
POLICY TRANSMITTAL NO. 07-15	DATE: MARCH 29, 2007
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:50-5-1; 50-5-64; 50-7-29; and 50-10-9.

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

OAC 340:50-5-1 Instructions to Staff (ITS) are revised to explain when a disabled person may be a separate household from others even though the person cannot purchase and prepare his or her own food.

OAC 340:5-5-64 ITS are revised to update counties that are exempt from the work requirements due to the employment rate in the area.

OAC 340:50-7-29 ITS are revised to correct the rule citation for self-employed households.

OAC 340:50-10-9 ITS are revised to specify the correct date beyond which expunged benefits can no longer be reinstated to the client's account.

Original signed on 3-29-07

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WF # 07-D (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

340:50-5-1

340:50-5-64

340:50-7-29

340:50-10-9

INSERT

340:50-5-1, pages 1-2, revised 4-1-07

340:50-5-64, pages 1-5, revised 4-1-07

340:50-7-29, pages 1-5, revised 4-1-07

340:50-10-9, 1 page only, revised 4-1-07

PART 1. HOUSEHOLD DEFINITION

340:50-5-1. Food stamp household composition

A food stamp household may be composed of any of the individuals or groups of individuals listed in paragraphs (1) - (5) of this subsection, provided that such individuals or groups are not residents of an institution or boarding house. ■ 1 A food stamp household is:

(1) an individual who lives alone.

(2) an individual who lives with others but who customarily purchases food and prepares meals for home consumption separate and apart from the others. ■ 2

(3) a group of individuals who live together and customarily purchases food and prepares meals for home consumption.

(4) a group of individuals who live with others but who customarily purchase food and prepare meals for home consumption separate and apart from the others.

(5) an individual age 60 or older and his or her spouse living and eating with others who is unable to purchase and prepare meals because the individual suffers from a disability considered permanent under the Social Security Act or a non-disease related, severe, permanent disability.

(A) The gross income of the persons with whom the individual and his or her spouse are living, is first determined as if they were applying for participation as a separate household. The gross income of the persons with whom the individual and his or her spouse are living, cannot exceed 165% of the poverty level as shown in DHS Appendix C-3, Food Stamp Maximum Allotments and Standards for Deductions, Income, and Utilities, in order for the individual to participate as a separate household.

(B) When it is not obvious that a person suffers from a non-disease related, severe, permanent disability or that the individual is unable to purchase and prepare meals, the case manager requests a physician's statement of the disability or inability to purchase and prepare meals.

(C) See OAC 340:50-5-4 for how to determine if a person is considered disabled under the Social Security Act when a payment is not received.

INSTRUCTIONS TO STAFF 340:50-5-1

- 1. Document in Family Assistance/Client Services (FACS) case notes those persons who are:**
 - (1) included in the food stamp household; and**
 - (2) not included in the food stamp household and the reason.**

- 2. (a) A person under age 60 may be considered a separate household when the person's disability:**
 - (1) prevents the person from purchasing and preparing his or her own food; and**
 - (2) causes the person to arrange to have food purchased and prepared separately from those with whom he or she lives.**

(b) Separate household status may be claimed even if the person who shops for food and/or prepares meals for the disabled person resides in the same house.

PART 7. RELATED PROVISIONS

340:50-5-64. Work requirements

(a) **Able-bodied adults without dependents (ABAWDs).** ABAWDs who are members of eligible households receiving food benefits must be exempt from or comply with work requirements to be eligible to participate as a member of any food stamp household for longer than three months, consecutive or otherwise, during any 36-month period. It is the worker's responsibility to explain to the applicant the household member's work requirements and responsibility. At each application the worker must establish that each household member:

(1) is working continuously 20 hours or more per week averaged monthly; ■ 1

(2) participates in and complies with:

(A) Workforce Investment Act (WIA) Program assignment;

(B) Trade Adjustment Assistance Program assignment; or

(C) Employment and Training, not including Job Search; or

(3) is exempt from the work requirements listed in (b) of this Section.

(b) **Exemptions from the work requirements.** An individual is exempt from the work requirement provision of the Food Stamp Program if the individual is:

(1) younger than 18 or 50 years of age and older;

(2) medically certified as physically or mentally unfit for employment.

(A) Persons who are physically or mentally incapable of gainful employment either on a permanent or temporary basis or participating in federal or state programs based on disability are considered exempt. ■ 2

(B) Persons claiming exemption as unfit for employment must, in the absence of physical evidence, obtain documented evidence from medically qualified sources to substantiate the medical exemption. ■ 3

(C) Persons claiming temporary exemption are required to comply when they are released by their medically qualified source to return to work;

(3) a parent or other member of a household with responsibility for care of a dependent child younger than 18 years or an incapacitated person of any age; ■ 4

(4) pregnant;

(5) receiving or has applied for unemployment insurance benefits; ■ 5

(6) a regular participant receiving treatment for drug or alcohol addiction in a rehabilitative program on a resident or non-resident basis; ■ 6

(7) an eligible student enrolled at least half-time in any recognized school, training program, or institution of higher education; ■ 7

(8) a household member registered for or participating in the Temporary Assistance for Needy Families (TANF) Work;

(9) employed a minimum of 30 hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended, multiplied by 30 hours; or ■ 8

(10) a resident living in a county approved for exemption of the work requirements by the United States Department of Agriculture (USDA). ■ 9

(c) **Participation without time limits.** Food benefit participation without time limits applies to an individual who:

(1) is exempt;

(2) works continuously 20 hours or more per week, averaged monthly; or ■ 10

(3) participates in and complies with:

(A) WIA Program assignment;

(B) Trade Adjustment Assistance Program assignment; or

(C) Employment and Training, not including Job Search.

