

10.4 A.

BUDGETING METHOD

Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income.

For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the AG. For all cases, income is projected\*; past income is used only when it reflects the income the client reasonably expects to receive.

**\*NOTE:** There is one exception to this. It is found below in item 5.

1. Methods for Reasonably Anticipating Income

There are 2 methods for reasonably anticipating the income the client expects to receive. One method uses past income and the other method uses future income. Both methods may be used for the same AG for the same certification period because the method used varies with the circumstances of each source of income. The situations which prompt usage of one or the other method are listed below. More details are contained in the follow items.

Use past income only when both of the following conditions exist for a source of income:

- ! Income from the source is expected to continue into the certification period; and
- ! The amount of income from the same source is expected to be more or less the same.

**NOTE:** For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income.

Use future income when either of the following conditions exist for a source of income:

- ! Income from a new source is expected to be received in the certification period; or

- ! The rate of pay or the number of hours worked for an old source is expected to change during the certification period.

**NOTE:** For these purposes, a new source of earned income means income from a different employer. Income that normally fluctuates does not require use of future income. Future income is used for old sources only when the hourly, weekly, monthly, etc. rate of pay changes or the number of hours worked during a pay period increases or decreases permanently.

**EXAMPLE:** The T family members have the following income: Mr. T has earnings that fluctuate greatly from week to week. He expects no change in his earnings. Mrs. T was earning a substantial monthly salary, but was laid off last week. She will begin work next week at a job that pays \$5.15/hr. She does not know how many hours she will work, but her employer has told her she will work a minimum of 20 hrs/wk. Mr. T's income is anticipated by using his past income as an indication of what he can expect to receive in the certification period. Mrs. T's income from an old source cannot be used because it will not be received in the upcoming certification period. Instead, the Worker must anticipate what her future earnings will be based on the best information available at the time. Mr. T's source of income meets the requirements for using past income to anticipate the future income, but Mrs. T's source is new and must be projected.

## 2. Consideration of Past Income

**NOTE:** When the amount of an anticipated income source is determined by use of an income tax return, it is not necessary to change the method by which that income source is anticipated at each redetermination prior to the next tax return, unless the anticipated income from that source for the upcoming certification period is expected to change.

**NOTE:** For the use of year-to-date amounts on pay stubs, See Section 4.2,B.

It is necessary to consider information about the client's income sources before the Worker can decide which income to use. The Worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group in the 30 calendar days prior to the application/redetermination date.

The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. The income from this 30-day period is the minimum amount of income which must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive.

When the client applies or is redetermined on the day income has or will be received, income received on that date is also considered along with the income from at least the prior 30 days from the same source.

When the client applies on one day, but the application/redetermination interview is conducted later, all income received between the date of application and the date of the interview is considered along with the income from at least the 30 days prior to the date of application from the same source.

**EXAMPLE:** Application/interview date = June 1<sup>st</sup>  
Paid weekly on Fridays  
Last pay = May 28<sup>th</sup>

Pays in last 30 days = May 28<sup>th</sup>  
May 21<sup>st</sup>  
May 14<sup>th</sup>  
May 7<sup>th</sup>

**EXAMPLE:** Application/interview date = December 6<sup>th</sup> \*\*  
Paid weekly on Mondays  
Last pay = December 6<sup>th</sup> \*\*

Pays in last 30 days = November 29<sup>th</sup>  
November 22<sup>nd</sup>  
November 15<sup>th</sup>  
November 8<sup>th</sup>

\*\* Because he was paid on the date of application, the **December 6<sup>th</sup>** pay must also be considered.

**EXAMPLE:** Application date = October 8<sup>th</sup> \*\*  
Interview date = October 20<sup>th</sup> \*\*  
Paid weekly on Fridays  
Last pay at application = October 8<sup>th</sup> \*\*  
Last pay at interview = October 15<sup>th</sup> \*\*

Pays in last 30 days (prior to application) =  
October 1st

September 24<sup>th</sup>  
September 17<sup>th</sup>  
September 10<sup>th</sup>

\*\* Because he was paid on the date of application, the **October 8<sup>th</sup>** pay must also be considered. In addition, between the date of application and the date of the interview, he was paid on **October 15<sup>th</sup>**. This pay must also be considered.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period.

If it is not expected to continue, the income from this source is no longer considered for use in the new certification period.

If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the income source is used for the new certification period and treated according to item 4 below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period and treated according to item 3 below.

Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered.

Once the Worker has determined all of the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

### 3. Consideration of Future Income

**NOTE:** When the amount of an anticipated income source is determined by use of an income tax return, it is not necessary to change the method by which that income source is anticipated at each redetermination prior to the next tax return, unless the anticipated income from that source for the upcoming certification period is expected to change.

When the client reasonably expects to receive income from a new source during the new certification period, or when the amount of income from an old source is expected to change, the Worker must consider the income which can be reasonably expected to be received.

**NOTE:** When the amount of income or the date of receipt cannot be reasonably anticipated, income from that source is not considered until the necessary information can be obtained. See Step 2 below.

Step 1: Determine if the Income Group expects to receive income from a new source, or expects a different amount from an old source, in the new certification period.

If not, none of the following steps are necessary. However, the Worker must record the client's statement that he does not expected income from a new source.

Step 2: Determine the amount of income the client can be reasonably expected to receive from the new source, or the new amount from the old source.

If the amount of income cannot be reasonably anticipated, none of the following steps are necessary and income from this source is not considered for the new certification period. The Worker must record the client's statement that he expects income from a new source or that the amount from an old source will change. In addition, the Worker must record why the amount of income cannot be reasonably anticipated and information about all the attempts made to determine the amount.

When it is possible to reasonably anticipate a range of income, the minimum amount that can be anticipated is used.

**EXAMPLE:** A client is scheduled to start work in February, the month following the month of application. He knows he will earn \$5.15/hour, but is not sure how many hours he will work. The Worker verifies through the employer that he will work 30-40 hours/week. The Worker anticipates the income by using 30 hours, the minimum number of hours he is expected to work

Step 3: Determine when the client can be reasonably expected to receive income from the new source or the changed amount from the old source.

If the date of receipt cannot be reasonably anticipated, income from this source is not considered. The Worker must record the client's statement that he expects income from a new source or a change in the amount from an old source. In addition, the Worker must record why the date of receipt cannot be anticipated and information about attempts made to determine the date of receipt.

Step 4: When the amount and date of receipt can be anticipated, the Worker treats the income according to item 4 below.

The Worker must record how the amount and date of receipt were projected.

#### 4. How To Use Past And Future Income

**NOTE:** When the amount of an anticipated income source is determined by use of an income tax return, it is not necessary to change the method by which that income source is anticipated at each redetermination prior to the next tax return, unless the anticipated income from that source for the upcoming certification period is expected to change.

Once the Worker determines all of the income sources which are to be considered for use, the amount of monthly income is determined as follows, based on the frequency of receipt and whether the amount is stable or fluctuates.

**NOTE:** Some past income will never be used. When income from an old source is not expected to continue into the

new certification period, it will never be used. In addition, some future income will never be used. When income from a new source is received but could not have been anticipated, that income is not used.

When the <i>Frequency</i> of Receipt is:	When the <i>Amount</i> is <i>Stable</i>	When the <i>Amount</i> <i>Fluctuates*</i>
<b>Monthly</b>	Use <b>Actual</b> Monthly Amount	Use <b>Average*</b> Monthly Amount
<b>More Often</b> than Monthly	<b>Convert</b> Amount/period to Monthly Amount	Find <b>Average*</b> Amount/period and <b>Convert</b> to Monthly Amount
<b>Less Often</b> than Monthly	<b>Prorate</b> to Find Amount for Intended Period. If Not Monthly, <b>Convert or Prorate</b> Amount	<b>Prorate</b> to Find Amount for Intended Period. If Not Monthly, <b>Convert or Prorate</b> Amount

**\*NOTE:** The purpose of finding an average amount of fluctuating income is to even out the highs and lows in the amount of income. The client is not, then, required to report fluctuating income each pay period and the Worker is not required to change income monthly. See Section 2.2,B for Food Stamp reporting requirements. Sometimes the client receives higher benefits than he would if actual income were used and sometimes he receives lower benefits. Therefore, when the Worker has averaged fluctuating income based on the best information available and the client's income does not match the monthly amount used by the Worker, there is no repayment when the client receives higher benefits and no supplemental issuance when the client receives lower benefits. Should the client report fluctuations in the amount of income, the Worker is only required to recalculate the countable income when, in his judgement, the fluctuation will significantly impact the coupon allotment. All changes reported by the client must be considered, but not necessarily used. Reported changes must be recorded and the Worker must record why the reported income was or was not used.

Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- ! Weekly amount x 4.3
- ! Bi-weekly amount (every 2 weeks) x 2.15
- ! Semi-monthly (twice/month) x 2

Proration of income to determine a monthly amount is accomplished by dividing the amount received by the number of time periods it is intended to cover as follows:

- ! Bi-monthly amount (2 months) ÷ 2
- ! Quarterly amount (3 months) ÷ 3
- ! Semi-annual amount (twice/year) ÷ 6
- ! Annual amount ÷ 12
- ! 6-week amount ÷ 6 and converted to monthly amount by using x 4.3
- ! 8-week amount ÷ 8 and converted to monthly amount by using x 4.3

**EXAMPLE:** A woman begins working on the 2<sup>nd</sup> Monday of a month. She earns \$200/wk and is paid every Friday. Her average weekly pay is \$200. For the 1<sup>st</sup> month she has earnings, she expects to be paid 3 times. Her income for the month is  $\$200 \times 3 = \$600$ . A change must be made for the anticipated income from the 2<sup>nd</sup> month of her employment.

**EXAMPLE:** Family of 4. The man works and earns a monthly salary of \$300. His wife works parttime and is paid weekly. She earns \$5.15/hr., but the number of hours she works fluctuates each week. His mother receives \$150 every 3 months from the mineral rights to some property she owns out of state. His son just received a disability insurance check in the amount of \$420 for the past 6 weeks. Income is determined as follows:

Monthly Pay, Amount Stable = \$300 Salary = Monthly Amount

More Often, Amount Fluctuates =  $\$5.15/\text{hr.} \times \text{Average No. Hours/week} \times 4.3$  Monthly Amount

Less Often =  $\$150 \div 3 \text{ Mos.} = \text{Monthly Amount}$

Less Often =  $\$420 \div 6 \text{ Wks.} \times 4.3 \text{ Wks.} = \text{Monthly Amount}$

#### 5. Exception: Use of Actual Income

There is one exception to the rules in items 1 - 4 above. It applies to both applicants and recipients and requires use of actual income instead of conversion or proration of it.



a. Applicants

When:

! The first month of eligibility meets the definition of an initial month, i.e. the first month following any period of time in which the AG was not participating; and

! An income source terminates in the month of application or in the 30 days prior to the date of application,

income from this source must not be converted to a monthly amount. Instead, the Worker must use the actual amount already received from the terminated source in the month of application plus the amount expected to be received from this source later in the month of application. This is the amount used as income for the month of application. Income from this source for the past 30 days or from the month of application must not be used to convert the terminated income to a monthly amount.

**EXAMPLE:** A client applies on September 10<sup>th</sup>. His job ended on August 31<sup>st</sup>. He was paid on that date, but still has another pay due him on September 15<sup>th</sup>. Because the income is from a terminated source, the income from this source cannot be converted. Instead, the amount already received in the month of application (\$0) plus the amount expected to be received on September 15<sup>th</sup> are used to determine his eligibility and benefit level for the month of application.

b. Recipients

When:

! A client reports the beginning or ending of a source of income; and

! The client is not expected to receive a full month's income, i.e., the appropriate number of payments within the month,

income from this source must not be converted to a monthly amount.

Instead, the Worker must use the actual amount of income. If income from the source is ending, no

income from the source is counted in future months. Income from this source for the past 30 days or from the current month must not be used to convert the terminated income to a monthly amount.

If the income from the source is beginning, the Worker must use income already received from the source plus the amount expected to be received from this source later in the month. This is the amount used as income for the month following the change. Income from this first month must not be used to convert the income to a monthly amount until the second month following the change.

## 6. Examples

The following are examples of methods to anticipate income, based on several different situations. The Worker must always base anticipated income on the individual situation, not solely on the information contained in the examples below.

**EXAMPLE:** An application is made on June 22<sup>nd</sup>. The client indicates that he is paid biweekly and he does not expect any change in his income. The Worker requests that the client provide information about pay received in the 30 days prior to June 22<sup>nd</sup> and uses this income to anticipate income for the certification period. The Worker records the client's statement about expecting no changes, as well as how the income was verified and the method used to convert the income to a monthly amount.

**EXAMPLE:** Same situation as previous example, except that the client indicates that his pay fluctuates each pay day and he expects this pattern to continue without any change in status, rate or source of income. After a discussion with the client, the Worker and client agree that 2 additional pay periods prior will provide enough information to reasonably anticipate income for the certification period. The Worker records the results of the discussion with the client, how the income was verified and the method used to convert the income to a monthly amount.

**EXAMPLE:** A redetermination interview is conducted on July 7<sup>th</sup>. The client indicates that he is paid weekly and his income fluctuates because his hours of work are unpredictable. He also states that beginning the following month, he will receive an increase in his hourly rate. The Worker requests that the client provide income for the 60 days prior to the redetermination date in order to anticipate the average number of hours the client works. He requests the information from the past 60 days because the Worker and the client agree that 60 days provides a good indication of the fluctuations in

his income. The Worker uses the average number of hours the client works, based on the previous 60 days, but uses the new hourly pay rate to anticipate income for the new certification period. The Worker records the client's statement about fluctuating hours, the new pay rate, how the number of hours was verified and calculated, how the new hourly rate was verified, why income from the previous 60 days was requested, and how the anticipated amount was calculated.

**EXAMPLE:** An application is made July 8th. The client indicates that he just began a new job 2 weeks prior to making application. He is paid weekly and has received 2 pays. He indicates that his employer has told him that, although his hourly rate will not increase in the near future, he can expect an increase in his hours after his training period is finished in 2 weeks. However, the increase in hours is dependent upon how much work is available and the increased number of hours is unpredictable. The Worker requests all income which the client has received from the new job prior to the date of application. This actual amount of income from the new source is counted for July, the month of application. Since the number of increased hours cannot be anticipated, the minimum number of hours, i.e., the amount he has worked each week for the first 2 weeks, is used to anticipate income for the remainder of the certification period. The Worker records how the income was verified and determined for the month of application, how the income was calculated for the months following the month of application.

**EXAMPLE:** An application is made June 26<sup>th</sup> and the client indicates that he began a new job the week prior to application. He is going to be paid biweekly and has not received a pay yet. He states that he will work 35 hours per week and receive \$12.75 per hour. The client does not expect any changes in hours or rate of pay. The Worker requests a statement from the client's employer for the number of hours and hourly rate of pay and anticipates income for the certification period as follows:

\$12.75 hourly rate	
x 70 hours for 2 weeks	
\$892.50 Anticipated biweekly pay	
\$892.50	
x 2.15	
\$1918.88 Anticipated monthly pay	

The Worker records the client's statement about no expected changes in income and his lack of pay to date as well as how the income was verified and calculated.

**EXAMPLE:** An application is made September 13<sup>th</sup> and the client states that he is self-employed. He grows and sells Christmas trees. Most of his income for the year from the sale of trees is earned during the months of November and December. In addition, he sells the leftover trees to the local city government to use for mulch. He receives some income each month from the leftover trees and the amount fluctuates during the year. He states that he anticipates that his earnings will be less from Christmas sales this year because many of his trees were damaged in a fire last spring. He estimates he lost at least half of the trees which he planned to sell this year. He is unable to determine at this time if his sale of trees to the city will be affected after Christmas, but currently his income from this source has not changed. The Worker requests that the client provide income received in the previous year from his sales to the city and his Christmas tree sale earnings for the previous season. Anticipated income is based on an average of monthly sales to the city and  $\frac{1}{2}$  of the previous year's Christmas tree sales. The Worker records the client's situation in detail, how past income was verified and the method used to anticipate income for the new certification period.

