

**MANUAL MATERIAL TRANSMITTED**

**MANUAL:** INCOME MAINTENANCE

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**DATE:** May, 1997

**TO:** All Income Maintenance Manual Holders

This change updates and clarifies Food Stamp ABAWD policy. A response to the second waiver request has been received. As a result, the time-limited eligibility for ABAWDs who do not meet the work requirement applies only in the following counties:

Berkeley	Jefferson	Pendleton
Hampshire	Kanawha	Putnam
Hardy	Monongalia	Wood (excluding Parkersburg)

Residents of the City of Parkersburg are exempt from the ABAWD time limits. However, any ABAWD who resides elsewhere in Wood County is subject to the time limits. Parkersburg is an NILC, but the remainder of Wood County is an NILC.

In the above named counties, appropriate notification must be sent and action must be taken to terminate ABAWDs who were identified at March, April and May redeterminations as having used their initial 3 months of eligibility without meeting the work requirement.

Because all ABAWDs remained eligible while the waiver request was pending, no repayment is required. For example, an ABAWD residing in an ILC is a recipient of Food Stamps on December 1, 1996 with a redetermination due in May, 1997. At the May redetermination, it is determined he did not meet the work requirement and was not exempt for December, January, February, March, April and May. He has used his 3-month limit in December, January and February and his eligibility ends effective May. Since the waiver request was pending in March and April and notice is given in May, no repayment is required.

Important changes have been made, including: when the 36-month period begins and who it applies to, what happens when an ABAWD moves from state to state, criteria for regaining eligibility for the second 3-month period and the ABAWD definition as it relates to age 50. Please read all these changes carefully.

Other changes have been made as follows:

- Chapter 1: A correction in the NOTE under Up to 3 Months was made and the NOTE under Beginning Date of Eligibility was clarified.
- Chapter 9: Additions were made to the list of disqualified individuals and the disqualification periods were added.
- Chapter 10: The steps in determining countable income have been reordered to conform with the listing of income disregards and deductions. Treatment of the income of ineligible ABAWDs has been added.

- Chapter 11: When income becomes an asset was corrected for Food Stamps. The policy is now the same for all programs.
- Chapter 20: Additions have been made to the Disqualification Penalty section. Instructions on refunding an overpaid claim have been added.
- Chapter 23: The explanation of the AB code was clarified.

Questions should be directed to the IM Policy Unit in the Office of Family Support.



- Whether or not any of the client's last benefits were returned to the agency
- For TANF/WV WORKS cases only: the Worker must determine how many months the client received TANF payments.

**NOTE:** States have until July, 1997 to convert from AFDC/U to a TANF-funded program. Therefore, for benefits received prior to 7/97, the Worker must also determine how many months of the cash assistance payments were funded under TANF.

- For Food Stamp cases with ABAWDs only: The Worker must contact the other state to determine and record when the individual's 36-month period began, and how many months of his 3-month limit without meeting the work requirement he has used. If he is residing in an ILC eligibility must be determined according to Section 9.1,A,2,j. If he is residing in an NILC, the time limitation does not apply, but he carries the same 36-month period he started in the other state.



individual applies for and is determined eligible for benefits.

The Worker must determine if any member(s) of the applicant benefit group has been disqualified and the length of the disqualification period.

M. BEGINNING DATE OF ELIGIBILITY

The beginning date of eligibility is the date of application. Benefits for the initial month are prorated from the date of application, over the number of days remaining in the month.

Initial month means the first month following any period of time in which the benefit group was not participating.

See Section 7.7,A for cases closed due to failure to submit a QR form in the required time limit.

**EXCEPTION:** For migrant and seasonal farm workers, the initial month is the first month following any break in certification of more than 30 days.

If a benefit group applies in WV, but received Food Stamps for the same month in another state, the beginning date of eligibility is the first day of the month following the last month of receipt from the other state.

**NOTE:** An ABAWD who loses eligibility and becomes eligible to participate after case closure must reapply and benefits are prorated from the date of meeting the requirement for regained eligibility. The Exception above still applies to ABAWD migrant and seasonal farm workers. See Section 1.3,E for reapplications not requiring a new form.

If the benefit group fails to provide the information requested on an ES-6 within the 30-day time limit, but provides it within 60 days of the original application date, the date of eligibility is the date the information was provided. See item A.

N. REDETERMINATION SCHEDULE

When Food Stamp benefits are issued under a TANF or WV WORKS case number, the redetermination period coincides with the TANF or WV WORKS redetermination.

For all other cases, the Worker decides when the redetermination is due. It may be scheduled to coincide with Medicaid or TRIP redeterminations or the LIEAP heating season. This date is entered in the data system

at the time of approval and redetermination. The client's certification period must be the longest possible period, based on the following guidelines:

- One Month: Very unstable circumstances in which a change in income and/or benefit group composition is expected to occur frequently.

This includes Expedited Service cases which apply prior to the 16th of the month and do not provide the necessary verifications prior to approval.

- Up to 3 Months: Benefit groups with relatively stable circumstances, but still subject to change.

**NOTE:** Benefit groups eligible for a certification period of three months or less have their certification periods increased by one month if they are approved after the 15th day of the month of application. This does not apply to Expedited Service cases which have verification postponed, but does apply to ABAWDs.

**EXAMPLE:** If a benefit group, which is not eligible for Expedited Service, but is eligible for a 3-month certification period, applies in June and is not approved until late June (after the 15th) or early July, the certification period includes June through September.

Cases receiving a child support deduction that have not established a 3-month record of child support payments are certified for up to 3 months until a 3-month payment record is established.

An individual living in an ILC who meets the ABAWD definition and who is not working or not exempt as found in Section 9.1,A, must have an initial certification period of no longer than 3 months. After the initial 3 months, the certification period is based on individual circumstances.

