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POLICY TRANSMITTAL NO. 04-33	DATE: JUNE 1, 2004
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF PLANNING, POLICY & RESEARCH

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:50-7-30 and 50-7-31.

EXPLANATION: OAC 340:50-7-30 and OAC 340:50-7-31 Instructions to Staff are revised to clarify the handling of shelter and utility expenses.

Original signed on 6-1-04

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WF # 04-M (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**

340:50-7-30

340:50-7-31

### **INSERT**

340:50-7-30, pages 1-6, revised 6-1-04

340:50-7-31, pages 1-9, revised 6-1-04

**340:50-7-30. Self-employed households**

Households whose income is derived either wholly or in part from a self-employment enterprise are treated in accordance with the procedures listed in (1) - (9) of this Section.

(1) **Capital gains.** The proceeds from the sale of capital goods or equipment is income for program purposes and is calculated in the same manner as a capital gain for federal income tax purposes. Even though a percentage of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the social services specialist counts the full amount of capital gain as income.

(2) **Costs of producing self-employment income.**

(A) Allowable costs of producing self-employment income include, but are not limited to:

- (i) the identifiable cost of labor, stock, raw material, seed and fertilizer;
- (ii) payments on the principal of the purchase price of income producing real estate, capital assets, equipment, machinery, other durable goods;
- (iii) interest paid to purchase income producing property;
- (iv) insurance premiums; and
- (v) taxes paid on income producing property. ■ 1

(B) Items not considered as a cost of producing self-employment income are:

- (i) net losses from previous periods;
- (ii) federal, state, and local income taxes;
- (iii) money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation which are accounted for by the appropriate amount of earned income deduction from DHS Appendix C-3, Maximum Coupon Allotments and Standards for Deductions, Maximum Income and Utilities; and
- (iv) depreciation. ■ 2

(3) **Monthly self-employment income.** Self-employment income which is received on a monthly basis but which represents a household's annual support is normally averaged over a 12-month period. If the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the social services specialist calculates the self-employment income based on anticipated earnings.

(4) **Seasonal self-employment income.** Self-employment income which is intended to meet the household's needs for only part of the year is averaged over the period of time it is intended to cover. For example, the income of self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year is averaged over the summer months rather than a 12-month period.

(5) **Annualized self-employment income.** Self-employment income which represents a household's annual support must be analyzed over a 12-month period, even if the income is received in a shorter period of time. For example, self-employment income received by crop farmers must be averaged over a 12-month period if the income represents the farmer's annual support. If the averaged annualized amount does not accurately reflect the household's actual circumstances because the household has experienced substantial increase or decrease in business, the social services specialist calculates the self-employment income on anticipated earnings. The social services specialist does not calculate self-employment income on the basis of prior earnings such as income tax returns when an increase or decrease of business has occurred. If the household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise must be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year. If the business has been in operation for a short time and there is insufficient data to make a reasonable projection, self-employment income is recomputed at each new certification until a full year's information is available. ■ 3

(6) **Anticipated income.** When a household who would normally have the self-employment income annualized experiences a substantial increase or decrease in business, the social services specialist calculates the self-employment income based on anticipated earnings. For those households whose self-employment income is calculated on an anticipated basis, the social services specialist adds any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed, and divides this amount by 12. This amount is used in successive certification periods during the next 12 months except that a new average monthly amount must be calculated over this 12-month period if the anticipated amount of capital gain changes. The social services specialist adds the

anticipated monthly amount of capital gains to the anticipated monthly self-employment income, and subtracts the cost of producing the self-employment income.

**(7) Determining net monthly food stamp income.** Self-employment income is not compared to the maximum gross income standards shown on DHS Appendix C-3 until after the business expenses have been deducted from the gross self-employment income.

(A) To determine the net monthly self-employment income the social services specialist:

(i) adds all the gross self-employment income including capital gains;

(ii) subtracts the total allowable cost of doing business from the total gross self-employment income; and

(iii) divides the net self-employment income by the number of months to be averaged.

(B) When the business expense exceeds the gross self-employment income, such expenses may not be deducted from other household income. The household is considered to have zero self-employment income.

(C) The monthly net self-employment income is added to all other earned income received by the household. The total monthly earned income less the earned income deduction according to DHS Appendix C-3 is then added to all other monthly income received by the household. The standard deduction, dependent care, and shelter costs are computed as for any other household and subtracted to determine the monthly net income of the household.

