
POLICY TRANSMITTAL NO. 08-45	DATE: SEPTEMBER 19, 2008
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:50-7-2 through 50-7-3; and 340:50-11, Table of Contents.

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

OAC 340:50-7-2 is amended to: (1) remove language that Individual Retirement Accounts (IRAs) and some Keogh Plans are countable resources and (2) add language that retirement plans and education accounts described in federal law are exempt as a resource.

OAC 340:50-7-3 is amended to remove language that IRAs and KEOGH plans are countable resources.

OAC 340:50-11 Table of Contents (TOC) is revised to added 340:50-11-111 through 340:50-11-115 as they were inadvertently left off the TOC revised 7-1-08.

Original signed on 9-8-08

Mary Stalnaker, Director
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WF # 08-07 (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

340:50-7-2

340:50-7-3

340:50-11, Table of Contents

INSERT

340:50-7-2, pages 1-10, revised 10-1-08

340:50-7-3, pages 1-2, revised 10-1-08

340:50-11, Table of Contents, pages 1-2, revised 10-1-08

340:50-7-2. Excluded resourcesRevised 10-1-08

In households applying for or receiving food benefits, resources listed in this Section are excluded for household members, for disqualified members whose resources are counted, or for ineligible aliens who would otherwise be a household member. When an exclusion applies because of use by or for a household member, the exclusion also applies when the resource is used by or for a disqualified person whose resources are counted or for an ineligible alien who would otherwise be a household member.

(1) **Home and surrounding property.** The home and surrounding property which is not separated from the home by intervening property owned by others is exempt. Public right-of-way, such as roads which run through the surrounding property and separate it from the home, does not affect exemption of the property.

(A) The home and surrounding property remain exempt when temporarily unoccupied by reasons of employment, training for future employment, illness, vacation, or uninhabitability caused by casualty or natural disaster so long as the household intends to return.

(B) Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home receive an exclusion for the value of the lot and, if it is partially completed, for the home.

(2) **Household personal goods, life insurance, and pension plans.** Household goods, personal belongings, including one burial lot per household member, the cash value of life insurance policies, and prepaid burial plans are exempt. The cash value of pension plans or funds described in federal law is excluded. ■ 1

(3) **Vehicles.**

(A) Exclude one licensed vehicle per adult household member regardless of the use of the vehicle.

(B) Exclude any other licensed vehicle a household member under age 18 drives to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. This exclusion applies during temporary periods of unemployment to a vehicle which a household member under age 18 customarily drives to and from employment.

(C) Exclude any other licensed vehicle if:

(i) used for income-producing purposes such as, but not limited to, a taxi, truck, or fishing boat, or a vehicle used for deliveries, to call on clients or customers, or required by the terms of employment. Licensed vehicles previously used by a self-employed household member engaged in farming must continue to be excluded as a resource for one year from the date the household member terminated his or her self-employment farming;

(ii) annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(iii) necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member such as the vehicle of a traveling sales person or of a migrant farm worker following the work stream;

(iv) used as the household's home;

(v) necessary to transport a physically disabled household member regardless of the purpose of such transportation. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member. Only one vehicle per physically disabled household member may be excluded;

(vi) necessary to carry fuel for heating or water for home use when the transported fuel or water is anticipated to be the primary source of fuel or water for the household during the certification period. Households must receive this resource exclusion without having to meet any additional tests concerning the nature, capabilities, or other uses of the vehicle. Households must not be required to furnish documentation unless the exclusion of the vehicle is questionable;

(vii) the value of the vehicle is inaccessible because its sale would produce an estimated return of not more than \$1,500;

(viii) jointly owned by a food benefit household member and someone who does not live with the food benefit household. To be excluded, the vehicle must not be used by, nor in the possession, of anyone who lives in or with the household. The food benefit household member must also be unable to sell the vehicle because the signature of the co-owner is needed and that person will not sign; or

(ix) legally prohibited from being sold by the food benefit household. The determination of whether a food benefit household can legally sell a vehicle is

governed by the law of Oklahoma.

(D) The exclusions in (i) through (iii) of this subsection continue to apply when the vehicle(s) is not in use because of temporary unemployment such as when a taxi driver is ill and cannot work or the vehicle is broken down and cannot be used.