- Up to 6 Months: Benefit groups in which there is little likelihood of change in income and benefit group status.
- Up to 12 Months: Benefit groups consisting entirely of unemployable persons, or persons age 60 or over with stable income. Also included in this group are self-employed persons with stable income and farm employees with the same employer, or whose annual salaries are on a scheduled monthly basis and which do not change as the amount of work changes.



rate. However, if SSA supplied the correct information and the Worker failed to take the appropriate action, the county is charged with the QA error.

2. Mail-In Food Stamp Applications

If the client calls to request an application be mailed to him, the Worker must screen the client for Expedited Service over the telephone and advise him of his potential eligibility.

The Worker schedules an interview no later than 5 working days after the ES-2 is received. The interview can be scheduled by telephone or by letter.

If the applicant does not keep the appointment:

- A second appointment is scheduled without consideration of good cause.
- If the second appointment is not kept, and the client does not request a change in the time, the application is denied.
- If the applicant keeps the appointment for the interview, procedures for the intake interview and application processing apply.

3. Categorical Eligibility

Categorical Eligibility may be determined at any time as long as the eligibility requirements are met.

a. Who Is Eligible

When the benefit group contains only recipients of TANF, WV WORKS or SSI, the benefit group is Categorically Eligible. For purposes of Categorical Eligibility, the following persons and benefit groups are included as recipients. This listing also includes other factors that do not prohibit Categorical Eligibility.

- Persons determined eligible for TANF, WV WORKS or SSI, even though benefits have not yet been paid.

- Persons determined eligible, but who receive zero benefits, such as:
  - SSI recipients whose benefits are withheld for repayment
  - TANF recipients when the TANF check is \$1 - \$9 and, therefore, not payable
  - Persons whose SSI payments are suspended.
- The presence of any of the following people does not prevent the remaining benefit group members from being Categorically Eligible.
  - Ineligible alien
  - Ineligible student
  - Any individual disqualified due to enumeration

b. Who Is Not Categorically Eligible

A benefit group is not Categorically Eligible in the following situations:

- Ineligibility of the benefit group due to failure to meet Food Stamp, TANF or WV WORKS QR requirements. Eligibility may not be reestablished simply due to being Categorically Eligible.
- A member of the benefit group is disqualified due to an IPV.
- The benefit group receives benefits under a C, U, A, B or D case number, but are not recipients of TANF, WV WORKS or SSI.

- Automatic Food Stamp Closure, WEC735P1

Received monthly, this listing identifies all Food Stamp cases with a F case number which have been closed automatically by the data system. A recording must be made on the ES-5 to indicate that the case was automatically closed.

- Monthly Food Stamp Payrolls, WES142P1

The county office receives 2 listings each month which provides the following information: case number, case name and address, Food Stamp income, number in Food Stamp benefit group, CA and SUA indicator. The listings contain the names of all cases active in the data system as of the first day of each month. In addition, all cases that are approved after the deadline date for the appropriate Program appear during the month of approval on a WEA930AP1 pick-up listing. This listing is run on a daily basis and sent to the county office.

The information on these printouts provides the Worker with a reference to all active cases and the pertinent information about the case.

#### B. REPORTING REQUIREMENTS

**NOTE:** When the benefit group contains an ineligible ABAWD who would otherwise be required to be included, the benefit group must continue to report the changes in the ABAWD's circumstances.

##### 1. QR

QR benefit groups are not required to report changes outside the QR process.

##### 2. Non-QR

Changes must be reported within 10 days of the date the change becomes known to the benefit group. Form ES-FS-2 is one means by which this may be done. See item A,1.

**EXCEPTION:** The benefit group is not required to report any mass changes in federal benefits, such as the yearly increase in RSDI or SSI benefits. RSDI/SSI increases are handled by the Department in accordance with instructions in Appendix B of this Chapter. All other federal benefit cost-of-living increases are treated as any other change, except that the client is not penalized for failure to report these mass changes.

**NOTE:** This does not apply to an individual change affecting the level of a client's benefits, only to mass changes.

**EXCEPTION:** Non-QR benefit groups with earned income must only report income when the following change:

- Source of income,
- Hourly rate of pay,
- Employment status, part to full-time or vice-versa, as defined by the employer.

When the client reports a change in income, action is taken.

### 3. Timely Reporting And Follow-Up

To determine if a claim must be established or a lost benefit restored, a decision must be made as to whether or not a change was reported in a timely manner.

The definition of timely reporting varies depending on whether the case is a QR case or a non-QR case.

#### a. QR

QR cases have no requirement to report changes outside the QR process.

When the client reports a change on the QR form, the change is effective the first month of the next quarter.

**EXAMPLE:** On April 2nd the client receives an increase in hourly wage. He reports this on the form due in May. The form is received May 14th. The change is effective June.

Any change which is reported outside the QR system or not reported in a timely manner is treated like it would be for a non-QR case.

#### b. Non-QR

**NOTE:** This section also applies to QR cases who report changes outside the QR process.

Reported changes are effective the month following the month they are reported.

This Chapter contains the policy for determining the following:

- Food Stamp Eligibility Determination Groups
- TANF and WV WORKS Eligibility Determination Groups
- Medicaid Eligibility Determination Groups for all coverage groups.

## 9.1 FOOD STAMP ELIGIBILITY DETERMINATION GROUPS

### A. THE BENEFIT GROUP

#### 1. Who Must Be Included

A Food Stamp benefit group may be composed of any of the following individuals or groups of individuals, provided that such individuals or groups who live together are not residents of institutions or boarding houses.

An individual cannot be a member of more than one Food Stamp benefit group in any month.

**EXCEPTION:** Shelters for battered women and children. See Chapter 14.

Throughout this Section the word customarily is used to mean over 50% of meals on a monthly basis. When a child is eligible for free or reduced-price meals at school, these meals are considered provided by the person with whom the child resides.

