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POLICY TRANSMITTAL NO. 04-08	DATE: APRIL 22, 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 340:50-7, Table of Contents; 340:50-7-4; 50-7-20 through 50-7-24; 50-7-26 through 50-7-29; 50-7-45 through 50-7-48; 340:50-11, Table of Contents; 50-10-11; and 50-13-2.

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

340:50-7-20 and 340:50-7-21 are revoked as language is moved to 340:50-7-45.

340:50-7-22 is revised to list additional sources of income that are excluded and to clarify language.

340:50-7-23, 340:50-7-24, and 340:50-7-26 through 340:50-7-28 are revoked as language is moved to 340:50-7-22.

340:50-7-29 is revised to clarify language.

340:50-7-45 is revised to remove outdated language.

340:50-7-46 is revised to add clarifying language regarding computation of income.

340:50-7-47 and 340:50-7-48 are revoked as language is moved to 340:50-7-46.

340:50-10-11 is revised to replace language concerning converting food stamp benefits to coupons for households moving to or from another state with procedures for using electronic benefit transfer cards.

340:50-13-2 is revised to replace out-of-date language.

Original signed on 03-09-04

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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 # 03-31 (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 Rules and Policy Management Unit staff at (405) 521-3611.

**REMOVE**

**INSERT**

340:50-7, Table of Contents	340:50-7, Table of Contents, 1 page only, revised 4-26-04
340:50-7-4	340:50-7-4, pages 1-3, revised 4-26-04
340:50-7-20	-----
340:50-7-21	-----
340:50-7-22	340:50-7-22, pages 1-8, revised 4-26-04
340:50-7-23	-----
340:50-7-24	-----
340:50-7-26	-----
340:50-7-27	-----
340:50-7-28	-----
340:50-7-29	340:50-7-29, pages 1-4, revised 4-26-04
340:50-7-45	340:50-7-45, pages 1-3, revised 4-26-04
340:50-7-46	340:50-7-46, pages 1-5, revised 4-26-04
340:50-7-47	-----
340:50-7-48	-----

**REMOVE**

340:50-10, Table of Contents

340:50-10-11

340:50-13-2

**INSERT**

340:50-10, Table of Contents, 1 page only,  
revised 4-26-04

340:50-10-11, 1 page only, revised  
4-26-04

340:50-13-2, pages 1-2, revised 4-26-04



**SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA****PART 1. RESOURCES**

## Section

- 340:50-7-1. Resources considered
- 340:50-7-2. Excluded resources
- 340:50-7-3. Non-exempt resources
- 340:50-7-4. Special resource situations
- 340:50-7-5. Transfer of resources

**PART 3. INCOME**

- 340:50-7-20. Income considered **[REVOKED]**
- 340:50-7-21. Verification of income **[REVOKED]**
- 340:50-7-22. Income exclusions
- 340:50-7-23. Payments which are not considered income **[REVOKED]**
- 340:50-7-24. Reimbursements **[REVOKED]**
- 340:50-7-25. Educational assistance **[REVOKED]**
- 340:50-7-26. Money received for third parties **[REVOKED]**
- 340:50-7-27. Earnings of a child **[REVOKED]**
- 340:50-7-28. Other types of excluded income **[REVOKED]**
- 340:50-7-29. Income inclusions
- 340:50-7-30. Self-employed households
- 340:50-7-31. Deductions

**PART 5. DETERMINATION OF INCOME AND DEDUCTIONS**

- 340:50-7-45. Income
- 340:50-7-46. Converting to monthly income
- 340:50-7-47. Anticipating income **[REVOKED]**
- 340:50-7-48. Averaging income **[REVOKED]**
- 340:50-7-49. Limitations of allowable deductions
- 340:50-7-50. Types of expenses not allowed as deductions
- 340:50-7-51. Billed expenses deducted in month due
- 340:50-7-52. Anticipating expenses
- 340:50-7-53. Averaging expenses



**340:50-7-4. Special resource situations**

(a) **Jointly owned resources other than vehicles.** Resources other than vehicles owned jointly by separate households must be considered available in their entirety to each household, unless the household can demonstrate such resources are inaccessible to the household. If the household can demonstrate it has access to only a portion of the resources, the value of that portion of the resource is counted toward the household's resource level. The resources are considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For purposes of this provision, ineligible aliens or disqualified individuals residing with the household are considered household members. Resources are considered inaccessible to persons residing in shelters for battered women and children if:

(1) the resources are jointly owned by such persons and by members of their former household; and

(2) the shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household.

(b) **Non-recurring lump sum payments.** Money received in the form of a non-recurring lump sum payment such as income tax refunds, rebates, credits, and retroactive lump sum insurance settlements constitute a resource in the month received unless specifically excluded from consideration as a resource by federal law.

(1) Upon receipt of information that a certified household has received a non-recurring lump sum payment, the worker reviews the case file to determine if the amount received, in addition to the other resources listed on the application form, exceeds the resource limitation for the household. ■ 1

(2) If the total amount exceeds the allowable resource limitation, the worker must close the case giving ten-day advance notice. If, within ten days, the household presents evidence that the resources have been depleted and are within the allowable resource limits, the case may be left open for the remainder of the certification period. If the household does not agree with the decision to terminate the case and requests a hearing, the food stamp benefit may be continued pending a decision on the appeal.