**EXAMPLE:** A woman applies on March 2<sup>nd</sup>. She does not work and her only source of income is child support from 3 absent parents. Income from Absent Parent A is regularly received, but the amount varies. Income from Absent Parent B is always the same amount, but she never knows when she will receive it. Absent Parent C pays regularly and the amount is more or less the same. The Worker requests verification as follows: A's payments for the last 6 months; B's payments for the last 6 months; C's payments for the last 3 months. She reports and verifies the following income from the 3 sources:

<u>Parent A:</u>	March 1 <sup>st</sup>	\$450.00
	February 1 <sup>st</sup>	\$ 75.00
	January 1 <sup>st</sup>	\$123.00
	December 1 <sup>st</sup>	\$850.00
	November 1 <sup>st</sup>	\$170.00
	October 1 <sup>st</sup>	\$100.00

<u>Parent B:</u>	February 14 <sup>th</sup>	\$250.00
	January 10 <sup>th</sup>	\$250.00
	November 20 <sup>th</sup>	\$250.00

<u>Parent C:</u>	February 20 <sup>th</sup>	\$300.00
	January 20 <sup>th</sup>	\$300.00
	December 20 <sup>th</sup>	\$300.00

The Worker finds the average monthly payment made by Parent A and projects the income to continue. The Worker and the client cannot reasonably anticipate that any payments will be received in the new certification period from Parent B, so no income is counted from this source. Parent C pays the same amount at the same time, so \$300/mo. is counted from Parent C.

The Worker records details about payments and payment dates from each of the absent parents, how the payments were verified, whether or not any income was counted from each source and, if so, how the amount was determined.

**EXAMPLE:** A waitress, Mrs. Doubtfire, applies on December 7th. She is paid twice a month and provides pay stubs with the following information:

September 15th	35 hrs.	\$180.25 wages	\$88.00 tips
September 30th	60 hrs.	\$309.00 wages	\$130.00 tips
October 15th	32 hrs.	\$164.80 wages	\$83.00 tips
October 30th	35 hrs.	\$180.25 wages	\$88.00 tips
November 15th	12 hrs.	\$61.80 wages	\$32.00 tips
November 30th	35 hrs.	\$180.25 wages	\$88.00 tips

During the interview Ms. Doubtfire provides the following additional information:

She earns \$5.15/hr. She does get some tips, but rarely the amount shown on her pay stubs. She says that the employer determines the amount shown as tips by some formula that she does not understand because he is required by IRS to report them. She does not have to share her tips with any other employee and they do not share tips with her. She says that during a "good" week she makes about \$20 in tips. The employer never sees her tips, she does not report the amount to him and is not required to do so. The Worker pends the case for verification of the way the employer determines the amount of tips shown on her pay stubs and reported to the IRS. The client provides the following note from the employer:

To Whom It May Concern:

Ms. Doubtfire works for me at the Dew Drop Inn as a waitress. I pay her \$5.15 for every hour she works. She does make some in tips, but I don't know how much. The IRS makes me figure her tips so I do it according to how much food she sells. I don't think she really gets that much. None of my waitresses do, but the IRS makes me do it.

Very truly yours,  
Big Pat Holcomb

There is no 3<sup>rd</sup>-party, independent verification available for the amount of Ms. Doubtfire's tips. However, she does

state that she receives tips, so income from the tips cannot be disregarded. The only way to verify the amount of tips is to accept her statement as to the amount. There is no other source of verification available, so the Worker must accept her statement. The Worker must record that the employer confirmed that the tips shown on the pay stubs do not necessarily reflect the amount she actually receives, that this is the best information that can be provided to verify the situation and that the client's statement is accepted as verification.

#### B. INCOME DISREGARDS AND DEDUCTIONS

Certain items may be allowed as income deductions to arrive at an AG's countable income. A deduction is allowed even if the payment is made from assets (**EXCEPTION:** educational expenses). The expense must be billed or be due during the certification period in which the deduction is claimed. In addition, deductions from the AG's income are applied only if the expense has been or will be met by the AG's own resources. The AG must make a money payment to an individual not included in the AG to receive a deduction. If an in-kind benefit such as food is provided instead of a money payment, a deduction is not given.

**NOTE:** When a client fails to report household expenses which would normally result in a deduction, the AG loses their entitlement to that deduction. They have a right to the expense, once it is reported and verified, if required by policy. See Section 2.2

Some expenses cannot be anticipated or occur too late in the month to use as deductions in the following month. They are used as deductions for the first month for which a change can be made effective.

At initial application, expenses paid during previous months are not used. Expenses paid or due during the month of application are used. In some situations, expenses from previous months are used to anticipate ongoing expenses.

In addition, any Food Stamp AG may choose to have fluctuating expenses averaged, except for educational expenses. Expenses are averaged by dividing the expenses over the number of months they are intended to cover. When expenses are prorated, they are prorated over the certification period, or the remainder of the certification period, as appropriate.

Expenses regularly billed as a single monthly payment and which are used as a deduction, are used in the month the expense is intended to cover. An expense does not have to be paid to be a deduction.

The following are the only allowable disregards and deductions for the Food Stamp Program. They apply to the income of the AG members and any individual sanctioned/penalized due to enumeration, IPV, failure to comply with a work requirement or disqualified by law. See item D,8.

1. Earned Income Disregard

Twenty percent (20%) of gross non-excluded earned income, including gross profit from self-employment, is disregarded. This disregard is applied to the combined earnings of all members of the AG and to those persons whose income is counted or deemed. It is intended to cover those expenses incidental to employment or training, such as transportation, meals away from home, special clothing and payroll deductions.

2. Standard Deduction

A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B.

3. Dependent Care Deduction

A deduction is allowed for payment for the care of a child or other dependent, when the expense is necessary for an Income Group member to accept, continue or seek employment or training, or pursue education which is preparatory to employment. Persons enrolled in an institution of post-secondary education, in a course of study designed to lead to any degree, are considered to be pursuing education which is preparatory to employment. Persons taking only elective classes or some specialized classes, or who do not have a declared major do not qualify for this deduction.

The deduction cannot exceed the dependent care caps found in Appendix B. Third-party payments made for dependent care are not used as a deduction.

Dependent care expenses are deducted from educational funds to the extent that they are earmarked and/or used for such expenses. See item D,7. Dependent care expenses deducted from educational funds are deducted from these funds last, after all other allowable educational expenses, so that the client may then use any excess dependent care expenses as a Dependent Care Deduction. The excess cannot exceed the caps found in Appendix B.

**EXAMPLE:** A college student pays \$300/month for day care for her one-year-old son while she attends classes and is away from home for library work. After subtracting all the amounts earmarked for education or used for education from her educational money, the remaining amount is \$50. Fifty dollars of the day care expense is deducted from the educational funds, leaving \$0 to count as income. The client still has day care expenses of \$250 for her child which were not deducted from educational income. The \$250 is in excess of the dependent care cap for a child under age 2, so the Worker codes the cap amount in the data system as the Dependent Care Deduction.

4. Child Support Deduction



A deduction is allowed for legally obligated child support actually paid by AG member or disqualified individual to an individual not residing in the same household.

In West Virginia, legally obligated means the child support is the result of a circuit or magistrate court order, an order issued by administrative process, or a legally enforceable separation agreement. For orders issued in other states, any order that would be upheld by a Judge in a court of law is considered legally obligated.

Legally obligated child support includes cash or in-kind payments, payments on arrearages and payment for medical insurance premiums to cover the dependent child. If the dependent child is included in the parent's medical coverage at no extra cost, no deduction is allowed. If the parent must also enroll in order to cover the child, the total premium amount is used as a deduction. Alimony, spousal support and payments made in accordance with a property settlement are not deducted.

A deduction is allowed based only on payments actually made, not the legally obligated amount, and may not exceed the legal obligation.

**NOTE:** Child Support paid to a child support agency and retained by the agency is deducted, even when the individual who pays the support resides with the person to whom the payment would customarily be paid. When the AG member pays the support to the agency and it is forwarded back to an individual who resides in the same household, a deduction is not given.

**EXAMPLE:** An AG member has a court order to pay \$150 per month child support and he verifies only \$50 per month in payments. His child support deduction is \$50.

**EXAMPLE:** An AG member has a court order to pay \$100 per month child support and to provide medical coverage available through his employer. He did not make a payment for 10 months and owes \$1,000 in arrearages. His employer deducts \$100 per month child support, \$50 arrearages and \$25 per month for medical insurance for the child. His child support deduction is \$175.

**EXAMPLE:** Same situation as above, except the order requires \$50 per month alimony and \$100 per month rent to his ex-wife's landlord, which the court order stipulates is part of his child support obligation. The child support deduction is \$275.

When the child support amount paid each month varies, a minimum 3-month total is averaged to project over the certification period. When the payment record is less than 3 months, the deduction is based on anticipated payments, including

arrearages.

For child support paid by disqualified individuals, see 10.4,D.

