

### C. DETERMINING ELIGIBILITY AND BENEFIT LEVEL

**NOTE:** See Section 2.17,D for the procedure used to determine an individual's portion of a cash assistance check when requested by SSA for an SSI recipient.

To determine eligibility for a DCA payment, see Chapter 1. Countable income is used to determine eligibility only. It is not used to determine the amount of the DCA payment.

**NOTE:** The income of the disqualified person(s) is included in determining the amount of income available to the AG. However, the needs of the disqualified person(s) are not considered in any step of the eligibility determination process.

**NOTE:** The earned income of a child or parent, under age 18, who is enrolled in secondary school or a program for a GED, is disregarded at all steps of the eligibility determination process.

#### 1. Determining Eligibility - 100% Of Need Test

The AG is ineligible in any month that its non-excluded monthly gross income exceeds 100% of the Standard of Need. The test is applied as follows:

Step 1: Add together the total non-excluded gross earned income, the gross profit from self-employment and the non-excluded gross unearned income of the AG and any disqualified person(s).

Step 2: Determine the 100% of Need amount in Appendix A of this Chapter for the appropriate AG size, excluding the disqualified person(s).

Step 3: If the amount in Step 1 is greater than the amount in Step 2, the AG is ineligible.

Step 4: If the amount in Step 1 is equal to or less than the amount in Step 2, the AG is eligible for further determinations.

#### 2. Child Support Incentive (CSI)

A \$25 benefit increase is provided to any WV WORKS AG when child support, in any amount, is collected for a child in the AG.

**NOTE:** The CSI is applicable, even when the family is eligible for the maximum WV WORKS payment. When an applicant receives child support in the month of WV WORKS approval, either directly from the

absent parent, or from BSCE, no CSI is issued for the month of approval. For all other applicants and recipients, the CSI is effective the month following the month child support is redirected. If child support is not paid to BCSE for a given month, no CSI is issued for that given month in the following month.

To receive the CSI, the following conditions must be met.

- Child support is redirected to BCSE; and
- The redirected amount is current child support\*\*; and
- The OSCAR child support payment code on RAPIDS Screen IVFI is AC, GR or AR; and
- The child for whom the support was paid is a WV WORKS recipient for the collection month.

\*\*Current support is child support for a month that CSI is automatically issued.

RAPIDS processes BCSE collection information a month after the collection is received and CSI payments are automatically issued for the current month (the month of receipt by BCSE) and the 3 months immediately preceding the current month.

The monthly CSI benefit is deposited into the EBT account and available on the 20th of each month. A supplemental CSI payment is available the day after it is issued in RAPIDS. When the client chooses direct deposit for WV WORKS, the monthly CSI benefit is also received by direct deposit. The CSI is available on approximately the 20th calendar day of the month. The client receives a notice of the deposit and the month for which the CSI is being paid.

**EXAMPLE:** A redirected child support payment is received by BCSE in April, for the April child support obligation. The current month for RAPIDS' CSI purposes is April. A CSI is automatically issued for April child support during the month of May. If the payment received in April included payment for January, February and/or March, CSI payments are automatically issued for those months also.

All supplemental CSI payments require written approval from the RAPIDS Help Desk. The following information must be provided to the Help Desk in a GroupWise message.

- Case number
- Case name

- The month in question
- A brief explanation of why the client should have received a CSI payment
- When N/A is displayed in the AP Seq Number on Screen IVFI which indicates a mismatched AP sequence number.

RAPIDS staff will evaluate the reported problem and advise the **local** office of any required action. No approval will be granted unless this process is used. In addition, RAPIDS consults with BCSE State Office staff to correct AP sequence number mismatches. Supplemental CSI benefits are deposited in the EBT account.

**EXCEPTION:** The Worker may issue a supplemental CSI payment without prior approval only when the case number is written to MOBIUS Report WRB127A, CSI Payments Not Issued Report. Auxiliary Reason Code 921 is used.

Adverse action notice requirements do not apply when a CSI will not be paid. However, they do apply when receipt of the CSI affects another benefit.

When a WV WORKS case is closed, and child support is received by BCSE in the effective month of closure, a CSI is issued in the month after closure for the child support received in the effective month of closure.

**EXAMPLE:** A WV WORKS AG is closed effective August for excessive earned income. The last month of receipt of a WV WORKS benefit is August, and child support is received by BCSE in August. A \$25 CSI is issued in September for August.

When received ineligibly, the CSI is subject to repayment. See Section 20.3. Received eligibly includes, but is not limited to, BCSE crediting a payment to the wrong case, or the client failed to report income and received a WV WORKS benefit ineligibly.

### 3. Determining Countable Income

Once the 100% of Need test is met, the following steps are taken.

