are met. The assistance unit will consist of the adult(s) only.

(2) When a TANF applicant is also an applicant for SSI, eligibility for TANF must be determined and, if eligible, is included in the benefit until notified of SSI eligibility.

(3) When a TANF recipient is an applicant for SSI, SSA advises OKDHS of SSI eligibility, and requests the month of TANF termination and the amount of TANF benefits paid for each month of SSI eligibility. ■ 5 SSA considers a recipient removed from a TANF benefit effective with, and based on, the TANF termination date provided orally by the worker. If the actual date of termination is later than the date given orally to SSA, TANF payments to SSI recipients are TANF overpayments and must be recouped.

(4) When a TANF recipient is determined ineligible for SSI the person may continue to be included in the TANF assistance unit if all other conditions of eligibility are met.

(5) When a TANF recipient is determined ineligible for SSI for reasons other than a disability determination the person may be included in an SSP, if all other conditions

of eligibility are met. ■ 6

(c) **Concurrent receipt of state and tribal TANF.** A person who is included in a tribal TANF payment cannot be included in another TANF benefit in the same month. If the person meets the criteria of a tribal TANF service area and population, the entire household must be served by tribal TANF. If the household moves out of the tribe's service area, the worker coordinates certification of state TANF benefits.

(d) **Concurrent receipt of more than one form of public assistance.** A person who is included in a TANF benefit cannot be included in another TANF or SSP benefit for the same period. When a TANF applicant is eligible for TANF but has received a weekly or bi-monthly TANF benefit from another state for the same month the applicant is eligible in Oklahoma, the benefit from the other state is counted as unearned income. ■ 7 A person who is the payee for a TANF benefit, but not included in that benefit, is not prevented from being a recipient of SSP if the SSP eligibility requirements are met. When transferring a TANF recipient to SSP, the removal and approval date must agree.

(e) **Stepparent, spouse of needy caretaker, person acting in the role of a spouse, or parent(s) of a minor parent.** The natural or adoptive parent's income cannot be diverted to meet the needs of the stepparent or other dependents in the home, but is considered available to the TANF assistance unit. No income is considered if the stepparent, spouse of a needy caretaker, person acting in the role of a spouse, parent(s) of a minor parent, or his or her dependent is an SSI recipient. ■ 8

(1) **Stepparent or spouse of needy caretaker income.** If a stepparent of the child(ren) or the spouse of a needy caretaker for whom TANF is requested is living in the home with the child(ren), the verified earned and unearned income of the stepparent or spouse of a needy caretaker, after all applicable TANF income disregards and work related expenses, is computed to determine the amount considered available to the assistance unit. The stepparent's or spouse of a needy caretaker's income is computed by:

(A) subtracting the work related expense, one-half of the remaining earned income, and dependent care expense from the stepparent's or spouse of a needy caretaker's earned income for full-time or part-time employment; [OAC 340:10-3-33]

(B) adding the net earned income to the stepparent's or spouse of a needy caretaker's unearned income;

(C) subtracting the need standard for the appropriate number of persons, including the stepparent or spouse of a needy caretaker and dependents who

are not included in the assistance unit but are living in the home and can be claimed on the stepparent's or spouse of a needy caretaker's personal income taxes; ■ 9

(D) subtracting the actual amounts the stepparent or spouse of a needy caretaker paid to persons not living in the household but claimed as tax dependents. It is the stepparent's or spouse of a needy caretaker's responsibility to identify and verify tax dependents; ■ 10

(E) subtracting the actual payments of alimony and child support to persons outside the household; and

(F) adding the stepparent's or spouse of a needy caretaker's remaining net income to all other gross income of persons included in the TANF assistance unit. If the income does not exceed the monthly maximum gross income, the remaining income of the stepparent or spouse of a needy caretaker is considered as a contribution to the assistance unit. ■ 11

(2) **Stepparent or spouse of a needy caretaker resources.** Resources owned exclusively by the stepparent or spouse of a needy caretaker are not considered in determining the assistance unit's resource eligibility. Consideration is only given to the assistance unit's share of resources that are owned jointly with the stepparent or spouse of a needy caretaker.