(4) Real or personal property directly related to the maintenance of excluded vehicles. Property, real or personal, to the extent it is directly related to the maintenance or use of a vehicle described in paragraph (3) of this subsection is excluded. Only that portion of real property determined necessary for maintenance or use is excluded. ■ 2

(5) Income producing property. Income producing property which annually produces income consistent with the fair market value is excluded even if used on a seasonal basis. ■ 3

(6) Property essential to employment. Property, such as farm land or work related equipment including tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member is excluded. Property of a household member engaged in farming continues to be excluded for one year from the date the household member terminates his or her self-employment from farming.

(7) Installment contracts. Installment contracts for the sale of land or buildings are excluded if the contract or agreement is producing income consistent with its fair market value. The exclusion applies to the value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

(8) Inaccessible resources. Resources whose cash value is not accessible to the household are exempt, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. If questionable, the worker establishes that the property is for sale and that the household will accept a reasonable offer.

(A) A resource is considered inaccessible if its sale or other disposition is unlikely to produce funds amounting to one half or more of the applicable resource limit for the household.

(B) The value of the inaccessible resource is the amount of the expected return

to the household after subtracting estimated cost of sale or disposition, and consideration of the ownership interest to the household.

(C) A single resource may not be subdivided solely to obtain an exclusion as inaccessible.

(D) This inaccessible provision does not apply to vehicles or financial instruments such as stocks, bonds, or negotiable financial instruments. ■ 4

(E) Any funds in a trust, transferred to a trust, and the income produced by that trust, to the extent it is not available to the household, is considered inaccessible to the household if:

(i) the trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(ii) the trustee administering the funds is:

(I) a court;

(II) an institution, corporation, or organization which is not under the direction or ownership of any household member; or

(III) a person appointed by the court who has court imposed limitations placed on his or her use of the trust funds;

(iii) trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member; and

(iv) the funds held in irrevocable trust are established from:

(I) the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust; or

(II) non-household funds by a non-household member.

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

(10) **Resources excluded by law.** Resources currently excluded by law are:

(A) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (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];

(B) payments received by certain Indian tribal members under P.L. 94-114, Section 6 regarding submarginal land held in trust by the United States;

(C) Indian per capita payments distributed from judgment awards and trust funds made pursuant to P.L. 98-64. Exclude 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. Exclude any per capita payments, headrights of Osage tribe, income from mineral leases, or other tribal business ventures, as long as the payments meet the distribution requirements as stated in this subparagraph.

(i) Any interest or income derived from the funds after distribution is considered as any other income.

(ii) The per capita exclusion applies per person rather than per family.

(iii) When these excluded funds are deposited in a bank or other financial institution, the deposits are excluded as long as the funds are kept in a separate account and not commingled in an account with non-excluded funds.

(iv) When the excluded funds are commingled in an account with non-excluded funds, the excluded funds 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.
- (v) Purchases made with excluded funds are considered a resource;
- (D) interests of individual Indians in trust or restricted lands;
- (E) benefits received from Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) [P.L. 92-443, § 6];
- (F) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 [P.L. 91-646, § 216];
- (G) Earned Income Tax Credit (EITC) payments received by a participating food benefit household member as part of a federal tax refund or as advance payments received as part of a paycheck, excluded for 12 months during continuous participation. This does not mean that households lose the exclusion if they temporarily leave the program for administrative reasons;
- (H) refunds of the state EITC as a result of filing a state income tax return in the month received and the following month;
- (I) payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under Title IV of the Comprehensive Employment and Training Act of 1978 [P.L. 95-524];
- (J) financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act in accordance with P.L. 99-498;
- (K) 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.);
- (L) payments received under the Civil Liberties Act of 1988. These payments are made to persons of Japanese ancestry who were detained in internment camps during World War II;
- (M) 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;
- (N) amounts held in an account for the fulfillment of a Plan for Achieving

Self-Support (PASS) under Title XVI of the Social Security Act;

(O) the resources of any non-household member unless the person is disqualified from the program by an administrative or court fraud hearing, by failing to obtain or refusing to provide a Social Security number, or is an ineligible alien who would otherwise be a household member;

(P) payments or allowances made under any federal law for the purpose of energy assistance such as the Low Income Home Energy Assistance Program (LIHEAP);

(Q) earmarked resources, such as those governmental payments made by the Individual and Family Grant Program or the Small Business Administration which are designated for the restoration of homes damaged in a disaster and which are subject to a legal sanction if the funds are not used as intended. Resources such as those of self-employed persons, which have been prorated and counted as income, and Indian lands held jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs are also exempt;

(R) the identified resources of all Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI) recipients when the household's total resources are calculated for food benefit eligibility purposes;

(S) excluded monies kept in a separate account, which are not commingled in an account with the non-excluded funds retain excluded status for an unlimited period of time.