(d) **Participation with time limits.** Individuals who are not exempt or fail to comply with work participation requirements are eligible for only three months, consecutive or otherwise, during any 36-month period. Once the three-month eligibility limit has been

reached, eligibility can be regained for at least an additional three consecutive months if the individual: ■ 11

(1) works 80 hours or more in any 30-day period; or ■ 12

(2) participates for 80 hours or more in and complies with:

(A) WIA Program assignment;

(B) Trade Adjustment Assistance Program assignment; or

(C) Employment and Training, not including Job Search.

(e) **Individuals who regain eligibility.** An individual can regain eligibility only one time for an additional three consecutive months during the 36-month period by meeting the requirements of (1) or (2) of subsection (d). An individual who regains eligibility maintains eligibility by complying with the requirements of subsection (c). If eligibility is subsequently lost, the individual may receive food benefits only if one of the exemptions listed in subsection (b) is met or the 36-month period has expired. ■ 13

INSTRUCTIONS TO STAFF 340:50-5-64

1. Working an average of 20 hours per week or 80 hours per month for some form of compensation is considered meeting the work requirement.

2. Examples of federal and state programs based on disability are:

(1) vocational rehabilitation;

(2) Veterans Benefits Administration disability compensation;

(3) Social Security disability benefits; and

(4) Supplemental Security Income (SSI).

3. A doctor's statement giving a diagnosis is best, but if the client is unable to obtain a doctor's statement, a statement from another qualified source is sufficient.

(1) Other medically qualified sources include, but are not limited to: therapists, counselors, and medical social workers.

- (2) The statement does not need to state the person cannot work, but does need to give information indicating a physical or mental problem that may limit the person's ability to work.
4. More than one household member may be exempt as caretaker for the same person, as long as they share caretaker responsibility.
 5. This exemption includes persons who are involved in the unemployment insurance benefits (UIB) appeals process.
 6. Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings qualify if they are a part of the treatment plan.
 7. See OAC 340:50-5-45 to determine student eligibility.
 8. A person working 30 or more hours per week automatically qualifies as exempt regardless of the amount earned or how the person is paid, such as work performed in exchange for rent or other goods and services.
 - (1) The amount a person earns is relevant in determining exempt status only when the employed or self-employed person works less than 30 hours per week.
 - (2) A person who works less than 30 hours per week must earn weekly wages at least equal to the federal minimum wage times 30 hours in order to qualify as exempt.
 - (3) Volunteer work or court-ordered community service is not considered.
 9. (a) Effective April 1, 2007, the United States Department of Agriculture (USDA), has exempted these counties from the work requirement: Adair, Atoka, Choctaw, Coal, Haskell, Hughes, Johnston, Latimer, Marshall, McCurtain, McIntosh, Muskogee, Okfuskee, Okmulgee, Pushmataha, Seminole, Sequoyah, and Woods.
 - (b) In addition, residents of the city of Ponca City in Kay County are exempt from the work requirement.
 - (1) The worker must verify residence in Ponca City for the exemption to apply.

(2) This exemption does not apply to other residents of Kay County.

(3) Documentation of residence is recorded in Family Assistance/Client Services (FACS) case notes.

- 10. Working an average of 20 hours per week or 80 hours per month for compensation is considered meeting the work requirement. The person may receive in-kind income or cash earnings for the work, but there must be actual work performed. Volunteer work or court-ordered community service is not considered.**
- 11. The 36-month period begins with the first month benefits are received and the person is not meeting the work requirement or not considered exempt.**
- 12. Eligibility may be regained only after the person has received the initial three months of benefits without being exempt or meeting the work requirement.**
- 13. The additional three months must be consecutive. If the person receives less than three months, the person is not entitled to receive the additional month(s) at a later date.**

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, its 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(6)(A), 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.

340:50-10-9. Expungement of benefits

The Agency expunges benefits that have not been accessed by the household after a period of one year. ■ 1

INSTRUCTIONS TO STAFF 340:50-10-9

1. **Expunged benefits may be reloaded if requested within 365 days of the date of issuance. Request for reloading is made by contacting the Family Support Services Division, Food Stamp Section.**

(1) If an account needs to be reactivated, the local human services center Electronic Benefit Transfer (EBT) specialist must contact the Finance Division Electronic Benefit Disbursement Unit.

(2) The worker updates Family Assistance Client Services (FACS) Case Notes to explain why benefits were not used when originally issued.