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POLICY TRANSMITTAL NO. 05-45	DATE: SEPTEMBER 29, 2005
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:50-5-7; 50-5-10.1; 50-5-67; 50-7-29; and 50-7-46.

EXPLANATION: 340:50-5-7 Instructions to Staff (ITS) are revised to clarify when an individual is not considered institutionalized and can receive food benefits.

340:50-5-10.1 ITS are revised to clarify when an individual is considered a fleeing felon or probation or parole violator and what action staff takes.

340:50-5-67 ITS are revised to inform staff to use the Systematic Alien Verification Entitlements (SAVE) process to verify alien status for non-citizens requesting food benefits.

340:50-7-29 ITS are revised to inform staff when child support is income to the parent and how to code this income when a child is not in the home.

340:50-7-46 ITS are revised to clarify how to determine if a school employee's income is to be averaged over 12 months or converted to a monthly amount using pay stubs.

Original signed on 9-29-05

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Mary Stalnaker, Director  
Family Support Services Division

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WF # 05-X (NAP)

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## **INSTRUCTIONS FOR FILING MANUAL MATERIAL**

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

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, DHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, DHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at (405) 521-3611.

### **REMOVE**

340:50-5-7

340:50-5-10.1

340:50-5-67

340:50-7-29

340:50-7-46

### **INSERT**

340:50-5-7, pages 1-3, revised 10-1-05

340:50-5-10.1, pages 1-2, revised 10-1-05

340:50-5-67, pages 1-6, revised 10-1-05

340:50-7-29, pages 1-5, revised 10-1-05

340:50-7-46, pages 1-5, revised 10-1-05

**340:50-5-7. Excluded households and/or household members**

(a) **Food Distribution Programs (FDP) operated by Indian Tribal Organizations (ITO).** Several Indian Tribal Organizations operate FDP in the State of Oklahoma. Households or any member of a household participating in FDP are not eligible to participate in the Oklahoma Department of Human Services (OKDHS) Food Stamp Program (FSP) the same month. Households with at least one adult member of any Indian Tribe, living within the boundaries of an ITO location either in a rural area or in a town with a population of less than 10,000, may elect to participate in the FDP. A household may switch between the FDP and FSP as long as there is no dual participation for any member for the same month. To ensure that dual participation does not occur, monthly lists of recipients are exchanged between ITO and OKDHS.

(1) The worker is responsible for checking the ITO listing if there are indications that an applicant could meet the criteria for FDP eligibility. If the household is not on the listing, the worker makes a telephone inquiry to the appropriate ITO to verify the household has not been certified since the date of the last compiled list. Closure of an FDP case must also be verified through the FDP office or by written notice before a household can be certified for food stamps.

(2) The FDP office uses the OKDHS listing for the same verification procedure followed by a telephone call to the county to check on subsequent food stamp receipt. The worker provides any information pertinent to participation in or eligibility for either program.

(3) Dual receipt will result in food stamp overpayment if the household was already receiving FDP benefits at the time of FSP certification.

**(b) Ineligible households.**

(1) **Boarders.** Residents of a commercial boarding house and boarders as defined in 340:50-5-5 are not eligible to participate in the FSP. A commercial boarding house is defined as an establishment which offers meals and lodging for compensation with the intention of making a profit. The number of boarders residing in a boarding house cannot be used to determine if a boarding house is a commercial enterprise. Households containing a boarder or the proprietor of a commercial boarding house may participate in the program separate and apart from the boarders or residents of the boarding house if that household meets all the eligibility requirements for participation.