(i) Monies of self-employed households that are excluded as a resource because they have been prorated over the period they are intended to cover and are commingled in an account with non-excluded funds retain their exclusion for the period of time over which they have been prorated as income.

(ii) All other excluded monies which are commingled in an account with other funds retain their exempt status for six months from the date they are commingled. When the household's total resources, including all funds in the commingled account, exceed the allowable limit after that time, all funds in the commingled account are considered as a resource;

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

(U) any funds deposited in an Individual Development Account (IDA) operated under the Assets for Independence Act;

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

(W) Disaster Unemployment Assistance paid to persons unemployed as the result of a major disaster.

(11) **Department of Housing and Urban Development (HUD) Family Self-sufficiency (FSS) Program 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.

(12) Education accounts. Funds in education accounts established under Sections 529 and 530 of the Internal Revenue Code and Section 4000 of Title 56 of the Oklahoma State Statutes are excluded. ■ 5

INSTRUCTIONS TO STAFF 340:50-7-2

Revised 10-1-08

1. Pension plans or funds are exempt in accordance with Section 4104 of the Food, Conservation, and Energy Act of 2008 (P.L. 110-234). The list of excluded retirement savings and pension plans are:

(1) 457 of the Internal Revenue Code plans, which are plans for state and local governments and other tax-exempt organizations;

(2) Section 401(a) of the Internal Revenue Code plans including:

(A) 401(k) plans, which are generally a cash or deferred arrangement and generally limited to profit-making firms;

(B) SIMPLE 401(k) plans which are available only to small businesses;

(C) Profit Sharing Plans;

(D) Cash Balance Plans;

(E) pension or traditional defined-benefit plans; and

(F) Keogh plans;

(3) Federal Employee Thrift Savings plan;

(4) Section 403(b) of the Internal Revenue Code plans, which are tax-sheltered annuities provided for employees of tax exempt organizations and state and local educational organizations;

(5) Section 501(c)(18) of the Internal Revenue Code plans, which are retirement plans for union members consisting of employee contributions to certain trusts that must have been established before June 1959; and

(6) Section 408 and 408(A) of the Internal Revenue Code plans including;

(A) Individual Retirement Accounts (IRAs);

(B) SIMPLE IRAs;

(C) Roth IRAs; and

(D) Simplified Employer Plans (SEPs).

2. For example, a household that owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarter-acre of the field to park or service the truck. Only the value of the quarter-acre is excluded under this provision, not the entire 100-acre field.

3. Examples of income producing property are rental homes and mineral rights. When it is necessary to determine if property is producing income consistent with its fair market value, the worker contacts a local realtor, tax assessor, the Small Business Administration, Farmer's Home Administration, or other knowledgeable sources to determine the prevailing rate of return from similar property in the area.

4. Refer to paragraph (3) of this Section for information about unavailable vehicles.

5. This exclusion includes:

(1) an Oklahoma College Savings Plan account;

(2) a Coverdell Education Savings account also known as a Section 530 account; and

(3) a Qualified Tuition Program account also known as a Section 529 account.

340:50-7-3. Non-exempt resources

Revised 10-1-08

(a) Non-exempt resources are those resources which, after deducting any encumbrances, must be considered in the determination of eligibility to receive food benefits.

(b) Non-exempt resources include, but are not limited to:

(1) liquid resources. Liquid resources must be verified and include:

(A) cash on hand;

(B) checking or savings accounts; ■ 1

(C) savings certificates; or

(D) stocks or bonds; or

(2) non-liquid resources. Non-liquid resources are verified if questionable and include: ■ 2

(A) licensed and unlicensed vehicles; ■ 3

(B) boats;

(C) land;

(D) recreational property;

(E) mobile homes other than home property;

(F) vacation home property; or

(G) other property not specifically excluded.