**NOTE:** For all the following possible benefit groups, an individual who meets the definition of an ABAWD in item j below is only eligible to receive benefits when he is otherwise eligible and:

- Is meeting the work requirement outlined in item 2 below; or
- Is residing in a Non-Issuance Limited County (NILC); or
- Regains eligibility by meeting the ABAWD work requirement, becoming exempt or moving to an NILC.
- Is in the first or second 3-month limit period while not meeting the work requirement being exempt.

The following shows the make-up of a Food Stamp benefit group.

a. Individuals Living Alone

These individuals are a benefit group.

b. Individuals or Groups of Individuals Living With Others

(1) Purchase and Prepare Together

A group of individuals, for whom food is customarily purchased and prepared together is a benefit group.

(2) Purchase and Prepare Separately

Individuals or groups of individuals living with others, but who customarily purchase food and prepare meals separately are a benefit group. Customarily purchasing and preparing food separately means that, during the certification period, the client actually purchases and prepares his food separately from the others in the household, except for an occasional shared meal. This occasional sharing of food does not interfere with his separate benefit group status.

c. Exceptions

The following individuals living with others, or groups of individuals living together, must be considered as customarily purchasing food and preparing meals together, i.e., being in the same benefit group, even if they do not do so. Two of the following groups show exceptions to the general rule of being in the same benefit group.

(1) Spouses

For these purposes, spouse means individuals:

- Who are married to each other under state law; or

- Foster children are considered boarders. They may be included or excluded, depending upon the benefit group's wishes.
- Individuals furnished meals and lodging, but paying less than a reasonable amount. See item 3. These individuals are considered members of the same benefit group as the person who provides room and board.

c. Live-in Attendants

Individuals who reside with a benefit group to provide medical, housekeeping, child care or other similar personal services may be a separate benefit group. If the live-in attendant is a relative, other than a parent or child, who moved in with the benefit group to provide these services, the individual is considered a live-in attendant. If the relative lived in the home prior to the need for these services or would live with the benefit group whether or not the services were provided, the attendant is considered a member of the benefit group.

**NOTE:** If the live-in attendant is a parent or child of a member of the benefit group containing the individual who needs the personal service, the parent/child policy in item 1,c,(3) takes precedence over the live-in attendant policy.

d. Ineligible Aliens

Individuals who do not meet the citizenship or eligible alien status are ineligible to participate in the Program and may not be a separate benefit group. When a client indicates inability or unwillingness to provide documentation of alien status, that client is classified as an ineligible alien. Eligibility is determined for the remaining benefit group members. See Chapter 18.

e. Students

Persons who meet the Food Stamp definition of a student are ineligible to participate in the Program and may not be a separate benefit

group. See item 4 below for the definition of a student and for exceptions to the restriction on student participation.

f. Disqualified Individuals

Persons who are disqualified for the reasons listed below are ineligible and may not be a separate benefit group. The disqualifications and periods of ineligibility are as follows:

REASON FOR DISQUALIFICATION	LENGTH OF DISQUALIFICATION
IPV	First Offense: 1 year Second Offense: 2 years Third Offense: Permanent
Enumeration Requirement	Until complies
Receipt of multiple benefits, as determined by an ADH or conviction in a state or federal court, simultaneously due to a fraudulent statement with respect to identity or place of residence.	10 years
Conviction in a federal, state or local court of exchanging Food Stamps for illegal drugs, firearms, ammunition or explosives.	Permanent
Fleeing to avoid prosecution, or confinement after conviction, for a crime or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing.	Permanent
Violating a condition of probation or parole	Permanent
ABAWD - End of first 3-month limit when not exempt or meeting work requirement	Until the work requirement is met, or is exempt, or moves to an NILC
ABAWD - End of second 3-month limit when not exempt or meeting work requirement	Until the work requirement is met, or is exempt, or moves to an NILC.



Convicted of trafficking in Food Stamps involving \$500 or more.	Permanent
Convicted on or after 8/22/96 of any felony offense which involved possession, use or distribution of a controlled substance as defined by section 102(6) of the Controlled Substance Act.	Permanent

g. Unborn Children

The benefit group cannot receive Food Stamps for an unborn child.

h. Work Requirement Sanctioned Individuals

Persons against whom a sanction is imposed for failure to comply with work requirements found in Chapter 13 may not be separate benefit groups, even when living with others not affected by the sanction.

i. Others

Other individuals who share living quarters with the benefit group, but who do not customarily purchase and prepare food with them. These individuals may apply as a separate benefit group. However, the parent/child/parental control relationship described in item 1,c,(2) and (3) must be considered.

j. Able-Bodied Adults Without Dependents (ABAWD)

**NOTE:** All work requirements in Chapter 13 apply to ABAWDs.

(1) Definition of ABAWD

An ABAWD is any individual age 18 or over but not yet age 50 who is not living in the same home with a child under age 18.

(2) ABAWD Work Requirement

An ABAWD must meet work requirements to be eligible. As long as an ABAWD is

exempt as found in item (7) or meets either of the 2 requirements below, he may receive Food Stamps, if otherwise eligible. Otherwise, he is ineligible once he has received Food Stamps for 3 months without being exempt or meeting the work requirement. The 3 months need not be consecutive. The work requirement is met by either:

- Working at least 20 hours per week, averaged monthly; or
- Participating in a work program such as, but not limited to, JTPA or FSE&T, at least 20 hours per week, averaged monthly. This does not include job search or job search training as part of a work program.

Months in which the client received prorated benefits do not count toward the 3-month limit. In addition, any month in which an ABAWD receives full benefits, but did not meet the full work requirement, become exempt, or live in an ILC for the entire month is not counted toward the limit.

**EXAMPLE:** An ABAWD who works 25 hours per week loses his job the second week of February. February is not counted toward his 3-month limit.

**EXAMPLE:** An ABAWD applies on January 15 and is approved for a prorated allotment. January is not counted toward his 3-month limit.

