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POLICY TRANSMITTAL NO. 04-24	DATE: JUNE 29, 2004
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:15-1, Table of Contents; and 15-1-1 through 15-1-7.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

The rule revisions remove and/or replace language that is no longer appropriate in the State Supplemental Payment (SSP) Program.

Original signed on 4-27-04

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Mary Stalnaker, Director  
Family Support Services Division

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Marilynn Knott, Administrator  
Office of Planning, Policy & Research

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WF # 04-03 (dt)

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## **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 a “DHS” number, such as personnel policy at DHS:2-1 and personnel rules at OAC 340:2-1. The “340” is the Title number that designates DHS 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, DHS 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, DHS: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) 521-3611.

### **REMOVE**

340:15, Table of Contents

340:15-1-1

340:15-1-2

340:15-1-3

340:15-1-4

340:15-1-5

340:15-1-6

340:15-1-7

### **INSERT**

340:15, Table of Contents, 1 page only, revised 7-1-04

340:15-1-1, 1 page only, revised 7-1-04

340:15-1-2, 1 page only, revised 7-1-04

340:15-1-3, 1 page only, revised 7-1-04

340:15-1-4, pages 1-2, revised 7-1-04

340:15-1-5, pages 1-4, revised 7-1-04

340:15-1-6, pages 1-2, revised 7-1-04

340:15-1-7, 1 page only, revised 7-1-04

**CHAPTER 15. STATE SUPPLEMENTAL PAYMENT**

## Section

340:15-1-1.	Purpose
340:15-1-2.	Definitions
340:15-1-3.	Legal <u>basis</u> for State Supplemental <u>Payment Program</u>
340:15-1-4.	State Supplemental Payment plan
340:15-1-5.	State Supplemental <u>Payment</u>
340:15-1-6.	Special requirements
340:15-1-7.	Non-conditioning of assistance payments



**340:15-1-1. Purpose**

The purpose of this Chapter is to describe the Oklahoma Department of Human Services (OKDHS) program for assistance to the aged, blind, and disabled.



**340:15-1-2. Definitions**

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise.

**"Countable income"** means the total unearned income plus the net earned income. The net earned income is gross earned minus \$20 general income exclusion, minus \$65 work exclusion, minus one half of the remainder. For additional exemptions for individuals who are blind, refer to OAC 317:35.

**"Disabled individual"** means a person who meets the same definition that the Social Security Administration uses in determining eligibility for disability benefits.

**"Earned income"** means income in cash earned by an individual through the receipt of wages, salary, commission, or profit from activities in which he or she is engaged as a self-employed individual or as an employee.

**"Eligible couple"** means a husband and wife who are both aged, blind, or disabled and meet the income and resource standard for a money payment.

**"Eligible individual"** means a person who is single aged, blind, or disabled and meets the income and resource standard for a money payment.

**"Eligible individual with essential spouse"** means an eligible individual has a spouse who is not aged, blind, or disabled but has been continuously included in the case since prior to 1974. The couple must also meet the resource standard.

**"Eligible individual with ineligible spouse"** means an eligible individual has a spouse who is not aged, blind, or disabled and does not meet the definition of an essential spouse. The couple must also meet the resource standard.

**"Eligible individual with ineligible spouse and dependent child"** means a couple who meets the definition of eligible individual and ineligible spouse have a child younger than 18 of the proper degree of relationship residing in the home full-time.

**"Minor blind or disabled individual"** means a child younger than 18 who is blind or disabled and meets the income and resource standard for a money payment.



**340:15-1-3. Legal basis for State Supplemental Payment Program**

The legal basis for the program is vested in Article XXV of the Constitution of the State of Oklahoma, Title 56, Oklahoma Statutes Sections 161 et seq.



**340:15-1-4. State Supplemental Payment plan**

The State Supplemental Payment (SSP) plan for the aged, blind, and disabled encompasses the requirements listed in (1) through (11) of this subsection.

(1) **State-wide operation.** The plan is in effect in all counties of Oklahoma as a state-administered program.

(2) **Financing.** The State of Oklahoma provides all the money for financing the SSP Program.