(3) Any amount received by an income eligible Supplemental Security Income (SSI) recipient due to an underpayment or retroactive payment of SSI or Social Security benefits is excluded as a resource.

(c) **Non-excluded vehicles.** The equity in all vehicles, except those excluded in OAC 340:50-7-2, is considered. The amount of equity in excess of \$5,000 is considered against the maximum allowable resource limit for the household. The current market value less encumbrances on the vehicle(s) is the equity. Only encumbrances that can be verified are considered in computing equity. The market value of each year's make and model is established on the basis of the average trade-in value. ■ 2 In the event the household and worker cannot agree on the value of the vehicle, the household secures written appraisals by two persons familiar with current values. If there is substantial unexplained divergence between these appraisals or between the blue book value and one or more of these appraisals, the worker and the household jointly arrange for the market value to be established by an appraisal made by a third person who is familiar with current values and acceptable to both the household and worker.

(d) **Resources of disqualified members or ineligible aliens.** All resources of disqualified members or ineligible aliens are considered in determining the eligibility of the remaining household members.

### **INSTRUCTIONS TO STAFF**

1. **If the amount does not exceed the limitation, Form PS-2, Case Information - Payments/Services, is updated and processed to show the new resource. No further action is required.**
2. (a) **The average trade-in value listed in the National Automobile Dealers Association (NADA) books can be used, other blue books, or one of the Internet Web sites which provide data on the market value of used vehicles at no cost to the user. Available Web sites include:**

- |                      |  |
|----------------------|--|
| (1) CarPrices        | <a href="http://www.carprices.com">www.carprices.com</a> ;         |
| (2) AutoWorld        | <a href="http://www.autoworld.com">www.autoworld.com</a> ;         |
| (3) Intellichoice    | <a href="http://www.intellichoice.com">www.intellichoice.com</a> ; |
| (4) Edmund's         | <a href="http://www.edmunds.com">www.edmunds.com</a> ;             |
| (5) Kelley Blue Book | <a href="http://www.kbb.com">www.kbb.com</a> ; and                 |
| (6) NADA             | <a href="http://www.nada.com">www.nada.com</a> .                   |

- (b) **The value of a vehicle cannot be increased by adding the value of low**

mileage or optional equipment. The Kelley Blue Book requires users to include mileage prior to calculating a vehicle's value. Other on-line services with a mileage field assumes average mileage if the mileage field is left blank. To ensure a vehicle(s) is not assigned a higher value based on unusually low mileage the worker uses the greater of the vehicle's actual mileage or 12,000 miles per year.

(c) The case record must include sufficient documentation indicating the Web site or blue book used to determine the market value of the vehicle.



**340:50-7-22. Income exclusions**

Only the payments listed in this Section are excluded from the household's income, from income of disqualified members whose income is counted, or from the income of ineligible aliens who would otherwise be household members. No other income is excluded.

(1) **In-kind income.** In-kind income is any gain or benefit which is not in the form of money payable directly to the household, including non-monetary or in-kind benefits, such as meals, clothing, public housing, or produce from a garden.

(2) **Vendor payments.** Vendor payments are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or organization providing a service to the household. ■ 1

(3) **Education assistance.** All education grants, work-study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(4) Family Support Assistance Payment Program. Family Support Assistance Payment Program payments provided by Developmental Disabilities Services Division (DDSD) are excluded.

(5) **Income excluded by law.** Income excluded by law is:

(A) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. [Public Law (P.L.) 91-646, § 216] Such payments are:

(i) payments to persons displaced due to the acquisition of real property;

(ii) relocation payments to a displaced home owner toward the purchase of a replacement dwelling if the owner purchased and occupied the dwelling within one year following displacement; and

(iii) replacement housing payments to displaced persons not eligible for a home owner's payment;

(B) payments received:

(i) under the Alaska Native Claims Settlement Act [P.L. 92-203 § 21(a)];

- (ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];
  - (iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];
  - (iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or
  - (v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];
- (C) any payment to volunteers under Title II, Retired and Senior Volunteer Program (RSVP), foster grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended;
- (D) income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes [P.L. 94-114, § 6];
- (E) Indian per capita payments distributed from judgment awards and trust funds made pursuant to P.L. 98-64. Also excluded is any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any per capita payments, headrights of the Osage tribe, income from mineral leases or other tribal business ventures are excluded, as long as they meet the distribution requirements as stated in this paragraph. Any interest or income derived from the funds after distribution is considered as any other income. The per capita exclusion applies per person rather than per family.
- (i) Excluded funds deposited in a bank or other financial institution are excluded as long as they are kept in a separate account and not commingled in an account with non-excluded funds. When the excluded funds are commingled in an account with non-excluded funds they retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds are counted as a resource.
  - (ii) Purchases made with excluded funds are considered a resource;
- (F) income up to \$2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, earnings, and payments made for participation in the Workforce Investment Act (WIA) to individuals of all ages and student status. There are numerous programs for which payments are excluded. These programs include Summer Youth, Job Corps, paid classroom training, and others. The exception to the income exclusion is income to individuals for on-the-job training paid to participants 19 years old and older. This income is treated as any other earned income;