**(8) Household with income from boarders.** While a household which operates a commercial boarding house may be considered a food stamp household and self-employed as shown in paragraph (7) of this subsection, households with boarders or roomers that are not commercial boarding houses may also receive food stamps as shown in subparagraphs (A)-(C) of this paragraph.

(A) Persons paying a reasonable amount for room and board are excluded from the household when determining the household's eligibility and benefit level. Payments from the boarder are treated as self-employment income if the boarder is paying a reasonable amount. The income from boarders includes all direct payments to the household for room and meals, including contributions to

the household for part of the household shelter expense. Shelter expenses paid directly by boarders to someone outside the household are not counted as income to the household.

(B) After determining the income received from the boarder, the social services specialist excludes that portion of the boarder payment which is a cost of doing business. The cost of doing business is equal to the amount of the food stamp allotment for a household size that is equal to the number of boarders unless the amount paid for board is less than this amount, **or** the actual documented cost of providing room and board. If actual cost is used, only the separate and identifiable cost of providing room and board is excluded.

(C) The net income from self-employment is included with other earned income and the earned income deduction from DHS Appendix C-3 is taken. Shelter cost the household actually incurred, even if the boarder contributes to the household for part of the household's shelter expense, is computed to determine if the household will receive a shelter deduction. The shelter and utility cost cannot include any expense billed to and directly paid by the boarder to a third party.

(9) **Self-employed farm income.** Self-employed farm income is determined just like any other self-employed income except when the business expenses exceed the self-employment income. When the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses are offset against any other countable income in the household. When the annual net loss is established, the loss is prorated by dividing by 12 for the monthly amount to be subtracted from the total countable income prior to subtraction of any applicable standard deduction, dependent care, and shelter costs. For purposes of this exception, to be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of \$1000 or more from the farming enterprise. Farming is defined as cultivating or operating a farm for profit either as owner or tenant. A farm includes stock, dairy, poultry, fish, fruit, and truck farms, and also plantations, ranches, ranges, and orchards. A fish farm is an area where fish are grown or raised and where they are artificially fed, protected, and cared for, and does not include an area where they are merely caught or harvested. A plant nursery is a farm for purposes of this definition.

### **INSTRUCTIONS TO STAFF**

**1. Additional examples of allowable costs of producing self-employment income include:**

**(1) licensing fees;**

- (2) business transportation costs;
  - (3) rental payments on income producing property. Households who operate a business out of the home may use the shelter costs declared on their taxes as a business expense. The worker allows only the portion of the shelter costs not declared as a business expense for the shelter deduction. For example, if the household declares 25% of the home is used for business purposes, the worker allows only 75% of the expense as a shelter deduction;
  - (4) utilities paid on business property. Households who operate a business out of the home may elect to use either the utility expense declared on their taxes as a business expense or the appropriate utility standard as a utility expense. They cannot use both;
  - (5) costs for the repair and maintenance of equipment;
  - (6) storage and warehousing costs;
  - (7) special equipment or clothing specifically needed to perform the job such as a welder's shield or house cleaning uniform; or
  - (8) the cost of rooms and meals for any self-employed individual whose job takes him or her away from home and requires the individual to remain at the job site overnight.
2. Additional examples of expenses that ARE NOT considered costs of producing self-employment income include:
    - (1) penalties and fines;
    - (2) charitable contributions; or
    - (3) transportation costs to and from work.
  3. To average the income and expenses for a self-employment enterprise that has not been in business for a full year, the worker divides the total income and expenses by the number of months in business. For example, a self-employment business has been in operation from February 18 to the application month of November. The income and expenses are averaged for 9 months, February through October. It is correct to count the first month of

**business through the last complete month when computing an annualized figure for a new business.**

**340:50-7-31. Deductions**

Deductions from income are allowed for the expenses listed in paragraphs (1) through (6) of this subsection. That portion of the household's allowable shelter and dependent care expenses, which are either paid by or billed to a disqualified household member, as defined by OAC 340:50-7-29(c)(2), is divided evenly among the household members, including the disqualified member. When the household is using the utility standard, it is also evenly prorated. All except the disqualified member's share is considered as a deductible shelter expense for the remaining household members.

(1) **Standard deduction.** The appropriate standard deduction as shown in Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Coupon Allotments and Standards for Deductions, Maximum Income and Utilities (Food Stamps), is deducted from the household's income.