(3) **Single state agency.** The SSP Program is administered by the Oklahoma Department of Human Services (OKDHS) with an office in each county in the state, operating under rules and regulations adopted by the Oklahoma Commission for Human Services (Commission).

(4) **Fair hearings.** Any individual whose application is denied or is not acted upon with reasonable promptness, or who is dissatisfied with the amount of his or her payment or with any other action taken in regard to his or her payment, is provided an opportunity for a fair hearing.

(5) **Proper and efficient administration.** OKDHS operates under the State Merit System which establishes and maintains personnel standards on a merit basis for certain state agencies, including OKDHS. Employees of OKDHS engaged in the administration of the Combined State Plan are covered by the Merit System.

(6) **Safeguarding of information.** State laws and the rules and regulations adopted by the Commission restrict the use of or disclosure of information concerning SSP applicants and recipients to purposes directly connected with the administration of this program.

(7) **Right to apply.** A person has the right to make application for any category of assistance he or she chooses, to expect an investigation of eligibility, and to expect a reasonably prompt decision in regard to his or her application.

(8) **Assistance under only one program.** An eligible person can have his or her needs included in only one SSP or Temporary Assistance for Needy Families (TANF) benefit.

(9) **Standards for determining eligibility and amount of payment.** Uniform policies for determination of eligibility and the amount of payment are provided in OAC 340 Chapters 15 and 65 and OKDHS Appendix C-1, Maximum Income,

Resource and Payment Standards.

(A) SSP standards are based on the mandatory "Pass-Along Provision" of Section 1618 of the Social Security Act which requires states to pass along cost of living adjustments (COLA) in Supplemental Security Income (SSI) benefits. The Commission approves adjustments in individual payments to maintain total expenditures for SSP in a calendar year at the same level as the total expenditures for SSP in the previous year.

(B) Maximum income and resource standards for individuals who are aged, blind, or disabled are based on the federal benefit rates (FBR) shown on OKDHS Appendix C-1, Schedule VIII.

(i) Countable income for SSP must be less than 100% of the FBR plus the maximum SSP amount.

(ii) Countable income for individuals approved for care and living in a nursing facility or intermediate care facility for the mentally retarded (ICF/MR), including non-eligible SSP individuals who receive Home and Community-Based Waiver Services for the Mentally Retarded Program or patients 65 and older in a mental hospital must be equal to or less than 300% of the FBR.

(iii) Countable income for deeming income to a minor child who is blind or disabled must be less than 100% of the FBR.

(iv) Maximum resources must be equal to or less than 100% of the SSI resource standards.

**(10) Income and resources.** OKDHS, in determining need for an aged, blind, or disabled individual, takes into consideration any available income and resources of the individual, except the income and resources required to be disregarded by state law or by OKDHS policy.

**(11) Civil rights.** The SSP Program is administered in accordance with the provisions of Title VI of the Civil Rights Act.

**340:15-1-5. State Supplemental Payment**

(a) **Eligibility for payment.** An individual is eligible for a State Supplemental Payment (SSP) if he or she would be eligible for Supplemental Security Income (SSI) because of age or disability and;

(1) is not a resident of a public facility operated by an entity of government, such as any correctional, mental health, nursing care, or juvenile facility;

(2) is not a long term, over 30 days, patient in a psychiatric facility or a psychiatric unit of an acute care hospital;

(3) has countable income, including SSI, that is less than the SSP need standard on Oklahoma Department of Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule VIII.A.;

(4) was and remains approved for care in a licensed Title XIX nursing care facility since December, 1973 and retains eligibility for a mandatory SSP. See OKDHS Appendix C-1, Schedule VIII.B., for the mandatory supplement standard;

(5) is not a child in OKDHS custody for whom out-of-home care is paid by OKDHS;

(6) is a resident in the Oklahoma School for the Blind or the Oklahoma School for the Deaf and meets all other eligibility requirements;

(7) is ineligible for SSI based on income; but has income less than the SSP maximum, and meets all other conditions of eligibility; or

(8) takes all appropriate steps to obtain other benefits within 30 days after he or she has been notified of his or her potential eligibility.