(3) **Person acting in the role of a spouse.** Income must be considered available to the TANF assistance unit of any non-relative adult(s) of the opposite sex not receiving TANF who lives in the home with the natural or adoptive parent. The income of this person(s) is computed the same as stepparent income; however, the exemption of one-half of the remainder and dependent care expense is not applicable in determining this person's countable earned income. ■ 12 If the parent or the person acting in the role of a spouse fails to provide information necessary to determine income eligibility, the application is denied or the cash assistance terminated.

(4) **Parent(s) of a minor parent.** When a minor parent is living in the home with his or her natural or adoptive parent(s) and the needs of the parent(s) are not included in the assistance unit, the parent's income is considered available to the assistance unit and computed the same as stepparent income. The income of a minor parent's stepparent is not considered. The parent of the minor parent may be designated as the substitute payee for the case. ■ 13

(f) **Allocating or diverting income.** When family members are not included in the

assistance unit, special consideration is required in determining the income available to the assistance unit.

(1) Income received by a person included in the assistance unit is not allocated or diverted to persons who are not in the assistance unit. All countable unearned and earned income of the person is considered available to the assistance unit.

(2) The net income of an alien parent excluded from the benefit because the citizenship or alienage requirement is not met is considered the same as stepparent income. The needs and income of disqualified alien siblings are not considered when determining eligibility of an otherwise eligible child(ren). ■ 14

(3) The net income of a fugitive felon excluded from the benefit is considered the same as stepparent income.

(g) **Benefit reduction as a result of program violation.** The TANF benefit is reduced by 25% of the payment standard when a determination of program violation has been made. The 25% penalty is removed the next effective date when compliance is documented or the time frame for the penalty has ended. ■ 15 When multiple types of program violations have occurred, a 25% penalty of the payment standard is imposed for each type of violation. If the benefit reduction causes existing income to be in excess of the benefit amount, the case is closed using the reason for the benefit reduction. ■ 16 The amount of the payment standard reduction applies as Food Stamp Penalty Income in the Supplemental Nutrition Assistance Program (SNAP). [OAC 340:50-7-29(b)(1)] Reasons for benefit reduction are: ■ 17

(1) refusal to cooperate in an effort to obtain child support; [OAC 340:10-10-5(c)] ■ 18

(2) failure to apply for or provide a Social Security number; ■ 19

(3) failure of a child(ren) kindergarten age to 18 years of age to attend school; [OAC 340:10-13]

(4) failure to provide verification of child(ren) immunizations; and [OAC 340:10-14]

(5) intentional program violations determined as fraud by court action or an administrative disqualification hearing or administrative hearing waiver. [OAC 340:65-9-4]

(h) **Parent living in the home receiving SSP.** When there is a parent living in the home but not included in the TANF benefit because of receipt of SSP and not SSI,

consideration is not given to that parent's individual income for the TANF benefit. When a parent in the SSP benefit becomes ineligible to continue to receive the SSP, the parent is included in the TANF benefit and all the income and resources of the parent are considered in determining eligibility for TANF. If consideration of the parent's income and resources causes the TANF benefit to be closed, and the closure of the SSP benefit was a direct result of an overall Social Security increase, the SSP benefit is placed in Special Medical Status. If the parent is living in the home but not included in the TANF benefit because of receipt of SSP and SSI, no consideration is given to the parent's income and the parent is not included in the TANF assistance unit as long as the parent remains eligible for SSI.

(i) **TANF eligibility when the child(ren) is placed in out-of-home care.** ■ 20 When the child(ren) is removed by a child protection action and it is reasonably anticipated the child(ren) will return to the home within four months, the natural or adoptive parent or needy caretaker relative continues eligible for TANF, if other conditions of eligibility are met. ■ 21

(1) A team consisting of the worker, the Child Welfare (CW) worker, the natural or adoptive parent or needy caretaker relative, and any other appropriate partner(s) must meet to develop a mutually agreed upon plan of action. ■ 22 This plan addresses employability and strategies to correct the conditions which caused the child(ren) to be removed from the home. ■ 23

(2) At the end of the four month period if the child(ren) has not been returned to the home, the adult(s)' needs are removed and the TANF benefits are discontinued. ■ 24

(j) **Strikers.** The assistance unit is not eligible for TANF for any month the natural or adoptive parent, whether or not included in the benefit, is participating in a strike on the last day of that month. A person other than the natural or adoptive parent is not included in the benefit for any month if that person is participating in a strike on the last day of the month.

