
POLICY TRANSMITTAL NO. 11-36	DATE: OCTOBER 26, 2011
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF INTERGOVERNMENTAL RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:20-1-10 through 20-1-11.

EXPLANATION: OAC 340:20-1-10 Instructions to staff are amended to clarify when a subsidized household is not considered vulnerable.

OAC 340:20-1-11 Instructions to staff are amended to clarify that income of ineligible aliens is handled the same as income of undocumented aliens.

Original signed on 10-25-11

Mary Stalnaker, Director
Family Support Services division

Sandra Harrison, Coordinator
Office of Intergovernmental Relations and
Policy

WF # 11-Y (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

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

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

REMOVE

340:20-1-10

340:20-1-11

INSERT

340:20-1-10, pages 1-3, revised 11-1-11

340:20-1-11, pages 1-7, revised 11-1-11

340:20-1-10. Program factors

Revised 6-1-11

(a) **Home energy.** Home energy means a household's source of energy used to heat or cool a residential dwelling.

(b) **Primary energy source.**

(1) The primary energy source during winter months is fuel used to heat the home.

(2) The primary energy source during summer months is fuel used to cool the home.

(3) During the Energy Crisis Assistance Program (ECAP) application period, the household may choose heating or cooling as the primary energy.

(c) **Household.** Household means any person or group of persons who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent. There is one authorization for heating or cooling assistance per household.

(d) **Subsidized household.** Subsidized household means a household that receives assistance through a utility allowance to cover all or part of their energy cost, and/or receives assistance in paying their rent or house payment on a regular basis. ■ 1

(1) Assistance may be from a government agency such as a local housing authority, or a private person, usually a relative, who helps a person or family pay their utility bills, rent or house payment, or allows them to live rent free.

(2) If apartment rental rates in college or university-owned apartment complexes are deliberately set lower than other apartments in the community in order to help the student, the household is considered a subsidized household. ■ 2

(3) Eligible subsidized households with out-of-pocket utility expenses receive the same assistance benefit as unsubsidized households.

(e) **Vulnerability.** A household is vulnerable if it is responsible, either totally or partially, for the cost of home energy. A vulnerable household includes households whose primary energy source has been temporarily discontinued.

(f) **Non-vulnerability.** Non-vulnerable households are those that do not bear any of the expense of home energy.

(1) Examples of non-vulnerable living arrangements include:

(A) congregate or domiciliary facilities, such as nursing facilities and college or university dormitory, fraternity, or sorority housing;

(B) households whose primary energy source is totally paid by someone other than a household member; 1 and

(C) subsidized households whose heating costs are included in their rent.

(2) Some subsidized households may be assessed an energy surcharge during the operation of the Low Income Home Energy Assistance Program (LIHEAP). These households may be eligible for assistance if they can document assessment of the surcharge.

(g) **Eligible households.** All eligible households must meet criteria in (1) through (4) or the worker must deny the application.

(1) Households must be vulnerable by being totally or partially responsible for the cost of home energy. 3

(2) Households must not exceed the income and resource standards as shown on Oklahoma Department of Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size.

(3) Households must include at least one citizen or legal alien per OAC 340:20-1-8 and may include an illegal alien.

(4) The person making the application must provide proof of identity per OAC 340:20-1-13(4).

(5) Each household member must provide his or her Social Security number (SSN) per OAC 340:20-1-13(3) and 340:65-3-1(f). When the household does not provide a SSN for a household member, the worker counts that person's income but does not include him or her in household size.

(h) **Benefit amount.** Funding for LIHEAP is contingent on the receipt of federal funds and authorized amounts vary from year-to-year. Benefit amounts are estimated and reserved for winter heating, summer cooling, and ECAP on a yearly basis after the amount of available funding is known. OKDHS Appendix C-7-A, Estimated LIHEAP Benefit Level For All Households, provides estimated benefit amounts for each program. Adjustments, as needed, may be made to this estimated benefit amount throughout the fiscal year because of changes in available funding or anticipated need. The household

benefit amount is based upon the household's size, income, and primary energy source. The benefit amount does not change during the program year due to changes in household composition, income, or primary energy source. ■ 4