(b) **Amount of payment.** The amount of SSP is based upon the amount of income the individual(s) receives. The maximum payment cannot exceed the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A. for an individual. Payment can be authorized retroactively based on appeal or to correct an administrative error. Payment cannot be authorized retroactively based on client failure to timely report information affecting eligibility.

(1) **Eligible couple.** Income eligibility is determined by comparing the total countable income of the couple with the SSP standard for an eligible couple.

(A) If the amount of countable income is equal to or greater than the standard, the application is denied or the case is closed.

(B) If the amount of countable income is less than the standard, the total countable income of the couple is deducted from the standard to compute the payment amount. The SSP for each member of the couple is one-half of the remainder. If the SSP cannot be divided equally so that each member of the couple receives the same amount, one member of the couple receives a higher SSP, subject to the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A.

(2) **Eligible individual.** Income eligibility is determined by comparing the total countable income of the individual with the SSP standard for an eligible individual.

(A) If the amount of countable income is equal to or greater than the standard, the application is denied or the case is closed.

(B) If the amount of countable income is less than the standard, the total countable income of the individual is deducted from the standard to compute the payment amount, subject to the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A.

(3) **Eligible individual with essential spouse.** Income eligibility is determined by comparing the total countable income of the individual and spouse with the SSP standard for the eligible individual with essential or ineligible spouse.

(A) If the amount of countable income is equal to or greater than the standard, the application is denied or the case is closed.

(B) If the amount of countable income is less than the standard, the total countable income of the individual and spouse is deducted from the standard to compute the payment amount, subject to the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A.

(4) **Eligible individual with ineligible spouse.** Income eligibility is determined by comparing the total countable income of the individual with the SSP standard for the eligible individual.

(A) If the amount of countable income is equal to or greater than the SSP standard for the eligible individual, the application is denied or the case is closed.

(B) If the amount of countable income is less than the SSP standard for the individual, the total countable income of the individual and the spouse is

compared with the SSP standard for an eligible individual with essential or ineligible spouse.

(i) If the amount of countable income is equal to or greater than the standard, the application is denied or the case is closed.

(ii) If the amount of countable income is less than the standard, the total countable income of the individual and spouse is deducted from the SSP standard for an eligible individual with essential or ineligible spouse to compute the payment amount, subject to the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A. Use the standard for the eligible individual when the ineligible spouse is included in a Temporary Assistance for Needy Families (TANF) benefit.

**(5) Eligible individual with ineligible spouse and dependent child.** Income eligibility is determined by comparing the total countable income of the individual with the SSP standard for the eligible individual.

(A) If the individual's countable income is equal to or greater than the standard, the application is denied or the case is closed.

(B) If the individual's countable income is less than the SSP standard for an eligible individual, the spouse's countable income is determined by following (i) through (iv) of this paragraph.

(i) If the spouse and dependent child are included in a TANF benefit, their income is considered on the TANF case and none is deemed to the eligible individual. The total countable income of the individual is deducted from the standard to compute the SSP amount, subject to the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A.

(ii) If the spouse's needs are not included in the TANF case for the child, the portion of the spouse's income that is considered in determining the benefit for the child is not considered in the SSP case.

(iii) If the dependent child is not receiving TANF, the child's allocation, minus the child's income, is deducted from the spouse's income to determine the amount to be considered on the SSP case. See OKDHS Appendix C-1, Schedule VIII.C for the child's allocation.

(iv) Income of a child is never deemed to the adult.

(C) The total countable income of the individual and the spouse is compared with the SSP standard for an eligible individual with an essential or ineligible spouse.

(i) If the amount of countable income is equal to or greater than the standard, the application is denied or the case is closed.

(ii) If the amount of countable income is less than the standard, the countable income is deducted from the standard to compute the payment amount, subject to the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A.

(6) **Minor who is blind or disabled.** Income eligibility is determined by adding the child's own income to the amount deemed from the parents and comparing the total to the SSP standard for an eligible individual. ■ 1

(A) If the amount of countable income is equal to or greater than the standard, the application is denied or the case is closed.

(B) If the amount of countable income is less than the standard, the total countable income is deducted from the standard to compute the payment amount, subject to the maximum payment shown on OKDHS Appendix C-1, Schedule VIII.A.