(H) payments, allowances, or earnings to individuals participating in programs under Title I of the National and Community Service Act, such as University Year for Action (UYA), Senior Companion Program, AmeriCorps Volunteers in Service to America (VISTA) and other AmeriCorps Programs, are not included as income for purposes of determining food stamp eligibility and benefit level;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP) and utility payments, and reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds that are paid to individuals under the Community Service Employment Program under Title V, P.L. 100-175. This program is authorized by the Older Americans Act. Each state and various organizations receive some Title V funds. These organizations include:

- (i) Green Thumb;
- (ii) National Council on Aging;
- (iii) National Council of Senior Citizens;
- (iv) American Association of Retired Persons;
- (v) U. S. Forest Service;
- (vi) National Association for Spanish Speaking Elderly;
- (vii) National Urban League;
- (viii) National Council on Black Aging; and

(ix) National Council on Indian Aging;

(L) Earned Income Tax Credit (EITC) payments received as part of a tax refund and also EITC advance payments received as part of a paycheck [P.L. 100-435];

(M) refunds of the state EITC as result of filing a state income tax return;

(N) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(O) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in interment camps during World War II;

(P) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(Q) payments for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act;

(R) payments made to individuals because of their status as victims of Nazi persecution;

(S) funds distributed by Federal Emergency Management Assistance (FEMA) due to a disaster or emergency to individuals directly affected by the event. This exclusion also applies to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States; and

(T) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain individuals who are children of Vietnam War veterans.

**(6) Payments which are not considered income.**

(A) The payments in (i) through (iii) are not considered as income.

(i) Monies withheld from any income source to repay a prior overpayment from that same source.

(ii) Monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source.

(iii) Child support payments received by Temporary Assistance for Needy Families (TANF) recipients which must be sent to the Child Support Enforcement Unit to maintain TANF eligibility.

(B) Monies withheld or returned to repay overpayments in federal, state, or local means-tested assistance programs are counted when they are withheld or returned to repay overpayments resulting from intentional program violation as established by the agency administering the program.

(i) In the Food Stamp Program, willful misrepresentation is considered as intentional program violation.

(ii) The State Supplemental Payment to the Aged, Blind and Disabled and TANF programs define intentional program violation using the terms restitution, fraud, and willful misrepresentation.

(iii) The Social Security Administration (SSA) and Veterans Benefits Administration programs define intentional program violation as fraud. Supplemental Security Income (SSI) is a means-tested program within SSA.

#### **(7) Reimbursements.**

(A) Reimbursements for past or future expenses to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household are not considered. Examples are reimbursements for:

(i) job or training related expenses such as travel, per diem, uniforms, and transportation to and from job or training site. However, if these expenses are not reimbursements, they are considered income;

(ii) out-of-pocket expenses incurred by volunteers in the course of their work;

(iii) medical or dependent care; and

(iv) services provided by Title XX of the Social Security Act.

(B) When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. The amount of the

reimbursement that exceeds the actual incurred expenses is counted as income. A reimbursement is not considered to exceed actual expenses unless the provider or household indicates the amount is excessive.

**(8) Money received for third parties.** Money received and used for the care and maintenance of a third party beneficiary who is not a household member is not considered.

(A) If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member is excluded.

(B) If the non-household member's portion cannot be readily identified, as in TANF payments, the payment is evenly prorated among intended beneficiaries. The exclusion is applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.

**(9) Earnings of a child.** Earned income of a child who is head of his or her own household is counted. The earned income of an elementary or high school student 17 years of age or younger who is under parental control of an adult household member is excluded. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings cannot be differentiated from those of other household members, the total earnings are prorated equally among the working members, and the child's prorated share is excluded. ■ 2

**(10) Other types of excluded income.**

(A) Loans. All loans, including loans from private as well as commercial institutions, are excluded. Verification that the income is a loan is required.

(B) Irregular Income. Exclude any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated which is \$30 or less per quarter.

(C) Non-recurring lump sum payments. Exclude money received in the form of non-recurring lump sum payments, including but not limited to: income tax refunds, rebates, credits, retroactive lump sums from SSA, SSI, public assistance, Railroad Retirement pensions, or other payments, or retroactive lump sum insurance settlements. These payments are counted as resources. ■ 3

(D) Cost of self-employment. Exclude the cost of producing self-employment income. ■ 4

(E) Income of non-household members. The income of non-household members who have not been disqualified or are not ineligible aliens is not considered available to the household. ■ 5

(F) Charitable contributions. Exclude cash contributions to a household from one or more private non-profit charitable organizations, not to exceed \$300 in a federal fiscal year quarter. For the purposes of this provision a quarter includes these specific months:

(i) October, November, December;

(ii) January, February, March;

(iii) April, May, June; and

(iv) July, August, September.