(2) **Residents of institutions.** Individuals are considered residents of an institution when the institution provides them with over 50% of three meals daily as part of the

institution's normal services. Residents of institutions are not eligible for participation in the program unless they are:

(A) residents of federally subsidized houses for the elderly built either under Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;

(B) narcotic addicts or alcoholics, who for the purpose of participation in a drug or alcoholic treatment and rehabilitation program, reside at a facility treatment center; **■ 1**

(C) residents of group homes who are considered blind or disabled in accordance with OAC 340:50-5-4. "Group home" means a private or public non-profit residential setting that serves no more than 16 residents that is certified by the State Health Department under regulations issued under Section 1616(e) of the Social Security Act; **■ 2**

(D) individuals who do not receive their meals from the institution but prepare their own meals or are participating in a delivered meals program or a communal dining program are eligible for food stamps if they meet other eligibility requirements;

(E) women or women with their children who are temporarily residing in a shelter for battered women and children. Shelter for battered women and children means a public or private non-profit residential facility that serves battered women and their children. If such a facility also serves other individuals, a portion of the facility must be set aside on a long term basis to serve only battered women and children; **■ 3**

(F) students who attend school away from home as long as they return home for at least part of each month; or

(G) residents of public or private non-profit shelters for homeless persons. **■ 4**

### **INSTRUCTIONS TO STAFF**

**1. See OAC 340:50-5-26 for information regarding drug or alcohol treatment facilities.**

**2. See OAC 340:50-5-27 for information regarding group homes.**

- 3. See OAC 340:50-5-28 for information regarding shelters for battered women and children.**
- 4. See OAC 340:50-5-30 for information regarding providers of meals for the homeless.**



**340:50-5-10.1. Disqualified household members**

Individual household members may be disqualified for:

- (1) willful misrepresentation, fraud;
- (2) failure to register for employment or participate in the Food Stamp Employment and Training Program;
- (3) failure to obtain or refusal to provide a Social Security number;
- (4) not being a qualified alien;
- (5) being a fleeing felon; ■ 1 through 2
- (6) being a probation or parole violator; or ■ 3
- (7) being an able-bodied adult without dependents and not meeting work requirements specified in OAC 340:50-5-64.

**INSTRUCTIONS TO STAFF****1. Fleeing felon means the individual:**

**(1) has knowledge that a warrant has been issued for his or her arrest in relation to a felony; and**

**(2) is acting with the intent to avoid prosecution or arrest.**

**2. When the worker has information that an individual has a felony warrant issued for his or her arrest, the worker:**

**(1) does not initiate contact with law enforcement officials;**

**(2) verifies the individual has knowledge of the warrant by asking the individual if they have satisfied the warrant; and**

**(3) allows the individual an opportunity to submit documentation showing the warrant has been satisfied. The worker mails or gives Form ADM-92, County Client Contact and Information Request, allowing the individual ten calendar days to provide the verification.**

- (A) If the warrant has not been satisfied, the individual is not eligible to receive food benefits. The information is documented in Family Assistance/Client Services (FACS) case notes. This does not affect the eligibility of other household members.**
- (B) If verification is received showing the individual is not a fleeing felon, the information is documented in FACS case notes.**
- 3. The individual's statement that the individual is not in violation of probation or parole is sufficient unless there is information indicating otherwise. It is the individual's responsibility to provide verification the violation has been resolved. County staff do not initiate contact with the parole officer.**

**340:50-5-67. Citizenship and alien status**

To be eligible for food stamp benefits an individual must be:

- (1) a United States (U.S.) citizen; ■ 1 through 3
- (2) a U.S. non-citizen national; ■ 4
- (3) an alien who is both qualified and eligible; or ■ 5 and 6
- (4) an alien not required to meet qualified alien status. ■ 7

**INSTRUCTIONS TO STAFF**

1. (a) **United States (US) citizenship is verified only when the citizenship statement is inconsistent with other information on the application, previous applications, or other documented information known to the worker. Verification of citizenship is made by examining:**

(1) birth certificate;

(2) baptismal certificate;

(3) US passport; or

(4) certification of citizenship or naturalization provided by the US Citizenship and Immigration Services (USCIS), such as identification card for use of the resident citizen of the US, USCIS Form I-179, or USCIS Form I-197.

(b) If verification of citizenship cannot be obtained and the household provides a reasonable explanation for why verification is not available, the worker accepts a signed statement from someone who is a US citizen who declares under penalty of perjury that the individual in question is a US citizen. The signed statement must contain a warning that "if you intentionally give false information to help this person get food stamps, you may be fined, imprisoned, or both."