(c) **Concurrent receipt of more than one form of payment.** No person who is included in a SSP may be included for the same period in another SSP or Temporary Assistance for Needy Families (TANF) benefit. A person who is the payee for a TANF benefit, but whose needs are not included, is not precluded from being a recipient of a SSP if he or she meets eligibility requirements. When a recipient of TANF or SSP is transferred to another category, the effective date must be the same for the removal from one category and the beginning of payment from the other category.

## **INSTRUCTIONS TO STAFF**

**1. The CID transaction is available on the information management system (IMS) for computing the income amount to be deemed from the parent(s) and the spouse of the parent to an eligible disabled or blind minor child.**

**340:15-1-6. Special requirements**

(a) **Solicitation of alms.** State law provides that a recipient of a State Supplemental Payment (SSP) for the blind shall not, during the period of receiving assistance, solicit alms. Soliciting alms means collecting donations for one's personal benefit, selling minor articles when selling is merely a subterfuge for collecting donations, and any similar activities. It does not include house-to-house sale of articles carried on as a regular established occupation. The client's statement regarding solicitation of alms is sufficient verification if there are no facts to the contrary.

(b) **Minor child who is blind or disabled.** In determining eligibility of a child who is blind or disabled, the income and resources of the parent(s) with whom the child is living are considered unless the parent(s) is included in a SSP or Temporary Assistance for Needy Families (TANF) application or benefit.

(1) **Deeming of income.** Income of a natural or adoptive parent(s), or step-parent and own parent must be deemed to a minor blind or disabled child who is under age 18 when determining eligibility for a SSP. Income of an ineligible child is not deemed. The parent(s)' income is not deemed if an eligible child is residing in a nursing care facility.

(2) **Deeming of resources.** For each child who is blind or disabled and under age 18 living with his or her parent(s) whose needs are not included in TANF benefit, or receiving Supplemental Security Income (SSI) and/or SSP, the parent(s)' resources which exceed the maximum amount allowable are deemed available to the child who is disabled. If there is more than one eligible child, the amount is prorated. If the minor child who is blind or disabled resides in a nursing care facility, the parent(s)' resources are not deemed to the child.

(3) **Exceptions.** A child who has mental retardation lives in his or her parent(s)' home and is ineligible for SSP due to the deeming process may be approved for medical benefits under the Home and Community-Based Waiver (HCBW) Services for the Mentally Retarded Program as outlined in OAC 317:35. The child who is determined eligible under this provision by not deeming the parent(s)' income and resources is not eligible to receive a SSP. When both parents are in the home and one parent is included in a SSP case and the spouse is included in a TANF benefit with the child, the resources of both parents are evaluated in relation to eligibility for SSI and/or SSP and are not considered on the TANF case. All resources of the parent(s) are shown on the SSP case.

(c) **Age.**

(1) **Age requirement for the aged.** To be eligible for SSP for the aged, the individual must be 65 years of age or older as verified by the Social Security Administration, or by other sources of verification such as birth certificate, insurance policies, family records, or census records.

(2) **Age requirement for the blind.** There is no age requirement for a SSP for the blind. The age of a child who is blind must be verified in order to establish the need for designating a parent or guardian as payee if the child is younger than 16. When a recipient of a SSP for the blind reaches age 65, he or she is transferred to the category for the aged.

(3) **Age requirement for the disabled.** To be eligible for a SSP for the disabled, an applicant must be younger than 65. A parent or guardian must be designated as payee if a child who is disabled is younger than 16. When a recipient of a SSP for the disabled reaches age 65, he or she is transferred to the category for the aged.

(d) **Overpayments.** A client may incur an overpayment in any SSP Program when SSI benefits are terminated and the worker does not take proper action when notified. Any premiums for Health Insurance Benefits (HIB) paid by the Oklahoma Department of Human Services (OKDHS) on behalf of an ineligible client are computed by the Family Support Services Division Overpayment Section and added to the benefit amount received ineligibly.

**340:15-1-7. Non-conditioning of assistance payments**

The Oklahoma Department of Human Services (OKDHS) does not restrict in any way the use which the client makes of the assistance payment.