(G) Department of Housing and Urban Development's (HUD) Family Self-sufficiency Program (FSS) escrow accounts. Families participating in the HUD FSS program may withdraw money from their escrow accounts prior to completion of the program. This money is excluded both as income and as a resource.

## INSTRUCTIONS TO STAFF

### 1. Examples of vendor payments that are excluded as income are:

(1) a friend, employer, agency, church, relative, or former spouse making payments for household expenses such as rent or utilities directly to the landlord or utility company. If the payment is made from funds not owed to the household, it is a vendor payment and excluded as income;

(2) an employer paying a household's rent or house payment directly to the landlord or financial institution, in addition to paying regular wages. This is a vendor payment and excluded as income. If the employer provides a house to an employee, the value of the housing is not considered income;

(3) a household receiving court-ordered monthly child support payments in the amount of \$400. Later, \$200 is diverted by the non-custodial parent and paid directly to a creditor of the food stamp household. The entire \$400 is

counted as unearned income to the household because the payment is taken from money that is owed to the household. Payments specified by a court order or other legally binding agreement to go directly to a third party rather than the household are excluded from income because they are not otherwise payable to the household. For example, a court awards support payments in the amount of \$400 per month and, in addition, orders \$200 paid directly to a bank for repayment of a loan. The \$400 is counted and the \$200 payment is not counted;

(4) payments by a government agency to a child care facility for the purpose of providing child care for a household member are considered vendor payments and excluded as income; and

(5) payments or allowances made by the Department of Housing and Urban Development (HUD) or by the Farmers Home Administration (FmHA) directly to mortgage holders, landlords, or utility providers are vendor payments and excluded as income.

2. (a) For purposes of this provision, an elementary or high school student includes someone who attends classes, to obtain a General Educational Development (GED), that are recognized, operated, or supervised by the student's state or local school district.

(b) The earned income of the student must be counted beginning the month following the month the student turns 18. This applies regardless of marital status as long as the student continues to live with a parent.

(c) Workforce Investment Act (WIA) on-the-job training [Section 204(b)(1)(c)] of a child who has not had his or her 19<sup>th</sup> birthday is exempt as long as the child is under the parental control of another household member regardless of student status.

3. See OAC 340:50-7-4(b).

4. See OAC 340:50-7-30(2).

5. See OAC 340:50-5-5 and 340:50-5-6.

**340:50-7-29. Income inclusions**

(a) **Earned income.** Earned income is income which a household receives in the form of wages, self-employment, or training allowances and for which an individual puts forth daily, physical labor. The types of earnings listed in (1) through (5) of this subsection, including money from the sale of whole blood or blood plasma, are considered earned income.

(1) **Wages.** All wages and salaries for services performed as an employee including sick pay paid by the employer to an employee who plans to return to work when recovered are considered as earned income. Wages that are garnisheed or diverted and paid to a third party for a household's expenses are also included.

(2) **Self-employment.** The total gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business but excluding the cost of producing the income and payments from roomers or boarders and rent from rental property are considered self-employment income. Income from rental property is considered earned income only if a member of the household is actively engaged in management of the property an average of at least 20 hours per week. ■ 1

(3) **Title I payments of the Domestic Volunteer Services Act.** Payments under Title I of the Domestic Volunteer Services Act of 1973 as amended [Public Law (P.L.) 93-113] are considered as income unless excluded in OAC 340:50-7-22.

(4) **On-the-job training.** Income earned in on-the-job training positions is considered earned income. This includes on-the-job training provided under Section 204(b)(1)(c) or Section 264(c)(1)(A) of the Workforce Investment Act for individuals 19 years of age or older. ■ 2

(b) **Unearned income.** In general, unearned income is that income which a household receives and is not in the form of wages, self-employment, or training allowances and for which an individual does not put forth any daily, physical labor. The types of income listed in (1) through (6) of this subsection, while not all inclusive, are considered unearned.

(1) **Assistance payments.** Assistance payments from a federally aided public assistance program, such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), or assistance programs based on need, such as State Supplemental Payments are considered as unearned income. ■ 3

(A) A household's food stamp benefit amount does not increase when the benefit received from another program is reduced, suspended, or terminated because of a penalty imposed for an intentional failure to comply with a requirement of that program. The other program must be a means-tested, federal, state, or local welfare or public assistance program which is governed by welfare or public assistance laws or regulations and which distributes public funds, OAC 340:10-2-2.

(i) When a worker is not able to obtain the necessary information and cooperation from another federal, state, or local means-tested welfare, or public assistance program to comply with the provision in (A) of this paragraph, Oklahoma Department of Human Services (OKDHS) is not held responsible. The worker must make a good faith effort to get the needed information and record the details and results of this effort in the case file.

(ii) The household's current food stamp benefit amount is not reduced, suspended, or terminated when the benefits under another assistance program are decreased.

(iii) When eligible members are added to the food stamp case the benefit must be adjusted regardless of whether the household is prohibited from receiving benefits for the additional member under another federal, state, or local welfare or public assistance means-tested program.

