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* **Rule has been amended since 6/95**

+ **Rule to be added**

5101:1-1-54 Objective of the systematic alien verification for entitlements (SAVE) program.

The Immigration Reform and Control Act (IRCA) of 1986 requires the verification of immigration status of aliens applying for federally funded entitlements. The law requires that the ADC and medicaid programs participate in a systematic verification of alien documentation. The immigration and naturalization service (INS) has developed the systematic alien verification for entitlements (SAVE) program to ensure that only lawfully admitted aliens receive federally subsidized benefits.

Each individual applying for ADC, medicaid, and ADC-related medicaid must provide a declaration in writing, under penalty of perjury, that the individual is a citizen or national of the United States, or an alien in a satisfactory immigration status. If an individual is identified as an alien, that individual shall verify current immigration status.

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 Date

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Statutory Authority: Revised Code Sections 5107.02, 5111.011.

5101:1-1-55 Required alien immigration status documentation.

- (A) Any assistance group member who is not a U.S. citizen or national must provide documentation from INS of his current alien status. Required documentation must be provided at initial application, when alien status changes, or when the original documentation becomes questionable. An assistance group member who claims to be of an ineligible alien status does not have to verify his status with the INS.
- (B) Only original documentation of alien registration status shall be considered acceptable verification of alien status. If an applicant or recipient claims to have lost the original documents, the CDHS shall refer the individual to the local INS office to request new documentation. The CDHS will use only original documents to verify alien status through the systematic alien verification entitlements system. The CDHS should request additional verification of identity if the alien status registration card does not contain a photograph of the alien.
- (C) Alien registration cards normally have an alien registration number. This number, often called the A-number, references the individual's alien file at INS. The A-number contains seven or eight numerical digits preceded by the letter "A". The A-number is unique to the individual. Even minors and infants who are aliens will have individual A-numbers assigned.
- (D) Aliens may present other documents, such as marriage records or court orders, that indicate identity, immigration status, or U.S. residence of the holder. These documents are not considered adequate proof of current immigration status, but may be used to verify alien status through the secondary verification process.
- (E) When the applicant provides the CDHS with alien documentation which does not contain a photograph, the CDHS should request that the applicant provide some valid identification which includes a photograph. While a photo identification is not required, the CDHS should be satisfied that the applicant is properly identified.

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5101:1-1-56 Methods of verifying alien registration status.

- (A) There are two methods of verifying alien registration status. Primary verification is an automated process used to provide alien verification within seconds of inquiry. Secondary verification is used when the automated process is unable to provide information and under other specified circumstances.
- (B) Regardless of the methods of verification used, an alien shall be considered presumptively eligible until proven otherwise.
- (C) For most applicants, the CDHS shall use primary verification.
 - (1) The SAVE program makes use of the alien status verification index (ASVI) database. This database contains records on aliens within the United States. The CDHS may access ASVI through touch-tone telephones. This data base may be accessed by the CDHS with the A-number from the individual's original alien registration document.
 - (2) The CDHS shall compare the information provided through ASVI with the data provided on the alien's documentation. The CDHS shall record the ASVI verification number and date of the ASVI transaction on the copy of the alien documentation. If there are no discrepancies between the document and the information provided through ASVI, the copy shall be filed in the assistance group record.
 - (3) If instructed during primary verification, institute secondary verification or if there are material discrepancies, secondary verification methods must be pursued. Material discrepancies are defined as obvious irregularities in name, date of birth or county of birth. A slight difference in the spelling of a name would not normally be a material difference.
- (D) Secondary verification provides a more extensive validation procedure through automated and paper INS files when problems appear in the verification of alien registration status. For most alien applicants, the CDHS shall use primary verification using ASVI. Secondary verification will be necessary in the following situations:
 - (1) When any of the items presented as documentation appear to be counterfeit or altered.
 - (2) When an alien presents unfamiliar INS documentation, or a document that indicates immigration status, but does not contain an A-number.

