

Income

Parent C:	February 20th	\$300.00
	January 20th	\$300.00
	December 20th	\$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 3rd-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 **is obligated to** be met by the AG's own resources. The AG's **obligation must be** to an individual not included in the AG to receive a deduction.

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. **Although** \$250 is in excess of the dependent care cap for a child under age 2, the Worker codes the **full** amount in the data system as the Dependent Care Deduction **and RAPIDS applies the cap.**

4. Child Support Deduction

A deduction is allowed for legally obligated child support actually paid by **an** 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 arrearage 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 arrearage. His employer deducts \$100 per month child support, \$50 arrearage 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. **No deduction is given for the alimony.**

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 arrearage.

For child support paid by disqualified individuals, see **item D,8.**

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 Stamp **benefits**. 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 Stamp **benefits**. 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 **homeless shelter** standard deduction amount, the AG may use actual shelter/utility costs. An AG must not receive the **homeless shelter** standard deduction and the actual shelter/utility costs in the same month. **See item B,7 for allowable shelter and/or utility expenses.**

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, **which is at least age 60**, or disabled, as defined in Section 12.15,B, are considered. Once the medical expenses of all such AG members have been totaled, 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. This includes postage and handling costs paid for mail-order prescription drugs.
- Fee paid by AG members for the member's enrollment in the Medicare Approved Drug Discount Program.
- Medicare Approved Drug Discount Card - Standard Drug Expense Allowance (SDEA). **This benefit ended in May 2006.**

NOTE: This expense allowance does not apply to prescriptions purchased with any other drug discount cards.

- Prorated Medicare Drug Program Transitional Assistance Credit. **This benefit ended in December 2005.**

- 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, **including long-term care, vision and dental insurance.**

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.

Income

- 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 trained service animal which is required for a physical or mental disability and is prescribed by a doctor. This includes the cost of food and veterinarian bills for the service animal. Trained service animals may include seeing or hearing dogs, therapy animals to treat depression, animals used by persons with other disabilities such as epilepsy, paraplegia, etc. When the supervisor **is unable to determine** whether or not an animal meets the criteria or an animal-related expense is an appropriate deduction, **he must** contact the DFA Economic Services Policy Unit for clarification.
- 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, **the current state mileage rate** 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, 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.

When the medical bill or expense is paid by a credit card, it must be treated as a one-time-only cost and may be deducted in a lump sum or prorated over the certification period. The actual monthly payment to the credit card company is not an allowable medical expense.

An AG which is certified for 24 months may elect to have one-time-only costs deducted as follows. Costs reported during the first 12 months of the certification period may be deducted for one month, averaged over the remainder of the first 12 months or averaged over the remainder of the certification period. Costs reported after the 12th month may be deducted for one month or averaged over the remainder of the certification period.

c. Medical Deduction for Residents of Group Living Facilities

Allowable medical expenses which can be identified apart from food and shelter payments are deducted. **See Section 14.2.**

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 Stamp **benefits** 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 with the resources of the AG. The deduction applies whether the expense is **obligated** 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. **An expense does not have to be paid to be a deduction.**

NOTE: A shelter cost paid in advance, but billed and/or due during the certification period, is used as a deduction.

When the AG is providing an in-kind payment instead of a cash payment, a deduction is only allowed when the original obligation is a cash payment. The AG must be otherwise obligated to make a cash payment, if the in-kind benefit is not provided.

EXAMPLE: An AG is renting a house that is in need of repairs. The house normally rents for \$450 a month. The landlord has agreed to allow the AG to make repairs to the home in lieu of making a rent payment for 6 months. The AG is entitled to a \$450 rent deduction for 6 months.

EXAMPLE: Same situation as above, except that the landlord has agreed to allow the AG to make repairs to the home in lieu of part of the rent for 12 months. The AG must make a cash payment of \$225 a month and make repairs for the remaining \$225 a month. The AG is entitled to a \$450 rent deduction for 12 months.

EXAMPLE: An AG is renting a room in an elderly woman's home. In exchange for rent, the AG is expected to provide housekeeping, lawn care and meal preparation for the woman. No cash value was assigned to this obligation. The AG is not required to make a cash payment in lieu of these responsibilities. The AG is not entitled to a shelter deduction since the only rental obligation is an in-kind payment.

EXAMPLE: A college student uses a portion of his educational grants and loans to pay his rent through the end of the semester. His rent is used as a shelter deduction as it would be due during the certification period.