INSTRUCTIONS TO STAFF 340:10-3-57

Revised 6-1-10

1. The Family Support Services (FSS) worker is responsible for explaining the benefits of both programs, but the person is responsible for choosing the program that is most beneficial in meeting the person's needs.

2. See OAC 340:10-2-8(c)(6) for the Disability Advocacy Program.

3. See OAC 340:10-3-28(1) for non-recurring lump sum Supplemental Security Income (SSI) retroactive payments.
4. The local Family Support Services (FSS) worker notifies the Social Security Administration (SSA) District Office when a Temporary Assistance for Needy Families (TANF) recipient is certified or terminated for cash assistance, if the recipient has also applied for SSI.
5. The FSS worker is responsible for providing the requested information to SSA, taking the appropriate action to adjust the benefit for the next effective date, and confirming such action.
6. See OAC 317:35-5-4(1)(D) when SSI has already determined the person ineligible.
7. A person is denied assistance for ten years if found to have fraudulently misrepresented residence in order to obtain assistance in more than one state. See OAC 340:10-3-56(a)(3)(N).
8. (a) The definition of a person acting in the role of a spouse is a non-relative adult of the opposite sex living in the home.

(1) The opposite sex individual is acting in the role of a spouse when one or both of these factors exist:

(A) they represent themselves to be a couple; or

(B) have a physical relationship with each other.

(2) When the client states the conditions in (a)(1)(A) and (B) do not exist, factors that may indicate the opposite sex individual is acting in the role of a spouse include when he or she:

(A) assists in parenting the child, such as exercising responsibility for the child(ren), providing day-to-day care, physical care, and guidance for the child(ren);

(B) provides financial support for the family beyond his or her own pro rata share of the household expenses;

(C) shares joint bank accounts or property ownership with the client; or

(D) files a joint tax return with the client.

(b) The client's statement regarding the relationship with the opposite sex individual is accepted unless considered questionable.

9. See Oklahoma Department of Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX.A to determine the need standard.

10. The stepparent's or spouse of a needy caretaker's most recent income tax return can be used as documentation.

11. When the stepparent or spouse of a needy caretaker has earned income, the FSS worker enters on the Family Assistance/Client Services (FACS) Income tab the total gross amount in the designated income field. The computer automatically calculates the work related expense and income disregards. Any unearned income is entered in the designated field. The FSS worker enters the need standard as indicated on OKDHS Appendix C-1, Schedule IX, in the diverted income field for the appropriate number of persons and, if necessary, any exemptions.

12. (a) For the purpose of this rule, "living in the home with" means that a person of the opposite sex is acting in the role of a spouse.

(1) The opposite sex individual is acting in the role of a spouse when one or both of these factors exist:

(A) they represent themselves to be a couple; or

(B) have a physical relationship with each other.

(2) When the client states the conditions in (a)(1)(A) and (B) do not exist, factors that may indicate the opposite sex individual is acting in the role of a spouse include when he or she:

(A) assists in parenting the child, such as exercising responsibility for the child(ren), providing day-to-day care, physical care, and guidance for the child(ren);

(B) provides financial support for the family beyond his or her own pro rata share of the household expenses;

(C) shares joint bank accounts or property ownership with the client; or

(D) files a joint tax return with the client.

(b) The client's statement regarding the relationship with the opposite sex individual is accepted unless considered questionable.

(c) The person acting in the role of a spouse is coded on the FACS Household tab as an "other adult residing in the household" in the Rel to Payee field, as "TANF - Temporary Assistance to Needy Families" in the benefit field and "Income/Resources are considered in benefit computation - person not included" in the status field.

(1) If this person has earned income, the FSS worker enters the total gross amount in the designated income field on the FACS Income tab and the computer automatically calculates the work related expense.

(2) Any unearned income is entered in the designated field.

(3) The FSS worker enters the need standard as indicated on OKDHS Appendix C-1, Schedule IX, in the diverted income field for the appropriate number of persons and, if necessary, any exemptions.

(4) Any remaining income is considered available to the TANF assistance unit.