- (3) When a document contains an A-number in the A60 000 000 series.
 - (4) When the document contains an A-number in the A80 000 000 series.
 - (5) When the document presented is any other form of an INS fee receipt, other than an I-689.
 - (6) When the document presented is a memorandum of creation of record of lawful permanent residence (form I-181a).
 - (7) When the document presented is a foreign passport and/or an arrival-departure record (form I-94) that bears the endorsement "Processed for I-551, Temporary Evidence of Lawful Permanent Residence" and the document is over one year old.
 - (8) Whenever an automated check through ASVI returns with a response "Institute Secondary Verification" or when there is material discrepancy between an alien's documentation and the record contained in ASVI.
- (E) Secondary verification must be completed and a response must be received before the CDHS denies, reduces, or terminates benefits because of immigration status.
- (F) Procedures for obtaining secondary request.

The CDHS shall complete a document verification request (form G-845), attach readable photocopies of original immigration documents, and forward this to the appropriate INS. A separate G-845 will be completed for each applicant.

- (1) Secondary verification is a process used to verify alien status. This information may be shared routinely between INS and the CDHS. However, in addition to the G-845, an ODHS 7445 "Consent of Disclosure" is used for clients who have applied for status under the legalization (amnesty) or special agricultural worker provisions in section 245A or 210 of the Immigration Reform and Control Act of 1986.

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5101:1-1-57 Required written declaration of citizenship/alien status.

- (A) Each applicant for ADC, medicaid, and ADC-related medicaid must declare in writing, under penalty of perjury, whether or not the individual is a citizen or national of the United States, or an alien in a satisfactory immigration status. The applicant must also declare the status of all dependent children for whom assistance is being requested. If there is an authorized representative for the assistance group, the authorized representative may sign for the assistance group making the application.
- (B) The written declaration requirement is met when the required adult assistance group member or authorized representative has signed and dated the ODHS 7100 (CAF), ODHS 7200 (APPL) or ODHS 7216 (CPA). The declaration of citizenship/alien status shall be considered met for all members of the assistance group with this signature.
- (C) Declarations on behalf of newborn children must be provided no later than at the next scheduled reapplication. This declaration requirement is met by the assistance group member's signature on the printed copy of information (PCI) document signed at the reapplication.

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Statutory Authority: Revised Code Sections 5107.02 and 5111.011.

Rule Amplifies: Revised Code Sections 5107.02 and 5111.011.

Prior Effective Date: 6-1-93, 10-1-95

501:1-3-011 Eligibility for ADC as a result of the deprivation of parental support.

Deprivation of parental support or care is a nonfinancial eligibility requirement necessary to establish eligibility for a child. Deprivation of parental support or care exists when the child has only one legal parent or when one or more of the conditions set forth in rules 5101:1-3-012, 5101:1-3-14, or 5101:1-3-15 to 5101:1-3-155 of the Administrative Code exist. A child may meet the deprivation requirement as a result of any of the conditions set forth in paragraphs (A) to (D) of this rule.

- (A) Death of one or both of the legal parents.
- (B) Absence of a continuing nature of one or more of the legal parents as set forth in rule 5101:1-3-012 of the Administrative Code.
- (C) Incapacity of one or more of the legal parents as set forth in rule 5101:1-3-14 of the Administrative Code.
- (D) Unemployment of a legal parent as set forth in rules 5101:1-3-15 to 5101:1-3-155 of Administrative Code.

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Date

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Statutory Authority:	Revised Code Section 5107.02
Prior Effective Dtes:	11-1-76, 5-14-77, 12-31-77, 10-26-78, 12-1-78, 5-1-79, 9-21-79, 5-1-82, 10-9-83, 3-1-84 (Temp.), 6-1-84, 4-1-86.

5101:1-3-012 ADC: continued absence.

