TO: ALL OFFICES  

SUBJECT: MANUAL MATERIAL  

OAC 317:35-1-2; 35-5-7; 35-5-26; 35-5-42; 35-5-45; 35-6-61; 35-7-37; 35-7-46; 35-7-60; 35-9-76; 35-10-10; 35-10-26; 35-10-28; 35-10-29 through 35-10-33; 35-10-35 through 35-10-37; 35-10-55 through 35-10-58; 35-10-65 through 35-10-68; 35-10-75 through 35-10-77; 35-10-85 through 35-10-92; 35-10-94 and 35-10-95.  

EXPLANATION: Medical Assistance for Adults and Children-Eligibility rules are revised to:  
(1) remove the Qualifying Individuals-2 program from agency rules as Congress chose not to extend the QI-2 program beyond December 31, 2002; and  
(2) clarify rule language used in determining Medicaid eligibility. The proposed revisions (a) organize rules in a more logical order; (b) remove obsolete language; (c) update incorrect policy citations and form references; (d) move certain policy text to the "Instructions to Staff"; and (e) comply with federal requirements.
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.

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317:35-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administrative agent" means the Long-Term Care Authority who is under contract with the Oklahoma Department of Human Services (OKDHS) to perform certain administrative functions related to the ADvantage Waiver.

"AFDC" means Aid to Families with Dependent Children.

"Aged" means an individual whose age is established as 65 years or older.

"Aid to Families with Dependent Children" means the group of low income families with children described in Section 1931 of the Social Security Act. The Personal Responsibility and Work Opportunity Act of 1996 established the new eligibility group of low income families with children and linked eligibility income and resource standards and methodologies and the requirement for deprivation for the new group to the State plan for Aid to Families with Dependent Children in effect on July 16, 1996. Oklahoma has elected to be less restrictive for all Medicaid clients related to AFDC.

"Area nurse" means a registered nurse in the OKDHS Aging Services Division, designated according to geographic areas who evaluates the UCAT and determines medical eligibility for Personal Care, ADvantage Waiver, and Nursing Facility services. The area nurse also approves care plan and service plan implementation for Personal Care services.

"Area nurse designee" means a registered nurse selected by the area nurse who evaluates the UCAT and determines medical eligibility for Personal Care, ADvantage Waiver, and Nursing Facility services.

"Authority" means the Oklahoma Health Care Authority (OHCA).

"Blind" means an individual who has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens.
"Board" means the Oklahoma Health Care Authority Board.

"Buy-in" means the procedure whereby the Authority pays the client's Medicare premium.

(A) "Part A Buy-in" means the procedure whereby the Authority pays the Medicare Part A premium for individuals determined eligible as Qualified Medicare Beneficiaries Plus (QMBP) who are enrolled in Part A and are not eligible for premium free enrollment as explained under Medicare Part A. This also includes individuals determined to be eligible as Qualified Disabled and Working Individuals (QDWI).

(B) "Part B Buy-in" means the procedure whereby the Authority pays the Medicare Part B premium for categorically needy individuals who are eligible for Part B Medicare. This includes individuals who receive TANF or the State Supplemental Payment to the Aged, Blind or Disabled, and those determined to be Qualified Medicare Beneficiary Plus (QMBP)/Specified Low Income Medicare Beneficiaries (SLMB) or Qualifying Individual-1 (QI-1). Also included are individuals who continue to be categorically needy under the PICKLE amendment and those who retain eligibility after becoming employed.

"Caretaker relative" means a person other than the biological or adoptive parent with whom the child resides who meets the specified degree of relationship within the fifth degree of kinship.

"Case management" means the activities performed for client's to assist them in accessing services, advocacy and problem solving related to service delivery.

"Categorically needy" means that income and when applicable, resources are within the standards for the category to which the client is related.

"Categorically related" or "related" means the individual is:

(A) aged, blind, or disabled;

(B) pregnant;

(C) an adult individual who has a minor child under the age of 18 and is deprived of parental support due to absence,
death, incapacity, unemployment; or

(D) a child under 19 years of age.

"Certification period" means the period of eligibility extending from the effective date of certification to the date of termination of eligibility or the date of the next periodic redetermination of eligibility.

"County" means the Department of Human Services' office or offices located in each county within the State.

"Deductible/Coinsurance" means the payment that must be made by or on behalf of an individual eligible for Medicare before Medicare payment is made. The coinsurance is that part of the allowable medical expense not met by Medicare, which must be paid by or on behalf of an individual after the deductible has been met.

(A) For Medicare Part A (Hospital Insurance), the deductible relates to benefits for in-patient services while the patient is in a hospital or nursing facility. After the deductible is met, Medicare pays the remainder of the allowable cost.

(B) For Medicare Part B (Supplemental Medical Insurance), the deductible is an annual payment that must be made before Medicare payment for medical services. After the deductible is met, Medicare pays 80% of the allowable charge. The remaining 20% is the coinsurance.

"Disabled" means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted (or can be expected to last) for a continuous period of not less than 12 months.

"Disabled child" means for purposes of Medicaid Recovery a child of any age who is blind, or permanently and totally disabled according to standards set by the Social Security Administration.

"Estate" means all real and personal property and other assets included in the recipient's estate as defined in Title 58 of the Oklahoma Statutes.

"Gatekeeping" means the performance of a comprehensive assessment by the LTC nurse utilizing the Uniform Comprehensive
Assessment Tool (UCAT) for the determination of Medical eligibility, care plan development, and the determination of Level of Care for Personal Care, ADvantage Waiver and Nursing Facility services.

"Local office" means the Department of Human Services' office or offices located in each county within the State.

"LOCEU" means the Oklahoma Health Care Authority's Level of Care Evaluation Unit.

"LTC nurse" means a registered nurse in the OKDHS Aging Services Division who meets the certification requirements for UCAT Assessor and case manager, and who conducts the uniform assessment of individuals utilizing the Uniform Comprehensive Assessment Tool (UCAT) for the purpose of medical eligibility determination. The LTC nurse also develops care plans and service plans for Personal Care services based on the UCAT.

"Medicare" means the federally funded health insurance program also known as Title XVIII of the Social Security Act. It consists of two separate programs. Part A is Hospital Insurance (HI) and Part B is Supplemental Medical Insurance (SMI).

(A) "Part A Medicare (HI)" means Hospital Insurance that covers services for inpatient services while the patient is in a hospital or nursing facility. Premium free enrollment is provided for all persons receiving OASDI or Railroad Retirement income who are age 65 or older and for those under age 65 who have been receiving disability benefits under these programs for at least 24 months.

(i) Persons with end stage renal disease who require dialysis treatment or a kidney transplant may also be covered.

(ii) Those who do not receive OASDI or Railroad Retirement income must be age 65 or over and pay a large premium for this coverage. Under Authority rules, these individuals are not required to enroll for Part A to be eligible for Medicaid benefits as categorically needy. They must however, enroll for Medicare Part B. Individuals eligible as a QMBP or as a Qualified Disabled and Working Individual (QDWI) under Medicaid are required to enroll for Medicare Part A. The Authority will pay Part A premiums for QMBP individuals who
do not qualify for premium free Part A and for all QDWI's.

(B) "Part B Medicare (SMI)" means Supplemental Medical Insurance that covers physician and related medical services other than inpatient or nursing facility care. Individuals eligible to enroll in Medicare Part B are required to do so under Authority policy. A monthly premium is required to keep this coverage in effect.

"Minor child" means a child under the age of 18.

"Nursing Care" for the purpose of Medicaid Recovery is care received in a nursing facility, an intermediate care facility for the mentally retarded or other medical institution providing nursing and convalescent care, on a continuing basis, by professional personnel who are responsible to the institution for professional medical services.

"OHCA" means the Oklahoma Health Care Authority.

"OKDHS" means the Oklahoma Department of Human Services.

"Qualified Disabled and Working Individual (QDWI)" means individuals who have lost their Title II OASDI benefits due to excess earnings, but have been allowed to retain Medicare coverage.

"Qualified Medicare Beneficiary Plus (QMBP)" means certain aged, blind or disabled individuals who may or may not be enrolled in Medicare Part A, meet the Medicaid QMBP income and resource standards and meet all other Medicaid eligibility requirements.

"Qualifying Individual" means certain aged, blind or disabled individuals who are enrolled in Medicare Part A, meet the Medicaid Qualifying Individual income and resource standards and meet all other Medicaid eligibility requirements.

"Qualifying Individual-1" means a Qualified Individual who meets the Qualifying Individual-1 income and resource standards.

"Recipient lock-in" means when a recipient is restricted to one primary physician and/or one pharmacy. It occurs when the OHCA determines that a Medicaid recipient has used multiple physicians and/or pharmacies in an excessive manner over a 12-month period.
"Scope" means the covered medical services for which payment is made to providers on behalf of eligible individuals. The Oklahoma Health Care Authority Provider Manual (OAC 317:30) contains information on covered medical services.

"Specified Low Income Medicare Beneficiaries (SLMB)" means individuals who, except for income, meet all of the eligibility requirements for QMBP eligibility and are enrolled in Medicare Part A.

"Worker" means the OKDHS worker responsible for Medicaid eligibility determinations.
317:35-5-7. Determining categorical relationship to AFDC

All individuals under age 19 are automatically related to AFDC and further determination is not required. Adults age 19 or older are related to AFDC when there is a minor dependent child(ren) in the home and the individual is the parent, or is the caretaker relative other than the parent who meets the proper degree of relationship. A minor dependent child is any child who meets the AFDC eligibility requirements of age, relationship and deprivation of parental support due to death, continued absence, physical or mental incapacity or unemployment.

(1) **Death of a natural or adoptive parent.** Deprivation by reason of death exists when it is determined that either parent is deceased.

(2) **Continued absence of a natural or adoptive parent from the home.** Continued absence exists when the parent's function as a provider of maintenance, physical care or guidance is interrupted or terminated. It must be anticipated that the absence will continue for at least 30 days or more. The decision as to whether a child is deprived of parental support or care due to his/her parent's continued absence from the home is made in accordance with the assessment procedures in (A) - (E) of this paragraph.