EXAMPLE: A college student's parents pay his rent **during the school term**. His rent is not used as a deduction **because he is not obligated to pay it. His parents do not pay his rent during the summer. He may receive a deduction during this time because he is obligated to pay the rent.**

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. AG's

with both occupied and unoccupied homes may only claim the SUA for one home. Actual expenses must be claimed for the other. The client chooses the one for which he uses the SUA.

NOTE: When the client claims expenses for his home as a self-employment expense, the deduction can be either a shelter deduction or a cost of doing business, but the total deduction given must not exceed the actual expense. See item D, 4 below.

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 and association fees, regardless of purpose for the fees.

Income

- 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.

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, including well installation and maintenance
- Gas
- Wood, coal and heating oil
- Electricity
- Sewage, including septic tank system installation and maintenance
- Garbage collection
- The basic rate for one telephone, including, but not limited to, taxes, wire maintenance fees, subscriber line charges, relay center surcharges and 911 fees. It does not include 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.

(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 is using the Homeless Shelter Standard Deduction.
- The heating or cooling costs are included in the shelter payment and are not billed separately.
- 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.

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 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 Stamp **benefits** 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 **an** AG member is elderly or disabled.

1. Determining Eligibility

- When at least one AG member is elderly, **which is at least age 60**, 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. **See Sections 11.5 and 14.2.**

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.

Income

- 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 **found in Appendix B.**
- 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, in Appendix B is deducted to arrive at countable income.	The amount in excess of 50% is deducted, without regard to the shelter/ utility cap, in Appendix B 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 **gross and net** 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. **See Appendix D.** No benefits are issued to any AG eligible for an initial, prorated allotment 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)	$ \begin{array}{r} \$ 556 \quad \text{Net monthly income} \\ \times .30 \\ \hline \$166.80 = \$167 \end{array} $
Subtract 30% of net income from the maximum monthly benefit for the AG size.....	$ \begin{array}{r} \$452 \quad \text{Maximum allotment for 4} \\ -167 \quad \text{30% of net income} \\ \hline \$285 \quad \text{Food Stamp allotment for a full month} \end{array} $

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 farm worker AG's.

a. Why the Determination Is Made

A determination of whether or not a migrant or seasonal farm worker 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 **an** 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 **include, but are not limited to:**

- Employee labor costs, **including wages paid to an AG member and any salary the client pays himself. When paid to an AG member, the income**

Income

must be considered according to the provisions in Section 10.3,CC.

- Stock and supplies
- Raw material
- Seed
- Fertilizers
- Repair and maintenance of machinery and/or property
- Cost of rental space used for conducting the business
- Payments on the principal and interest of the purchase price of income-producing real estate and capital assets, equipment, machinery and other durable goods
- Insurance premiums and taxes paid on the business and income-producing property
- The **utilities**, principal, interest and taxes **for** 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. **See item B,7 above. The total deduction given for shelter and/or cost of doing business must not exceed the actual cost.**
- Advertising costs
- Utilities
- Office expenses, **such as** stamps, stationery, etc.
- Legal costs
- Net Loss from self-employment farming. See item 4 below.

Do not deduct the following:

- Federal, State or local income taxes

Income

- Money set aside for retirement
- Travel from home to a fixed place of business and return
- Depreciation
- 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 and 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.

Income

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 **Mr.** 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
 -300 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
 -100 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
 +400 Earnings
 \$425

Step 9: \$425 Total gross income
 \$- 70 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, aides 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 **or substitute employees**.

7. Educational Income

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:

- **Federal** Pell Grants
- Federal Supplemental Educational Opportunity Grants (FSEOG)
- Guaranteed Student Loans, including **William D. Ford Federal Direct Loan Program and Federal Direct** PLUS loans and Supplemental Loans for Students, Federal Family Education Loan (FFEL) Program
- **Leveraging Educational Assistance Partnership (LEAP) and Special Leveraging Educational Assistance Partnership (SLEAP) Programs, formerly known as** State Student Incentive Grants

- **Federal** Perkins Loans
- **Federal Stafford Loans**
- **Federal Work-Study. See item 7,b below.**
- **Robert C. Byrd Honors Scholarship**

Examples of educational assistance which are NOT funded under Title IV are:

- **WV Promise Scholarships**
- **WV Higher Education Grant, also known as WV Grant**
- **College Work Study. See item 7, b below.**

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 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

NOTE: Any expense incidental to education which is earmarked **and/or** paid in **full** by excluded educational income is not

deductible from other non-excluded income. **Any remaining amount of an expense earmarked and/or paid in part by excluded educational income may be deducted from non-excluded educational income. The total amount deducted must not exceed the actual expense.**

Expenses may be deducted from non-excluded educational income awarded to an AG member provided it is for any of the following and it is not **expected to be paid in full** 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
- **Dependent care. See item B,3.**
- 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 **is** not limited to, meals which cannot be eaten at home. It does not include housing, personal clothing, or meals eaten at home.