(3) Issuance Limited Counties (ILC) and Non-Issuance Limited Counties (NILC)

The following are ILC counties and the only ones in which the 3-month limit applies.

Berkeley	Kanawha	Wood (except
Hampshire	Monongalia	the City of
Hardy	Pendleton	Parkersburg)
Jefferson	Putnam	

All other counties are Non-Issuance Limited Counties (NILC).

(4) Determining The 36-Month Period

The first 36-month period is determined as follows:

- For all recipients who received a full month's benefits in December, 1996, regardless of the county or state of residence, the first 36-month period begins December, 1996 and ends November, 1999.
- For all individuals who meet the definition of an ABAWD who applied after December 1, 1996, regardless of the county or state of residence, the first 36-month period begins with the first month of receipt of full benefits.

Once the 36-month period begins, it remains fixed regardless of the ABAWD's status as a recipient or county or state of residence.

**EXAMPLE:** An ABAWD resides in an ILC and was receiving benefits on December 1, 1996. His 36-month period begins December 1, 1996 and ends November 30, 1999. During this period, he is eligible to receive benefits for 3 months without meeting the work requirement.

**EXAMPLE:** An ABAWD in an ILC applies and receives his first full month's benefits in March, 1997. His 36-month period begins March, 1997 and ends February, 2000. He meets the work requirement each month from March, 1997 through February, 1998. He does not meet the ABAWD work requirement in March and April, 1998, but does meet it in May and June. He does not work in July, but receives full benefits. July is the 3rd month of eligibility.

**EXAMPLE:** An ABAWD resides in an NILC and received a full month's benefits in

December, 1996. His 36-month period begins 12/1/96. He moves to an ILC on September 15, 1997. He becomes subject to the work requirement and 3-month limit. September does not count toward the 3-month limit since it is a partial month. He participates for 3 months without meeting the ABAWD work requirement in October, November and December, 1997. His eligibility ends effective December, 1997. He moves back to an NILC in January, 1998 and becomes eligible. His 36-month period continues through November, 1999.

**EXAMPLE:** A married couple with two children are recipients on December 1, 1996. The 36-month period begins although neither adult is an ABAWD. In June, 1997, the wife moves out, taking the children with her. If otherwise eligible, the husband is subject to the 3-month limit in the 36-month period which began December, 1996.

(5) Regaining Eligibility After Expiration of the Time Limits

An individual denied under this policy can regain eligibility when:

- He no longer meets the definition of an ABAWD; or
- He resides in an NILC; or
- He meets the ABAWD work requirement as specified in item (2); or
- He becomes exempt as specified in item (7) below; or
- He works 80 hours in a 30-day period. This does not have to be the 30 days immediately preceding the date of application; or
- He participates for a month in employment or training activities.

There is no limit to the number of times an individual may regain eligibility by any of these methods.

- (6) Eligibility For An Additional 3 Month Period While Not Meeting the Work Requirement or Being Exempt

When eligibility is regained by working 80 hours in a 30-day period, or by participating for a month in an employment or training program, the individual is eligible for up to 3 consecutive months without meeting the work requirement or being exempt. After this second 3-month limit expires, he may only regain eligibility by complying with the work requirement, residing in an NILC, or becoming exempt as specified in item (7) below.

**EXAMPLE:** An ABAWD uses his 3-month limit in June without meeting the work requirement and his case is closed effective June. He works 80 hours in the month of August. He reapplies October 1. If otherwise eligible, he qualifies for the second 3-month period of eligibility without meeting the work requirement.

**EXAMPLE:** An ABAWD uses his 3 months of eligibility in May, June and July without meeting the work requirement and his case is closed effective July. He completes 80 hours of work between August 10 and August 31. He reapplies September 1. If otherwise eligible, he has regained eligibility.

**EXAMPLE:** Same as above example except that he reapplies August 8 and does not complete 80 hours until September 9. He is not eligible in the month of application since he did not complete 80 hours in 30 days and is denied.

- (7) Exemptions

Receiving Food Stamps while exempt does not count toward the 3-month limit. An individual is exempt if he:

- Is under age 18 or over age 50; or
- Is residing in a home with a child under age 18, whether his child or not and whether he has any responsibility for the care of the child or not; or

**NOTE:** When a child is temporarily absent from the home, the determination of continuing the exemption is made on a case-by-case basis.

- Is responsible for the care of an incapacitated person; or
- Is receiving Unemployment Compensation as the result of registering with BEP; or
- Is medically certified as physically or mentally unfit for employment by a doctor or other health care practitioner or receives disability benefits; or
- Is a pregnant woman, regardless of the expected date of delivery; or
- Is a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or
- Is a student enrolled at least half-time in any recognized school, training program or institution of higher education; or
- Is hired for work at least 30 hours per week; or
- Is hired for work paying the equivalent of at least 30 hours times the minimum wage per week.

**NOTE:** The last 2 exemptions qualify the individual to participate immediately, if otherwise eligible. Because this is an exemption the individual is not required to complete any work hours to regain eligibility.

**EXAMPLE:** An ABAWD residing in an ILC is a recipient of Food Stamps on December 1, 1996 with a redetermination due in March, 1997. At the March redetermination, it is determined the individual did not meet the ABAWD work requirement and was not exempt during December, January and February. His eligibility ends effective March, 1997.

**EXAMPLE:** An ABAWD receives his first full month's benefits in March, 1997. His 36-month period begins March, 1997. He is certified through May, when it is determined he did not meet the ABAWD work requirement for March, April and May, 1997. His eligibility ends effective May, 1997.

**EXAMPLE:** The same individual in the example above moves to an NILC and applies for Food Stamps in August, 1997. If otherwise eligible, he may receive for Food Stamps while he resides in the NILC or while the county remains an NILC.