(c) The value of non-exempt resources, except for licensed vehicles, is the equity value. The equity value is the fair market value less encumbrances.

(d) Exclude the entire value of non-liquid assets used as collateral for a business loan if the household is prohibited by the loan agreement from selling the asset.

INSTRUCTIONS TO STAFF 340:50-7-3

Revised 10-1-08

- 1. See OAC 340:50-7-2(12) for excluded education accounts.**
- 2. The worker must include sufficient detail in Family Assistance/Client Services (FACS) Case Notes to permit verification in the event that it becomes necessary because of inconsistent information or for a quality control review.**
- 3. See OAC 340:50-7-4(c) for more information about non-excluded vehicles.**

SUBCHAPTER 11. SPECIAL PROCEDURES**PART 1. HOUSEHOLDS ENTITLED TO EXPEDITED SERVICE**

Section

- 340:50-11-1. Criteria
- 340:50-11-2. Initial application screening
- 340:50-11-3. Expedited service for migrant or seasonal farm laborers
- 340:50-11-4. Time limits for providing expedited service
- 340:50-11-5. Procedures for expediting services
- 340:50-11-6. Issuance for households entitled to expedited services

PART 3. SIMPLIFIED FOOD STAMP PROGRAM (SFSP) FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) AND COMPANION STATE SUPPLEMENTAL PAYMENT (SSP) RECIPIENT(S)

- 340:50-11-20. Scope
- 340:50-11-21. Household definition
- 340:50-11-22. Application processing
- 340:50-11-23. Eligibility determination for households within the Simplified Food Stamp Program (SFSP)
- 340:50-11-24. Food Stamp allotments
- 340:50-11-25. Proration of food benefits
- 340:50-11-26. Certification periods **[REVOKED]**
- 340:50-11-27. Changes after application and during the certification period

PART 5. RESTORATION OF LOST BENEFITS

- 340:50-11-45. Transfers **[REVOKED]**
- 340:50-11-46. Restoration of lost benefits

PART 7. REPLACEMENT WHEN FOOD PURCHASED WITH FOOD STAMP BENEFITS IS DESTROYED

- 340:50-11-60. Scope and applicability **[REVOKED]**
- 340:50-11-61. Non-received ATP's or coupons - countable and non-countable replacement **[REVOKED]**
- 340:50-11-62. Stolen or lost ATP's and food stamps **[REVOKED]**
- 340:50-11-63. Returned ATPs or coupons **[REVOKED]**
- 340:50-11-64. Destroyed food purchased with benefits
- 340:50-11-65. Damaged, mutilated, or improperly manufactured ATP's and coupons **[REVOKED]**

- 340:50-11-66. Altered ATP **[REVOKED]**
- 340:50-11-67. Exchange of old series coupons **[REVOKED]**
- 340:50-11-68. Replacement ATP's and coupons **[REVOKED]**

PART 9. DISASTER PROCEDURES AND REPORTING REQUIREMENTS

- 340:50-11-85. Disaster procedures **[REVOKED]**
- 340:50-11-86. Emergency food stamp assistance in disasters declared by Food and Nutrition Services (FNS)
- 340:50-11-87. Emergency food assistance in disaster not declared by FNS - "Personal Hardship" **[REVOKED]**
- 340:50-11-88. Mechanical disaster
- 340:50-11-89. Disaster reporting
- 340:50-11-90. State Office reporting **[REVOKED]**

PART 11. SPECIAL PROCEDURES FOR JOINT PROCESSING OF FOOD STAMPS AND SSI APPLICANTS

- 340:50-11-105. Initial applications
- 340:50-11-106. Processing the applications
- 340:50-11-107. Work registration
- 340:50-11-108. Certification period
- 340:50-11-109. Changes in circumstances
- 340:50-11-110. Recertification

PART 12. CATEGORICALLY ELIGIBLE HOUSEHOLDS

- 340:50-11-111. Categorically eligible household
- 340:50-11-112. When to classify categorically eligible households
- 340:50-11-113. Financial eligibility factors
- 340:50-11-114. Non-financial eligibility factors
- 340:50-11-115. Review of categorical eligibility