5. Homeless Shelter Standard Deduction

This deduction is applied when a homeless AG incurs any shelter/utility expenses for the month. Homeless AG's which receive free housing and utilities throughout the month are not eligible for the deduction. However, if they incur any shelter or utility expense, regardless of the amount, any time during the month, or if they can reasonably be expected to have such expenses, they qualify for the standard deduction. See Appendix B.

**EXAMPLE:** A homeless family applies for Food Stamps. They have been living in their car until the Department paid for them to stay in a motel for a week. Now they reside at a homeless shelter. This family does not qualify for the deduction because none of its own money was used for shelter.

**EXAMPLE:** A family becomes homeless while receiving Food Stamps. They are living first with one relative and then another, paying a token amount for their keep. This family qualifies for the deduction because it has incurred expenses for shelter.

If the AG incurs, or reasonably expects to incur, shelter and/or utility costs in excess of the standard deduction amount, the AG may use actual shelter/utility costs. An AG must not receive the standard deduction and the actual shelter/utility costs in the same month.

6. Medical Expenses

Medical expenses in excess of \$35 must be allowed as a medical deduction. Only the medical expenses of AG members who are elderly or disabled, as defined in Section 12.15,B, are considered. Once the medical expenses of all such AG members have been totalled, the amount of the total in excess of \$35 is used as a medical deduction. There is no maximum dollar limit for the amount of a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG, not \$35 from each person's expenses.

a. Allowable Expenses

- Medical and dental care including psychotherapy and rehabilitation services provided by a qualified health professional.
- Prescription and over-the-counter drugs, if prescribed by a qualified health professional.

- Medical supplies and equipment, if prescribed by a qualified health professional. Items may be either purchased or rented.
- Hospital or outpatient costs, nursing care and nursing facility care. This is also allowable if paid on behalf of an individual who was a member of the AG immediately prior to admission to a facility. The facility must be recognized by the State.
- Health and hospitalization insurance premiums

**NOTE:** When the individual(s) who qualifies for a medical deduction has medical insurance under a policy which benefits other individuals who do not qualify for a medical deduction, only the portion of the insurance premium assigned to the individual(s) who qualifies for the deduction is considered. If specific information is not available about the eligible individual's premium amount, the premium is prorated among those covered by the insurance. This same procedure also applies when the policy holder does not qualify for a medical deduction, but another AG member does.

- Medicare premiums, except for cases in which the Department is paying the premium
- Dentures
- Hearing aids and batteries
- Purchase and maintenance of prosthetic devices
- Purchase and maintenance of a service dog which is required for a physical disability. This may include seeing eye dogs or hearing dogs or dogs used by persons with other disabilities such as epilepsy, paraplegia, etc. This includes the cost of dog food and veterinarian bills.

- Prescription eyeglasses
- Reasonable cost of transportation and lodging to obtain medical treatment or services. If a client can verify that a charge was made for transportation, but the provider will not state the amount, 34 cents per mile is allowed as a medical deduction.
- Maintaining an attendant, homemaker, home health aid, housekeeper or child care services necessary due to age, infirmity or illness. If the AG provides the majority of the attendant's meals, an amount equal to the maximum monthly coupon allotment for one person is also used as a medical deduction.

**NOTE:** When the expense qualifies as both a Dependent Care Deduction and a medical deduction, it must be considered a medical expense.

- Cost-sharing, such as co-payments and expenses used to meet the spenddown of a Medicaid recipient.

**NOTE:** Special diets and dietary supplements are not allowable medical expenses.

b. Consideration of Medical Bills

The client must only be required to report medical expenses at application and redetermination. He may choose to report changes in expenses during the certification period, and such changes must be acted on.

Only medical costs that are not reimbursable through a third party (insurance, Medicaid card, etc.) are deducted. When the reimbursable portion of the expense is not known when the client reports the expense, the deduction is delayed until the information is obtained.

Medical bills are expected to be paid within a specific period of time. Bills which are overdue when reported cannot be considered, regardless of the method used to claim medical expenses or how the expense may be deducted once it is reported. The date the expense is

incurred is not the deciding factor, but rather, the date the expense is billed or otherwise due.

The AG may elect to have one-time-only costs deducted in a lump sum or prorated over the certification period. If, at application, a client anticipates and verifies that he will incur an expense during the certification period, it may be prorated over the entire certification period. If he reports an expense during the certification period, it may be prorated over the remainder of the certification period.

Medical expenses are treated in any of the following ways.

(1) Estimated Expenses

The client may claim a medical deduction by providing a reasonable estimate of medical expenses for the certification period. Such expenses may include current verified medical expenses, anticipated changes in ongoing expenses, an anticipated new source of ongoing expenses or an anticipated one-time-only expense. The client must verify that his estimate is reasonable. Information used to determine that an estimate is reasonable may include, but is not limited to:

- Current verified medical expenses
- Statement from a physician, dentist or other health care professional to establish the need for and/or date of an anticipated procedure, course of treatment, etc. The Worker and/or Supervisor may establish need based upon knowledge of the client's current or prior circumstances or information in the client's record.
- Cost estimate from the provider of an anticipated procedure, course of treatment, etc.
- Information about third-party coverage, including Medicaid, for

current and/or anticipated expenses

Once the client provides a reasonable estimate of expenses for the certification period, he must not be required to report further, even if the estimated expenses increase, decrease or do not occur. However, changes reported by the AG must be acted on.

Changes reported or information received from a source other than the AG, such as information received from a medical provider for a Medicaid client, must be acted on only when the information is verified by the outside source and contact with the AG is not necessary for additional information or verification. Otherwise, such information is acted on at the next redetermination or when the client reports and verifies it.

(2) Actual Expenses

The client may claim a medical deduction by using actual expenses. Once he reports his actual expenses at application or redetermination, he must not be required to report further, even if his expenses increase or decrease. However, reported changes must be acted on.

Monthly payments toward medical expenses are allowable as a deduction only when a monthly payment schedule is negotiated prior to the due date of the bill. If the client must renegotiate the payment schedule for any reason, only the amount which is not past due, and for which the client has not already received a deduction, is an allowable expense.

**EXAMPLE:** The AG agrees in January to make monthly payments of \$100 for ten (10) months on a \$1,000 bill. They make timely payments in January and February. In March and April they make no payment due to a change in circumstances, but they do receive the deduction. In May, they renegotiate the payments to pay the balance of \$800 at \$80 a month for ten

(10) months. Because the AG has already received a total deduction of \$400 and the amount of \$200 for 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 AG must have benefits restored to compensate the client for a medical deduction he did not receive:

- The AG 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 AG includes an individual who is elderly or disabled, as defined in Section 12.15,B.

The expense must be allowed only if the AG is obligated to pay, and the cost is paid with the resources of the AG. The deduction applies whether the expense is paid from excluded or non-excluded resources. There is no time period for deciding when a AG is no longer allowed a deduction for the bill. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due.

If the home is not occupied by the Food Stamp AG because of employment or training away from home, illness, or disaster/casualty loss, a deduction is allowed, if the AG remains responsible for the shelter and/or utility costs, and the home is not leased or rented during this time. The AG 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 AG's may choose to have the Standard Utility Allowance (SUA) used instead of the actual utility costs. Homeless AG's 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:

- Rent. Security or damage deposits are not a



shelter expense.

- Mortgage payments. This includes second mortgages and home equity loans and any other loans for which the dwelling is used as collateral.
- Interest on mortgage payments
- Condominium fees regardless of purpose for the fee
- Property taxes and special tax assessments on the structure and lot required by State or local law. This does not include assessments such as police and fire fees, unless the fee is based on property valuation.
- Insurance on the structure and lot. This does not include insurance on furniture or personal belongings.

If the insurance cost on the structure and the cost on the personal belongings/furniture cannot be identified separately, the entire insurance payment is allowed.

- Cost of repairing the home which was damaged or destroyed due to a natural disaster such as a fire or flood. This does not include charges that will be or have been reimbursed from any source such as insurance, private agency, etc.
- A car payment when the AG lives in the vehicle
- Insurance on the vehicle itself when the AG lives in the vehicle

(1) Effect of Rent Subsidies

A rent subsidy paid directly to the client's landlord is not counted as income and is not used as a shelter deduction. A rent subsidy paid directly to the client or to the utility provider is counted as income, and the amount of the rent payment actually made from the AG's income, including income counted due to direct receipt of a rent subsidy, is used as a shelter deduction.