(c) Members of the household whose citizenship is in question are ineligible and their income and resources are considered available to any remaining

household member in accordance with policy for eligible aliens until proof of US citizenship is obtained.

2. **Verification of alien status.** The applicant, by signing Form FSS-1, Comprehensive Application and Review, attests that the information given on the application is correct. All new household members who are citizens or eligible aliens must be listed but only one person must sign Form FSS-1. Form PS-4, Declaration of Citizenship Status, is used when new household members are added to the case after certification. The Systematic Alien Verification for Entitlements (SAVE) process is used to verify alien status of all non-citizens for whom benefits are requested.
3. **A US citizen is a person, other than a foreign diplomat, born in the US, Puerto Rico, Guam, the US Virgin Islands, or Northern Mariana Islands, who has not renounced or otherwise lost his or her citizenship. A person born outside the US is a US citizen if at least one parent is a US citizen.**
4. **A US non-citizen national is a person born in outlying possessions of the US on or after the US acquired possession or his or her parent(s) is a US non-citizen national. Examples of outlying possessions are American Samoa or Swains Island.**
5. **A qualified alien is an individual who at the time he or she applies for or receives food benefits is:**
  - (1) **lawfully admitted for legal permanent residence (LPR) in the US under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988;**
  - (2) **granted asylum under Section 208 of the Immigration and Nationality Act (INA);**
  - (3) **an alien whose deportation is being withheld under Section 243(h) of the INA as in effect before April 1, 1997, or removal is withheld under Section 241(b)(3) of the INA;**
  - (4) **a refugee who is admitted under Section 207 of the INA;**
  - (5) **a Cuban or Haitian entrant under Section 501(e) of the Refugee Education Assistance Act of 1980;**

(6) paroled into the US under Section 212(d)(5) of the INA for at least one year;

(7) granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect before April 1, 1980;

(8) a battered spouse, battered child or parent or child of a battered person with a petition pending under Section 204(a)(1)(A) or (B) or Section 244(A)(3) of the INA; or

(9) a victim of a severe form of trafficking and/or his or her eligible relatives.

(A) A victim has a letter of certification issued by Office of Refugee Resettlement (ORR). The victims and their eligible relatives also have a T Visa.

(B) To verify the validity of ORR issued letters and to inform ORR of the benefits for which the victims have applied, call the victims verification toll-free number 1-866-401-5510.

6. To be eligible, a qualified alien must meet at least one of the criteria listed in (1) through (9) of this Instruction to Staff (ITS) and is not limited in participation unless otherwise stated. The qualified alien:

(1) is a veteran of the US military who was honorably discharged for a reason(s) other than alienage. The veteran must have at least 24 months of active service or if the veteran was called to active duty for a specified time less than 24 months had completed the specified number of months of service. The veteran's spouse and unmarried dependent children are also eligible with no time limits. The term veteran also includes:

(A) military personnel who die during active duty service; and

(B) individuals who served in the Philippine Commonwealth Army during World War II or as a Philippine scout following the war;

(2) is an unmarried dependent child of a deceased veteran or individual who died during active duty service;

**(3) is the surviving spouse of a deceased veteran or individual who died during active duty service who has not remarried and who was married to the veteran:**

**(A) for at least one year;**

**(B) before the end of a 15-year time span following the end of the period of military service in which the injury or disease was incurred or aggravated; or**

**(C) for any period of time if a child was born of the marriage or before the marriage;**

**(4) is on active military duty, not including active duty for training, the alien's spouse, or an unmarried dependent child;**

**(5) can be credited with 40 qualifying quarters of coverage under Title II of the Social Security Act. Quarters may be used both by the person working them and the persons to whom they are deemed. Quarters worked after December 31, 1996 are not counted or credited as part of the 40-quarter fulfillment if the alien, his or her parent(s), or spouse received any means-tested public benefit during that quarter. Means-tested public benefits are Supplemental Security Income (SSI), food stamps, Temporary Assistance to Needy Families (TANF), Medicaid, and the Food Assistance Program in Puerto Rico, American Samoa, and the Northern Mariana Islands. Quarters credited may be:**