- (A) "Continued absence of the parent from the home" means that either parent or both parents are out of the home and the nature of the absence causes an interruption or a termination of the parent's functioning as a provider of maintenance, physical care, or guidance for the child.
 - (1) Continued absence does not exist when a parent is absent solely by reason of the performance of active duty in the uniform service of the United States.
 - (2) Continued absence of a parent from the home does exist when a parent has been convicted of an offense and is under a court sentence requiring the parent to perform unpaid public work or unpaid community service during working hours. The parent is permitted by the court to live at home while serving the sentence because of crowded jail conditions or for other reasons in the public interest. In this situation, the parent is living in the home but is considered absent. The child is deprived because the parent is unable to provide support through paid employment.
- (B) When a child has two legal parents, continued absence is based upon involuntary or voluntary absence from the home or the involuntary or voluntary absence of the one legal parent from the home.
- (C) When a child has one legal parent, continued absence is based upon the presence of only the one legal parent in the home or the involuntary or voluntary absence of the one legal parent from the home.
- (D) Involuntary absence occurs when physical absence, loss of provider function, and the duration of absence is beyond the immediate control of the absent parent. For example, a child is deprived due to continued absence of one parent as a result of imprisonment or hospitalization.
- (E) Voluntary absences involve situations in which physical absences are within control of the absent parent, such as cases involving desertion, divorce, or separation.
- (F) Continued absence includes, but is not necessarily limited to, the following situations:

- (1) The parents are unmarried and have not lived together as man and wife;
 - (2) One of the parents has been sentenced to a term of seven days or more in jail, workhouse, or penal institution;
 - (3) The parents are divorced or legally separated and are not living together;
 - (4) A parent is an inmate or patient in an institution or hospitalized due to illness or injury for as much as seven days;
 - (5) The child has been adopted by a single parent. Since the child has only one legal parent, the child is considered deprived since there is not a second parent;
 - (6) Two unrelated persons of the opposite sex live together with a child and one of the unrelated persons does not meet the definition of parent as defined in rule 5101:1-3-04 of the Administrative Code.
- (G) If the circumstances listed above are not present (e.g., the parent has been gone for less than seven days), there nevertheless may exist other factors which, if present, also establish that the absence is of a continuing nature. These factors are as follows:
- (1) One parent has been ordered to remove himself from the home by a court and has in fact removed himself;
 - (2) One of the parents has retained legal counsel for the purpose of securing a divorce or legal separation;
 - (3) One parent is in jail or detention home because of charges against him and is unable to make bail;
 - (4) Any other circumstances which indicate that the nature of the absence will interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child (e.g., one parent has left home and the remaining parent does not know when or if he will return).
- (H) Absences of less than thirty days at the point of application must be redetermined thirty days after payment is authorized. As a minimum, this redetermination must substantiate that the parent is still absent from the home. Subsequent redetermination shall be at the appropriate intervals.
- (I) Following reconciliation with the absent parent, eligibility for the family (excluding the returned parent) continues for a period of sixty days if the family continues to meet the other eligibility criteria. This sixty-day period begins the first of the following month that the change in circumstances occurred. If the returned parent causes the family to no longer meet the ADC eligibility requirements, other than the deprivation factor, the family is ineligible for the sixty-day period following reconciliation. Further eligibility is contingent upon the family meeting all criteria

of ADC. If eligibility for another public assistance program (e.g., ADC to ADC-U) can be established prior to the completion of the sixty days, the county department of human services shall institute the new program at the earliest date.

Effective Date: 03 Oct 1986

Certification: Arnonld R. Tompkins

Sep 23 1986
Date

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Statutory Authority: Revised Code Section 5107.02

Prior Effective Dates: 11-1-76, 5-14-77, 12-31-77, 10-26-78, 12-1-78, 5-1-79, 9-21-79, 5-1-82, 10-9-83, 3-1-84 (Temp.), 6-1-84, 4-1-86.

5101:1-3-013 ADC: assignment of child support.