(A) **Physical absence from the home.** In determining if deprivation due to continued absence exists, it must be established that the parent is physically absent from the home, i.e., does not reside in the home with the child. The physical absence of the parent may be for any reason except for the sole purpose of employment or seeking employment, education or the performance of active duty in the United States Uniformed Services. "Uniformed Services" is defined as the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration and Public Health Services of the United States.

(i) If a parent does not currently reside with the child because of employment, seeking employment in another locality, education or active service duty but would reside with the child were it not for the employment, education or service duty, then such parent is not considered physically absent from the home. However, if the parent would not reside in the home regardless of
employment, education or service duty, then such parent is considered physically absent.

(ii) A separate place of residence for the parent may be used to establish physical absence.

(iii) Incarceration of a parent in a penal institution establishes continued absence. A parent who is a "convicted offender" but who is permitted to live at home while serving a court imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home for purposes of deprivation. Once "convicted offender" status is verified, deprivation is met and further action to determine continued absence is not required. This does not include the "House Arrest Program".

(iv) In situations where joint custody of the child(ren) has been granted and is being carried out, the child(ren) is/are not considered to be deprived of parental support or care by reason of continued absence from the home.

(v) In determining whether the absence from the home is such as to interrupt the parent's functioning as a parent is whether the parent has daily in-person contact with the child(ren). If the absent parent does not have daily in-person contact with the child(ren), his/her functioning as a parent is considered interrupted and the child(ren) is deprived. Further action to determine deprivation due to continued absence is not necessary. In-person contact means that the parent and child(ren) are physically together. The length of time they are together is not a factor in determining in-person contact. Daily contact means that the contact occurs each day of the week (Sunday-Saturday). The determination of whether the contact is daily must be made based on the parent's normal pattern of visitation/contact. For example, if the parent normally has daily in-person contact with the child(ren) but is out of town on vacation for two weeks, he/she would still be considered to have daily contact since this interruption of contact is not a regular occurrence.

(B) Support and maintenance. If physical absence is determined and daily in-person contact has been maintained, then provision of support and maintenance (as defined in (2)
of this subsection) becomes a factor in determining whether parental functioning has been interrupted.

(i) Support and maintenance are defined as payments, in cash or kind, made to the household or other entities (including the Child Support Enforcement Division), which are intended to meet, in whole or in part, the day-to-day expenses of the child(ren). This may include the provision of goods (food, clothing, diapers, etc.), shelter, utilities, daily transportation, or other items. If the absent parent normally provides support and maintenance (as described in this unit) on a monthly basis and expects to continue in the future, the child(ren) would not be deprived on the support and maintenance requirement. This would be true even if the absent parent had missed the previous month's payment. If, however, he/she has had a change in circumstances (e.g., employment ended) and does not expect to pay support for some indefinite period of time, he/she would not be considered to be providing support and maintenance.

(ii) If the absent parent does not provide support and maintenance, the child(ren) is considered deprived.

(C) Physical care. If the absent parent has daily in-person contact with the child(ren) and provides regular support and maintenance, then the worker must determine if the parent participates in the provision of physical care for the child(ren). Although the length of time the parent and child(ren) are together is not a factor in determining daily in-person contact, it could be a factor in determining whether the parent provides physical care as described in (i) of this subparagraph.

(i) Physical care includes the actual provision of physical care (e.g., feeding, bathing, dressing the child(ren), etc.) or, as in the case of an older child, the supervision of the child in providing his/her own physical care. It may also include other types of parental supervision such as granting or denying permission for activities, etc.

(ii) If it is determined that the absent parent does not provide physical care, the child(ren) are considered deprived and further consideration is not necessary.
(D) **Guidance.** Guidance is providing advice to the child(ren) in such areas as school matters, leisure or sports activities, relationships with other children or adults, etc. Guidance may also include participation in decision-making regarding the child(ren)'s well-being, discipline, etc. It is not expected that the parent actually provides this type of guidance to a very small child. However, it should be ascertained whether the parent would provide guidance if the child were older. If the absent parent does not provide guidance or it is determined that he/she would not if the child were older, the child(ren) is considered deprived.

(E) **Continued absence decision.** If there is any question as to whether absence actually exists, the client is advised that it may be necessary to obtain further evidence from persons acquainted with the situation. The child is considered deprived if any one of the items listed in (i)-(iv) of this subparagraph exists. The absent parent does not:

(i) have daily in-person contact with the child;

(ii) provide regular support and maintenance;

(iii) provide physical care; OR

(iv) provide guidance.

(F) **CSED Requirement.** As a condition of eligibility, when the reason for deprivation is absence, the parent or caretaker relative must agree to cooperate with CSED. However, federal regulations provide for a waiver of this requirement when cooperation with CSED is not in the best interest of the child. CSED is responsible for making the good cause determination. If the parent or caretaker relative is claiming good cause, his/her needs cannot be included in the benefit group unless CSED has determined good cause exists.

(3) **Physical or mental incapacity of natural or adoptive parent.**

(A) **Definition of physical or mental incapacity.**
(i) Physical or mental incapacity of a natural or adoptive parent is deemed to exist when one parent has a physical or mental defect, illness or impairment that:

(I) is of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child;

(II) can be expected to last for a period of at least 30 days; and

(III) is supported by competent medical and social evidence.

(ii) Both parents may be included in the benefit group if either parent is incapacitated due to a reduced ability to provide support or care, regardless of the incapacitated parent's usual function as homemaker or wage earner. The criterion for incapacity is the reduced ability of the parent to provide support or care, not the parent's employability.

(B) Determination of substantial reduction or elimination of ability to provide support or care. The Level of Care Evaluation Unit (LOCEU) determines substantial reduction or elimination of a parent's ability to provide support or care for a dependent child based on:

(i) the parent's inability to perform any type of gainful employment;

(ii) the parent's inability to provide care for the child without help from others. Child care includes feeding, cleaning, and supervision of the child;

(iii) the number of hours the parent is able to work being substantially reduced; or

(iv) the wages the parent is able to earn being substantially reduced.

(C) Determination of incapacity at the time of application. The determination of incapacity of one of the parents is made by LOCEU, except in those instances where the individual is currently eligible for SSA disability benefits, SSI benefits,
and/or Aid to the Blind or Aid to the Disabled. In such instances, the determination of blindness or disability is accepted as establishing incapacity. If a parent is not already receiving such SSA or SSI benefits and/or Aid to the Blind or Aid to the Disabled, the OKDHS worker makes a referral to LOCEU for a determination of incapacity. 2

(D) **Determinaton of incapacity when disability or blindness has not been pre-determined.**

(i) **Responsibility of the LOCEU for incapacity determinations.** If disability or blindness has not already been determined, the OKDHS worker must make a referral to LOCEU for a decision on incapacity. The LOCEU determines:

   (I) whether the parent is incapacitated; and

   (II) sets an effective date of eligibility from the standpoint of incapacity. 3

(ii) **Responsibility of the OKDHS worker for incapacity determinations.** The worker submits medical information from hospitals, physicians, and other agencies. All pertinent clinical evidence necessary to substantiate or explain the medical diagnosis and medical summary shall be included, such as results of physical examination, psychiatric evaluations, x-ray reports, laboratory tests, or any other pertinent medical data. Medical information, along with OKDHS form ABCDM-80-D, Medical Social Summary, is sent to LOCEU. 4 The Medical Social Summary contains the medical social information which will enable LOCEU to make a proper decision.

(4) **Unemployment.**

(A) **Applicability.** Deprivation for the child may be established when both the natural or adoptive parents are residing with the child and the parent determined to be the principal wage earner (PWE) meets the conditions to qualify as unemployed. The parent's citizenship status is not a factor in determining which parent is the PWE.

(B) **Principal wage earner (PWE).** The principal wage earner
is defined as the parent who earned the greater amount of gross income during the 24-month period ending with the month prior to the application. This determination is made regardless of when the parent(s) relationship began or when the parent(s) began residing with the children. The employment or receipt of unemployment insurance benefits of the parent not determined to be the PWE is not a factor in determining deprivation. The amount, dates, and sources of earnings used in determining which parent is the PWE must be documented. It is the parent's responsibility to provide the documentation to the best of their ability. The worker provides assistance, when necessary, to obtain the needed information. Acceptable documentation includes OKDHS records, employer(s) contact, wage stubs for the 24-month period, Income Eligibility Verification System (IEVS), Oklahoma Wage Link (OWL), Oklahoma Wage (OWG), and, if self employed, gross and net earnings from tax returns or business records. Documentation must be recorded in the case record as to which parent was determined to be the PWE and the circumstances used in that determination.

(i) If both parents earned an identical amount of income in the 24-month period, the PWE is the parent who earned the greater amount of income in the last six months of the 24-month period.

(ii) If the income in the six-month period is identical, either parent may be designated the PWE. The designation should be the one most advantageous to the benefit group.

(iii) The designation of the PWE is permanent and remains effective as long as the deprivation remains unemployment and the parent remains eligible for and continues to receive health benefits. If the health benefit case is closed and a new application is filed at a later date, the PWE must be redetermined.

(C) Conditions PWE must meet prior to certification. The PWE must meet specific conditions for deprivation to be established for the child(ren) and for the needs of the PWE to be included in the benefit group.

(i) Qualifications as unemployed. For the PWE to be considered unemployed, the PWE must not be employed or must be employed less than 100 hours per month. The PWE
must meet the definition of unemployed prior to the date of the health benefit application and during the application process. To qualify as an unemployed parent, the PWE must be unemployed for 30 days prior to the date of application. The PWE is considered to meet the status of unemployed if the PWE is not employed or the PWE is employed fewer than 100 hours per month. Employment may exceed the 100 hour standard for a particular month if the work is intermittent and the excess hours are of a temporary nature. The 100 hour requirement is also considered to have been met if the PWE worked fewer than 100 hours in each of the prior two months and is expected to work fewer than 100 hours in the next month. The 100 hour rule is not applicable to Domestic Volunteer Service Act of 1973 (VISTA) volunteers.