When HUD is recovering an overpayment by withholding money for current and future subsidies, the client's contribution increases. Such an increase is not counted as an increase in shelter costs.

(2) Residents of Group Living Facilities (GLF)

The portion of the payment made to the GLF,

which can be identified as being for shelter or utilities, is used as a shelter deduction. If more than one resident is in the AG, their combined shelter payments are used as a deduction.

If it is not possible to identify the portion of the payment which is for shelter, the Worker subtracts the maximum monthly coupon allotment for the number of persons in the AG from the total monthly payment actually made from the AG's income. The remainder is used as the shelter expense.

b. Actual Utility Costs

Any client may choose to use actual utility costs instead of the SUA. Those ineligible for the SUA must use actual costs to receive a deduction. Those who qualify for the SUA due to LIEAP, and who incur utility expenses in excess of the LIEAP payment, may use actual costs in lieu of the SUA.

Past due amounts of utility expenses are not counted, even if included in the most recent billing. Use the anticipated monthly amount of utilities for which the AG expects to be billed during the certification period. Include any amounts expected to be paid by LIEAP, direct or vendor payments.

The following items are considered utilities:

- Water
- Gas
- Wood, coal and heating oil
- Electricity
- Sewage
- Garbage collection
- The basic rate for one telephone, including tax, but not extra services such as touchtone service, call-waiting, caller ID, etc. The basic rate for cellular-type phone service is allowed when it is the AG's only phone.
- Fees charged by the utility provider for initial installation of the utility

Utility deposits are not treated as utility expenses. In addition, cable television installation fees and monthly charges are not

utilities.

c. Standard Utility Allowance (SUA)

Certain AG's may choose to have the SUA used, rather than the actual costs of their utilities. The SUA is adjusted yearly to allow for fluctuations in utility costs. The current SUA is found in Appendix B.

When the AG shares a residence and any utility costs with another individual(s), the AG is ineligible for the SUA. See item (2) below for AG's with a shared residence and shared utility expenses.

**EXCEPTION:** See item (1)(c) below for LIEAP recipients with a shared residence and utility expenses.

The AG may change from the SUA to actual utility costs or vice-versa at each redetermination. Eligibility for the SUA is reevaluated when the AG moves or reports a change in circumstances which may affect SUA eligibility.

When the SUA is used, the Worker must still determine the actual utility costs, including any met by LIEAP, and enter the amount in the data system.

(1) Who Is Eligible

To be eligible for the SUA, the AG must meet the criteria in items (a) and (b) or in item (c).

(a) Heating or Cooling Costs

The AG must have heating or cooling costs billed on a regular basis. This does not mean that there must be a monthly billing for heating or a monthly billing for cooling throughout the year. It means that there must be a regular bill for heating during the heating season or a regular bill for cooling, during the appropriate season.

Heating expenses include, but are not limited to: the cost of electricity, gas, oil, coal, wood and kerosene. Such heating costs must be payments for the fuel item itself, not for related costs.

Related costs are those expenses necessary to obtain the fuel, such as when a client uses free wood, but must pay for delivery. The delivery cost alone does not qualify the client for the SUA.

Cooling costs are verifiable utility expenses related to the operation of air conditioning systems or room air conditioners. Fans are not air conditioners.

**NOTE:** In order to qualify for the SUA, the heating or cooling costs billed to the client on a regular basis must be for the primary source of heating or cooling.

**EXAMPLE:** The use of electric space heaters by a family, whose primary source of heating is free gas, does not qualify the AG for the SUA.

(b) Separate Billing

The expense for heating or cooling costs must be a billing separate and apart from the rent or mortgage payment. This includes residents of rental housing who are billed on a monthly basis by their landlords for actual use, as determined through an individual metering system or any other system which can verify actual usage.

(c) LIEAP Recipients

AG's which are recipients of LIEAP are eligible to receive the SUA. A recipient of LIEAP is defined as either of the following:

- Those who received LIEAP payments during the last heating season, and a new heating season, as defined by LIEAP, has not yet started. This applies only when the AG remains in the same residence.
- Those who have applied for or indicate an intent to apply for LIEAP for the new heating season and the Worker believes, with reasonable certainty, will be eligible for LIEAP once the new heating season starts. It is not necessary to determine the AG's eligibility for LIEAP. The Worker must anticipate if the client will receive LIEAP, based on the best available information, short of a LIEAP eligibility determination.
- Certification periods may be set to run concurrently with the LIEAP heating season.

Any AG which receives LIEAP and also incurs out-of-pocket utility expenses may use actual costs in lieu of the SUA.

Because a LIEAP recipient may choose the SUA, whether or not he incurs any actual costs, the Worker must determine:

- If a LIEAP recipient shares a residence; and
- If others who share the residence pay or share payment of any utilities.

If both of these circumstances exist, the SUA is prorated for the LIEAP recipient who chooses the SUA and for all other Food Stamp AG's which reside and share utilities with the LIEAP recipient. The chart below shows when the SUA of a LIEAP recipient must be prorated.

LIEAP RECIPIENT SHARES RESIDENCE	UTILITIES PAID OR SHARED BY OTHERS IN RESIDENCE	PRORATED SUA
No	No	No - Receives total amount
Yes	No	No - Receives total amount
Yes	Yes	Yes

**NOTE:** This is the only situation in which the SUA is prorated. Any AG which shares a residence and utilities, but does not receive LIEAP or share the residence and utilities with a LIEAP Food Stamp recipient who chooses the prorated SUA, must use actual expenses. See item (2) below.

When the SUA of a LIEAP recipient must be prorated, the following method is used:

- Step 1: Determine the total number of Food Stamp AG's which share the residence and utility costs. For applications, include the applicant AG in this count.
- Step 2: Determine, if any, the total number of non-Food Stamp groups sharing the residence and utility costs who purchase and prepare food together. These groups are assigned together without regard to the criteria for AG composition found in Chapter 9. The client's statement is sufficient to establish this and must be recorded in the case record.
- Step 3: Add the total number of FS AG's and non-Food Stamp groups.
- Step 4: Divide the current SUA by the total number of groups determined in Step 3.

The result is the prorated SUA of the LIEAP recipient AG and all other Food

Stamp AG's which reside and share utilities with the LIEAP Food Stamp recipient.

**EXAMPLE:** A Food Stamp recipient family receives a LIEAP payment and shares a home and utility costs with 2 additional groups of individuals who purchase and prepare food together, even though the groups do not receive Food Stamps. The LIEAP recipient chooses the SUA and his prorated share is \$82.67 ( $\$248 \div 3 = \$82.67$ ). Any other groups in the home which received Food Stamps are eligible for and received the same share of the SUA.

(2) Who Is Not Eligible

**NOTE:** A client who received LIEAP during the last heating season, as defined by LIEAP, but who does not apply or is not eligible for LIEAP when the new heating season begins, is not eligible for the SUA as a LIEAP recipient. Otherwise, a recipient of LIEAP is eligible for the SUA, even if he falls into one of the groups listed below as not eligible for it.

The AG is not eligible to use the SUA, instead of actual utility costs, when any of the following situations exist:

- The AG shares a residence and also shares utility costs with others in the residence. This applies regardless of which utility expense(s) the AG pays.

**NOTE:** See item (1)(c) above for LIEAP recipients who share a residence and utility costs.

**NOTE:** When the AG shares a residence with others, but pays all utility costs and shares none of the utility expenses with others in the residence, the AG may qualify for the SUA so long as all other requirements to receive the SUA are met.

- The AG is using the Homeless Shelter Standard Deduction.
- The heating or cooling costs are included in the shelter payment.
- The AG receives an excluded utility supplement and does not have heating or cooling costs in excess of the amount of the excluded supplement.
- The only heating and cooling costs billed to the AG are those for utility use in excess of a set amount.
- The heating or cooling costs are for an unoccupied home.
- AG's that live by themselves are either entitled to the entire SUA or no part of it as follows:
  - " Persons who live in rental housing are eligible for the SUA, only if the amount used is separately determined through an individual metering system.
  - " There are persons that do not live in rental housing and do not live with others, but share the same meter. In such cases, one AG is actually billed. This family qualifies for the SUA; the other is entitled to actual costs.
  - " There are homeowners who rent out a separate apartment in their houses or a separate residence on their property, but who share a utility meter with the renter. When the homeowner is billed for the entire cost, the homeowner is entitled to the entire SUA amount. If he charges the renter for utilities separately from the rent, on a flat rate basis, the renter is not entitled to the SUA.
  - " When 2 AG's rent different residences in the same building, and one is billed for all heating



costs while the other is billed for all cooling costs, both AG's are entitled to the SUA.

c. Categorically Eligible, Retroactive SSI Approvals

When all of the following conditions are met, the AG must have benefits restored to compensate the client for the uncapped shelter/utility deduction he did not receive:

- The AG becomes Categorically Eligible due to retroactive approval of SSI benefits.
- The AG qualifies for the uncapped shelter/utility deduction and did not receive it.
- 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.

