

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 is excluded in its entirety.

Excluded educational assistance **includes, but is not limited to:**

- 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 **and non-federal college** Work-Study.
- Robert C. Byrd Honors Scholarship
- WV Promise Scholarships
- WV Higher Education Grant, also known as WV Grant
- **Veteran's Educational Benefits**
- **Montgomery GI Bill**

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.

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PAGES 89 - 90
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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 **excluded**, 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

Treatment of unearned income depends on the reason it is being withheld and the government program, if any, involved.

(1) Repayment**(a) Means-tested Programs**

Means-tested programs include, but are not limited to, WV WORKS, SSI, HUD and PELL.

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.

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 **QC** errors for non-compliance with the policy.

Any other recoupment is not counted when voluntarily or involuntarily withheld to repay a prior overpayment received from that same source, if the income was counted or would have been counted in the month received.

EXCEPTION: Although RSDI and SSI are both paid by SSA, they are separate programs and not treated as from the same source for this policy.

EXAMPLE: The client is eligible for \$450 RSDI and \$187 SSI. SSA is withholding \$50 from the SSI to repay a prior RSDI overpayment. The countable SSI amount is \$187 since RSDI and SSI are different types of income.

(b) Non-means Tested Programs

Unearned income sources which are not means-tested include, but are not limited to, RSDI and Workers' Compensation.

Any recoupment is not counted when voluntarily or involuntarily withheld to repay a prior overpayment received from that same source, if the income was counted or would have been counted in the month received.

EXCEPTION: Although RSDI and SSI are both paid by SSA, they are separate programs and not treated as from the same source for this policy.

EXAMPLE: The client is eligible for \$450 from RSDI, however \$50 a month is withheld by SSA to repay a previous RSDI overpayment. The countable RSDI is \$400.

(2) Failure to Comply

See item 8,b above for WV WORKS income.

(3) Garnishment

Income that is withheld for any **reason not listed above** including, but not limited to, child support or legal fees is counted. **See item B for allowable deductions.**

EXAMPLE: The client is eligible for \$450 from RSDI, however \$50 a month is withheld by SSA and sent to BCSE to pay child support arrears. The countable income is \$450 and \$50 is given as a child support deduction.

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.