(I) Any hours spent working to earn income, regardless of whether the PWE receives the income, are considered in computing the 100 hours standard. Only those hours spent actually performing services for the employer should be counted in determining the 100 hours. Hours the PWE is on call are not to be considered in determining the 100 hour standard. The hours of self-employment for an individual are based on the actual hours worked in a month, to the extent possible.

(II) Current employment information must be used in determining if the PWE is working more than 100 hours per month. It is recognized that the number of hours worked in connection with selling the product, traveling or buyer contact can not be verified. Acceptable evidence of actual hours worked will be a written statement from a disinterested third party, insofar as possible. A person who contracted the labor of the PWE is considered a disinterested third party. An employee of the PWE, a member of the PWE's household or a relative of the PWE is not considered a disinterested third party. The statement of the PWE, if consistent with information known to the worker, is acceptable verification in these situations. If the PWE is unable to adequately verify the actual number of hours worked and the current net monthly income is representative of the PWE's number of hours worked, the current net monthly income is to be divided by the federal minimum wage.
(ii) **Work history requirement.** The PWE must have a verified work history. Undocumented employment cannot be used to establish quarters of work. The work history exists when the PWE meets one of the following conditions:

(I) The PWE was employed for six or more calendar-quarters within a 13 consecutive calendar-quarter period. The 13 consecutive calendar quarter period must end within 12 months prior to the application date. Calendar-quarter means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31. To be considered employed, the PWE must have received gross earnings of at least $50 in a calendar quarter or earned the minimum amount required for covered quarter as defined by the Social Security Administration.  

(II) The PWE is receiving or has received Unemployment Insurance Benefits (UIB) within the 12 calendar months prior to the application date. If the PWE has a pending UIB application, the work history determination is delayed until the UIB determination is made.

(III) The PWE would have qualified for UIB for 1 week or more during the 12 calendar month period prior to the application date had the PWE made application for UIB based on earned wages, both covered and uncovered. Covered employment generally includes employment in construction, plants, stores, restaurants, offices, or other places of business which employ one or more persons. Uncovered employment generally includes employment from farm labor, odd jobs, and non-profit organizations. A PWE who had sufficient earnings to meet the UIB earnings requirement is "deemed" eligible for UIB even though all or a portion of the PWE's earnings were from uncovered employment. To be eligible or "deemed eligible" for UIB, the PWE must have earned at least the Qualifying Wages during the...
base period. The base period consists of the first four of the last five completed quarters immediately preceding the quarter of the UIB application. The earnings must be in more than one quarter. The quarter with the highest earnings is the "high quarter". The total gross earnings of the remaining three quarters must equal at least one-half of the "high quarter" earnings. If the earnings do not meet this test, the PWE is ineligible for UIB. If the PWE earned an amount equal to the Total Taxable Wages in one quarter of the base period, the PWE is "deemed" eligible for UIB based on that quarter alone. ■

(D) **Unemployment insurance benefits eligibility.** The PWE is required to apply for and/or accept UIB which the PWE is eligible or potentially eligible to receive. The PWE must apply for such benefits and the worker allows 30 days for verification of a UIB application to be furnished.

(E) **Ineligible alien status.** If the PWE is an ineligible alien, the PWE's needs are not included in the assistance unit.

(F) **Changes after certification.** If after initial certification, the PWE begins working more than 100 hours per month, the parents are no longer eligible for health benefits based on unemployment.

**INSTRUCTIONS TO STAFF**

1. **The worker makes the decision of whether deprivation due to continued absence exists on a case-by-case basis by evaluating the individual case circumstances in relation to these factors.** For each of these factors, the determination is made based on the absent parent's normal relationship with the children.

2. **If a parent states he/she is already receiving social security benefits on the basis of disability, the worker verifies this by seeing the parent's notice of award or viewing BENDEX. The details of the verification are recorded in the case notes. If a parent states he/she is already receiving SSI, the worker verifies this by seeing the parent's notice of award or viewing SDX. The details of the verification are recorded in the case record.**
3. The LOCEU may request additional medical and/or social information when additional information is necessary for the decision.

4. The request for existing medical information is made using OKDHS Form HIPAA-3.

5. The QTRI can be used to verify the number of quarters worked for the work history requirement.

6. See OKDHS Appendix C-1, Schedule XII. B.

7. See OKDHS Appendix C-1, Schedule XII. A.
317:35-5-26. Residence requirements; homeless persons

(a) **Residence.** To be eligible for Medicaid services, the applicant must be residing in the State of Oklahoma with intent to remain at the time the medical service is received. A durational residence requirement is not imposed.

(1) Temporary absence from the State, with subsequent returns to the State, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of Oklahoma residence.

(2) Oklahoma residence does not include transients or visitors passing through the state but does not preclude persons who do not have a fixed address if intent is established.

(3) Intent to remain or return is defined as a clear statement of plans to remain or return in addition to other evidence and/or corroborative statements of others.

(4) When a non-resident makes application for Medicaid benefits, the local office provides services necessary to make available to the applicant any Medicaid services for which he/she might be eligible from his/her state of residence. The local office contacts the state or county of the applicant's residence to explore possible eligibility for medical benefits from the state and to obtain information needed for the determination of medical eligibility for the services received while in Oklahoma.

(b) **Homeless individuals.** Individuals are not required to have a fixed address in order to be eligible for assistance. Individuals who lack a fixed or regular residence, who have temporary accommodations, i.e., supervised shelters, residence of other individuals, a hallway, bus station, car or other similar places, are considered as "homeless".

**INSTRUCTIONS TO STAFF**

1. Care must be taken to assure that eligible homeless individuals receive needed services. The worker is expected to make special efforts to assist with securing documentation, etc., in order that homeless individuals are not precluded from services because of their homelessness.
To ensure receipt of benefits by a client who may not have a mailing address nor can establish one, the county office address may be used. This procedure is used only when other options cannot be determined.
317:35-5-42. Determination of countable income for individuals categorically related to aged, blind and disabled

(a) General. The term income is defined as that gross gain or gross recurrent benefit which is derived from labor, business, property, retirement and other benefits, and many other forms which can be counted on as currently available for use on a regular basis. When an individual's income is reduced due to recoupment of an overpayment or garnishment, the gross amount before the recoupment or garnishment is counted as income.

(1) If it appears the applicant or recipient is eligible for any type of income (excluding SSI) or resources, he/she must be notified in writing by the Agency of his/her potential eligibility. The notice must contain the information that failure to file for and take all appropriate steps to obtain such benefit within 30 days from the date of the notice will result in a determination of ineligibility.

(2) If a husband and wife are living in their own home, the couple's total income and/or resource is divided equally between the two cases. If they both enter a nursing facility, their income and resources are considered separately.

(3) If only one spouse in a couple is eligible and the couple ceases to live together, consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month which they ceased to live together.

(4) In calculating monthly income, cents are included in the computation until the monthly amount of each individual's source of income has been established. When the monthly amount of each income source has been established, cents are rounded to the nearest dollar (14 - 494 is rounded down, and 504 - 994 is rounded up). For example, an individual's weekly earnings of $99.90 are multiplied by 4.3 and the cents rounded to the nearest dollar ($99.90 x 4.3 = $429.57 rounds to $430). See rounding procedures in OAC 340:65-3-4 when using BENDEX to verify OASDI benefits.

(b) Income disregards. In determining need, the following are not considered as income:
(1) The coupon allotment under the Food Stamp Act of 1977;

(2) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) Educational grants (excluding work study), scholarships, etc., that are contingent upon the student regularly attending school. The student's classification (graduate or undergraduate) is not a factor;

(4) Loans (regardless of use) if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. If the loan was from person(s) not in the loan business, the borrower's acknowledgment of obligation to repay (with or without interest) and the lender's verification of the loan are required to indicate that the loan is bona fide. If the loan agreement is not written, Form Adm-103, Loan Verification, should be completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of loan. When copies of written agreements or Form Adm-103 are not available, detailed case documentation must include information that the loan is bona fide and how the debt amount and date of receipt was verified;

(5) One-third of child support payments received on behalf of the disabled minor child;

(6) Indian payments (including judgement funds or funds held in trust) distributed per capita by the Secretary of the Interior (BIA) or distributed per capita by the tribe subject to approval by the Secretary of the Interior. Also, any interest or investment income accrued on such funds while held in trust or any purchases made with judgement funds, trust funds, interest or investment income accrued on such funds. Any income from mineral leases, from tribal business investments, etc., as long as the payments are made per capita. For purposes of this Subchapter, per capita is defined as each tribal member receiving an equal amount. However, any interest or income derived from the principal or produced by purchases made with funds after distribution is considered as any other income;
(7) Special allowance for school expenses made available upon petition (in writing) for funds held in trust for the student;

(8) Title III benefits from State and Community Programs on Aging;

(9) Payment for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(10) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (VISTA), unless the gross amount of VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(11) The value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the national School Lunch Act;

(12) Any portion of payments made under the Alaska Native Claims Settlement Act to an Alaska Native which are exempt from taxation under the Settlement Act;

(13) Reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses directly related to such travel or training and uniform allowance if the uniform is uniquely identified with company names or logo;

(14) Assistance or services from the Vocational Rehabilitation program such as transportation expenses to a rehabilitation center, extra clothing, lunches, grooming needed for a training program and any other such complementary payments;

(15) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(16) Payments made by a public or private non-profit child care agency for a child placed in foster care or subsidized adoption;

(17) Governmental rental or housing subsidies by governmental
agencies, e.g., HUD (received in-kind or in cash) for rent, mortgage payments or utilities;

(18) LIHEAP payments for energy assistance and payments for emergency situations under Emergency Assistance to Needy Families with Children;

(19) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(20) Payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(21) Federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by States, local governments and disaster assistance organizations;

(22) Income of a sponsor to the sponsored eligible alien;

(23) The BIA frequently puts an individual's trust funds in an Individual Indian Money (IIM) account. To determine the availability of funds held in trust in an IIM account, the social worker must contact the BIA in writing and ascertain if the funds, in total or any portion, are available to the individual. If any portion of the funds is disbursed to the individual client, guardian or conservator, such funds are considered as available income. If the BIA determines the funds are not available, they are not considered in determining eligibility. Funds held in trust by the BIA and not disbursed are considered unavailable.