**EXAMPLE:** An ABAWD receives Food Stamps in January and February, 1997 without meeting the work requirement. These are his first and second months of eligibility. He finds part-time employment of 20 hours per week in March. He is otherwise eligible and receives Food Stamps until October, 1997, when his job ends. He then receives Food Stamps in November, 1997, his third month of eligibility without meeting the work requirements. November is his last month of eligibility.

**EXAMPLE:** The same individual in the example above has worked 80 hours between January 1 and January 31, 1998. If otherwise eligible, he may receive Food Stamps. On May 20, 1998, he loses the job. He may regain eligibility for up to 3 consecutive months, June, July and August, without meeting the ABAWD work requirement or being otherwise exempt.

3. The Determination Of A Boarder

Although boarders are considered non-benefit group members, they may not receive Food Stamps as a separate benefit group. They may, at the request of the benefit group, be included with them. To



March and April is overdue, the client may only receive a deduction for \$600. He may receive the \$80 a month deduction only until the \$600 is paid.

When a bill becomes overdue during the certification period, the deduction continues until the end of the certification period, unless the client reports the overdue bill.

Ongoing medical expenses that are regularly incurred on a weekly, bi-weekly or semi-monthly basis must be converted to a monthly amount using the following conversion figures:

Weekly - Multiply by 4.3

Bi-weekly - Multiply by 2.15

Semi-Monthly - Multiply by 2

(3) Estimated and Actual Expenses

Clients may choose to use a combination of estimated and actual expenses.

c. Medical Deduction for Residents of Group Living Facilities

Allowable medical expenses which can be identified apart from food and shelter payments are deducted.

d. Categorically Eligible, Retroactive SSI Approvals

When all of the following conditions are met, the benefit group must have benefits restored to compensate the client for a medical deduction he did not receive:

- The benefit group becomes Categorically Eligible due to retroactive approval of SSI benefits.
- The individual approved for SSI is entitled to a medical deduction.
- The client started receiving Food Stamps prior to being found eligible for SSI.

Benefits must be restored for the period for which the individual is authorized to receive SSI benefits or the date of the Food Stamp application, whichever is later.

7. Shelter/Utility Deduction

After all other exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter and utility costs. If the shelter/utility costs exceed 50% of the remaining income, the amount in excess of 50% is deducted. The deduction cannot exceed the shelter/utility cap found in Appendix B.

**EXCEPTION:** The cap on the shelter/utility deduction does not apply when the Food Stamp benefit group includes an individual who is elderly or disabled, as defined in Chapter 9.

The expense must be allowed only if the benefit group is obligated to pay, and the cost is paid with the resources of the benefit group. The deduction applies whether the expense is paid from excluded or non-excluded resources. The benefit group is no longer allowed the deduction when the expense is no longer billed or due.

If the home is not occupied by the Food Stamp benefit group because of employment or training away from home, illness, or disaster/casualty loss, a deduction is allowed, if the benefit group remains responsible for the shelter and/or utility costs, and the home is not leased or rented during this time. The benefit group must intend to return to the home, and the current occupants of the house, if any, must not be claiming the shelter costs for Food Stamp purposes.

Some benefit groups may choose to have the Standard Utility Allowance (SUA) used instead of the actual utility costs. Homeless benefit groups who use the Homeless Shelter Standard Deduction are not eligible for the SUA.

a. Shelter Costs

Items considered in arriving at shelter costs are the continuing amounts of:

- Step 5: Subtract the Dependent Care Deduction up to the maximums found in Appendix B.
- Step 6: Subtract the amount of legally obligated child support actually paid.
- Step 7: Subtract the Homeless Shelter Standard Deduction.
- Step 8: Subtract allowable medical expenses in excess of \$35.
- Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/utility cost or shelter/SUA amount.

Step 10:

	No One Elderly or Disabled	At Least One Person Elderly or Disabled
Shelter/Utility Equal To Or Less Than Step 9.	No further computation is needed. The amount from Step 8 is the countable income.	No further computation is needed. The amount from Step 8 is the countable income.
Shelter/Utility Greater Than Step 9.	The amount in excess of 50%, not to exceed the shelter/utility cap, is deducted to arrive at countable income.	The amount in excess of 50% is deducted, without regard to the shelter/utility cap, to arrive at countable income.

Step 11: Compare the countable income to the maximum net income in Appendix A for the benefit group size. This net income test does not apply to Categorically Eligible benefit groups. See Chapter 1.

### 3. Determining the Amount of the Benefit

**NOTE:** The coupon allotment may calculate to \$0. However, as long as the income is below the income limit the case must not be denied.

To determine the coupon allotment, find the countable income and the number in the benefit group in Appendix D. One- and two-person benefit groups eligible for \$1 - \$9 automatically receive a \$10 coupon allotment, unless it is a prorated allotment. No benefits are issued to any benefit group eligible for an initial, prorated allotment (Appendix E) of \$1 - \$9. See Chapter 1 for proration requirements. See Chapter 23 for an explanation of the data system computation of the coupon allotment.

D. SPECIAL SITUATIONS

1. Categorical Eligibility

There are no special income calculations for those who are Categorically Eligible. Although there is no gross or net income test, countable Food Stamp income is still calculated the same way it is for all other Food Stamp benefit groups. See Chapter 1 for Categorical Eligibility information.

2. Expedited Service

After eligibility for Expedited Service is determined, the income calculations are the same as for any other benefit group. Destitute benefit groups receive special income calculations, whether they are expedited or not. See item 3 below.