(2) **Earned income deduction.** The appropriate amount of earned income deduction from OKDHS Appendix C-3 is deducted from the gross earned income to cover the cost of state and local income taxes, pensions, union dues, and work related expenses. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance. No other deduction is allowed from the gross earned income.

(3) **Medical expense deduction.** Medical expenses exceeding \$35 per month incurred by any elderly or disabled household members are deductible. The \$35 is subtracted from medical expenses only once per household even though the household has more than one elderly or disabled member.

(A) Households report and verify medical expenses at certification and each recertification. Households are not required to report changes in medical expenses during the certification period. When a household voluntarily reports a change in medical expenses that will reduce the food stamp allotment, no verification is needed. However, the change does require notice of adverse action. When a household voluntarily reports a change in medical expenses that will increase the food stamp allotment, the change must be verified before the change is made. If OKDHS finds out about a change from a source other than the household, the change is acted on if it is considered verified upon receipt. The household is not contacted for additional information. When the change requires contacting the household for additional information or verification, no change is made. ■ 1 & 2

(B) If a household reports an anticipated medical expense at the time of certification, but is unable to provide the verification at that time, the household is

told the expense will be allowed when the verification is provided during the certification period. Upon verification, a household may elect to have a one-time medical deduction or have the expense averaged over the remaining months of the certification period. Allowable costs are:

- (i) medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by state law or other qualified health professional; ■ 3
- (ii) hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state; ■ 4
- (iii) prescription drugs and other over-the-counter medication, including insulin, when approved by a licensed practitioner or other qualified health professional. Costs of medical supplies, sick-room equipment, including rentals, or other prescribed equipment are also included; ■ 5
- (iv) health and hospitalization policy premiums; ■ 6
- (v) Medicare premiums, and any cost-sharing or spend-down expenses incurred by Medicare or Medicaid recipients;
- (vi) dentures, hearing aids, and prosthetics; ■ 7
- (vii) eye glasses prescribed by a licensed practitioner, and securing and maintaining a seeing eye or hearing dog, including the cost of dog food and veterinarian bills; ■ 8
- (viii) reasonable cost of transportation and lodging to obtain medical treatment or services; and ■ 9 & 10
- (ix) maintaining an attendant, homemaker, home health aide, child care services, or housekeeper due to age, infirmity, or illness. If this expense also qualifies as a dependent care expense as described in paragraph (4) of this subsection, it is considered as a medical expense rather than a dependent care expense. Additionally, if the household furnishes a majority of the caretaker's meals, an amount equal to one allotment is added to the medical expense for meals provided. The allotment used is the amount in effect at certification.

(C) Cost for special diets or health and accident insurance policies such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are **not** allowable medical costs. The worker must verify the amount of any deductible medical expenses. Verification of other factors, such as the allowability of services provided or the eligibility of the person incurring the cost, is required only if questionable.

(4) **Dependent care.** Dependent care is payment for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept, or continue employment or to attend training or education preparatory to employment. This deduction is applicable whether or not the household member is subject to the Food Stamp Employment and Training requirements. If this expense also qualifies as a medical expense, it is considered as a medical expense rather than a dependent care expense. See OKDHS Appendix C-3 for the maximum dependent care deduction allowable. Dependent care is only verified when the expenses claimed would actually result in a deduction and other information available to the worker is inconsistent with the household's claim that it incurs a dependent care expense or that the household incurs the expense for reasons of employment, seeking employment or training, or education for employment.

(5) **Legally-binding child support.** A deduction is allowed for verified legally-binding child support payments paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member. ■ 11

(6) **Shelter costs.** A deduction is made for monthly shelter cost in excess of 50% of the household's income after all of the deductions are allowed. ■ 12 The shelter deduction alone cannot exceed the maximum amount as shown in OKDHS Appendix C-3, unless the household has an elderly or disabled member. Households with an elderly or disabled member receive an excess shelter deduction for the monthly cost that exceeds 50% of the household's income after all of the deductions listed in paragraphs (1) through (6) of this subsection have been allowed. All homeless households who incur or can expect to incur a shelter cost during the month are entitled to use the estimated homeless shelter deduction to determine food stamp eligibility and benefit level. This estimate covers all shelter costs as described in this paragraph. If a homeless household is living in a vehicle for which they are making payments, the monthly payment may be allowed as a shelter cost. If the household's actual verified shelter cost exceeds the estimated amount, the larger amount is used. Shelter costs include only:

(A) continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments. The charge for renting or buying the land on which a mobile home is located is also considered shelter cost; ■ 13

(B) property taxes, state and local assessments, and insurance on the structure itself except the separate costs for insuring furniture or personal belongings. The cost of vehicle registration or tag for a mobile or motor home is not a shelter expense. A mobile home is taxed as part of the property tax when the land is owned or being purchased. This is considered as a shelter expense. Unregistered mobile homes on rented land are taxed as personal property. The personal property tax for the mobile home is considered a shelter expense. No other personal property tax is considered a shelter expense; ■ 14

(C) charges for heating, cooling, or cooking fuel; electricity; water, sewage, garbage, and trash collection fees; and the basic service fee for one telephone including tax on the basic fee. A household that incurs an allowable utility expense receives the total amount of the utility standard specified in OKDHS Appendix C-3 for one of the mandatory utility standards in (i) through (iii) of this subparagraph. ■ 15

(i) The standard utility allowance (SUA) is a single standard based on annual averages that include costs for heating, cooling, and cooking fuel; electricity; basic telephone service; and water, sewage, and garbage. ■ 16

(I) The SUA may be used as long as the household is billed for heating or cooling during the year. Households billed less often than monthly for heating costs such as butane or propane may continue to use the utility standard between billing months. The worker must assess the household's eligibility for the SUA at each application, reapplication, and when the household moves. If the household reports they no longer incur a heating or cooling expense, but still have a utility expense, the standard must be changed to either the basic utility allowance (BUA) or telephone standard. ■ 17

(II) A household with utility expenses which are reimbursed or paid by an excluded payment such as a vendor payment, Housing and Urban Development (HUD) or Farmers Home Administration (FmHA) payment may use the SUA when the heating or cooling cost exceeds the amount of the excluded payment.

(ii) The BUA includes utility charges other than for heating and/or cooling which the household incurs. ■ 18

(iii) The telephone standard is used if the household is not entitled to use the SUA or BUA but has a telephone cost; ■ 19

(D) the shelter costs for the home even when not actually occupied by the household because of employment or training away from home, illness, or abandonment of the home due to disaster or casualty loss. For the cost of a vacated home to be included in shelter costs, the household must intend to return to the home. The current occupants of the home, if any, must not be claiming the shelter costs during the absence of the household and the home must not be rented or leased during the absence of the household. If a deductible expense must be verified and obtaining the verification may delay the household's certification, the worker advises the household that the household's eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. The appropriate utility standard is used if the household is entitled to claim it.

### **INSTRUCTIONS TO STAFF**

- 1. Ongoing monthly medical expenses may be anticipated by averaging at least the past two full calendar months' expenses. Expenses incurred each month may include prescription medication, monthly doctors' visits, monthly blood tests, and insurance premiums. The household may choose to average regularly recurring expenses, such as medication purchased every other month or insurance premiums paid quarterly. For example: The client pays a premium for hospital insurance once every six months. The total premium of \$192 may be divided by six, making the monthly average expense \$32. The household also has the option of having the expense deducted in the month it is incurred or the bill becomes due.**
- 2. (a) One-time medical expenses are those which the household does not expect to recur. Some examples include hospital costs, purchase of prescription glasses, or dental work expenses. The household has the option to:**
  - (1) allow the entire expense in the month it is incurred or the bill becomes due;**
  - (2) average the expense over the remaining months of the current certification period; or**

**(3) allow the expense over the scheduled length of a payment plan.**

**(b) One-time expenses are allowed at the time they are reported to the worker, only if the bill is current and has not become past due. When a portion of the medical cost will be paid by vendor payment or reimbursed by insurance, the deduction is not determined until the vendor payment or reimbursement is verified.**