(A) In some instances, BIA may determine the account is unavailable; however, they release a certain amount of funds each month to the individual. In this instance the monthly disbursement is considered as unearned income.

(B) When the BIA has stated the account is unavailable and the account does not have a monthly disbursement plan, but a review reveals a recent history of disbursements to the individual client, guardian or conservator, these
disbursements must be resolved with the BIA. These disbursements indicate all or a portion of the account may be available to the individual client, guardian or conservator. When the county office is unable to resolve the situation with the BIA, the county submits a referral to the appropriate section in OKDHS Family Support Services Division (FSSD). The referral must include specific details of the situation, including the county's efforts to resolve the situation with the BIA. If FSSD cannot make a determination, a legal decision regarding availability will be obtained by FSSD, and then forwarded to the county office by FSSD. When a referral is sent to FSSD, the funds are considered as unavailable with a legal impediment until the county is notified otherwise.

(C) At each reapplication or redetermination, the social worker is to contact BIA to obtain information regarding any changes as to the availability of the funds and any information regarding modifications to the IIM account. Information regarding prior disbursements is also obtained at this time. All of this information is reviewed for the previous six or twelve-month period, or since the last contact if the contact was within the last certification or redetermination period.

(D) When disbursements have been made, the worker determines whether such disbursements were made to the client or to a third party vendor in payment for goods or services. Payments made directly from the BIA to vendors are not considered as income to the client. Workers should obtain documentation to verify services rendered and payment made by BIA.

(E) Amounts disbursed directly to the clients are counted as non-recurring lump sum payments in the month received. Some trusts generate income on a regular basis and the income is sent to the beneficiary. In those instances, the income is treated as unearned income in the month received.

(24) Income up to $2,000 per year received by individual Indians, which are derived from leases or other uses of individually-owned trust or restricted lands.

(25) Income that is set aside under an approved Plan for Achieving Self-Support for Blind or Disabled People (PASS). The
Social Security Administration approves the plan, the amount of income excluded and the period of time approved. A plan can be approved for an initial period of 18 months. The plan may be extended for an additional 18 months if needed, and an additional 12 months (total 48 months) when the objective involves a lengthy educational or training program.

(26) Payments made to individuals because of their status as victims of Nazi persecution (PL 103-286);

(27) Payments received under the Civil Liberties Act of 1988. These payments are to be made to individuals of Japanese ancestry who were detained in interment camps during World War II; and

(28) Payments received as a result of participation in a class action lawsuit entitled "Factor VIII or IX Concentrate Blood Products Litigation". These payments are made to hemophilia patients who are infected with HIV. However, if the payments are placed in an interest-bearing account, or some other investment medium that produces income, the income generated by the account may be countable as income to the individual.

(c) Determination of income. The client is responsible for reporting information regarding all sources of available income. This information is verified and used by the worker in determining eligibility.

(1) Gross income is listed for purposes of determining eligibility. It may be derived from many sources, and some items may be automatically disregarded by the computer when so provided by state or federal law.

(2) If a client is determined to be categorically needy and is also an SSI recipient, any change in countable income, (see OAC 317:35-5-42(d)(3) to determine countable income) will not affect receipt of medical assistance and amount of SSP as long as the amount does not cause SSI ineligibility. Income which will be considered by SSI in the retrospective cycle is documented in the case with computer update at the time that SSI makes the change (in order not to penalize the client twice). If the SSI change is not timely, the worker updates the computer using the appropriate date as if it had been timely. If the receipt of the income causes SSI ineligibility, the income is considered immediately with proper action taken to reduce or close the
medical assistance and SSP case. Any SSI overpayment caused by SSA not making timely changes will result in recovery by SSI in the future. When the worker becomes aware of income changes which will affect SSI eligibility or payment amount, the information is to be shared with the SSA office.

(3) Some of the more common income sources to be considered in determining eligibility are as follows:

(A) **Retirement and disability benefits.** These include but are not limited to OASDI, VA, Railroad Retirement, SSI, and unemployment benefits. Federal and State benefits are considered for the month they are intended when determining eligibility.

(i) Verifying and documenting the receipt of the benefit and the current benefit amount are achieved by:

(I) seeing the client's award letter or warrant;

(II) obtaining a signed statement from the individual who cashed the warrant; or

(III) by using BENDEX and SDX.

(ii) Determination of OASDI benefits to be considered (disregarding COLA's) for former State Supplemental recipients who are reapplying for medical benefits under the Pickle Amendment must be computed according to OKDHS Appendix C-2-A.

(iii) The Veterans Administration allows their recipients the opportunity to request a reimbursement for medical expenses not covered by Medicaid. If a recipient is eligible for the readjustment payment, it is paid in a lump sum for the entire past year. This reimbursement is disregarded as income and a resource in the month it is received; however, any amount retained in the month following receipt is considered a resource.

(iv) Government financial assistance in the form of VA Aid and Attendance or Champus payments is considered as follows:

(I) **Nursing facility care.** VA Aid and Attendance or
Champus payment whether paid directly to the client or to the facility, are considered as third party resources and do not affect the income eligibility or the vendor payment of the client.

(II) **Own home care.** The actual amount of VA Aid and Attendance payment paid for an attendant in the home is disregarded as income. In all instances, the amount of VA Aid and Attendance is shown on the computer form.

(v) Veterans or their surviving spouse who receive a VA pension may have their pension reduced to $90 by the VA if the veteran does not have dependents, is Medicaid eligible, and is residing in a nursing facility that is approved under Medicaid. Section 8003 of Public Law 101-508 allows these veterans' pensions to be reduced to $90 per month. None of the $90 may be used in computing any vendor payment or spenddown. The $90 payment becomes the monthly maintenance standard for the veteran. Any vendor payment or spenddown will be computed by using other income minus any applicable medical deduction(s). Veterans or their surviving spouse who meet these conditions will have their VA benefits reduced the month following the month of admission to a Medicaid approved nursing facility.

(B) **SSI benefits.** SSI benefits may be continued up to three months for a recipient who enters a public medical or psychiatric institution, a Medicaid approved hospital, extended care facility, intermediate care facility for the mentally retarded or nursing facility. To be eligible for the continuation of benefits, the SSI recipient must have a physician's certification that the institutionalization is not expected to exceed three months and there must be a need to maintain and provide expenses for the home. These continued payments are intended for the use of the recipient and do not affect the vendor payment.

(C) **Lump sum payments.**

(i) Any income received in a lump sum (with the exception of SSI lump sum) covering a period of more than one month, whether received on a recurring or nonrecurring basis, is considered as income in the month it is received. Any amount from any lump sum source, including SSI (with the
exception of dedicated bank accounts for disabled/blind children under age 18), retained on the first day of the next month is considered as a resource. Such lump sum payments may include, but are not limited to, accumulation of wages, retroactive OASDI, VA benefits, Workers' Compensation, bonus lease payments and annual rentals from land and/or minerals.

(ii) Lump sum payments used to establish dedicated bank accounts by representative payees in order to receive and maintain retroactive SSI benefits for disabled/blind children under age 18 are excluded as income. The interest income generated from dedicated bank accounts is also excluded. The dedicated bank account consisting of the retroactive SSI lump sum payment and accumulated interest is excluded as a resource in both the month received and any subsequent months.

(iii) A life insurance death benefit received by an individual while living is considered as income in the month received and as a resource in the following months to the extent it is available.

(iv) Changing a resource from one form to another, such as converting personal property to cash, is not considered a lump sum payment.

(D) Income from capital resources and rental property. Income from capital resources can be derived from rental of a house, rental from land (cash or crop rent), leasing of minerals, life estate, homestead rights or interest.

(i) If royalty income is received monthly but in irregular amounts, an average based on the previous six months' royalty income is computed and used to determine income eligibility. Exception: At any time that the county becomes aware of and can establish a trend showing a dramatic increase or decrease in royalty income, the previous two month's royalty income is averaged to compute countable monthly income.

(ii) Rental income may be treated as earned income when the individual participates in the management of a trade or business or invests his/her own labor in producing the income. The individual's federal income tax return will verify whether or not the income is from self-employment.
Otherwise, income received from rent property is treated as unearned income.

(iii) When property rental is handled by a leasing agent who collects the rent and deducts a management fee, only the rent actually received by the client is considered as income.

(E) **Earned income/self-employment.** The term "earned income" includes income in cash earned by an individual through the receipt of wages, salary, commission or profit from activities in which he/she is engaged as a self-employed individual or as an employee. See subparagraph (G) of this paragraph for earnings received in fluctuating amounts. "Earned Income" is also defined to include in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages. Such benefits received in-kind are considered as earned income only when the employee/employer relationship has been established. The cash value of the in-kind benefits must be verified by the employer. Income from self-employment also includes in-kind benefits for a work activity or service for which the self-employed person ordinarily receives payment in his/her business enterprise. An exchange of labor or services; e.g., barter, is considered as an in-kind benefit. Medical insurance secured through the employer, whether purchased or as a benefit, is not considered in-kind but is recorded on the case computer input document for coordination with Medicaid benefits.

(i) Advance payments of EITC or refunds of EITC received as a result of filing a federal income tax return are considered as earned income in the month they are received.

(ii) Work study received by an individual who is attending school is considered as earned income with appropriate earned income disregards applied.

(iii) Money from the sale of whole blood or blood plasma is considered as self-employment income subject to necessary business expense and appropriate earned income disregards.

(iv) Self-employment income is determined as follows:
(I) Generally, the federal or state income tax form for the most recent year is used for calculating the self-employment income to project income on a monthly basis for the certification period. The gross income amount as well as the allowable deductions are the same as can be claimed under the Internal Revenue code for tax purposes.

(II) Self-employment income which represents a household's annual support is prorated over a 12-month period, even if the income is received in a short period of time. For example, self-employment income received by crop farmers is averaged over a 12-month period if the income represents the farmer's annual support.

(III) If the household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise is averaged over the period of time the business has been in operation to establish the monthly income amount.

(IV) If a tax return is not available because one has not been filed due to recent establishment of the self-employment enterprise, a profit and loss statement must be seen to establish the monthly income amount.