INSTRUCTIONS TO STAFF 340:20-1-10

Revised 11-1-11

- 1. A subsidized household is not vulnerable when an agency or person pays the entire utility bill every month even if the utility bill is in the name of a household member or the payment is a loan.**
- 2. The worker may need to contact the campus housing office(s) to determine whether rental rates are set lower for college or university-owned apartments.**
- 3. Subsidized households whose heating costs are included in their rent are not vulnerable unless assessed a surcharge. Refer to OAC 340:20-1-10(e)(2).**
- 4. (a) When the worker discovers that an incorrect benefit level was approved prior to the benefit being issued, the worker must contact the Supplemental Nutrition Assistance Program (SNAP)/Low Income Home Energy Assistance Program (LIHEAP) Section in Family Support Services Division (FSSD) to provide the corrected information. The worker may contact the FSSD SNAP/LIHEAP Section by:**
 - (1) e-mail at LIHEAP2@okdhs.org;**
 - (2) telephone; or**
 - (3) memo.**

(b) When the worker discovers after payment has been made that the household received a higher benefit level than it was eligible to receive, the worker must write a memo explaining the reason for the overpayment, and submit it to the SNAP/LIHEAP Section.

340:20-1-11. Income and liquid resources

Revised 6-1-11

(a) **Income.** All gross earned and unearned income, except for those income sources shown in (b) of this Section, received by the household is considered in determining financial eligibility. Eligible households must meet the income standard less the earned income deduction as shown on Oklahoma Department of Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size.

(1) Income received on an annual basis is prorated over 12 months to determine the average monthly income.

(2) If the income is not received on a regular monthly basis, refer to OAC 340:10-3-31.

(3) Total income is rounded to the nearest dollar.

(4) When a person's income is reduced due to recoupment of an overpayment or garnishment, the gross amount before the recoupment or garnishment is considered.

(5) Countable income is computed as outlined in (A) through (D) of this paragraph.

(A) For each employed household member, subtract the earned income deduction as shown on OKDHS Appendix C-7. If the employed household member is self-employed, business expenses are allowed as described at (a)(6) of this Section.

(B) Add the unearned income of all household members.

(C) Subtract all applicable deductions as shown in (c) of this Section.

(D) The remaining amount is the amount considered available to the household members eligible for the Low Income Home Energy Assistance Program (LIHEAP).

(6) When a household member is self-employed, the net income as shown on the tax return is used as the income for this person.

(A) When the household did not file an income tax return on its self-employment

income for the most recent year, the worker uses (i) through (iii) to determine the net monthly self-employment income.

(i) The gross self-employment income, including capital gains, is computed using the client's self-employment business records.

(ii) If the client declares they incurred business expenses, the worker then subtracts 50% of the gross self-employment income as business expenses. If the household did not incur business expenses, a business expense deduction is not given.

(iii) The worker divides the net self-employment income by the number of months to be averaged per OAC 340:50-7-30.

(B) The monthly net self-employment income is added to all other earned income received by the household.

(7) When an undocumented alien is part of an eligible household, the countable portion of his or her income is computed as outlined in (A) through (E) of this paragraph. ■ 1

(A) For each employed household member, subtract the earned income deduction as shown on OKDHS Appendix C-7.

(B) Add the unearned income of the undocumented alien.

(C) Subtract the need standard on OKDHS Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards Schedule IX, for the appropriate number of persons. Persons counted for the need standard are the undocumented alien and his or her undocumented alien dependents who:

(i) are claimable for federal personal income taxes;

(ii) live in the same household; and

(iii) are not included in determining the LIHEAP benefit level because they are undocumented aliens.

(D) Subtract all applicable deductions as shown in (c) of this Section.

(E) The remaining amount is the amount considered available to the household members eligible for LIHEAP.

(b) **Income disregards.** In determining income, disregard:

- (1) the food benefit amount under the Food and Nutrition Act of 2008;
- (2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (3) educational assistance including grants, work study, scholarships, fellowships, educational loans on which payment is deferred, veteran's education benefits, and the like are exempt if receipt is contingent upon the student regularly attending school and the money received is intended to offset the costs of education and expenses as identified by the institution, school, program, or other grantor. ■ 2 If the money is not intended to be a reimbursement and is a gain to the client, it is considered income. ■ 3 The student's classification, whether graduate or undergraduate, is not a factor;
- (4) loans, regardless of use, if a bona fide debt or obligation to pay can be established.
 - (A) Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan is from a person or financial institution in the loan business.
 - (B) If the loan is from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate that the loan is bona fide;
- (5) Indian payments including judgment funds or funds held in trust and distributed per capita by the Secretary of the Interior Bureau of Indian Affairs (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior.
 - (A) Disregard 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.
 - (B) Disregard per capita payments, for example, headrights of Osage tribe, income from mineral leases, or other tribal business ventures, as long as they meet the distribution requirements as stated in this paragraph.
 - (C) Consider as income interest or income derived from the principal or produced by purchases made with the funds after distribution;
- (6) special allowance for school expenses made available upon petition in writing

from trust funds of the student;

