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Income

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- 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 and dependent care expenses, which is billed to and/or paid by the ineligible individual is prorated as described above.

**NOTE:** No portion of an AG's SUA is prorated due to the ineligibility of an AG member.

**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 and the father pays the \$250 rent.

Income for the AG is calculated as follows:

Step 1:  $\$500 \div 5 = \$100$  Pro rata income share for each person

Step 2:  $\$500$  Father's income  
 $-100$  Father's pro rata share  
 $\$400$  Deemed to AG as earned income

The shelter expense is calculated as follows:

Step 1:         $\$250 \div 5 = \$50$  Pro rata rent share for each person

Step 2:         $\$250$  Rent paid by father  
                   $\underline{- 50}$  Father's pro rata share  
                   $\$200$  Used as shelter expense for AG

(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 SNAP penalty for failure to comply with SNAP 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 SNAP 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.

SNAP 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 SNAP 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.

(a) 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 SNAP 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 SNAP 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.

(b) 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 QC errors for non-compliance with the policy.

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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.

## 14. 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.

## 15. Unstated Income

There is no provision for counting unstated income.

## 16. Spenddown

There is no spenddown provision.

## 17. 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.

## 18. 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 and/or arrearages received by an AG member for a child who is not in the AG. In this situation, the child support is counted for the AG that receives the income, even when it is forwarded to and/or used for the child.