(V) The purchase price and/or payment(s) on the principal of loans for capital assets, equipment, machinery, and other durable goods is not considered as a cost of producing self-employed income. Also not considered are net losses from previous periods, depreciation of capital assets, equipment, machinery, and other durable goods; and federal, state and local income taxes, FICA, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation (these expenses are accounted for by the work related expense deduction given in OAC 340:10-3-33(1)).

(v) Countable self-employment income is determined by deducting allowable business expenses to determine the adjusted gross income. The earned income deductions are then applied to establish countable earned income.
(F) **Inconsequential or irregular income.** Inconsequential or irregular receipt of income in the amount of $10 or less per month or $30 or less per quarter is disregarded. The disregard is applied per individual for each type of inconsequential or irregular income. To determine whether the income is inconsequential or irregular, the gross amount of earned income and the gross minus business expense of self-employed income are considered.

(G) **Monthly income received in fluctuating amounts.** Income which is received monthly but in irregular amounts is averaged using two month's income, if possible, to determine income eligibility. Less than two month's income may be used when circumstances (e.g., new employment, unpaid sick leave, etc.) would indicate that previous income amounts would not be appropriate to use in determining future income amounts. Income received more often than monthly is converted to monthly amounts as follows:

(i) **Daily.** Income received on a daily basis is converted to a weekly amount then multiplied by 4.3.

(ii) **Weekly.** Income received weekly is multiplied by 4.3.

(iii) **Twice a month.** Income received twice a month is multiplied by 2.

(iv) **Biweekly.** Income received every two weeks is multiplied by 2.15.

(H) **Non-negotiable notes and mortgages.** Installment payments received on a note, mortgage, etc., are considered as monthly income.

(I) **Income from the Job Training and Partnership Act (JTPA).** Unearned income received by an adult, such as a needs based payment, cash assistance, compensation in lieu of wages, allowances, etc., from a program funded by JTPA is considered as any other unearned income. JTPA earned income received as wages is considered as any other earned income.

(J) **Other income.** Any other monies or payments which are available for current living expenses must be considered.
(d) Computation of income.

(1) Earned income. The general income exclusion of $20 per month is allowed on the combined earned income of the eligible individual and eligible or ineligible spouse. See paragraph (6) of this subsection if there are ineligible minor children. After the $20 exclusion, deduct $65 and one-half of the remaining combined earned income.

(2) Unearned income. The total gross amount of unearned income of the eligible individual and eligible or ineligible spouse is considered. See paragraph (6) if there are ineligible minor children.

(3) Countable income. The countable income is the sum of the earned income after exclusions and the total gross unearned income.

(4) Deeming computation for disabled or blind minor child(ren). An automated calculation is available for computing the income amount to be deemed from parent(s) and the spouse of the parent to eligible disabled or blind minor child(ren) by use of transaction CID. The ineligible minor child in the computation regarding allocation for ineligible child(ren) is defined as: a dependent child under age 18. However, a mentally retarded child living in the home who is ineligible for SSP due to the deeming process may be approved for Medical Assistance under the Home and Community Based Waiver (HCBW) Program as outlined in OAC 317:35-9-5.

(5) Premature infants. Premature infants (i.e., 37 weeks or less) whose birth weight is less than 1200 grams (approximately 2 pounds 10 ounces) will be considered disabled by SSA even if no other medical impairment(s) exist. In this event, the parents income are not deemed to the child until the month following the month in which the child leaves the hospital and begins living with his/her parents.

(6) Procedures for deducting ineligible minor child allocation. When an eligible individual has an ineligible spouse and ineligible minor children (not receiving TANF), the computation is as follows:
(A) Each ineligible child's allocation (OKDHS Appendix C-1, Schedule VII. C.) minus each child's gross countable income is deducted from the ineligible spouse's income. Deeming of income is not done from child to parent.

(B) The deduction in subparagraph (A) of this paragraph is prior to deduction of the general income exclusion and work expense.

(C) After computations in subparagraphs (A) and (B) of this paragraph, the remaining amount is the ineligible spouse's countable income considered available to the eligible spouse.

(7) **Special exclusions for blind individuals.** Any blind individual who is employed may deduct the general income exclusion and the work exclusion from the gross amount of earned income. After the application of these exclusions, one-half of the remaining income is excluded. The actual work expense is then deducted from the remaining half to arrive at the amount of countable income. If this blind individual has a spouse who is also eligible due to blindness and both are working, the amount of ordinary and necessary expenses attributable to the earning of income for each of the blind individuals may be deducted. Expenses are deductible as paid but may not exceed the amount of earned income. To be deductible, an expense need not relate directly to the blindness of the individual, it need only be an ordinary and necessary work expense of the blind individual. Such expenses fall into three broad categories:

(A) transportation to and from work;

(B) job performance; and

(C) job improvement.

**INSTRUCTIONS TO STAFF**

1. Individuals related to ABD must apply for SSI benefits to be eligible for the SSP case assistance.
317:35-5-45. Determination of income and resources for categorical relationship to AFDC

Income is determined in accordance with OAC 317:35-10 for individuals categorically related to AFDC. Unless questionable, the income of categorically needy individuals who are categorically related to AFDC does not require verification. Individuals categorically related to AFDC are excluded from the AFDC resource test. Certain AFDC rules are specific to money payment cases and are not applicable when only Medicaid services are requested. Exceptions to the AFDC rules are:

(1) the deeming of the parent(s)' income to the minor parent;

(2) the deeming of the sponsor's income to the sponsored alien;

(3) the deeming of stepparent income to the stepchildren. The income of the stepparent who is not included for Medicaid in a family case is not deemed according to the stepparent liability. Only the amount of the stepparent's contribution to the individual is considered as income. The amount of contribution is determined according to OAC 317:35-10-26(a)(8), Person acting in the role of a spouse;

(4) the AFDC lump sum income rule. For purposes of Medicaid eligibility, a period of ineligibility is not computed;

(5) mandatory inclusion of minor blood-related siblings or minor dependent children. For Medicaid purposes, the family has the option to exclude minor blood-related siblings and/or minor dependent children;

(6) the exemption of real property as a resource for up to six months based on the client signing OKDHS Form C-6, Agreement to Repay;

(7) the disregard of one half of the earned income;

(8) dependent care expense. For Medicaid only, dependent care expenses may be deducted for an in-home provider who, though not approved, would have qualified had the qualification process been followed;

(9) AFDC trust rule. The availability of trusts for all
Medicaid only cases is determined according to OAC 317:35-5-41(d)(9);

(10) AFDC Striker rules. Striker status has no bearing on Medicaid eligibility;

(11) ET&E Sanction rule. The ET&E status has no bearing on Medicaid eligibility. However, a new Medicaid application is required.

INSTRUCTIONS TO STAFF

1. Workers must review data exchange screens on all Medicaid applications. If there appears to be conflicting information, the worker interviews the applicant to determine if income verification is necessary.
317:35-6-61. Redetermination of eligibility for persons receiving SoonerCare Health Benefits.

(a) A periodic redetermination of eligibility for SoonerCare Health Benefits is required on all categorically needy cases categorically related to AFDC. The redetermination is made prior to the end of the initial certification period and each six months thereafter.

(b) In every instance in which LOCEU originally determined incapacity, the MEDATS file specifies a date on which incapacity is to be redetermined or that further redetermination is not needed. Regardless of which of these is designated by LOCEU, any time that the worker's personal observations of the client's actions leads the worker to believe that marked improvement in the client's physical and/or mental condition has occurred, the worker prepares OKDHS form ABCDM-80-D, Medical Social Summary, and transmits it to LOCEU. This summary sets forth the reasons for the worker's opinion that the client's physical and/or mental condition has improved, such as the worker's personal observations of the client's actions in the home, the office, on the street, etc.; what the client says about his/her condition; whether the client is receiving treatment; etc. The decision for LOCEU will be entered by MEDATS.

(c) When LOCEU's original incapacity decision sets a redetermination for a specified time and required a Medical Social Summary, the worker submits the OKDHS form ABCDM-80-D. The information is submitted timely to obtain a decision by the end of the month of the due date. The client is considered incapacitated until LOCEU renders a decision stating otherwise, even if the decision is delayed past the redetermination. If the client chooses not to cooperate in obtaining information to determine continued incapacity, both parents needs are removed from the health benefit.
317:35-7-37. Financial eligibility of individuals categorically related to AFDC or pregnancy-related services

(a) In determining financial eligibility for an individual related to AFDC or pregnancy-related services, the income of the following persons (if living together or if living apart as long as there has been no break in the family relationship) are considered. These persons include:

(1) the individual;

(2) the spouse of the individual;

(3) the biological or adoptive parent(s) of the individual who is a minor dependent child. Income of the stepparent of the minor dependent child is determined according to OAC 35-10-26(a)(8);

(4) minor dependent children of the individual if the children are being included in the case for Medicaid. If the individual is 19 years or older and not pregnant, at least one minor dependent child must be living in the home and included in the case for the individual to be categorically related to AFDC;

(5) blood related siblings, of the individual who is a minor child, if they are included in the case for Medicaid;

(6) a caretaker relative and spouse (if any) and minor dependent children when the caretaker relative is to be included for coverage.

(b) The family has the option to exclude minor dependent children or blood related siblings [OAC 317:35-7-37(a)(4) and (5)] and their income from the eligibility process. However, for the adult to be eligible, at least one minor child and his/her income [see OAC 317:35-7-37(d)] must be included in the case. The worker has the responsibility to inform the family of the most advantageous consideration in regard to coverage and income. When determining financial eligibility for an individual related to AFDC or pregnancy-related services, consideration is not given to income of any person who is aged, blind or disabled and receives SSI or is determined to be categorically needy.

(c) An individual categorized as aged, blind, or disabled who is not an SSI recipient has an option to be categorically related to
either AFDC or ABD. The individual may be included in the AFDC related benefit group pending determination of eligibility for ABD or SSI if all eligibility requirements are met. ■1

(d) An individual who receives SSI cannot be included in the AFDC related benefit group. When the only dependent child is receiving SSI, the natural or adoptive parent(s) or caretaker relative may be related to AFDC if all other factors of eligibility are met. The benefit group will consist of the adult(s) only. Applicants and recipients are informed of their responsibility to report to the OKDHS if any member of the benefit group makes application for SSI or becomes eligible for SSI.