**(A) earned by the individual;**

**(B) earned by a spouse during the period of the legal marriage including common law;**

**(C) earned by a spouse now deceased during their marriage if the surviving spouse has not remarried;**

**(D) earned by parents, natural or adoptive, while the alien child was under 18 years of age and unmarried. This includes quarters earned before the birth of the individual. The alien child can continue to count these quarters after he or she reaches age 18;**

- (E) earned by a stepparent during the marriage to the alien child's natural or adoptive parent. The alien child can continue to count these quarters after he or she reaches age 18. The step relationship is based on the marriage of the child's parent to the stepparent. The quarters can be credited from the quarter in which the marriage occurred through the quarter the child attains age 18. During a marital separation, the quarters are counted. If the marriage ended by the death of the stepparent, the stepparent's quarters are counted. If the marriage ended because of divorce, the stepparent's quarters are not counted; or
- (F) deemed back and forth within the family group, from spouse to spouse, and parent to child, but not from child to parent. For example, mom and dad each have 20 countable quarters which can be deemed to each other as well as any of their minor children living in the home, making them all eligible;
- (6) is currently receiving disability or blindness payments under programs described in OAC 340:50-5-4(a)(2) through (a)(8)(B);
- (7) has resided in the US as a qualified alien for five years since date of entry;
- (8) has been admitted to the US as:
- (A) a refugee to the US under Section 207 of the INA;
  - (B) an alien granted asylum under Section 208 of the INA;
  - (C) an alien whose deportation is being withheld under Section 243(h) or 241(b)(3) of the INA;
  - (D) an Amerasian admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;
  - (E) a Cuban or Haitian entrant under Section 501(e) of the refugee Education Assistance Act of 1980; or
  - (F) a victim of a severe form of trafficking and his or her eligible relatives; or

**(9)** is a child under age 18 regardless of when he or she was admitted.

**7. Aliens not required to meet qualified alien status are:**

**(1)** American Indians born in Canada to whom the provisions of Section 289 of the INA [8 United States Code (USC) 1359] apply and members of an Indian tribe as defined in Section 4(e) of the Indian Self-Determination and Education Assistance Act. [25 USC 450(e)] This provision was intended to cover American Indians who are entitled to cross the US border into Canada or Mexico. This includes among others, the St. Regis Band of the Mohawk in New York State, the Micmac in Maine, the Abanaki in Vermont, and the Kickapoo in Texas; or

**(2)** individuals who are lawfully residing in the US and were members of a Hmong or Highland Laotian tribe at the time the tribe rendered assistance to the US personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975. The spouse or unremarried surviving spouse and unmarried dependent children of such individual may also be eligible for food stamp benefits.

**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.

■ 5

(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. **When a household member is not actively engaged in the management of the property at least 20 hours each week, gross income minus the cost of doing business, per OAC 340:50-7-30(2), derived from rental property is considered unearned income.**
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 an employee and paid disability benefits by the company, it is counted as earned income.**
5. **Child support is considered income to the parent.**

**(1) Child support is documented in Family Assistance/Client Services (FACS) case notes and coded in FACS on the child(ren) if the child(ren) is included in the food benefits unless:**

**(A) child support is paid to a parent whose child(ren) is no longer in the food benefit; or**

**(B) the parent is an ineligible or disqualified household member.**

**(2) In the circumstances listed in (A) or (B) of this Instruction the child support is coded in FACS on the adult as a contribution.**



**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

(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. ■ 5

(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, when a person is employed:**

**(1) five days a week, Monday through Friday, and paid daily, 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, 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) For example, a person 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. When 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. (a) When computing ongoing earned income using pay stubs, the procedures 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.

**(b)** 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.

**(c)** 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 the appropriate 2.15 or 4.3 calculation method.

**5. Schools generally have contracts with all their employees. The worker determines whether the contract pay is hourly or salaried to determine how it is computed for food benefits. Contract pay that is for a salary is computed according to OAC 340:50-7-46(c)(2). Hourly contract pay is computed according to OAC 340:50-7-46(a).**