C. DETERMINING ELIGIBILITY AND BENEFIT LEVEL

The following information describes situations encountered in determining eligibility for most AG's. However, there are situations which require special treatment. See Section 10.4,D.

The process of determining eligibility and the amount of the benefit differs when a AG member is elderly or disabled.

1. Determining Eligibility

- When at least one AG member is elderly or disabled as specified in Section 12.15,B, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test.
- When no AG member is elderly or disabled, the gross income must be equal to or less than the gross income limit in Appendix A. If so, the AG qualifies for the disregards and deductions

in Section 10.4,B. If the gross income exceeds the amount in Appendix A, the AG is ineligible.

**EXCEPTION:** When the AG is Categorically Eligible as defined in Chapter 1, the gross income test is presumed to be met.

## 2. Determining Countable Income

**NOTE:** Food Stamp Certification for residents of shelters for battered women and their children is based on the income, assets and expenses of the women and their children.

The following steps are used to determine countable income for cases meeting the eligibility tests in item 1 above.

- Step 1: Combine monthly gross non-excluded earnings and monthly gross profit from self-employment.
- Step 2: Deduct 20% of Step 1.
- Step 3: Add the gross non-excluded unearned income, including the WV WORKS benefit and any amount reduced or being repaid to the WV WORKS due to failure to comply with a program requirement. See Section 10.4,D.
- Step 4: Subtract the Standard Deduction found in Appendix B.
- 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 AG size. This net income test does not apply to Categorically Eligible AG's. See Chapter 1.

### 3. Determining the Amount of the Benefit

To determine the coupon allotment, find the countable income and the number in the AG in Appendix C. One-and two-person AG's who meet the income test or who are categorically eligible, as defined in Section 1.4,R,3, automatically receive a \$10 coupon allotment, unless it is a prorated allotment. No benefits are issued to any AG eligible for an initial, prorated allotment (Appendix D) of \$1 - \$9. See Chapter 1 for proration requirements.

Although Appendix C of this Chapter(10), Basis of Coupon Issuance, provides coupon allotment amounts based upon countable income, the Worker may determine the benefit amount by using the following method. This method is also used by RAPIDS to determine the benefit.

Computation of Benefit Amount	Example
Multiply net income by 30%.... (Round up)	\$556 Net Monthly income <u>X.30</u> \$166.80 = \$167
Subtract 30% of net income from the maximum monthly benefit for the AG size.....	\$452 Maximum allotment for 4 <u>-167</u> 30% of net income \$285 Food Stamp allotment for a full month

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 AG's. 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 AG. Destitute AG's receive special income calculations, whether they are expedited or not. See item 3 below.

3. Destitute AG's

**NOTE:** This provision applies only to migrant or seasonal farmworker AG's.

a. Why the Determination Is Made

A determination of whether or not a migrant or seasonal farmworker AG qualifies as a destitute AG 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 special income calculations apply whether the case receives Expedited Service or not.

b. Definition of Destitute

To meet the definition of a destitute AG one of the following criteria must be met:

- The AG's only income for the month is from a terminated source. Income is considered to be from a terminated source when:

- " It is received prior to the date of application; and,

- " If it is normally received monthly or more frequently, it will not be received again from that same source in the month of application or in the month following the month of application;

or

If it is normally received less often than monthly, it will not be received in the balance of the month of application or in the next month.

- The AG's only income for the month is from a new source. Income is considered to be from a new source if:

- " No more than \$25 will be received from that source by the 10th calendar day following the date of application; and,

- " If it is normally received monthly or more frequently, no more than \$25 from that source was received within 30 days prior to the application date;

or

If it is normally received less often than monthly, no more than \$25 from that source was received within the last normal interval between payments.

- The AG's only income in the month from a terminated source is received prior to the

date of application, and the AG will receive no more than \$25 income from a new source within the ten days following the date of application.

**NOTE:** A migrant worker's source of income is the grower for whom the migrant is working, not the crew chief.

Travel advances from a new employer are not considered the first pay from the new source, and, therefore, do not prevent the AG from meeting the definition of destitute.

c. Special Income Calculations

Those AG's determined destitute have only the income received between the first of the month of application (or redetermination) and the date of application (or redetermination) used in the income calculations for the first month of certification (or recertification). All other Food Stamp income policy and procedures apply.

4. Income from Self-Employment

When a AG member or a disqualified individual(s) receives income from self-employment, instructions below must be used to arrive at the gross profit which is used to calculate countable income.

**NOTE:** Contract income which is not intended to cover a 12-month period and not paid on an hourly or piecework basis is prorated over the period it is intended to cover.

a. Determining Gross Income

**NOTE:** Gross income includes the net proceeds from the sale of capital goods or equipment.

The method used to determine monthly gross income from self-employment varies with the nature of the enterprise. It is necessary to determine which of the following types of self-employment applies to the client's situation. Once the pattern of self-employment has been determined, this is used to determine how the income is counted.

(1) Person Receiving Regular Income

These persons receive income as profit on a more or less regular schedule (weekly, monthly, etc.), or receive a specific amount from the business each week or month and/or receive the balance of profit from the enterprise at the end of the business year.

The income of the people in this situation is converted to a monthly amount, according to item A above.

Business expenses may be computed on a monthly basis or prorated over a 12-month period, at the client's option.

(2) Persons Receiving Irregular Income

Many persons derive income from short-term seasonal self-employment. This seasonal enterprise may be the major source of income for the year, or the income may be only for the period of time the person is actually engaged in this enterprise, with other sources of income being available during the remainder of the year. Persons who are seasonally self-employed include vendors of seasonal commodities (produce, Christmas trees, etc.), or other seasonal farmers.

Cash-crop farmers and other persons similarly self-employed receive their annual income from self-employment in a short period of time and budget their money to meet their living expenses for the next twelve (12) months. Included in this category are some seasonal farmers, when the seasonal income is the primary support for the year.

Since the income is seasonal, it must be averaged over the period of time it is intended to cover, even if it is the major source of income for the year. However, if the averaged amount of past income does not accurately reflect the anticipated monthly circumstances because of a substantial increase or decrease in business, the income is calculated based on anticipated earnings.

Business expenses may be computed on a monthly basis or prorated over a 12-month period, at the client's option.

(3) New Business

AG's with a new business, that has been in existence less than a year, have their income averaged over the amount of time the business has been in operation. From this, the monthly amount is projected for the coming year. However, if the averaged amount of past income does not accurately reflect the anticipated monthly circumstances because of a substantial increase or decrease in business, the income is calculated based on anticipated earnings.

Incurred business expenses are also averaged over the amount of time the business has been in operation. However, if the averaged amount of past expenses does not accurately reflect the anticipated monthly circumstances because of a substantial increase or decrease in business, the expenses are calculated based on anticipated costs.

b. Determining Gross Profit

Gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income.

(1) Deductions

Examples of allowable deductions are:

- Employee labor costs
- Stock and supplies
- Raw material
- Seed
- Fertilizers
- Repair and maintenance of machinery and/or property
- Cost of rental space used for conducting the business
- Insurance premiums and taxes paid on



the business and the business property

- Interest and taxes, but not the principal, paid on installment payments to purchase capital assets such as real estate, machinery, equipment, etc.
- Interest and taxes on the client's residence which is used in part to produce income. This is applicable only if the costs on the portion of the home used in the self-employment enterprise can be identified separately.
- Advertising costs
- Utilities
- Office expenses (stamps, stationery, etc.)
- Legal costs
- Net Loss from self-employment farming. See item 4 below.

Do not deduct the following:

- Money paid to purchase capital assets such as real estate, machinery, equipment, etc. Interest is deducted if paid in installments.

**EXAMPLE:** The cost of purchasing a new furnace is a capital expenditure and only the interest on installment payments is deducted. A repair of a furnace is a routine repair and is deducted in its entirety.