INSTRUCTIONS TO STAFF

1. The worker is responsible for explaining the benefits of both programs but the recipient is responsible for choosing the program that is most beneficial in meeting the individual's needs.
317:35-7-46. Eligibility as Qualifying Individuals

An individual determined to be categorically related as aged, blind or disabled is eligible as a Qualifying Individual (QI) if he/she meets the conditions of eligibility in paragraphs (1), (2), and (3) of this Section.

(1) The individual is enrolled for Medicare hospital insurance benefits under Part A, which includes an individual entitled to hospital insurance benefits by reason of voluntary enrollment in the premium-paying Part A program.

(2) The individual's income and resources do not exceed the standard as shown on DHS Appendix C-1, Schedule VII.A for QI-1. The maximum income standard for the QI-1 program is an amount greater than 120% but less than 135% of the Federal Poverty Level. For an individual whose spouse is not eligible for Medicare, total countable income of the eligible individual must be equal to or less than the QI standards for an individual and the income of both must be equal to or less than the QI standards for a couple. For a couple who are both eligible for Medicare, total countable income must be equal to or less than the QI standards for a couple. Countable income and resources are determined using the same rules followed in determining eligibility for individuals categorically related to Aid to the Aged, Blind or Disabled, with the following exceptions:

(A) Payments from Champus for medical care or from VA for Aid and Attendance are not considered in determining income eligibility.

(B) A $20 general income disregard is also applied to either earned or unearned income, but not both. For couples, only one $20 general income disregard is given.

(3) A Qualifying Individual cannot be otherwise eligible for Medicaid. Therefore, unlike QMB and SLMB individuals who may be determined eligible for Medicaid benefits in addition to their QMB/SLMB benefits, a QI recipient cannot be receiving or eligible for any other type of Medicaid benefit.
317:35-7-60. Certification for Medical Services

(a) The rules in this Section apply to all categories of eligibles EXCEPT:

(1) categorically needy SoonerCare Health Benefit recipients who are categorically related to AFDC or Pregnancy Related Services, AND

(2) who if eligible, would be enrolled in SoonerCare.

(b) An individual determined eligible for Medical Services may be certified for a medical service provided on or after the first day of the third month prior to the month of application. The certification period is determined beginning with the month the medical service was received or expected to be received or the month of application for categorically needy cases in which a medical service has not been received. The period of certification may cover retroactive or future months. Assignment of the certification period is dependent on the categorical relationship. Form MA-2, Medical Assistance Computation Work Sheet, is used to determine the certification period. Children in DHS custody who are placed outside the home are assigned a certification period of 12 months. The certification period in family cases is assigned for the shortest period of eligibility determined for any individual in the case.

(1) Certification as categorically needy. A categorically needy individual who is determined eligible for a State Supplemental Payment is certified effective the month of application. If the individual is eligible for payment for medical services received during the three months preceding the month of application, the application for Medicaid is processed in as a Medical Assistance Only case. A categorically needy individual who is categorically related to ABD but is not being certified for SSP is assigned a certification period of six months. The first month of certification is the month that a medical service was provided or, if no medical service was provided, the month of application. A child in DHS custody or Indian Tribal custody (under Foster Care agreement with DHS) who is determined eligible, is certified effective the month custody was granted. There is not a spenddown on a case certified as categorically needy.
(A) **Certification of individuals categorically needy and categorically related to ABD.** The certification period for the individual categorically related to ABD can be assigned for up to six months. The individual must be determined as categorically needy for each month of the certification period. The certification period is six months unless the individual:

(i) is certified as eligible in a money payment case during the six-month period;

(ii) is certified for long-term care during the six-month period;

(iii) becomes ineligible for medical assistance after the initial month;

(iv) becomes ineligible as categorically needy; or

(v) is deceased.

(B) **Certification period.** If the certification period was determined as six months and any of the situations listed in subparagraph (A) of this paragraph occur after the initial month, the case is closed by the worker.

(i) If income and/or resources change after certification causing the case to exceed the categorically needy maximums, the case is closed.

(ii) A pregnant individual included in an ABD case which closes continues to be eligible for pregnancy related services through the postpartum period.

(2) **Certification of individuals categorically related to ABD and eligible as Qualified Medicare Beneficiaries Plus.** In the event of a SSP case, the effective date of the QMBP benefit is the month of certification. If the individual is not eligible for SSP, the Medicaid benefit, except for the Medicare Part B premium buy-in, may be certified on the first day of the third month prior to the month of application or later. The effective date of certification for the Medicare Part B premium buy-in is the first day of the month following the month in which the eligibility determination is made (regardless of when
application was made).

(A) An individual determined eligible for QMBP benefits is assigned a certification period of 12 months. At any time during the certification period that the individual becomes ineligible, the case is closed using regular negative action procedures.

(B) At the end of the certification period a redetermination of QMBP eligibility is required, using the same forms and procedures as for ABD categorically needy individuals. However, a redetermination of QMBP eligibility must also be done at the same time the dually eligible individual has a redetermination of eligibility for other Medicaid benefits, i.e., as categorically needy and receiving SSP or as a long-term care recipient.

(3) Certification of individual categorically related to ABD and eligible as Qualified Disabled and Working Individual. The Social Security Administration is responsible for referrals of individuals potentially eligible for QDWI. Eligibility factors verified by the SSA are Medicare Part A eligibility and discontinuation of disability benefits due to excessive earnings. When the DHS State Office receives referrals from SSA the county will be notified and is responsible for obtaining an application and establishing other factors of eligibility. If an individual contacts the county office stating he/she has been advised by SSA that they are a potential QDWI, the county takes a Medicaid application. If the individual does not have verification of eligibility factors determined by SSA, the county contacts DHS, FSSD, State Office, for assistance in verifying those factors. The verification will be obtained by DHS State Office and sent to the county office. The effective date of certification for QDWI benefits is based on the date of application and the date all eligibility criteria, including enrollment for Medicare Part A, are met. For example, if an individual applies for benefits in October and is already enrolled in Medicare Part A, eligibility can be effective October 1 (or up to three months prior to October 1, if all eligibility criteria are met during the three month period). However, if in the example, the individual's enrollment for Part A is not effective until November 1, eligibility cannot be effective until that date. Eligibility can never be effective prior to July 1, 1990, the effective date of this provision.
These cases will be certified for a period of 12 months. At the end of the 12-month period, eligibility redetermination is required. If the individual becomes ineligible at any time during the certification period, the case is closed. The reason for closure is 69, and the worker completes the Notice to Client form.

(4) **Certification of Individual Categorically Related to ABD and Eligible as Specified Low-Income Medicare Beneficiary (SLMB).** The effective date of certification of SLMB benefits may begin on the first day of the third month prior to the month of application or later. A certification can never be earlier than the date of entitlement of Medicare Part A. An individual determined eligible for SLMB benefits is assigned a certification period of 12 months. At any time during the certification period the individual becomes ineligible, the case is closed using standard negative action procedures. At the end of the certification period a redetermination of SLMB eligibility is required. A redetermination of SLMB eligibility must also be done at the same time a dually eligible individual has a redetermination of eligibility for other Medicaid benefits such as long-term care.

(5) **Certification of individuals categorically related to disability and eligible for TB related services.**

   (A) An individual determined eligible for TB related services may be certified the first day of the third month prior to the month of application or later, as long as verification is received of a diagnosis of TB infection.

   (B) A certification period of 12 months will be assigned. At any time during the certification period that the individual becomes ineligible, the case is closed using the regular negative action procedures.

   (C) At the end of the certification period a new application will be required if additional treatment is needed.

(6) **Certification of Individual Categorically Related to ABD and Eligible as Qualifying Individuals.** The effective date of certification for the QI-1 may begin on the first day of the third month prior to the month of application or later. A
certification can never be earlier than the date of entitlement of Medicare Part A. An individual determined eligible for QI benefits is assigned a certification period of 12 months. At any time during the certification period the individual becomes ineligible, the case is closed using standard negative action procedures. At the end of the certification period, a redetermination of QI eligibility is required.

(A) Since the State's allotment to pay Medicare premiums for this group of individuals is limited, the State must limit the number of QIs so that the amount of assistance provided during the year does not exceed the State's allotment for that year.

(B) Persons selected to receive assistance in a calendar year are entitled to receive assistance with their Medicare premiums for the remainder of the year, but not beyond, as long as they continue to qualify. The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year.
317:35-9-76. Redetermination of financial eligibility for long-term medical care

A redetermination of financial eligibility must be completed prior to the end of the certification period. A notice is generated only if there is a change which affects the client's financial responsibility.
317:35-10-10. Capital resources

Capital resources are disregarded for individuals categorically related to AFDC or Pregnancy. The countable income generated from any resource is considered in accordance with Part 5 of this subchapter.
317:35-10-26. Income

(a) General provisions regarding income.

(1) The income of categorically needy individuals who are related to AFDC or Pregnancy does not require verification, unless questionable. If the income is questionable the worker must verify the income. The worker views all data exchange screens on all individuals included in the household size. If the data exchange screen reveals conflicting information, the worker must resolve the conflicting information and if necessary, request verification.

(2) All available income, except that required to be disregarded by law or OHCA's policy, is taken into consideration in determining need. Income is considered available both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. When an individual's income is reduced due to recoupment of an overpayment or garnishment, the gross amount before the recoupment or garnishment is counted as income. The client is responsible for reporting all income, the source, amount and how often received.

(A) Income received on behalf of a member of the benefit group by another individual such as, but not limited to, a guardian or conservator, is considered available to the benefit group.

(B) Money received and used for the care and maintenance of a third party who is not included in the benefit group is not counted as income if it can be identified and verified as intended for third party use.