3. Destitute Benefit Groups

**NOTE:** This provision applies only to migrant or seasonal farmworker benefit groups.

a. Why the Determination Is Made

A determination of whether or not a migrant or seasonal farmworker benefit group qualifies as a destitute benefit group must be made for two reasons:

- If they are destitute, Expedited Service procedures apply.
- If they are destitute, special income calculations are used to determine the countable Food Stamp income for the first month of the certification period. These

- Failure of the non-Head of Household to comply with FSE&T requirements:
- IPV:
- Receiving multiple benefits simultaneously:
- Being a fleeing felon or probation/parole violator:
- Conviction of trafficking food stamp benefits of \$500 or more:
- Conviction for using Food Stamps to purchase drugs, firearms, explosives or ammunition:
- Being an ABAWD who resides in an ILC, whose 3-month limit has expired and he does not meet any of the exemptions or the work requirement:
- Being an ABAWD who resides in an ILC, whose second 3-month limit has expired and he does not meet any of the exemptions or work requirements.

The income of the disqualified individual(s) is counted as if he were a member of the benefit group.

All applicable exclusions, disregards, and deductions apply to the disqualified individual(s) income.

The disqualified individual(s) is not included in the benefit group when determining eligibility or the benefit level.

**NOTE:** In no instance is it acceptable for the benefit level to increase when an individual is disqualified and all other case circumstances are the same. Should this happen, please notify the IM Policy Unit in OFS immediately.

b. Failure to Comply With Public Assistance Requirements

Food Stamp benefits must not increase due to a reduction, suspension or termination of income

from a federal, State or local welfare or public assistance program, when the reduction (suspension or termination) is due to the client's failure to comply with a requirement of the program. This applies to reductions, suspensions or terminations which begin on or after August 1, 1996.

In addition, this applies to any reduction, suspension or termination which was decided or applied as of May 31, 1996 and which has not expired as of August 1, 1996.

For these purposes, all three of the following conditions must be met to meet the definition of a federal, State or local welfare or public assistance program. The program must:

- Be means-tested, and
- Distribute publicly funded benefits, and
- Be governed by welfare or public assistance laws or regulations.

The following sections provide additional information about use of the policy.

(1) Nature of the Deeming Process

To apply the policy described in this section, the amount of the benefit prior to the reduction, suspension or termination continues to be counted as income, even though the client no longer receives it.

(2) Exception to Compliance With Requirements

When a FSE&T penalty is applied based on imposition of a JOBS sanction (comparable requirements only), the policy in this section is not applied. Instead, the penalty described in Section 13.13 is applied.

If the JOBS sanction is imposed for a longer time than the FSE&T sanction, the policy in this section (10.4,D,8,b) is applied during the remainder of the JOBS sanction period.

(3) Determination of Failure to Comply

The Worker must accept the determination of the program which was reduced, suspended or

terminated, as the final authority for the failure to comply. If the determination is not specifically identified by the other program as a failure to comply, the policy in this section is not applied. The Worker must not make a judgement about the correctness of the previous determination and must not ask or attempt to require that the decision be reconsidered.

If the Worker is unable to obtain information about the client's failure from another program outside DHHR, the policy in this section must not be applied. The Worker must record efforts to obtain such information, with copies of appropriate correspondence, if any, filed in the case record. This is necessary to avoid QA errors for non-compliance with the policy.

(4) Deeming Period

The amount of the public assistance benefit received prior to the reduction, suspension or termination is counted as income for the duration of the penalty imposed by the public assistance program. If the client's benefits are terminated indefinitely and he does not apply for those benefits again, the level of income prior to the termination must be counted until his benefits are no longer terminated for failure to comply. The client is not required to begin receiving the benefit again in order to end the prohibition on an increase in Food Stamp benefits, but, if he continues to be ineligible, it must be due solely to some reason(s) other than the failure to comply that resulted in the previous termination.

(5) Client Notification

The fact that benefits do not increase based on a decrease in income, does not constitute an adverse action. However, client notification, using form letter ES-NL-B is required. See Sections 6.3,B and C.

(6) Denial of Food Stamp Fair Hearing

The benefit group is not entitled to a separate and distinct Food Stamp Fair Hearing

on the issue of failure to comply because this would require the Food Stamp Program to second guess another program's determination. However, if the public assistance program is TANF or WV WORKS, the issue of intent may be dealt with during an TANF or WV WORKS Fair Hearing about the imposition of the reduction, suspension or termination. A Food Stamp Fair Hearing may be held on the issue of not increasing Food Stamp benefits when income has decreased.

(7) Data System Action

When the TANF or WV WORKS check is being reduced due to a failure to comply with requirements, the Worker must calculate the difference between the check amount the client received prior to the reduction and the reduced amount. This amount is entered in Block 76 in the C-219 system. If the TANF or WV WORKS check is stopped, the amount of the TANF or WV WORKS check at the time of case closure is coded in Block 76 of the A, B, D or F case which contains the Food Stamps for the benefit group.

When any other public assistance benefit is reduced, the Worker must not reduce the amount of the benefit counted as Food Stamp income for the benefit group. When the other benefit is suspended or terminated, the amount received prior to the suspension or termination is counted.

**NOTE:** When Food Stamps are received under an A, B or D case number, the only SSI benefit for the benefit group is suspended or terminated due to an intentional failure to comply and the SSI case is closed, an F case must be opened in the C-219 system for the Food Stamp benefits, and the amount of SSI received prior to the suspension or termination is counted as income and coded in Block 76.

(8) Other Changes

Changes in household circumstances which are not related to a penalty imposed by another federal, State or local means-tested welfare or public assistance program must be made. This includes adjustment in the benefit level



when new members join the household, whether or not the benefit group is prohibited from receiving benefits for the new member from such program.

9. Strikers

When the Food Stamp benefit group includes an individual who is on strike, the benefit group is ineligible for the duration of the strike unless:

- The benefit group was eligible for or receiving benefits the day prior to the strike; or
- The individual who is participating in the strike is exempt from work registration for any reason other than employment. Refer to Chapter 13.

To determine if a benefit group containing a striker is eligible, it is necessary to determine pre-strike eligibility and current eligibility.

a. Definition of a Striker

A striker is an individual involved in a strike or concerted work stoppage by employees, or any slowdown or concerted interruption of operation by employees.