- 3. These charges may also include, but are not limited to, office calls, hospital visits, house calls, special treatments, and chiropractic services.**
- 4. Such costs may include, but are not limited to, room and board charges, drugs and medical supplies, therapy, surgery, and tests.**
- 5. Over-the-counter medication must be a recommended part of the prescribed treatment plan, such as aspirin for arthritics. Some examples of medical supplies are:**
  - (1) needles and syringes used for the injection of insulin or other prescription medication;**
  - (2) bandages and gauze for a surgical patient; and**
  - (3) the cost of crutches, wheelchairs, hospital beds, and portable oxygen.**
- 6. Some health insurance policies cover household members who are not entitled to a medical deduction as well as those who are. When the portion of the premium paid for the elderly or disabled members cannot be determined, the premium must be prorated among all members included on the policy. The prorated amount for one member must be multiplied by the number of elderly or disabled members. The resulting amount is considered a medical cost.**
- 7. Other corrective devices are corrective braces worn on the limbs and braces worn on the teeth for orthodontic purposes. The cost of hearing aid batteries may also be considered a medical expense.**
- 8. Contact lenses prescribed by a physician skilled in eye diseases, or by an optometrist, are also considered a medical expense.**

9. Transportation costs are based upon the type of transportation used by the elderly or disabled member. If their own vehicle is used, the state's current mileage reimbursement rate is allowed. If they use public transportation, the actual cost of the transportation is used. If the member pays a non-household member for transportation, the amount charged by the individual is allowed. Verification must be obtained and adequately documented in the case record.
10. Lodging costs are allowed if the elderly or disabled member is required to spend the night away from home to receive medical services. Verification that medical treatment did occur, as well as receipts to verify the lodging expense must be obtained. The cost of lodging does not include meals or other incidentals.
11. For purposes of this policy, child support is any money court-ordered and designated to be paid for the support of a child. This may include, but is not limited to, child support, child support arrearages, medical insurance or other health care premiums, child care obligations, or other obligations specified in individual court or administrative orders. Verification of the court-ordered amount is obtained along with verification of the actual support payments made each month. Child support also means money owed to a state for services provided for a child, including, but not limited to, Temporary Assistance for Needy Families, Medicaid services, and foster care.
12. For self-employed households who operate their business out of their home see OAC 340:50-7-30 to determine allowable shelter and utility costs.
13. When shelter expenses are paid in advance, the monthly shelter cost is allowed as if the payments were made monthly. Down payments are not continuing charges, thus not allowable as a deduction. Expenses are allowed if they are owed to someone outside the household and the household makes a money payment. For example, if someone outside the household pays shelter expenses to the vendor, they are not allowable. Exception: If the payment is considered a loan, the expense is allowed as a shelter deduction and the payment is excluded as income.
14. These types of shelter expenses, which may be billed less often than monthly, may be averaged over the interval between scheduled billings. For example, property taxes billed and paid yearly may be averaged over a 12 month period.

**15. The appropriate utility allowance is prorated only when there is an ineligible or disqualified household member, or an ineligible student who is billed for or paying the utility costs.**

**16.** For the standard utility allowance (SUA) to be used in calculating shelter costs, the utility charges for heating/cooling costs must be separate from the household rent or mortgage costs and actually incurred by the household. Cooling costs are limited to operation of room air conditioners and central air conditioning systems. Heating costs may be represented by a furnace, wood stove if wood is purchased, fireplace, or electrical or kerosene space heater if the space heater is used as the primary source of heat.

**17.** Examples of how to handle the sharing of utility costs among more than one household are given in (1) through (4) of this Instruction.

(1) When more than one household shares the same living quarters and shares one or more of the utility costs that are billed separately from rent or mortgage payments, (A) or (B) of this Instruction applies.

(A) If one household's name is on the utility bill and it alone pays the bill, allow the full appropriate utility standard for the household.

(B) If multiple households, whether or not they receive food stamps, are living in the same residence and share one or more of the utility costs that are billed separately from rent or mortgage payments, each household is entitled to the full amount of the appropriate standard, regardless of whose name is on the bill.

(2) When two or more families share a meter but have separate living quarters and the utility bill is addressed to only one family, accept the unaddressed household's statement of liability for the expense unless it is questionable.

(3) Households residing in low income housing or other rental units with utilities included in the rent but who are liable for excess utilities are entitled to the basic utility allowance BUA.

(4) If a rental household is billed monthly by the landlord for actual usage of heating or cooling expense as determined through individual metering or a utility company bill, the SUA is used. If the household is billed by the

landlord for actual usage of utilities other than heating or cooling, the BUA is used.

**18. Households who do not incur heating/cooling costs, but are billed separately for utilities such as water, cooking fuel, electricity not associated with cooling, sewer and/or garbage collection, and telephone are entitled to the BUA.**

**19. If the household's only telephone is a cellular phone, the telephone standard is given.**