(C) If it appears any member of the benefit group or an individual whose income is considered when determining eligibility is eligible for any type of income or benefits, the benefit group must be notified in writing by the Oklahoma Department of Human Services (OKDHS). The notice must contain the information that failure to apply for and take all appropriate steps to obtain such benefits within 30 days
from the date of the notice will result in a determination of ineligibility. **An application for Supplemental Security Income (SSI) is not required.**

(D) If the recipient and spouse are living together or they are living apart but there has not been a clear break in the family relationship, income received by either spouse and income received jointly is considered as family income. Income cannot be diverted to a household member who is not included in the household size for health benefits. Consideration is not given to a SSI recipient's income in computing eligibility for the AFDC related unit.

(E) Income which can reasonably be anticipated to be received is considered to be available for the month its receipt is anticipated.

(F) Income produced from resources must be considered as unearned income.

(3) Income that must be verified is verified by the best available information such as pay stubs presented by the client or an interview with the employer. Pay stubs may only be used for verification if they have the client's name and/or social security number indicating that the pay stubs are in fact the client's wages. The stubs should also include the date(s) of the pay period and the amount of income before deductions. If this information is not included, employer verification is required. The worker verifies medical insurance which may be available at the same time that income is verified. When a member of the benefit group accepts employment and has not received any wages, verification (if necessary) of the amount of income to be considered and the anticipated date of receipt must be obtained from the employer. Income which is expected to be received during a month is considered available to the benefit group and is counted in determining eligibility for the month of receipt.

(4) Monies received in a lump sum from any source are considered income in the month received. Changing a resource from one form to another, such as converting personal property to cash, is not considered a lump sum payment. Exception: lump sum payments used to establish dedicated bank accounts by representative
payees in order to receive and maintain retroactive SSI benefits for disabled/blind children under age 18 are excluded as income. The interest income generated from dedicated bank accounts is also excluded.

(A) A nonrecurring lump sum payment considered as income includes payments based on accumulation of income and payments which may be considered windfall in nature and may include but are not limited to TANF grant diversion, VA or Social Security lump sum payments, inheritance, gifts, worker's compensation payments, cash winnings, personal injury awards, etc. Retirement benefits received in a lump-sum are considered as unearned income. A non-recurring lump sum SSI retroactive payment, made to an AFDC or pregnancy related recipient who is not currently eligible for SSI, is not counted as income.

(B) The worker must ask applicants if they have received a lump sum payment during the month of application, any month during the application process or anticipate to receive a lump sum in the future. Recipients are asked at the time of periodic redetermination if the benefit group has received or is expecting to receive a lump sum. The worker provides an oral explanation, including examples of lump sum payments, how the rule affects other benefits and the importance of reporting anticipated receipt of a lump sum payment. The worker also offers counseling when there is indication of anticipated receipt, including voluntary withdrawal of the application or case closure and availability of free legal advice.

(C) Lump sum payments (minus allowable deductions related to establishing the lump sum payment) which are received by AFDC/Pregnancy related individuals or applicants are considered as income. Allowable deductions are expenses earmarked in the settlement or award to be used for a specific purpose which may include, but are not limited to, attorney's fees and court costs that are identified in the lump sum settlement, medical or funeral expenses for the immediate family, etc. "Earmarked" means that such expense is specifically set forth in the settlement or award.

(D) When a lump sum is received by a stepparent not included
in the household size, only the stepparent's contribution is considered in accordance with the stepparent's liability policy.

(E) When a third party reveals that a lump sum payment has been received or is expected to be received by the applicant or recipient, adverse action notification is given or mailed to the applicant/recipient and appropriate action taken.

(F) Recurring lump sum income received from any source for a period covering more than one month, that is received in a lump sum recurrently (such as annual rentals from surface or minerals, Windfall Profits tax refund, etc.) is prorated over a period of time it is intended to cover, beginning with the month of receipt of a lump sum payment.

(G) Net income from oil and gas production (gross minus production taxes withheld), received in varying amounts on a regular or irregular basis for the past six months, will be averaged and considered as income for the next six months. In instances where an applicant or a recipient receives new income from oil and gas production and verification for the past six months is not available, the worker accepts the available verification and averages over the period of time intended to cover. Net income may be verified by seeing the individual's production check stub, or by contacting the oil and gas company.

(5) Income that is based on the number of hours worked, as opposed to income based on regular monthly wages, must be computed as irregular income. The income received irregularly or in varying amounts will be averaged using the past two months to establish the amount to be anticipated and considered for prospective budgeting.

(6) A caretaker relative can only be included in the benefit group when the biological or adoptive parent is not in the home. A stepparent can be included when the natural or biological parent is either incapacitated or not in the home.

(A) Consideration is not given to the income of the caretaker relative or the income of his or her spouse in determining the eligibility of the children regardless of whether the
caretaker relative's needs are or are not included. However, if that person is the stepparent, the policy on stepparent liability is applicable.

(B) If a caretaker relative is married and living with the spouse who is an SSI or SSP recipient, the spouse or spouse's income is not considered in determining the eligibility of the relative caretaker. The income of the caretaker relative and the spouse who is not an SSI or SSP recipient must be considered. Only one caretaker relative is eligible to be included in any one month.

(7) A stepparent can be included when the natural or biological parent is either incapacitated or not in the home. The income of the stepparent is counted if the stepparent's needs are being included.

(8) When there is a stepparent or person living in the home with the natural or adoptive parent who is not a spouse by legal marriage to or common-law relationship with the own parent but who is acting in the role of a spouse, the worker determines the amount of income that will be made available to meet the needs of the child(ren) and the parent. Only contributions made in cash directly to the benefit group can be counted as income. In-kind contributions are disregarded as income. When the individual and the client state the individual does not make a cash contribution, further exploration is necessary. This statement can only be accepted after clarifying that the individual's contributions are only in-kind.

(b) **Earned income.** The term "earned income" refers to monies earned by an individual through the receipt of wages, salary, commission or profit from activities in which the individual is engaged as self-employed or as an employee. Payments made for accumulated annual leave/vacation leave, sick leave or as severance pay are considered as earned income whether paid during employment or at termination of employment. Temporary disability insurance payment(s) and temporary worker's compensation payments are considered as earned income if payments are employer funded and the individual remains employed. Income received as a one-time nonrecurring payment is considered as a lump sum payment. Earned income includes in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages. An
exchange of labor or services, e.g., barter, is considered as an in-kind benefit. Such benefits received in-kind are considered as earned income only when the employee/employer relationship has been established. \( \text{\textsuperscript{2}} \) Income from self-employment also includes in-kind benefits for a work activity or service for which the self-employed person ordinarily receives payment in the business enterprise. Medical insurance secured through the employer, whether purchased or as a benefit, is not considered in-kind income. \( \text{\textsuperscript{3}} \) Gross earned income is used to determine eligibility. Gross earned income is defined as the "true wage" prior to payroll deductions and/or withholdings.

(1) **Earned income from self-employment.** If the income results from the individual's activities primarily as a result of the individual's own labor from the operation of a business enterprise, the "earned income" is the total profit after deducting the business expenses (cost of the production). Money from the sale of whole blood or blood plasma is also considered as self-employment income subject to necessary business expense and appropriate earned income exemptions.

(A) *Allowable costs of producing self-employment income.* include, but are not limited to, the identifiable cost of labor, stock, raw material, seed and fertilizer, interest payments to purchase income-producing property, insurance premiums, and taxes paid on income-producing property.

(i) The federal or state income tax form for the most recent year is used for calculating the income, if necessary, only if it is representative of the individual's current situation. The individual's business records beginning the month income became representative of the individual's current situation is used if the income tax information does not represent the individual's current situation.

(ii) If the self-employment enterprise has been in existence for less than a year, the income is averaged over the period of time the business has been in operation to establish the monthly income amount.

(iii) Self-employment income which represents an annual...
support is prorated over a 12-month period, even if the income is received in a short period of time. For example, self-employment income received by crop farmers is averaged over a 12-month period if the income represents the farmer's annual support.

(B) **Items not considered.** The following items are not considered as a cost of producing self-employed income:

(i) The purchase price and/or payments on the principal of loans for capital assets, equipment, machinery, and other durable goods;

(ii) Net losses from previous periods;

(iii) Depreciation of capital assets, equipment, machinery, and other durable goods; and

(iv) Federal, state and local income taxes, FICA, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation. These expenses are accounted for by the work related expense deduction.

(C) **Room and/or board.** Earned income from a room rented in the home is determined by considering 25% of the gross amount received as a business expense. If the earned income includes payment for room and board, 50% of the gross amount received is considered as a business expense.

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

(2) **Earned income from wages, salary or commission.** If the income is from wages, salary or commission, the "earned income" is the gross income prior to payroll deductions and/or withholdings. Income from the Older American Community Service Employment Act (Title V), including AARP and Green Thumb organizations as well as employment positions allocated at the discretion of the Governor of Oklahoma, is counted as any other earned income.
(3) **Earned income from work and training programs.** Earned income from work and training programs such as the Job Training Partnership Act (JTPA) received by an adult as wages is considered as any other earned income. Also, JTPA earned income of a dependent child is considered when received in excess of six months in any calendar year.

(4) **Individual earned income exemptions.** Exemptions from each individual's earned income include a monthly standard work related expense and child care expenses the individual is responsible for paying. Expenses cannot be exempt if paid through state or federal funds or the care is not in a licensed facility or home. Exempt income is that income which by law may not be considered in determining need. №4

(A) **Work related expenses.** The standard deduction for work related expenses such as income tax payments, Social Security taxes, and transportation to and from work, is $120 per each full-time or part-time employed member of the benefit group.

(B) **Child care expenses.** Disregard of child care expense is applied after all other income disregards.

(i) Child care expense may be deducted when:

   (I) suitable care for a child included in the benefit group is not available from responsible persons living in the home or through other alternate sources; and

   (II) the employed member whose income is considered must purchase care.

(ii) Child care expenses must be verified and the actual amount per month, as paid, up to a maximum of $200 for a child under the age of two or $175 for a child age two or older may be deducted. In considering the care expense, only actual work hours and travel time between work and the child care facility or child care home will be allowed.

(iii) In explaining child care expenses, the worker
informs the individual that payment for care is the responsibility of the client and any changes in the plan for care must be reported immediately.