An individual who is a part of the striking union or concerted work stoppage is considered a striker, even if he voted against the strike or concerted work stoppage, and even if he does not actively engage in strike-related activity, such as walking in a picket line. Sympathy strikers are considered strikers. However, an individual who is not a part of the striking union or concerted work stoppage is not considered a striker.

The following persons are not considered strikers:

- An employee who is not working because of a lock-out by the employer
- Employees who are laid off or for whom there is no work because of a strike
- An employee who is not a member of a striking union, but who cannot cross a picket line because of fear of personal injury or death.

**NOTE:** Any person, who is prohibited by his union's by-laws from crossing a union picket line, may feel he faces the possibility of personal injury if he does cross the picket line of the striking union or concerted work stoppage. The Policy Unit must be contacted before a decision is made on these cases. The Policy Unit will determine if each member of the non-striking union does face the possibility of personal injury by crossing the picket line of the striking group. The Policy Unit will determine if the entire non-striking union may be considered non-strikers, or if the decision about the possibility of harm must be made on a case-by-case basis, after consultation with FCS.

The following points are considered in determining whether or not to apply the striker provisions:

- If both the union and the company consider the work stoppage to be a strike, the striker provisions apply.
- If both the union and the company consider the work stoppage to be a lockout, the striker provisions do not apply.
- The fact that a person receives UCI benefits does not necessarily mean that the person is not a striker.
- Striker provisions apply to employees who participate in sympathy or support strikes.

## 11.2 INTRODUCTION

This Chapter contains the policies for determining asset eligibility for Food Stamps, TANF, WV WORKS and most Medicaid coverage groups. Instructions for determining the value of assets are included.

The following Medicaid coverage groups have no asset test:

- AIDS Patients Programs
- Deemed AFDC and WV WORKS Recipients, except those eligible for \$1 - \$9 AFDC check
- Deemed SSI Recipients, except PAC
- Extended Medicaid
- Newborns
- Poverty-Level Pregnant Women and Children
- QC
- Transitional Medicaid

### A. ESTABLISHING DATE OF ASSET ELIGIBILITY

1. SSI-Related Medicaid, CDCS, PAC, QDWI, QMB, and SLIMB

The assets determination for these applications must be made as of the first moment of the month of application. The client is not eligible for any month in which assets are in excess of the maximum, as of the first moment of the month. Changes in countable assets do not affect eligibility unless retained into the first moment of the following month.

**EXAMPLE:** A client applies for SSI-Related Medicaid on April 21. On April 1, he had a savings account of \$1,500 and two automobiles: a 1985 Ford LTD that he used for obtaining medical treatment and a 1982 Chevrolet Impala valued at \$575. He advises the Worker that, on April 10, he withdrew \$125 from his savings account to pay for automobile repairs. His total assets on April 1 were \$2,075. Even though his assets decreased to \$1,950, which is under the \$2,000 asset maximum, on April 10, his assets as of the first moment of the month were in excess of the asset limit, and he is not eligible.

Conversely, if the client's assets, as of the first moment of the month, are within the asset limit, and during the month his assets increase to

above the assets limit, he is still eligible for that month.

2. All Others

The asset determination must be made as of the date of application.

However, when medical coverage is backdated, the asset determination must be made from the date for which Medicaid coverage is requested. All other eligibility requirements must also be met at that time. When there is an increase in assets which exceeds the limit, the case is closed.

B. WHEN INCOME BECOMES AN ASSET

Money that is considered as income when received, becomes an asset if retained into the month following the month of receipt.

**EXCEPTION:** The proceeds from the sale of an excluded home are treated differently. See item E below.

C. DETERMINATION OF THE VALUE OF COUNTABLE ASSETS

Only the individual's equity or portion of actual ownership is considered, unless otherwise specified in Section 11.4.

For SSI-Related Medicaid, CDCS, PAC, QDWI, QMB and SLIMB: Pre-payment penalties are also deducted from the CMV.

D. ACCESSIBILITY OF ASSETS

A client may not have access to some assets. To be considered an asset, the item must be owned or available to the client and available for disposition. If the client cannot dispose of the item, it is not his

(2) Time Limits

For court decisions, the disqualification must be imposed within 45 days of the date the final court order is received by the Investigator.

For disqualifications obtained by signing an IG-BR-44 waiver or by an ADH decision, the disqualification begins with the first month following the month the individual signs the waiver or receives notification of the ADH decision. Thirteen days advance notice must be given and taken into consideration when applying the IPV sanction.

(3) Imposing the Penalty

Once the sanction is obtained, the Repayment Officer takes the following actions:

- Notifies the client of the date disqualification begins, and benefit reduction or termination as a result of the disqualification, using forms ES-NL-C and ES-NL-C1. See Chapter 6.
- Takes data system action to remove the disqualified individual(s).
- Begins repayment of the claim using IPV policy.

**NOTE:** If the individual is not eligible for Food Stamps at the time the disqualification period begins, the disqualification period begins at the same time it would if he were a Food Stamp recipient and continues until it expires, regardless of the eligibility status of the individual or his benefit group. Likewise, once an eligible individual is disqualified, the disqualification period continues until it expires, regardless of the eligibility status of the individual or his benefit group.

**EXAMPLE:** A court order is received by the Investigator on 8/1/95 indicating an individual is guilty of his first IPV. When the order is received, the individual is not

receiving Food Stamps. He reapplies in 11/95, for himself and his family and they are determined eligible. The disqualification period for him begins 9/95 and continues for 6 months. The family receives Food Stamps for 11/95 and 12/95 and the case is closed effective 12/95. In 3/96, the family reapplies for Food Stamps. The man is included in the benefit group because his penalty period expired at the end of 2/96.