- Step 1: Add together the non-excluded gross earned income of the AG and any disqualified person(s).
- Step 2: Subtract the Earned Income Disregard, i.e., 40% of earnings.
- Step 3: Subtract the Dependent Care Deduction for each person who pays dependent care.

- Step 4: Add the non-excluded unearned income of the AG and any disqualified person(s). The resulting amount is the countable income.
- Step 5: Determine the maximum WV WORKS benefit amount for the AG size, using Appendix A.
- Step 6: If the amount arrived at in Step 4 equals or exceeds the amount in Step 5, the AG is ineligible. If the amount arrived at in Step 4 is less than the amount in Step 5, the AG is income eligible and the amount from Step 4 is subtracted from the amount in Step 5.
- Step 7:** If a sanction is applicable, multiply the Step 6 amount by .3333 (1/3) or .6666 (2/3) and drop any cents, or use Appendix F. Subtract this amount from the Step 6 amount.
- Step 8:** Subtract any repayment amount from the amount remaining. The result is the WV WORKS benefit amount.

#### D. SPECIAL SITUATIONS

##### 1. Categorical Eligibility

Food Stamp Categorical Eligibility has no bearing on the WV WORKS check or how the check is issued.

##### 2. Expedited Service

The Food Stamp requirement of Expedited Service has no bearing on the WV WORKS check or how the check is issued.

##### 3. Destitute AG's

The Food Stamp requirement of Destitute AG's has no bearing on the WV WORKS check or how the check is issued.

##### 4. Self-Employment Income

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

a. Determining Gross Income

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 is determined, this is used to determine how the income is counted.

(1) Persons Receiving Regular Income

These persons receive income 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 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 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

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**Income**

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- 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 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

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

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**Income**

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- Depreciation
- Principal of real estate mortgages on income-producing property
- Amounts claimed as a net loss

(2) Rental Income Deductions

In addition to the deductions in item (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

5. Migrant Farm Laborers With Seasonal Employment

Income of migrant farm laborers is treated the same as the income of any other applicant or recipient.

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 section 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.



7. Educational Income

All educational income, including loans for education, is excluded, regardless of the source.

8. Deeming

a. Ongoing Income

The ongoing income of a disqualified individual(s), who would otherwise be required to be included in the AG, is counted in its entirety. The same exclusions, disregards and deductions he would normally receive are applied. However, the disqualified individual is not included in the AG and is not considered in determining eligibility or benefit level. He is subject to the same reporting requirements applicable to the AG.

b. Lump Sum Payment

When a disqualified individual(s), who would otherwise be required to be included in the AG, receives a lump sum payment, it is counted as if he were in the AG. However, he is not included in the number of eligibles when determining the appropriate FPL to use for prorating the lump sum payment.

9. Strikers

When an individual, who must be included, or who would otherwise be required to be included in the WV WORKS AG, is a striker, the entire AG is ineligible for WV WORKS. See Section 10.4,D,9 for the definition of a striker.

10. Irregular Income

Regardless of the source, irregular income is excluded because it cannot be anticipated.

11. Lump Sum Payments

The lump sum payment policy applies to applicants, when the lump sum is received in the month of application, and to all recipients. This includes lump sum payments received by a disqualified person(s) who would otherwise be required to be included in the AG. See item 8,b above. Because the client is expected to use the lump sum for general living expenses, a period of ineligibility must be calculated.

The OFS-RR1 notifies all applicants, recipients and disqualified persons, who would otherwise be required to be included in the AG, of the lump sum payment policy. However, the Worker must also advise the client of the lump sum payment policy when the client notifies the Worker of receipt, or the possibility of receipt, of a lump sum payment.

**NOTE:** Assets converted from one form to another are not counted as lump sum payments. See Chapter 11.

The number of months in the period of ineligibility is determined by dividing the lump sum amount by the 100% FPL for the AG size. See item 8 above for deeming a lump sum payment from a disqualified person(s).

For any partial month remaining after the division, the amount of the lump sum payment which remains is counted as income. The number of months the case is ineligible, because of the receipt of the lump sum payment, and the amount of income counted for any remaining partial month, is determined as follows.

a. Determining Countable Amount

The total amount of the lump sum payment is counted, except for the amount used as described below. The following portions of a lump sum payment are not counted.

- Lump sum payments that are earmarked and used for the purpose for which they are intended (e.g., monies for back medical bills resulting from injury, or funeral and burial costs) are deducted. In addition, lump sum payments that are intended and used for replacement or repair of an asset (e.g., monies to replace a defective automobile) are deducted.
- Any of the lump sum funds, obligated and used for legal fees as a result of the efforts of the attorney to obtain the lump sum payment, are deducted.