- (A) Section 402(a)(26) of the Social Security Act requires each assistance group to assign any rights to support from any other person the assistance group may have. Section 5107.07 of the Revised Code provides that the application for and receipt of ADC is an automatic assignment of support rights to the Ohio department of human services. Support payment assigned to ODHS shall be collected by the child support enforcement agency (CSEA). The assignment of support rights includes:
 - (1) Rights to support which the assistance group has in its own behalf. When spousal support is included in the child support court order, the spousal support is assigned.
 - (2) Rights to support which the assistance group has in behalf of any other member of the assistance group for whom he is applying for or receiving aid. This is the assignment of ongoing monthly child support.
 - (3) Rights to support which have accumulated at the time the assignment is effective. This is the assignment of the accumulated support obligation owed but unpaid for the months prior to application. While the family receives assistance, any support paid by the absent parent toward the past obligation is included in the assignment.
- (B) The application for and receipt of ADC is an automatic assignment of support rights. When the caretaker relative applies for and receives ADC, the assignment of support rights is met for everyone included in the assistance group.
- (C) The assignment of support rights is effective the first of the month following the month of approval.
- (D) When an individual is added to an existing ADC assistance group, the assignment of support rights is effective the first day of the month following the month the CDHS adds the individual to the assistance group.

- (1) Any direct support payments received by an ADC assistance group prior to the effective date of support assignment shall be budgeted as unearned income minus the child support disregard in the grant computation.
 - (2) Once assignment of support is effective, any direct payment (including voluntary payments) by the absent parent shall be evaluated.
 - (a) If there is an existing court order for child support with an effective date prior to December 1, 1986, the direct payment must be turned over to the CSEA. If the payment is not collected by the CSEA, a potential IV-D overpayment exists.
 - (b) If a new or modified Ohio court order with an effective date on or after December 1, 1986 exists, the direct payment shall be considered a gift to the assistance group.
- (E) The IV-A unit shall notify the CSEA when the effective date of assignment is determined. This notification shall be transmitted to the CSEA within two working days of authorization of ADC payment based upon absence of a parent. When the case is terminated, the IV-A unit shall notify the CSEA of the termination and of the need to release current support payments.
- (F) The assignment of support rights is a requirement of eligibility for ADC cash payment cases. There are some situations in which the assignment requirement is not applicable. A referral from the IV-A unit to the CSEA is not required for the following ADC cases.
 - (1) Cases in which the deprivation factor is due to incapacity, unemployment, or death of the natural or adoptive parent.
 - (a) The assignment of support rights is a requirement only when the deprivation factor is continued absence.
 - (b) In combination cases, i.e., stepparent cases, there are two deprivations and a referral is required for those children who have eligibility for ADC cash assistance based upon continued absence. Assignment of support rights is not routinely required for cases which have the sole deprivation factor of incapacity or unemployment. However, when the CDHS becomes aware either through the application interview or through subsequent receipt of information, that a court order is pending or exists for one of the assistance group members, the CDHS must send a referral form to the CSEA to inform that agency of the situation. The CDHS must share this information with the CSEA within two working days of the disposition of the application or if the information is made known after approval of the application, two working days after the CDHS is provided with the information.
 - (2) Emergency assistance.

- (3) Unborn children.
- (4) Cases in which the deprivation factor is not due to continued absence. In combination cases, there are two deprivation factors and a referral is required for those children who have ADC eligibility based upon continued absence.
- (G) The assistance group has already assigned rights to support with the completion of the application. There are some situations where the CSEA may require that a separate notice of assignment form be completed by the assistance group member. The assistance group member shall cooperate with the CSEA in completing this assignment form as a condition of eligibility.

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Certification: Arnonld R. Tompkins

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Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Section 5107.02.

Prior Effective Dates: 11-1-76, 5-14-77, 12-31-77, 10-26-78, 12-1-78, 5-1-79, 9-21-79, 5-1-82, 10-9-83, 3-1-84 (Temp.), 6-1-84, 4-1-86, 4-1-89, 7-1-89 (Emer.), 9-23-89, 4-1-90, 9-1-92.

5101:1-3-02 ADC: age requirements.