13. See OAC 340:10-3-56(a)(3)(O), when the payee is an unmarried minor.

14. To determine the need standard for the alien parent and/or any disqualified siblings who do not meet the citizenship and alienage requirement, see OKDHS Appendix C-1, Schedule IX.

15. A supplement is issued for the next month, if compliance occurs after deadline.

16. See OAC 340:65-3-8 for review periods. The FSS worker enters closure code, "penalty and other income" (14A) on the FACS Financial Assistance tab.

17. The FSS worker initiates the 25% benefit reduction by checking the appropriate penalty block(s) on the FACS Household tab and entering a change action on the Financial Assistance tab for recalculation of the cash

benefit. The computer automatically updates the Food Stamp Penalty Income (FSPI) screen. See OAC 340:50-7-29(b)(1)(A).

(1) When the program violation ends, the FSS worker must update FACS, Household tab, to remove the penalty and make a change to the FACS Financial Assistance tab for recalculation of the cash benefit.

(2) The FSS worker must also enter an end date on the Food Stamp Penalty Update (FSPU) screen.

(3) When the TANF benefit closes and there is a program violation coded, the FSS worker must update FACS, Household tab, by removing the penalty and the FSPU screen with an end date.

18. The 25% penalty only applies if the applicant or recipient is the natural or adoptive parent of the child(ren).

(1) The 25% penalty applies to adult only cases when the child(ren) is receiving State Supplemental Payment (SSP) and/or SSI.

(2) If the adult is receiving SSP and/or SSI, and fails to cooperate with Oklahoma Child Support Services (OCSS), the 25% penalty is coded on the child(ren) in the Temporary Assistance for Needy Families (TANF) benefit.

19. See OAC 340:10-12, 340:65-3-1(f), 340:65-3-4, 340:50-5-68, and 317:35-5-27.

20. See OAC 340:10-3-56(a)(2)(B)(ii).

21. (a) The FSS worker is notified by the Child Welfare (CW) worker within five working days from the filing of the petition to remove the child(ren) from the home.

(1) The child(ren) is removed from the TANF benefit.

(A) It is the responsibility of the FSS worker to determine if the adult(s) meets continuing eligibility requirements.

(B) If not met, the appropriate case action is taken.

(2) When the CW worker informs the FSS worker the child(ren) has been placed in another relative's home and TANF benefits are requested by this

relative for the child(ren) only, the needy caretaker relative or the natural or adoptive parent, if eligible, is approved for continuing adult only TANF benefits.

(b) When the adult(s) is determined eligible:

(1) the FACS TANF Work tab is updated to reflect TANF pending reunification in the Payee/Spouse Grant Indicator field;

(2) the expected date of return is updated by using the FF transaction for PS2 block B80;

(3) food benefits are recalculated using the adult only benefit amount; and

(4) the adult(s) continues eligible for medical benefits.

(c) When the child(ren) is returned to the home the:

(1) date entered in PS2 block B80 is deleted;

(2) Payee/Spouse Grant Indicator field on the FACS TANF Work tab is updated to Parent or Caretaker relative included in benefit and is a required TANF Work participant; and

(3) child(ren) is added back to the TANF benefit, if the family continues to meet eligibility criteria.

22. The team must meet within 15 working days of the filing of the petition. At a minimum, the team consists of the FSS worker, CW worker, and the natural or adoptive parent or needy caretaker relative. The plan of action agreed upon must be documented in FACS Case Notes.

23. Any time during the four-month period that it is evident the natural or adoptive parent or needy caretaker relative is not complying with the plan of action, the FSS worker notifies the CW worker and terminates the TANF adult only benefits. If the CW plan changes any time during the four-month period to other than reunification, the FSS worker is notified and the TANF adult only benefits are terminated.

24. A County Worker Activity (CWA) Report 80 notifies the FSS worker during the third month for action to be taken. It is the responsibility of the FSS worker to

take appropriate timely action. If no action is taken by regular roll of the fourth month, the case continues to appear on the CWA Report. **The FSS worker must document in FACS Case Notes** the decision to not return the child(ren) to the home. **The FSS worker explains other** available support services and OKDHS programs to the natural or adoptive parent or the needy caretaker relative **and documents any referrals in FACS Case Notes.**