(iv) Changes in the household circumstances which are not related to the penalty imposed by another federal, state, or local welfare or public means-tested assistance program are not affected by the provision in (A) of this paragraph.

(v) The application of the provision in (A) of this paragraph applies for the duration of the imposed penalty.

(B) The provision in (A) of this paragraph does not apply to individuals or households subject to disqualification from the Food Stamp Program for noncompliance with a comparable work requirement under Title IV of the Social Security Act or an unemployment compensation work requirement.

(2) **Pension and Social Security.** Annuities, pensions, retirement, veterans' or disability benefits, workers' or unemployment compensation, survivors' or Social Security benefits, and strike benefits are unearned income. ■ 4

(3) **Support and alimony.** Support and alimony payments that are made directly to the household from non-household members, money deducted or diverted from

court-ordered support or alimony payments, or other binding written support or alimony agreement, to a third party for a household expense must be considered as income when the court order directs that the payment be made to the household.

(4) **Grants and interest payments.** Payments from government sponsored programs, such as Agricultural Stabilization and Conservation Service Programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or profit are considered as income. Income from royalties is treated as unearned, self-employment income.

(5) **Monies which are withdrawn or dividends which are or could be received by a household from trust funds.** Dividends which the household has the option of either receiving as income or reinvesting in the trust are considered as income in the month they become available to the household.

(c) **Income of disqualified or ineligible household members.** A complete list of reasons for disqualification of household members is found in OAC 340:50-5-10.1. Income of disqualified individuals and unqualified aliens is counted as indicated in paragraphs (1) and (2) of this subsection.

(1) **Income of an individual disqualified for failure to comply with food stamp employment and training requirements or willful misrepresentation, fraud.** All income of an individual disqualified for failure to comply with food stamp employment and training requirements or willful misrepresentation, fraud, is counted as available to the remaining household members. Utility, medical, dependent care, and excess shelter deductions continue to apply to the remaining household members.

(2) **Income of individuals disqualified for reasons other than willful misrepresentation or failure to comply with employment and training requirements.** Income of individuals disqualified for reasons other than those stated in paragraph (1) of this subsection is prorated among all household members. A pro rata share of the income of a disqualified individual is considered as income available to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified member. All but the disqualified member's share is considered as income available to the remaining household members. The earned income deduction from OKDHS Appendix C-3, Maximum Coupon Allotments and Standards for Deductions, Maximum Income and Utilities (Food Stamps) applies to the prorated income attributed to the household if it was earned by the disqualified member. That portion of the household's allowable shelter and dependent care

expenses which are either paid by or billed to the disqualified member is divided evenly among the household members, including the disqualified member. When the household is using the utility standard, it too is evenly prorated. All but the disqualified member's share is considered as a deductible shelter expense for the remaining household members.

(3) **Determining eligibility and benefit level.** The needs of a disqualified or ineligible household member are not considered when determining the household's size for purposes of assigning a benefit level to the household or for purposes of comparing the household's monthly income with the income eligibility standard.

### **INSTRUCTIONS TO STAFF**

1. **Gross income minus the cost of doing business derived from rental property is considered unearned income when a household member is not actively engaged in the management of the property at least 20 hours each week. The cost of doing business is defined as the costs of producing self-employment income as listed in OAC 340:50-7-30(2).**
2. **This provision does not apply to household members under 19 years of age who are under the parental control of another adult household member, regardless of school attendance. For the purpose of this provision, earnings include monies paid under the Workforce Investment Act and monies paid by the employer.**
3. (a) **Foster care payments for children or adults who are considered members of the household are counted as unearned income. The household may choose to exclude the person(s) in foster care from the food stamp household and exclude the foster care payments. Guardianship payments, such as kinship care, are treated the same as foster care payments.**  
  
(b) **Adoption subsidy payments are counted as unearned income.**
4. **For this provision, disability pay is considered unearned income if the client is no longer considered an employee of the company and the disability benefits are paid by an agency outside the company. If the client is still considered as an employee and is paid the benefits by the company, it is counted as earned income.**

**340:50-7-45. Income**

(a) The methods in this Part are used to estimate income. The worker uses the method(s) that will best predict income for the current and future months. Actual income is always used for the current and prior month, if known prior to teleprocessing the certification. If the household income is received more often than monthly, the income for future months of the certification period must be converted to a monthly amount, if the conversion represents the income anticipated to be received by the household.

(b) Household income means income from all sources excluding only those items described in Section 22 of this Subchapter. The income considered is that income which is expected to be received during the period of certification. When an applicant or recipient reports no income and/or the household's expenses such as rent or mortgage, utilities, other payments, or miscellaneous personal expenses exceed the income, the worker must determine with the household how these needs are met.

(c) Gross, non-exempt income is verified for all households prior to certification. In cases where all attempts to verify income have been unsuccessful because the person or organization providing the income fails to cooperate with the household, the worker determines the amount to be used based on the best available information.

(1) **Method of verifying income.** The worker uses documentary evidence as the primary source of verification. If other types of verification are used, the worker must document in the case why an alternate source was needed.