If the institution, school, program or other grantor does not earmark amounts 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: **Only income** from the **Federal Work Study** 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.

NOTE: Expenses deducted from CWS money may not be used again as a deduction from other educational income.

(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.
- 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.

Income

EXAMPLE: A student has the following income and expenses for a 5-month semester:

Educational Income

\$2,000	Pell Grant (earmarked for tuition)
\$1,000	Scholarship
<u>\$1,500</u>	GI Bill
\$4,500	

Educational Expenses

\$2,238	Tuition
\$ 450	Books
\$1,750	Dependent Care (\$350/month)
<u>\$ 700</u>	Transportation
\$5,138	

Step 1:	\$2,000	Pell Grant (earmarked for tuition)
	<u>- 2,238</u>	Tuition
	\$ - 238	
Step 2:	\$ - 238	
	<u>+2,500</u>	Remaining educational income
	\$2,262	
Step 3:	\$2,262	
	- 450	Books
	<u>- 700</u>	Transportation
	\$1,112	
Step 4:	\$1,112	
	<u>- 1,750</u>	Dependent Care
	\$ - 638	Excessive Dependent Care =
		Dependent care deduction of \$127.60
		a month for 5 months. See item B,3.

8. Deeming

Income is deemed from **individuals who are ineligible**, disqualified **and excluded by law** and from certain income sources as found below.

NOTE: This does not apply to students who are ineligible due to the provisions in Section 9.1, individuals who are ineligible due to receipt of Food Stamp benefits in another State and individuals who are ineligible due to the institution residence provision in Section 8.2.

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

a. Deeming From Disqualified **and Ineligible** Individuals

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

(1) Ineligible **AG Members**

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. **See Section 9.1.**

Income

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

However, his income is deemed as follows:

Step 1: The total non-excluded income of the **ineligible** individual is divided by the number of persons in the AG, plus the **ineligible** 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 **allowable child support payments**, shelter/utility **expenses** and dependent care expenses, which is **billed to and/or** paid **by** the **ineligible** individual 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 **an ineligible** 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 1: $\$500 \div 5 = \100 Prorata income share for each person

Income

Step 2:	\$500	Father's income
	<u>-100</u>	Father's prorata share
	\$400	Deemed to AG as earned income
Step 1:	\$250 ÷ 5 = \$50 Prorata rent share for each person	
Step 2:	\$250	Rent paid by father
	<u>- 50</u>	Father's prorata share
	\$200	Used as shelter expense for AG
Step 1:	\$150 ÷ 5 = \$30 Prorata utility share for each person	
Step 2:	\$150	Utilities
	<u>- 30</u>	Father's prorata share
	\$120	Used as utility expenses for AG

NOTE: If the AG receives the SUA, it is necessary to divide the current SUA by the number of people in the AG, plus the **ineligible** individual(s).

EXAMPLE:

Step 1:	\$248 ÷ 5 = \$49.60 prorata share of SUA	
Step 2:	\$248	SUA
	<u>- 49</u>	Father's prorata share
	\$199	used as AG's SUA

(2) Disqualified **Individuals**

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

- **An individual who is in a Food Stamp penalty for failure** to comply with Food Stamp work requirements. **See Section 13.6.**
- **An individual who is excluded by law. See Section 9.1,A,2,g.**
- **An individual who has been found guilty of an Intentional Program Violation (IPV). See Section 9.1,A,2,h.**

- **An individual convicted** of trafficking **Food Stamp** benefits **for a controlled substance. See Section 9.1,A,2,i.**

All applicable exclusions, disregards, and deductions apply to the individual(s) income, **however, the individual is not included in the AG when determining eligibility or 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 **DFA** Policy Unit.

b. Failure to Comply With Public Assistance Requirements

NOTE: WV WORKS is the only benefit in West Virginia to which this policy applies.

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.

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 Stamp **benefits** 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 Stamp **benefits**.