(iv) Oklahoma law requires all child care centers and homes be properly approved or licensed; therefore, child care expenses can only be deducted if the child is in a properly licensed facility or receiving care from an approved in-home provider. However, in cases where licensed dependent care facilities and/or approved in-home providers are not available (e.g., night employment), and the client arranges for care outside the home, an immediate referral is made by OKDHS Form K-13 to the licensing worker for a licensing decision. The cost of child care can be considered until the worker receives notification from the licensing worker that the home does not meet licensing standards or registration. If licensing or registration is denied, the client will be allowed 30 days after notification to make other child care arrangements, during which time the child care exemption will continue to be allowed.

(v) Child care provided by another person in the household who is not a member of the benefit group may be considered as child care expenses as long as the case meets applicable standards of State, local or Tribal law.

(vi) Documentation is made of the child care arrangement indicating the name of the child care facility or the name of the in-home provider, and the documentation used to verify the actual payment of child care per month.

(5) Formula for determining the individual’s net earned income.

Formulas used to determine net earned income to be considered are:

(A) **Net earned income from employment other than self-employment.** Gross Income minus work related expense minus child care expense equals net income.

(B) **Net earned income from self-employment.** Gross income minus allowable business expenses minus work related expense and child care expense equals net income.
(c) **Unearned income.**

1. **Capital investments.** Proceeds, i.e., interest or dividends from capital investments, such as savings accounts, bonds (other than U.S. Savings Bonds, Series A through EE), notes, mortgages, etc., received constitute income.

2. **Life estate and homestead rights.** Income from life estate or homestead rights, constitute income after deducting actual business expenses.

3. **Minerals.** If the client owns mineral rights, only actual income from minerals, delayed rentals, or production is considered. Evidence is obtained from documents which the client has in hand. When the client has no documentary evidence of the amount of income, the evidence, if necessary, is secured from the firm or person who is making the payment.

4. **Contributions.** Monetary contributions are considered as income except in instances where the contribution is not made directly to the recipient.

5. **Retirement and disability benefits.** Income received monthly from retirement and disability benefits are considered as unearned income. Information as to receipt and amount of OASDI benefits is obtained, if necessary, from BENDEX, the client's award letter, or verification from SSA. If the individual states that he/she does not receive OASDI, has a pending application or has been denied OASDI, this can be verified, if necessary, by use of TPQYC computer transaction. Retirement benefits received as a lump sum payment at termination of employment are considered as income. Supplemental Security Income (SSI) does not fall under these types of benefits.

6. **Unemployment benefits.** Unemployment benefits are considered as unearned income.

7. **Military benefits.** Life insurance, pensions, compensation, servicemen dependents' allowances and the like, are all sources of income which the recipient and/or dependents may be eligible to receive. In each case under consideration, information is
obtained as to whether the client's son, daughter, husband or parent, has been in any military service. Clearance is made with the proper veterans' agency, both state and federal, to determine whether the benefits are available.

(8) **Casual and inconsequential gifts.** Monetary gifts which do not realistically represent income to meet living expenses, e.g., Christmas, graduation and birthday gifts, not to exceed $30 per calendar quarter for each individual, are disregarded as income. The amount of the gifts are disregarded as received during the quarter until the aggregate amount has reached $30. At that time the portion exceeding $30 is counted as lump sum income. If the amount of a single gift exceeds $30, it is not inconsequential and the total amount is therefore counted. If the recipient claims that the gift is intended for more than one person in the family unit, it is allowed to be divided. Gifts between members of the family unit are not counted.

(9) **Grants.** Grants which are not based on financial need are considered income.

(10) **Funds held in trust by Bureau of Indian Affairs (BIA).** The BIA frequently puts an individual's trust funds in an Individual Indian Money (IIM) account. To determine the availability of funds held in trust in an IIM account, the social worker must contact the BIA in writing and ascertain if the funds, in total or any portion, are available to the individual. If any portion of the funds is disbursed to the individual client, guardian or conservator, such funds are considered as available income. If the BIA determines the funds are not available, they are not considered. Funds held in trust by the BIA and not disbursed are considered unavailable.

(A) In some instances, BIA may determine the account is unavailable; however, they release a certain amount of funds each month to the individual. In this instance the monthly disbursement is considered as income.

(B) When the BIA has stated the account is unavailable and the account does not have a monthly disbursement plan, but a review reveals a recent history of disbursements to the individual client, guardian or conservator, these disbursements must be resolved with the BIA. These
Disbursements indicate all or a portion of the account may be available to the individual client, guardian or conservator.

(C) When disbursements have been made, the worker verifies whether such disbursements were made to the client or to a third party vendor in payment for goods or services. Payments made directly from the BIA to vendors are not considered as income to the client. Workers obtain documentation to verify services rendered and payment made by BIA.

(D) Amounts disbursed directly to the clients are counted as non-recurring lump sum payments in the month received. Some trusts generate income on a regular basis and the income is sent to the beneficiary. In those instances, the income is counted in the month received.

(d) **Income disregards.** Income that is disregarded in determining eligibility includes:

1. Food Stamp benefits;

2. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

3. Education Grants (including work study), scholarships, etc., that are contingent upon the student regularly attending school. The student's classification (graduate or undergraduate) is not a factor;

4. Loans (regardless of use) if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgement of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. If the loan was from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay (with or without interest) is required to indicate that the loan is bona fide. If the loan agreement is not written, OKDHS Form Adm-103, Loan Verification, should be completed by the borrower attesting that the loan is
bona fide and signed by the lender verifying the date and amount of loan. When copies of written agreements or OKDHS Form Adm-103 are not available, detailed case documentation must include information that the loan is bona fide and how the debt amount and date of receipt was verified;

(5) Indian payments (including judgement funds or funds held in trust) which are distributed per capita by the Secretary of the Interior (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. Also, any interest or investment income accrued on such funds while held in trust or any purchases made with judgement funds, trust funds, interest or investment income accrued on such funds. Any income from mineral leases, from tribal business investments, etc., as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. However, any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) Special allowance for school expenses made available upon petition in writing from trust funds of the student;

(7) Benefits from State and Community Programs on Aging under Title III of the Older Americans Act of 1965 amended by PL 100-175 to become the Older Americans Act amendments of 1987;

(8) Unearned income received by a child, such as a needs based payment, cash assistance, compensation in lieu of wages, allowance, etc., from a program funded by the Job Training and Partnership Act (JTPA) including Job Corps income. Also, JTPA earned income received as wages, not to exceed six months in any calendar year;

(9) Payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aids, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(10) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (VISTA), unless the gross amount of VISTA payments equals or exceeds the state or federal minimum wage, whichever
is greater;

(11) The value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(12) Any portion of payments, made under the Alaska Native Claims Settlement Act to an Alaska Native, which are exempt from taxation under the Settlement Act;

(13) If an adult or child from the family group is living in the home and is receiving SSI, his/her individual income is considered by the Social Security Administration in determining eligibility for SSI. Therefore, that income cannot be considered as available to the benefit group;

(14) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(15) Earnings of a child who is a full-time student are disregarded;

(16) The first $50 of the current monthly child support paid by an absent parent. Only one disregard is allowed regardless of the number of parents paying or amounts paid. An additional disregard is allowed if payments for previous months were paid when due but not received until the current month;

(17) Government rental or housing subsidies by governmental agencies, e.g., HUD (received in-kind or in cash) for rent, mortgage payments or utilities;

(18) Reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses directly related to such travel or training, and uniform allowances if the uniform is uniquely identified with company name or logo;

(19) Low Income Home and Energy Assistance Program (LIHEAP) and Energy Crisis Assistance Program (ECAP) payments;
(20) Advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a federal income tax return;

(21) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(22) Payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(23) Federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments and disaster assistance organizations;

(24) Interests of individual Indians in trust or restricted lands;

(25) Income up to $2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands;

(26) Any home produce from garden, livestock and poultry utilized by the recipient and his/her household for their consumption (as distinguished from such produce sold or exchanged);

(27) Any payments made directly to a third party for the benefit of a member of the benefit group;

(28) Financial aid provided to individuals by agencies or organizations which base their payment on financial need;

(29) Assistance or services received from the Vocational Rehabilitation Program, such as transportation expenses to a rehabilitation center, extra clothing, lunches, grooming needed for a training program and an other such complimentary payments; and
(30) Payments made by a public or private non-profit child care agency for a child placed in foster care or subsidized adoption.

(e) In computing monthly income, cents will be carried at all steps until the monthly amount is determined and then will be rounded to the nearest dollar. These rounding procedures apply to each individual and each type of income. Income which is received monthly but in irregular amounts is averaged using two month's income, if possible, to determine income eligibility. Less than two month's income may be used when circumstances (e.g., new employment, unpaid sick leave, etc.) would indicate that previous income amounts would not be appropriate to use in determining future income amounts. Income received more often than monthly is converted to monthly amounts as follows:

1. **Daily.** Income received on a daily basis is converted to a weekly amount then multiplies by 4.3.
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.

**INSTRUCTIONS TO STAFF**

2. The employer's and employee's written or verbal statement that the relationship exists is sufficient but must be documented in the case notes.
3. Medical insurance is recorded on the case for coordination with Medicaid benefits.
4. In calculating these exemptions, dollars and cents are used to determine the monthly amount for each individual's exemption. After the monthly amount of each exemption has been determined, cents are rounded to the nearest dollar for each exemption (1 cent - 49 cents, round down; 50 cents - 99 cents, round up).
5. When the county office is unable to resolve the situation with the BIA, the county submits a referral to the appropriate section in the OKDHS Family Support Services Division (FSSD). The referral must include specific details of the situation, including the county's efforts to resolve the situation with the BIA. If the OKDHS, FSSD cannot make a determination, a legal decision regarding availability will be obtained by FSSD, and then forwarded to the county office by FSSD. When a referral is sent to the OKDHS FSSD, the funds are considered as unavailable with a legal impediment until the county is notified otherwise.

At each reapplication or redetermination, the social worker is to contact BIA to obtain information regarding any changes as to the availability of the funds and any information regarding modifications to the IIM account. Information regarding prior disbursements is also obtained at this time. All of this information is reviewed for the previous six or twelve-month period, or since the last contact if the contact was within the last certification or redetermination period.