(A) Documents which can be used to verify earned income are:

(i) pay stubs;

(ii) employee W-2 forms;

(iii) wage tax receipts;

(iv) state or federal income tax returns;

(v) self-employed bookkeeping credits;

(vi) sales or expenditure records;

(vii) employer wage records;

(viii) statements from an employer;

(ix) Oklahoma Employment Security Commission (OESC) statements; or

(x) Oklahoma Tax Commission statements.

(B) Verification of other types of income, documents, or records generally available from the applicant are:

(i) award letters;

(ii) benefit payment checks;

(iii) correspondence on benefits;

(iv) income tax records;

(v) support and alimony payments as evidenced by court order;

(vi) divorce or separation papers; or

(vii) contribution checks.

(C) Other sources of income verification include;

(i) State Data Exchange (SDX) system;

(ii) Beneficiary and Earnings Data Exchange (BENDEX) system;

(iii) OESC wage records;

(iv) union records;

(v) workers' compensation records;

(vi) information received from Veterans Benefits Administration records; or

(vii) tax records.

(2) **Unreported income.** When there is an indication other income which has not been reported is available to the household, the worker must explore the possibilities of unreported income. When the applicant states he or she has no

earnings or other income and the applicant is employable or it appears he or she may be eligible for other benefits, such as Social Security, Supplemental Security Income (SSI), unemployment compensation, or public assistance, it may be necessary to verify the applicant is not receiving income from such sources. ■ 1

(3) **Other required verification.** When verifying income is exempt as a loan, a simple statement signed by both parties which indicates the payment is a loan and must be repaid is sufficient verification. If the household receives payment on a recurrent or regular basis from the same source, but claims the payments are a loan, the worker must require the provider of the loan sign an affidavit which state the payments are being made or that payments will be made in accordance with an established repayment schedule.

### **INSTRUCTIONS TO STAFF**

**1. (a) Additional situations in which the possibility of unreported income is investigated are:**

**(1) when information contained on Form ADM-104, Financial Management Worksheet, indicates the household has paid expenses that exceed the amount of income reported;**

**(2) when the worker has difficulty contacting any employable household member at home when seasonable employment in the area is at its peak;**

**(3) when households report zero income; and**

**(4) other questionable situations.**

**(b) When all other methods of verification have been exhausted, a field investigation may be required.**



**340:50-7-46. Converting to monthly income**

(a) **Converting income.** When a full month's income is anticipated but is received more often than monthly, the income is converted to a monthly amount as indicated in (1) through (5) of this subsection. When the amounts to be converted differ, such as fluctuating daily, weekly, or biweekly amounts, an average is obtained and the average is multiplied by 4.3 or 2.15 whichever is applicable. Cents are carried through all steps and then rounded to the nearest dollar when the monthly amount is determined. One cent through 49 cents are rounded down and 50 cents through 99 cents are rounded up. The worker must exercise extreme caution when determining whether income is received twice per month or biweekly (every two weeks).

(1) **Daily.** Income received on a daily basis is converted to a weekly amount then multiplied by 4.3 only when there is a consistency in days worked each week and a regularity of pay dates. ■ 1

(2) **Weekly.** Income received weekly is multiplied by 4.3.

(3) **Twice a month.** Income received twice a month is multiplied by 2.

(4) **Biweekly.** Income received every two weeks is multiplied by 2.15.

(5) **Irregular income.** Income received at irregular intervals is not converted. ■ 2

(b) **Anticipating income.** For the purpose of determining the household's eligibility and monthly benefit allotment, the worker takes into account the income already received by the household and any anticipated income the household can be reasonably certain to receive during the certification period.

(1) **Uncertain income.** If the amount of income that will be received or when it will be received is uncertain, that portion of the household's income is not counted. For example, a household's anticipated income from a new source, such as a new job, recently applied for public assistance, or unemployment benefits, may be uncertain as to the time and the amount of the initial payment.

(A) The anticipated payment is not considered unless there is reasonable certainty concerning the month the payment will be received and the amount of the payment.

(B) The payment is disregarded if there is no way to determine the amount of the payment.

(C) If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty must be considered as income.

(D) In cases where the receipt of income is reasonably anticipated but the monthly amount may fluctuate, the household may elect to have their income averaged.

(E) Households are advised to report all changes in gross monthly income as required.

(2) **Income received in the past 30 days.** Income received during the past 30 days may be used as an indicator of income anticipated to be available to the household during the next certification period. Past income is not used to anticipate future income for any month in which a change in income has occurred or employment has terminated. ■ 3

(3) **Regular employment.** When the head of the household or other members of the household have regular employment, income from previous months is usually a good indicator of the amount of income that can be anticipated in the month of application and subsequent months. If information supplied by the household or collateral contact indicates that future income will differ substantially from the previous month's income, the worker uses the information to make a reasonable estimate of the anticipated income. The method used to determine the income is fully documented in the case record. ■ 4 through 6

(4) **Withheld wages.** Wages withheld at the request of the employee are considered income to the household in the month the wages would otherwise be paid by the employer. Wages withheld by the employer as a general practice even if in violation of the law are not counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or the household anticipates that it will receive income from previously held wages. Advances on wages are counted as income when they can be reasonably anticipated.