- Federal, State or local income taxes
- Money set aside for retirement
- Travel from home to a fixed place of business and return
- Depreciation
- Principal of real estate mortgages on income-producing property
- Amounts claimed as a net loss, except loss from farming self-employment.

See item (4) below.

(2) Rental Income Deductions:

**NOTE:** The following deductions apply to both business and non-business rental income even when the non-business rental income is counted as unearned income. See Section 10.3, Rental Income.

In addition to the deductions listed in (1) above, the following expenses are deducted from rental income.

- Utility bills paid for tenants
- Property tax and insurance on the rental property
- Repair and upkeep of the property
- Interest, but not the principal, on necessary purchases made in installments, such as the purchase of a new furnace

(3) Deductions from Boarder Income

When the household is not a commercial boarding house, the deduction for the cost of doing business is:

- The documented cost of providing rooms and meals, if the cost exceeds the maximum coupon allotment equal to the number of boarders. However, this amount cannot exceed the actual payment the AG receives from the boarder; or
- The maximum coupon allotment for the number of boarders.

(4) Offsetting Farming Losses

**NOTE:** Losses from farming self-employment are only offset for the AG containing the person directly involved in the agricultural activity and, then, only when the farmer receives or expects to receive annual gross income of \$1,000 or more from the farming enterprise.

Offsetting losses from farm self-employment activities is accomplished as follows:

- Step 1: Determine gross monthly farm self-employment income.
- Step 2: Determine monthly farm business costs, prorated over the same period of time used to prorate income.
- Step 3: Subtract the business costs from the gross farm income to determine the negative number that is the net monthly loss.
- Step 4: Determine gross non-farm, self-employment income.
- Step 5: Subtract monthly business costs for the non-farm, self-employment enterprise from the result of Step 4.
- Step 6: Subtract the result of Step 3 (losses due to farm self-employment) from the result of Step 5.
- Step 7: If the result of Step 6 is \$0 or greater, offsetting the farm loss is complete. The amount obtained is used as the total self-employment income for the AG. If the result of Step 6 is a negative figure, the difference between the amount of farm loss and the amount of non-farm self-employment income now becomes the net farm loss amount. Proceed to Step 8.
- Step 8: Add together the total gross earned income (excluding the result from Step 5) and total unearned income of the AG.
- Step 9: Subtract the net farm loss (Step 7) from the total arrived at in Step 8. This is the final gross monthly income for use in the gross income test.

**NOTE:** When the final gross monthly income is a negative number, 0 (zero) is used as the income.

**EXAMPLE:** The Smith family has \$2,400/year gross income from farming. In addition, Mrs. Smith is self-employed and earned \$600/year. One child receives \$25/month child support and Bob Smith has gross earnings of \$400/month.

Step 1: Gross monthly farm self-employment income is \$200/month.

Step 2: Monthly farm business costs are \$300/month.

Step 3:	\$ 200	Farm self-employment income
	<u>-300</u>	Monthly farm business costs
	\$-100	Net monthly farm loss

Step 4: Gross non-farm, self-employment income is \$50/month

Step 5: Monthly business costs for non-farm, self-employment is \$20/month, leaving \$30/month as gross profit from non-farm, self-employment.

Step 6:	\$ 30	Month gross profit from non-farm, self-employment
	<u>-100</u>	Net monthly farm loss
	\$- 70	New Net Farm Loss

Step 7: Since the result of Step 6 is a negative figure, proceed to Step 8. The new net farm loss = -\$70

Step 8:	\$ 25	Child support
	<u>+400</u>	Earnings
	\$425	

Step 9:	\$425	Total gross income
	<u>- 70</u>	Farm loss
	\$355	Gross income minus farm losses

The gross income test is passed.

5. Migrant Farm Laborers With Seasonal Employment

See item D,3.

6. Annual Contract Employment

This section applies to any person employed under a yearly contract, such as school employees, including bus drivers, cooks, janitors, aids and professional staff.

These individuals have their annual income prorated over a 12-month period. Additional earnings, such as for summer work, are added to the prorated amount during the time additional earnings are received.

Although a person may not have signed a new annual contract, he is still considered employed under an annual contract when the contract is automatically renewable, or when he has implied renewal rights. Implied renewal rights are most commonly associated with school contracts.

**NOTE:** This item does not apply during strike and disaster situations when the other party to the contract cannot fulfill it; or when labor disputes interrupt the flow of earnings specified in the contract. This item also does not apply to migrant workers.

7. Educational Income

**NOTE:** Any expense incidental to education which is earmarked or paid in whole or in part by excluded educational income is not deductible from other non-excluded income. Expenses incidental to education do not include housing, clothing or meals eaten at home.

All student financial assistance, funded in whole or in part, under Title IV of the Higher Education Act or the Bureau of Indian Affairs, is excluded in its entirety.

Examples of Title IV educational assistance are:

- Pell Grants
- SEOG
- Guaranteed Student Loans, including PLUS loans and Supplemental Loans for Students
- State Student Incentive Grants
- Perkins Loans, formerly National Direct Student Loans

Whether the definition of a student, as found in Chapter 9, is met or not, other income intended to meet expenses related to education that meets both of the following criteria may have certain deductions applied:

- The income intended to meet these educational expenses is from an educational grant, scholarship, fellowship or other educational benefits.
- The income is awarded to an AG member enrolled in a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent of a secondary school diploma.

An institution of post-secondary education is any public or private educational institution, which normally requires a high school diploma or equivalency certificate for enrollment, or which admits persons who are beyond the age of compulsory school attendance. The institution must also be legally authorized or recognized by the State to provide an educational program beyond secondary education, or provide a program of training to prepare students for gainful employment.

Once these two criteria are met, the amount deducted is determined as follows.

a. Funding Source Other Than College Work Study Program

Educational income awarded to an AG member is deducted, provided it is for any of the following and it is not paid from excluded educational income:

- Origination fees related to receipt of a deferred-payment loan
- Insurance premiums on a deferred-payment loan
- Tuition
- Fees related to the client's course of study. This includes the rental or purchase of any equipment, materials and supplies. These expenses must not be limited to only those required of all students in the same course of study.

- Books
- Supplies
- Transportation. This may include any fares, purchase or repair of the client's own vehicle or any other costs attributable to transportation.
- Miscellaneous personal expenses. This is defined as those incidental to attending school, other than living expenses. This may include, but it not limited to, meals which cannot be eaten at home, or child care. It does not include housing, personal clothing, or meals eaten at home.

If the institution, school, program or other grantor does not earmark amounts available for allowable costs, the student must receive deductions as used and verified for the allowable costs involved. In addition, students must be allowed a deduction for amounts in excess of the earmarked amounts, when their actual expenses are greater.

Any educational funds not excluded or deducted are counted as unearned income and prorated over the period of time they are intended to cover. It is counted starting in the month it is anticipated to be received.

b. College Work Study (CWS) Program

**NOTE:** Income from the CWS Program, funded in whole or in part under Title IV of the Higher Education Act, is excluded. CWS income from a funding source other than Title IV is earned income.

Because CWS income is usually paid to the student on the basis of work performed, not in one lump sum, its treatment is different than that of other educational benefits. Treatment of this income depends upon whether or not the amount to be earned in one semester is known at the beginning of the semester.

(1) Earnings Known At Beginning of Semester

When the amount of the earnings, or maximum amount which can be earned, is known at the beginning of the semester, the Worker:

- Determines from the client which of the deductible expenses, listed in item a. above, he intends to pay with the CWS earnings.
- Subtracts the total amount of these deductions from the total CWS earnings for the semester.

**NOTE:** Expenses deducted from CWS money may not be used again as a deduction from other education income. The amount used as a deduction from CWS income must not exceed the amount of the CWS income for the semester.

- Prorates the remainder of the CWS income over the period of time it is intended to cover. It is counted starting in the month it is anticipated to be received.

(2) Earnings Unknown At Beginning of Semester

When the amount of the earnings is not known at the beginning of the semester, CWS income is treated as any other earned income. The Worker must instruct the client to report payment of any allowable expenses from these earnings. Deductions are allowed on an as-paid basis.

**NOTE:** Expenses deducted from CWS money may not be used again as a deduction from other educational income. The amount used as a deduction from monthly CWS income must not exceed the monthly amount of the CWS income. Expenses are deducted prior to entry in the data system.