(7) benefits from State and Community Programs on Aging [Title III]. Income from the Older American Community Service Employment Act [Title V], including American Association of Retired Persons (AARP) and Green Thumb organizations as well as employment positions allocated at the discretion of the Governor of Oklahoma, is counted as earned income;

(8) unearned income received by a child receiving Temporary Assistance for Needy Families (TANF), such as a needs based payment, cash assistance, compensation in lieu of wages, or allowance, from a program funded by the Workforce Investment Act (WIA) including Job Corps income, and WIA earned income received as wages, not to exceed six months in any calendar year;

(9) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(10) payments to volunteers under the Domestic Volunteer Service Act of 1973, Volunteers in Service to America (VISTA), unless the gross amount of VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(11) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(12) any portion of payments, made under the Alaska Native Claims Settlement Act to an Alaska native, which are exempt from taxation under the Settlement Act;

(13) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(14) earnings of a minor dependent child who is a full-time student;

(15) rental or housing subsidies by governmental agencies, for example, United States Department of Housing and Urban Development (HUD), received in-kind or in cash for rent, mortgage payments, or utilities;

(16) reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses

directly related to such travel or training. Uniform allowances are disregarded if the uniform is uniquely identified with company name or logo;

(17) advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a federal income tax return;

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

(19) 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.) are not considered as income or as a resource in determining eligibility for or the amount of the benefit;

(20) payments received for Emergency Assistance to Needy Families with Children;

(21) payments made by others on the household's behalf;

(22) in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages;

(23) payments made under the Radiation Exposure Compensation Act (P.L. 101-426) enacted October 15, 1990;

(24) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments, and disaster assistance organizations;

(25) interests of individual Native Americans in trust or restricted lands;

(26) income up to \$2,000 per year received by individual Native Americans, which is derived from leases or other uses of individually-owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as income;

(27) payments made to persons because of their status as victims of Nazi persecution;

(28) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain persons who are children of Vietnam War veterans; and

(29) Family Support Assistance Payment Program payments paid to persons by the OKDHS Developmental Disabilities Services Division (DDSD).

(c) **Income deductions.** Certain deductible expenses from income may be applied when applicable, such as:

(1) out-of-pocket non-reimbursed medical expenses paid by persons age 60 and older or persons considered disabled per OAC 340:50-5-4 and 340:50-7-31(b)(3);

(2) legally binding child support paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member; and

(3) the earned income deduction as shown on OKDHS Appendix C-7 for each employed household member. In addition, if a household member is self-employed, see (a)(6) of this Section for self-employment deductions.

(d) **Resources.** Liquid resources, such as cash on hand, checking or savings accounts, certificates of deposits, stocks or bonds, cannot exceed the allowable resource level as shown on OKDHS Appendix C-7. The applicant's statement is accepted as verification unless the information received is inconsistent or questionable.

INSTRUCTIONS TO STAFF 340:20-1-11

Revised 11-1-11

1. This rule also applies to ineligible aliens who are in the United States legally, but do not meet eligible or qualified status per OAC:340:50-5-67.

2. Exempt student income includes:

(1) any money from Title IV of the Higher Education Act including federal or state work study;

(2) educational assistance funded through the Veterans Administration (VA) such as the Montgomery GI Bill;

(3) grants;

(4) scholarships;

(5) subsidized and unsubsidized Stafford loans;

(6) federal PLUS loans;

(7) TRIO grants;

(8) Robert C. Byrd Honors Scholarship Program;

(9) Bureau of Indian Affairs (BIA) student assistance;

(10) money from the Carl D. Perkins Vocational Education Act; and

(11) Workforce Investment Act (WIA).

3. Student income that is not exempt includes:

(1) money that is paid directly to the student and not sent through the bursar's account other than funds listed in Instructions to Staff # 1 of these Instructions;

(2) institutional work study; or

(3) money intended as an incentive for school attendance or grades rather than the school expenses.