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| POLICY TRANSMITTAL NO. 07-26 | DATE: JUNE 22, 2007 |
| FAMILY SUPPORT SERVICES DIVISION | DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY |

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:10-3-32.

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

OAC 340:10-3-32 is revised to coincide with Food Stamp and Child Care Program rules to: (1) change language regarding tax forms used to determine self-employment income; and (2) specify how profit sharing income is treated.

Original signed on 5-4-07

Mary Stalnaker, Director
Family Support Services Division

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WF # 07-07 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

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

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

REMOVE

340:10-3-32

INSERT

340:10-3-32, pages 1-3, revised 7-1-07

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

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

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

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

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

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

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

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

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

(A) **Earned income from wages, salary, or commission.** If the income is from wages, salary, or commission, the earned income is the gross income or true wage prior to payroll deductions and withholdings. ■ 4 This includes earned income from contract employment. ■ 5 Money from the sale of whole blood or blood plasma is considered as earned income.

(B) Earned income from work and training programs.

(i) **Workforce Investment Act (WIA).** WIA earned income received by the payee or spouse as wages is considered as any other earned income. WIA earned income of a dependent child(ren) is considered when received in excess of six months in any calendar year. ■ 6

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

INSTRUCTIONS TO STAFF 340:10-3-32

1. See OAC 340:10-3-33 for earned income deductions.
2. **(a)** The federal income tax return form for the most recent year is used for calculating the income only if it is representative of the person's current situation. The person's business records beginning the month income became representative of the person's current situation are used if the income tax information does not represent the person's current situation. If the household's self-employment enterprise has been in existence for less than a year, the income is averaged over the period of time the business has been in operation to establish the monthly income amount.

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

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

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

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

(4) Form 1040 with Schedule F for farmers.

(c) When the client has previously filed an income tax return as a self-employed person, the worker determines whether using the 50% business expense deduction or the net as shown on the income tax return is best for the client. If the client has not filed an income tax return but declares business expenses, the worker allows 50% of the gross income as the standard business expense.

3. For example, self-employment income received by a crop farmer is averaged

over a 12-month period if the income represents the farmer's annual support.

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

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

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

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

5. Income from contract employment received by persons, such as school employees, is annualized over a 12-month period even if the income is received over a period of time shorter than 12 months.

6. See OAC 340:10-3-40(17), Income disregards.