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 judgment 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 duration of the penalty imposed by the public assistance program 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. **For WV WORKS sanctions, the income is only deemed during the first 3 months of any sanction period.**

(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 **Food Stamp** 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 **also** 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 **FNS**.

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 Stamp **benefits** 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. **This includes income garnishments, such as child support. See item B for allowable deductions.**

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 and PELL. Any other recoupment is not counted.

When intentional misrepresentation cannot be documented by the means-tested program, the income is not counted. **The Worker must accept the determination of the program which was reduced, suspended or terminated, as the final authority for the determination of intentional misrepresentation. If the determination is not specifically identified and documented by the other program, the policy in this section is not applied. The Worker must not make a judgment about whether or not the client's actions constitute intentional misrepresentation.**

If the Worker is unable to obtain information 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.

(2) Failure to Comply

See item 8,b above **for WV WORKS income.**

(3) **Garnishment**

Income that is withheld for any other reason including, but not limited to, child support or legal fees is counted.

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.

This includes SSI payees and other protective payees. This does not include child support payments received by an AG member for a child who is not in the AG. In this situation, the child support is counted against the AG that receives the income, even when it is forwarded to and/or used for the child.

18. Income Received From Military Personnel Deployed to a Designated Combat Zone

Use the following steps to determine the amount of income to count for the AG when funds are provided by military service personnel while serving in a designated combat zone. A list of combat zones may be found at www.fns.usda.gov/fsp/government/certification_policy.htm

NOTE: The following steps apply to applicant households as well as recipients.

Step 1: Determine the amount of the military person's pay which was actually available to the household prior to deployment to a combat zone as follows:

- If the military person was a member of the FS AG or Income Group prior to deployment, the amount is his net military pay.
- If the military person was not a member of the FS AG or Income Group prior to deployment, the amount is the amount the person actually made available to the FS **AG** prior to deployment.

Income

- Step 2: Determine the amount of military pay the person makes available to the FS group while deployed to a combat zone.
- Step 3: If the amount in Step 2 is equal to or less than the amount determined in Step 1, the Step 2 amount is counted. If the Step 2 amount is greater than the Step 1 amount, the Step 1 amount is counted.

EXAMPLE: A member of the Air National Guard receives notice that her unit has been activated and will be deployed. This is her only source of income and increases from her traditional ANG pay of \$400 a month to her new federalized pay of \$2,000 a month. She reports this change and her FS benefits are adjusted accordingly. She is then deployed to a designated combat zone and is expected to be away for at least 6 months. Her husband reports this change and she is removed from the AG due to her anticipated absence from **the** home. He also reports that she is making her entire income available to the AG and now grosses an additional \$1,000 a month.

- Step 1 The soldier's net income before deployment was \$1,500 a month.
- Step 2 The amount made available to the household after deployment, including the additional income is now \$2,250 a month.
- Step 3 Since the amount made available to the AG after deployment is more, the additional amount is excluded. The \$1,500 determined in Step 1 is counted as unearned income for the AG.

EXAMPLE: A member of the Air National Guard receives notice that her unit has been activated and will be deployed. She is sent to Oklahoma for training. She is expected to be deployed to a combat zone, but has not been told when. Her husband applies for FS when she leaves for training in March. She is expected to be gone for at least a year. The application is approved without her in the AG. She sends the AG \$1,200 a month and this is counted as unearned income. The husband is also employed and the AG is certified for 6 months.

At the next redetermination, the husband reports that the wife was deployed to a designated combat zone sometime in the last 4 months and is now sending \$1,700 to the AG. The AG was not required to report this change during the certification period as the total income made available to the AG does not exceed the 130% FPL. The \$1,700 is compared to the

\$1,200 and the additional \$500 is excluded. The pre-deployment amount of \$1,200 is still counted as unearned income.

EXAMPLE: Same situation as above except that the application was made in December before this policy was implemented. The entire amount made available to the AG was counted as unearned income including, the additional income due to combat pay. During the redetermination, the husband confirms that the wife was deployed to a designated combat zone in November. Benefits are restored retroactive to the December application date.

EXAMPLE: Same situation as above except that the information was reported before the next redetermination. Benefits are restored retroactive to the December application date.

EXAMPLE: An AG receives an allotment of \$700 from their son who is stationed in Delaware. Once he is deployed to a designated combat zone, he decreases the allotment to \$600. Since the amount after deployment is less, the \$600 is counted as unearned income for the AG.