(c) **Averaging income.** Households, except for destitute and migrant or seasonal farm worker households, may have their income averaged. To determine the household's eligibility, all other income is added to this averaged monthly income then the income exclusions and deductions are applied in the normal manner.

(1) **Fluctuating income.** Households with fluctuating income may elect to have the income averaged.

(A) If the household indicates the most recent 30 days income is representative

of anticipated future earnings, it is appropriate to use this income for computing gross monthly income.

(B) When the household indicates the most recent 30 days of income is not representative of anticipated future income, the worker uses additional months income to arrive at a representative anticipated monthly gross income.

(C) Income that is received more often than monthly is converted to a monthly income prior to determining a monthly average. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income for the two months may be averaged and projected over the certification period.

(2) **Employment contract and self-employment.** Households which by contract or self-employment derive their annual income in a period of time shorter than one year must have that income annualized over a 12-month period, provided the income from the contract is not received on an hourly or piece-work basis. These households may include school employees, sharecroppers, farmers, and other self-employed households. These provisions do not apply to migrant or seasonal farm workers.

(d) **SSA/SSI Income.** When using the Beneficiary and Earnings Data Exchange System (BENDEX) or the State Data Exchange System (System) to verify Social Security (SSA) benefits or Supplemental Security Income (SSI), see OAC 340:65-3-4.

## INSTRUCTIONS TO STAFF

1 **When a person is paid daily, income is converted to a weekly amount then multiplied by 4.3 to arrive at a monthly gross wage. There must be consistency in the days worked each week and a regularity in pay dates in order to use this method of income conversion. For example a person is employed:**

(1) **five days a week, Monday through Friday, and paid daily. This daily income is converted to a weekly amount then multiplied by 4.3 to arrive at the monthly gross wage; or**

(2) **three days a week, Monday, Wednesday, and Friday, and paid daily. This daily income is converted to weekly then multiplied by 4.3 to arrive at**

the monthly gross wage.

2. When there is no consistency in the work offered or when pay is received, it is appropriate to average the income received in a calendar month.

(1) For example a person is registered with a day labor agency but has only worked two days in the last two full months: May 16, \$60, and June 21, \$50. The appropriate method for determining monthly gross wage is to average these two months income:  $\$60 + \$50 = \$110$  divided by 2 = \$55.

(2) Another example is a person who has just started working for a day labor agency. The person has worked three days so far in the first month, the application month, but the month is not yet ended. It is appropriate to total the wages earned so far in the first/application month and use that amount as the countable earned income for the initial and ongoing months, as there is no reasonable way to anticipate earnings.

3. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, a longer period of past income may be requested and used to determine representative income. If the additional verification is not provided, the worker uses the most recent 30 days income to determine eligibility.

4. When computing ongoing earned income using pay stubs, the procedure listed in (1) through (5) are followed.

(1) The worker must use the most recent pay stubs from the date of the face-to-face interview back, even if the client is paid later in the day.

(2) Pay stubs must be consecutive. Using a calendar to identify the pay dates ensures there are no missing pay stubs.

(3) Gross amounts of income must be used in the calculation process.

(4) If hours worked fluctuate each pay period, the worker must discuss with the client the reason for varying hours, such as employee missed work due to illness or hours fluctuate due to amount of work performed. The reason for fluctuating hours is documented in the Family Assistance/Client Services (FACS) case notes.

(5) Only those pay periods determined as representative pay for the next

certification period are used in the calculation. The case record is documented with the reason for the exclusion.

**5. When determining whether to consider employee benefit allowance provided for purchase of insurance, first determine if the employer requires the employee to purchase insurance to receive the benefit allowance.**

**(1) If purchase of insurance is required, count the regular gross earnings plus any excess money left after deducting the insurance cost from the benefit allowance.**

**(2) If purchase of insurance is not required, count the regular gross earnings plus the benefit allowance amount available to the employee as cash.**

**6. When computing earned income from new employment and a full pay check has not been received, it is appropriate to use an employer's statement or Form ADM-94, Employment Verification, that has been completed by the employer. The statement or form must include the client's scheduled hours per week, rate of pay, and how often paid. When anticipating new income based upon an employer's statement only, the income is converted using either the 2.15 or 4.3 calculation method.**



**SUBCHAPTER 10. ELECTRONIC BENEFIT TRANSFER (EBT)**

## Section

- 340:50-10-1. Scope and applicability
- 340:50-10-3. Initial issuance of Electronic Benefit Transfer (EBT) card
- 340:50-10-5. Replacement of lost, stolen, or destroyed Electronic Benefit Transfer (EBT) cards
- 340:50-10-7. Inactive accounts
- 340:50-10-9. Expungement of benefits
- 340:50-10-11. Food stamp household leaves the state