**EXAMPLE:** A client's home is destroyed by fire. He receives an insurance settlement of \$16,500. With \$10,000 of this settlement, he purchases a mobile home. Only \$6,500 is counted as a lump sum payment.

b. Computing the Period of Ineligibility

After applying appropriate exclusions, disregards and deductions to other income received for the month, add the lump sum payment to all other monthly income. When the total amount is less than the payment amount for the number in the WV WORKS AG, the lump sum payment is counted as income in its entirety for one month.

When the total amount is less than the FPL for the number in the AG, but more than the check amount for the AG found in Appendix A, the case is ineligible for one month. The amount in excess of the check amount is not counted as income for the following month.

When the total amount is greater than the appropriate 100% FPL, divide the lump sum payment by the appropriate 100% FPL. The AG is ineligible for the full number of months equal to the result of the division. Ineligibility begins the month of receipt.

When a fractional amount remains, there is an amount that must be counted as income in the month following the month the period of ineligibility ends. The procedure to determine this amount is as follows:

- Multiply the 100% FPL by the number of full months the case has been determined ineligible.
- Subtract this figure from the total lump sum.
- The remaining amount is counted as income in the month after the last month of ineligibility.

The persons in the AG when the lump sum payment is received, remain ineligible for the period determined by the above procedures, regardless of any changes which may occur during that period, unless the period of ineligibility is shortened as found below in item c. When an individual is born or returns to a family whose members are ineligible due to receipt of a lump sum payment, the individual is treated as a separate AG. If all other eligibility factors are met, the individual is eligible. None of the lump sum amount is counted for the new family member. All other policy and procedures for counting income apply.

Only the new family member(s) is included in the AG and is used when determining the appropriate eligibility limits.

**EXAMPLE:** A child is born to a family whose members are ineligible due to the prior receipt of a lump sum payment. A separate case is established for the child. The parent's income is \$130 unearned income per month, not counting the lump sum payment. The child is eligible for a WV WORKS check of \$219.

The lump sum payment is treated as described above, even if it is spent in a shorter time period, unless the period of ineligibility can be shortened as found below.

c. Shortening the Period of Ineligibility

The period of ineligibility may be shortened only for the following reasons and by the following procedures:

(1) Reasons

When all or part of the lump sum payment becomes unavailable to the AG, due to circumstances beyond its control, as specified below, the period of ineligibility is shortened. This may be done at any point between the time the lump sum payment is received and the period of ineligibility expires. Once the period of ineligibility expires, no consideration is given to shortening the time period retroactively. The lump sum amount is considered unavailable only in the following situations:

- The lump sum payment was, totally or in part, destroyed by fire, flood or other natural disaster.

This refers to destruction of the money itself, not the goods purchased with it or destruction of replaceable checks or bonds.

- The lump sum payment was, totally or in part, stolen from the AG. This refers to the money itself, not the theft of goods purchased with it or the theft of replaceable checks or bonds.
- A member of the AG, or an individual who would otherwise be required to be included, gained access to all or part of the lump sum payment, abandoned the remaining AG members and left them without access to it. The loss of all or part of the lump sum in

this way refers to the loss of the money itself or checks, bonds, etc., when payment cannot be stopped, not the taking of goods purchased with it. Moving to another place of residence, with the family relationship still intact, is not sufficient to justify shortening the period of ineligibility.

There must be abandonment of the other AG members. If one or both of the parents left with the lump sum, the definition of absence used for AFDC Medicaid must be met. See Section 15.2,C.

When the AG member or other individual who left with all or part of the lump sum returns to the home, the period of ineligibility resumes the month he returns and continues until the month the original period of ineligibility was due to expire.

- The lump sum payment has been or will be expended, totally or in part, to meet a life-threatening situation. To meet this criterion for shortening the period of ineligibility, it must be shown that the funds in question were used or will be used to avert a life-and-death situation for a AG member or a situation which is seriously detrimental to the health of a AG member.

**NOTE:** For cases involving life-threatening situations, the OFS Policy Unit must be contacted in writing. The memorandum must fully explain the situation and include: how the money was or will be spent, the date spent or to be spent and the nature of the life-threatening situation. The final decision is made by the **DFA** Policy Unit. Examples of situations which have been approved are: purchase of a refrigerator to store a baby's milk, medical needs, purchase of vehicles for regular ongoing visits to medical facilities. If the Worker has any doubt about referring a case to the Policy Unit, he must make the referral.

(2) Procedures

The period of ineligibility is shortened as follows:

- Step 1: Determine the original amount of the lump sum payment.
- Step 2: Subtract the amount unavailable due to circumstances beyond the control of the AG.