E. DETERMINING THE AMOUNT OF THE CLAIM

When determining the amount of overissuance due to the failure of the household to report earned income in a timely manner, the amount of benefits the client should have received is computed without applying the earned income disregard to any portion of the income the client did not report. This applies to IPV claims for benefits issued for October, 1987 and later and to UPV claims established on or after November 1, 1996.

The Repayment Officer/Investigator determines the amount of the claim by calculating the difference between the amount of the incorrect allotment received by the benefit group and the amount it should have received for each month in which the overissuance occurred. When determining these amounts, the policy in effect as noted above is used.

F. COMPLETION OF THE ES-FS-5

Once the Repayment Officer/Investigator has determined the months involved and the amount and classification of the Food Stamp claim, form ES-FS-5 is prepared for data entry into ARTS. The ES-FS-5 is the basis of the accounting system for claims established against the benefit group and for documenting underissuances. Instructions follow. See Chapter 23 for ARTS information.

- Name: Enter the full case name of the benefit group receiving overissuance.

action is suspended, unless notification is received from the Claims Unit to resume collection. Refer to FTROP procedures for appropriate handling of claims processed through the FTROP offset.

4. Repayment of An Overpaid Claim

If the benefit group has both an overpayment and an underpayment, the amount of the underpayment is treated as a payment toward the overpayment.

When a refund must be made on an overpaid claim, the procedures below must be followed.

When all payments made on the claim were made in cash to the Financial Clerk, the Repayment Officer must notify the clerk in writing that an overpayment has occurred. The memorandum must include the client's name, address, ARTS number, claim number, assistance program, date(s) and dollar amount(s) of payments resulting in the overpayment.

The Financial Clerk then sends a memorandum to the Director, Accounts Receivable, Office of Financial Services with the additional information of date of deposit of the overpayment and deposit number.

The refund must be made by the method of payment which caused the claim to be paid whether it was recouped benefits, cash, Food Stamps or any combination of these methods paid to the Financial Clerk.

**NOTE:** When benefits must be refunded on a closed TANF or WV WORKS case, the case must be pended and an AP-3 issued. WEKR transactions may be made on closed cases. A complete recording is required.







Code: AB

This code is used to identify an ABAWD regardless of his county of residence. Individuals coded AB do not appear on the medical card and are not included in the check amount. See Section 9.1.

b. AFDC/U

The following chart indicates appropriate benefit codes.

The first letter of the code for eligible children refers to the relationship of that child (son or daughter) to his natural parents. This is used, even though the payee may be another relative.

The second letter designates the specific deprivation factor. The mother's relationship code, M, or the father's F is followed by D, I, J, X, G, P, Z, O or U to indicate the reason the children are deprived of parental support. In the list of codes for adults, the codes M through OM are used only for adults who qualify as caretaker relatives of eligible dependent children.

DENIALS

- 510 Excess assets, \$2,000 limit
- 511 Excess assets, \$3,000 limit
- 512 Excess earned income
- 513 Excess unearned income
- 514 Failure to meet minimum eligibility requirements
- 515 Refusal to register, or participate in FSE&T or JOBS
- 516 Failure to comply with enumeration requirements
- 517 Failure to provide required verification
- 518 Loss of contact
- 519 Inclusion in another benefit group
- 520 Voluntary Quit
- 521 ABAWD first 3-month time limit expired
- 522 ABAWD second 3-month time limit expired

WITHDRAWAL

- cg 525 Withdrawal of FS application only

TRANSFERS

- 526 Transfer regardless of status of F, A, B or D case from one county to another, regardless of status
- 527 Transfer from F To A, B or D

NO BENEFIT CHANGE

- cg 529 Food Stamp case changes, NO change in allotment
- 039 Change in address, no other changes

INCREASES

- cg 31 530 Reduction in earned income, Block 31 must designate person
- 531 Loss of earned income
- cg 31 532 Reduction in unearned income, Block 31 must designate person
- 533 Loss of unearned income
- cg 31 534 Addition to the benefit group, Block 31 must designate person
- 535 Combination of income and benefit group changes
- 536 Increase in dependent care deduction
- 537 Increase in medical deduction

cg: computer-generated Letters	cg 31: c-g & Block 31 Required	31: Block 31 Required
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- 538 Increase in shelter deduction
- 539 Increase in utility deduction
- 540 Onset of SUA
- 541 Removal of person with income, non-cooperation/FSE&T
- 542 Removal of person with income, moved out
- 543 Removal of person with income, enumeration-related
- 544 Addition of ABAWD who regains eligibility after first 3-month limit
- 545 Addition of ABAWD who regains eligibility for second 3 months
- 546 Addition of ABAWD who regains eligibility after second 3-month limit

DECREASES

- cg 31 550 Onset of earned income - Block 31 must designate person
- cg 31 551 Increase in earned income - Block 31 must designate person
- cg 31 552 Onset of unearned income - Block 31 must designate person
- cg 31 553 Increase in unearned income - Block 31 must designate person
- 554 Reduction in benefit group
- 555 Removal of person, no income, non-cooperation/FSE&T
- 556 Removal of person, with no income, enumeration
- 557 Combination of income and benefit group changes
- 558 Decrease in dependent deduction
- 559 Decrease in medical care deduction
- 560 Decrease in shelter deduction
- 561 Decrease in utility deduction
- 562 End of eligibility for SUA
- 563 Removal of ineligible ABAWD - 1st 3 months expired
- 564 Removal of ineligible ABAWD - 2nd 3 months expired

CLOSURES

- 570 Excess assets, \$2,000 limit
- 571 Excess Assets, \$3,000 limit
- 572 Onset of excess earned income
- 573 Earned income increased to excess
- 574 Excess unearned income
- 575 Inclusion in another benefit group
- 576 Death, one-member benefit group only
- 577 Failure to comply with eligibility requirements
- 578 Refusal to register for FSE&T

cg: computer-generated Letters	cg 31: c-g & Block 31 Required	31: Block 31 Required
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