**340:50-10-11. Food stamp household leaves the state**

When a household moves to another state and has benefits remaining in their account, the Oklahoma Department of Human Services (OKDHS) does not convert their electronic benefits to coupons. The Access Oklahoma card can be used in most states. Most major retailers accept the Access Oklahoma card. If the household is unable to locate a store near their new residence, the benefits must be used in Oklahoma before they move or can be used to purchase food in areas or states that accept the Access Oklahoma card during their move. ■ 1

**INSTRUCTIONS TO STAFF**

1. **(a) If a household's benefits cannot be accessed because they have moved to a state that does not honor the Access Oklahoma card, the worker instructs the household to contact the local state agency that administers the Food Stamp Program in that state for help in locating a retailer that accepts the Access Oklahoma card.**

**(b) If a household notifies the worker they are moving or have moved to another state, the worker informs the household their remaining electronic benefit transfer (EBT) benefits cannot be converted to coupons. The worker instructs the household to use their Access Oklahoma card in Oklahoma during the move or contact the state agency where they have moved to locate a retailer that will accept the Access Oklahoma card.**

**(c) If another state agency notifies the worker that a household has moved from Oklahoma to their state, the worker informs them that Oklahoma Department of Human Services (OKDHS) does not convert remaining benefits to coupons.**

**(d) The worker may contact the OKDHS Electronic Benefit Transfer (EBT) unit to assist the household in locating a retailer that accepts the Access Oklahoma card. The EBT unit in the new state may also be contacted for help in locating a retailer in their state that accepts the Access Oklahoma card.**



**340:50-13-2. Hearing based on any action relating to a food stamp application or case**

(a) **Client rights.** Every applicant and participating household has the right of appeal on any action relating to their food stamp application or case. Applicants and recipients are advised orally as well as in writing of their right to a fair hearing and of the procedures for appealing any decision.

(b) **Hearing request.** Every applicant and participating household who believes proper consideration has not been given to the circumstances surrounding their situation may request a hearing. This request may be made orally or in writing. ■ 1

(1) When the aggrieved client chooses to orally request a hearing instead of making a written request, the client is given an opportunity to review the situation with a supervisory or administrative staff member in the local office. If the situation is not resolved in the review or the aggrieved client does not wish to review the situation with local supervisory or administrative staff, a memorandum is prepared summarizing the client's reason(s) for requesting a fair hearing and the identifying portion of Form H-1, Request for a Hearing, is completed. The memorandum and Form H-1 are prepared in triplicate. The original is submitted to the Oklahoma Department of Human Services (OKDHS), Attention: Appeals Unit, with a copy given to the client, and a copy filed in the local case record.

(2) Households wishing to contest a denial of expedited service must be given an opportunity to have an OKDHS conference scheduled within two working days unless the household requests it be scheduled later or states it does not wish to have an OKDHS conference. The conference is handled in accordance with procedures in OAC 340:2-5-61. A fair hearing must be held if the issue is not resolved or the household does not withdraw its request for a fair hearing by signing Form H-3, Withdrawal of Request for Hearing.

(c) **Participation during appeal.** If a household requests a hearing during the ten-day advance notice period, the household can choose to continue participation on the basis of the household's situation authorized immediately prior to the notice of adverse action. If the appeal is not sustained, the client is required to reimburse the benefits received ineligibly. If the household chooses not to continue participation on the basis immediately prior to the notice of adverse action and the appeal is sustained, the household is entitled to the retroactive benefits lost during the appeal period. If the household failed to request continuation of benefits within the advance notice period and later establishes there was good cause for the failure, the worker reinstates the benefits to the prior basis. If benefits are reduced or terminated as a result of a mass change without individual notice of adverse action, OKDHS, upon request of the

household, reinstates benefits if the issue being appealed is that eligibility or benefits were improperly computed. If a household requests a hearing and continuation of benefits as a result of action(s) taken by OKDHS at initial certification or on a subsequent application, benefits are not reinstated or continued except as authorized at such initial or subsequent certification.

(d) **Reduction or termination prior to hearing decision.** Once continued, benefits are not reduced or terminated prior to a hearing decision except under the circumstances in (1) and (2) of this subsection.

(1) **Change in circumstances while hearing is pending.** If a change in circumstances, other than the issue being appealed, occurs while the hearing decision is pending which affects the household's eligibility or basis of issuance and the household does not request an additional hearing and continuation of benefits after the notice of adverse action, such action is initiated by the worker. The benefit allotment must be based on any income the household had prior to the first notice of adverse action.

(2) **Notification to household.** The head of the household is mailed written notice of the decision of the Appeals Committee and is apprised of the reason for the decision. At the same time, the head of the household is advised of any further right to appeal.

(e) **Hearing decision.** Decisions of the Appeals Committee may not run counter to federal law, regulation, or policy. The hearing is conducted, a decision is reached, and the household and county office are notified within 60 calendar days of receipt of the fair hearing request. A decision which results in an increase in household benefits is reflected in the benefit within ten days of the receipt of the hearing decision.

### **INSTRUCTIONS TO STAFF**

1. **Procedures as outlined in OAC 340:2-5-9 are followed when the hearing request is in writing.**