## Income

Step 3: Prorate the remainder, using the original first month of the ineligibility period as the new first month of ineligibility, using the same monthly income, if any, and the same 100% FPL used in the original proration.

If the family becomes eligible as a result of the recomputations, it is treated like any other applicant. The date of application is the date contact is made about the recomputation. Benefits are prorated from the date eligibility is established. Retroactive or corrective payment is not made for any period between the time the lump sum became unavailable and the date eligibility is reestablished.

It is the unavailability of the lump sum payment amount itself that is explored, not the loss of goods purchased with the lump sum.

**EXAMPLE:** A WV WORKS family of 5 receives a lump sum payment of \$3,500 in August. The lump sum payment was retroactive RSDI benefits received due to the father's disability. The family was found ineligible for two months, with \$54 counted as income in the third month. Late in August, the father abandons the family, taking all of the lump sum payment with him. The current AG, therefore, has none of the lump sum available to them and the circumstances are beyond the family's control. There is, therefore, no period of ineligibility.

**EXAMPLE:** Same as above except that the father returns to the home on September 20th. The family becomes ineligible for September and \$54 is counted as income in October. Repayment is not sought for August when the father was out of the home.

**EXAMPLE:** A WV WORKS family of 4 receives a lump sum payment in April. It is determined that they are ineligible for 6 months. In June, they report to the local office that they used most of the lump sum amount to pay back money owed to the wife's parents who made trailer payments for them for several months so they would not lose the trailer. Since the use of the money was under the control of the AG, the period of ineligibility is not shortened.

**EXAMPLE:** Same situation as above except that the family used most of the lump sum to pay for the birth of a new baby. The use of the money was under the control of the AG, so the period of ineligibility cannot be shortened for this reason. However, the case must be submitted to the Policy Unit for consideration as a life-threatening situation.

**EXAMPLE:** A WV WORKS family receives a lump sum payment of \$12,000. The recipient sets up a trust fund for each of his children in the amount of \$4,000 each. The trust funds stipulate that the children may not receive any of the money until they turn 21 years of age. Use and control of the lump sum amount belonged to the AG when the trust funds were set up, so the period of ineligibility is not shortened.

**EXAMPLE:** A WV WORKS family of 3 received a lump sum payment of \$2,600 in July. They were determined ineligible for 2 months, with \$60 counted as income in the third month. In July, they purchased a new television set and a new refrigerator. The remainder of the money, \$150, was kept in the house. In August, the client reports that the house and all the contents were destroyed by fire. The period of ineligibility is redetermined as follows:

\$2,600	Original lump sum amount
<u>- 150</u>	Amount destroyed
\$2,450	New amount which is prorated

The family remains ineligible for July and August.

**EXAMPLE:** A WV WORKS family of 4 receives a lump sum payment of \$4,500 in December. They are determined ineligible for December, January and February with \$87 counted as income in March. In February, the client reports that \$2,700 was stolen early in February. He reapplies on February 10th and is found eligible on that date.

The recomputation is as follows:

\$4,500	Original lump sum amount
<u>-2,700</u>	Amount stolen
\$1,800	New amount which is prorated

The recalculated period of ineligibility is December and \$329 is counted as income in January. The family is eligible for a prorated check for February.

**EXAMPLE:** Same situation as above except that the money was stolen on January 10th. The result is the same as above since the client did not reapply and establish eligibility until February 10th.

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

All withheld unearned income is counted, unless an amount is being withheld to repay income that was previously used to determine AFDC/U, TANF or WV WORKS eligibility.

13. Funds Diverted To A Pass

Funds diverted to a PASS account are counted as earned or unearned income, depending on the source.

14. Unstated Income

Unstated income is income that has not been reported by the household, and is not otherwise known to the agency, but is determined to exist because the client's paid living expenses exceed income from known sources.

The amount of unstated income is the difference between the known monthly income and the monthly paid living expenses.

When the information in the client's record, including statements of the client or third-parties, indicates that paid expenses exceed the stated income, the existence of unstated income must be explored.



If insufficient or conflicting evidence exists, the Worker must question the client about the possibility of unstated income and allow him the opportunity to explain how his expenses are met. If the client provides a satisfactory explanation, the Worker records the explanation.

If the client's explanation of how the expenses are met is inadequate, the Worker makes a recording of the explanation and then determines the amount of unstated income to count. To determine the amount of unstated income to count, the Worker compares the usual amount of monthly living expenses with the client's reported income, taking into consideration any other reasonable explanations the client provides. The difference is unstated income and is counted as unearned income.

15. Spenddown

The Medicaid spenddown provision does not apply.

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 eligibility or the benefit level of the payee's AG, is excluded.

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

There is no provision for excluding income received as a result of service in a designated combat zone.