8. Deeming

**NOTE:** See Sections 18.7 and 18.8 for deeming from ineligible aliens and from alien sponsors.

Income is deemed from disqualified individuals and from certain income sources as found below.

a. Deeming From Disqualified Individuals

Income treatment differs, based on the reason for the disqualification as follows:

- (1) Enumeration Penalty and Ineligible ABAWD When First or Second 3-Month Limit Expires



The following individuals are ineligible to be included in the AG and are not counted as AG or Needs Group members when determining eligibility and the benefit level.

- S** Individuals subject to an enumeration penalty
- S** Individuals who are ineligible ABAWDs due to expiration of the first or second 3-month limit.

However, his income is deemed as follows:

Step 1: The total non-excluded income of the disqualified individual is divided by the number of persons in the AG, plus the disqualified individual(s). This is each individual's prorata share.

Step 2: Subtract the disqualified individual(s') share from his total non-excluded income. The remaining amount is counted as income to the AG.

The Earned Income Disregard is applied only to the portion deemed to the AG.

The portion of the AG's shelter/utility and dependent care expenses, which is paid from the disqualified individual's income is prorated as described above.

The amount of the prorated dependent care expense must not exceed the maximum Dependent Care Deduction. When the dependent care expense exceeds the maximum Dependent Care Deduction, the maximum Dependent Care Deduction is prorated. Only the AG's prorata share of expenses is used as a deduction when determining countable income.

**EXAMPLE:** The household consists of father, mother and three children. The father has earnings of \$500 per month and is a disqualified individual.

There is no other income in the home. Rent is \$250 and utilities total \$150. Income for the AG is calculated as follows:

Step 2:	\$500	Father's income
	<u>-100</u>	Father's prorata share
	\$400	Deemed to AG as earned income

Step 2:	\$250	Rent paid with father's income
	<u>- 50</u>	Father's prorata share
	\$200	Used as shelter expense for AG

Step 2:	\$150	Utilities
	<u>- 30</u>	Father's prorata share
	\$120	Used as utility expenses for AG

**EXAMPLE:**

Step 2:	\$248	SUA
	<u>- 49</u>	Father's prorata share
	\$199	used as AG's SUA

- Failure of an individual to comply with Food Stamp work requirements and a Food Stamp penalty is imposed. This includes individuals who fail to comply with a WV WORKS work requirement and a Food Stamp penalty is imposed. These are individuals who would be subject to Food Stamp work requirements, if they received Food Stamps only.

- IPV
- Receiving multiple benefits simultaneously
- Being a fleeing felon or probation/parole violator
- Conviction of trafficking food stamp benefits of \$500 or more
- Conviction or agreement which results in a court finding for using Food Stamps to purchase drugs, firearms, explosives or ammunition. See Section 9.1,A,2, items h and i.

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

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

The disqualified individual(s) is not included in the AG 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 OFS Policy Unit.

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. The client must be a Food Stamp recipient at the time of the failure to comply. This includes a reduction, suspension or termination to accomplish repayment, when the reason for repayment is failure to comply with a program's requirements. 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.

**NOTE:** SSI is not a means tested program for purposes of this policy.

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.

The amount which is counted for Food Stamps is the amount to which the sanction is or would be applied. When another action is taken prior to imposition of the sanction which changes the amount of the WV WORKS benefit, that amount is counted for Food Stamps.

**EXAMPLE:** On April 20, 2001, a WV WORKS AG is notified that a 1/3 sanction will be imposed effective June, 2001 and the benefit amount will be reduced from \$401 to \$268. On May 2, 2001 the client notifies the agency that he began to receive UCI benefits of \$150 per week that day. The amount of the UCI results in closure of the WV WORKS AG and a \$0 check amount effective June, 2001. Because the AG became ineligible prior to imposition of the sanction, no amount of the WV WORKS benefit is counted.

(2) 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 and documented 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.

(3) 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. This is not affected by a break in Food Stamp certification. However, if the public assistance benefit is terminated for any reason, other than imposition of a sanction or non-compliance penalty, the amount of the public assistance benefit is no longer counted as income. At the end of the sanction or non-compliance penalty period, the income is no longer counted, regardless of whether or not the individual is a public assistance benefit recipient.

(4) 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.

(5) Denial of a Food Stamp Fair Hearing

The AG 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 WV WORKS, the issue of intent may be dealt with during a 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.

(6) 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 AG is prohibited from receiving benefits for the new member from such program.

9. Strikers

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

- The AG 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 requirements for any reason other than employment. Refer to Chapter 13.

To determine if an AG 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.

- All non-working members of the bargaining unit which is on strike are strikers, even if they are not members of the union, regardless of their fear of crossing a picket line. Members of the bargaining unit who are working are not considered strikers.
- If the company fires the employee while he is on strike, the striker provisions no longer apply.
- If the employee officially resigns from his job while on strike, the striker provisions no longer apply.
- If a person obtains other employment while on strike, but he does not resign from the struck company, the striker provisions continue to apply.
- If the company hires permanent replacements for the strikers, the striker provisions no longer apply.
- If the company does not allow the strikers to return to their old jobs, but offers them different ones, the striker provisions no longer apply. Employees must be able to return to the same jobs they left when the strike began for the striker provisions to apply.
- If an employee was locked out by the company the day before the strike, the striker provisions do not apply.
- If the union calls off the strike and tells the strikers to go back to work, and they do not, the striker provisions apply until the strikers go back to work or are fired or quit.
- If the company lays off, furloughs or otherwise notifies employees who are not part of the bargaining unit that no jobs are available because of the strike, the striker provisions do not apply to these employees.



- If a person was laid off when the strike began, the striker provisions do not apply.
- Striker provisions do not apply to self-employed persons, such as independent long-distance truckers.
- The fact that a struck company has applied for Chapter 11 bankruptcy does not mean that the striker provisions no longer apply.

b. Determining Pre-Strike Eligibility

If the AG was eligible and receiving Food Stamps the day prior to the strike, pre-strike eligibility is assumed. If not, it is necessary to determine if the AG would have been eligible the day prior to the strike, had they applied. If the AG would not have been eligible prior to the strike, they are ineligible for current Food Stamp benefits.

c. Determining Current Eligibility

Current eligibility is determined as for any other AG, except as it relates to the amount of the striker's income to count. The amount is determined as follows:

- Determine what the striker's monthly non-excluded income would have been, if he had applied the day prior to the strike, and, if the strike had not occurred.
- Determine the striker's current monthly non-excluded income.

The higher of these two amounts is counted as the striker's income.

Add the determined amount to the current non-excluded income of the non-striking AG members. Eligibility and benefit level are determined as for any other AG and all appropriate deductions apply.

**NOTE:** Eligible strikers are subject to the work registration requirements detailed in Chapter 13, unless exempt for some reason other than employment.

10. Irregular Income

Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 per quarter, is excluded.

However, should an AG's receipt of irregular income continue over time, it must be anticipated and a determination of a countable amount be made according to the budgeting method outlined in this Section.

11. Lump Sum Payments

Recurring lump sum payments, received by an applicant in the month of application or by a recipient, are treated as unearned income and prorated over the period of time they are intended to cover.

Non-recurring lump sum payments are excluded as income, but are counted as assets. Refer to Chapter 11.

12. Withheld Income

a. From Earned Income

Earnings withheld to repay an advance payment are disregarded, if they were counted in the month received. If not counted in the month received, the withheld earnings are considered income. No other earned income is excluded from consideration just because it is withheld by the employer.

b. From Unearned Income

(1) Intentional Misrepresentation

Treatment of unearned income depends on the reason it is being withheld and the government program, if any, involved. When a client's benefits under a federal or State means-tested program are reduced, due to the client's intentional misrepresentation, the amount being recouped from current benefits is counted as income. Means-tested programs include, but are not limited to, WV WORKS, SSI, HUD, PELL. Any other recoupment is not counted.

When intentional misrepresentation cannot be documented by the means-tested program, the income is not counted.

(2) Failure to Comply

See item 8,b above.

13. Funds Diverted To A PASS

Funds diverted to a PASS account are excluded only when the PASS is established by SSA for an SSI recipient.

14. Unstated Income

There is no provision for counting unstated income.

15. Spenddown

There is no spenddown provision.

16. Unavailable Income

Income intended for the client, but received by another person with whom he does not live, when the individual receiving this income refuses to make it available, is excluded.

17. Income Received For A Non-Income Group Member

Income received by a member of the Income Group, which is intended and used for the care and maintenance of an individual whose income is not used in determining the eligibility or benefit level of the payee's AG, is excluded as income.