- (A) There is no age requirement for the parent or relative with whom the child lives. The age requirement applies only to the children on whose behalf assistance is requested. If the parent's or other specified relative's age raises a question of ability to manage the ADC grant, the case shall be referred to social services. Assistance shall not be denied or delayed pending a decision from social services.
- (B) Section 3103.03 of the Revised Code states that parental duty of support to children shall continue so long as the child continuously attends on a full-time basis any recognized and accredited high school, even when such child has attained the age of majority. For purposes of ADC eligibility, parental support responsibility continues as long as the child eighteen to twenty-one years of age is continuously attending, on a full-time basis, any recognized accredited high school. However, an ADC caretaker eighteen to twenty-one years of age shall not be denied assistance, pending action to obtain such support. Support recovery in such instances is not an activity reimbursable through IV-D funds. The IV-D unit may perform such recovery activities but any expenditures incurred must be handled through IV-A administrative funds.
- (C) A child may be eligible for ADC cash assistance until age eighteen, except as provided below:
 - (1) A dependent child may remain eligible for ADC cash assistance beyond his eighteenth birthday only if he is a full-time student reasonably expected to complete a program of secondary school or the equivalent level of vocational or technical training prior to his nineteenth birthday.

A child who will be nineteen the same month he completes his secondary school program, or the equivalent, is eligible for ADC through that month.
 - (2) A child who completes high school prior to his eighteenth birthday and is attending college

or college-level vocational or technical training is eligible for ADC cash assistance until the month after the month of his eighteenth birthday.

- (D) A child who is not reasonably expected to complete high school or equivalent training prior to his nineteenth birthday is ineligible the month following the month of his eighteenth birthday.
- (E) An eighteen-year-old child who has completed high school and is now enrolled in a technical program that he can complete before age nineteen is ineligible for ADC cash assistance.
- (F) In cases where the year and month in which the child was born can be established, but not the exact day, the first of the month is to be used as the child's birthday.
- (G) A dependent child who leaves the home is removed from the assistance group and a separate application taken and determination of eligibility made if the person is in need of financial assistance.

Effective Date: 03 Oct 1986

Certification: Patricia Barry

Sep 23 1986
Date

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Statutory Authority: Revised Code Sections 5107.02, 5107.03.
Prior Effective Dates: 8-1-75, 12-31-77, 4-1-79, 10-1-81, 5-1-82.

5101:1-3-021 ADC: school attendance.

- (A) In certain situations, school attendance for a dependent child, aged sixteen to nineteen, must be monitored in order for ADC cash assistance to be authorized for the child. Monitoring of a child's school attendance by the CDHS is dependent upon:
 - (1) The child's age; and
 - (2) Whether the child is a teen subject to participation in the LEAP program as set forth in rule 5101:1-23-52 of the Administrative Code.
- (B) There is no school attendance requirement for a child under sixteen years of age, unless the child is subject to participation in the LEAP program.
- (C) General school attendance requirements, including definitions of full-time and part-time attendance, are set forth in rule 5101:1-23-041 of the Administrative Code. However, as the definitions may not apply to each individual student situation, it may be necessary for the CDHS to contact a student's school when clarification is needed about the student's attendance status.
- (D) A dependent child who is a member of an ADC assistance group and who is aged sixteen to nineteen, is required to meet the school attendance requirements set forth in rule 5101:1-23-041 of the Administrative Code in order for his needs to be included in the ADC grant. A dependent child, aged sixteen to eighteen, who does not meet the school attendance requirements, is subject to participation in the JOBS program as outlined in Chapter 5101:1-47 of the Administrative Code. If the dependent child who is aged sixteen to eighteen is not attending school, his participation in a JOBS program (as required pursuant to Chapter 5101:1-47 of the Administrative Code) is a condition of eligibility for his needs to be included in the ADC assistance payment.
 - (1) Verification of school attendance for a child who is sixteen or seventeen years old must be secured and retained in the assistance group record. A child who is sixteen or seventeen years of age and who is attending school full time is exempt from participation in the JOBS program.
 - (2) A dependent child who is under eighteen years of age must be a full-time student in a high school or the equivalent level of vocational or technical training and can reasonably be expected to complete the program prior to reaching age nineteen. Verification of school attendance must be secured and retained in the assistance group record. A child who is eighteen years of age who is attending school full time is exempt from participation in the JOBS program.
- (E) Teens shall be required to participate in the LEAP program, as set forth in rule 5101:1-23-52 of the Administrative Code. As the regulations for participation in the LEAP program are necessarily specific, including special school attendance requirements, the CDHS shall apply the regulations set forth in rules 5101:1-23-52 to 5101:1-23-73 of the Administrative Code for LEAP

program participants. The requirements of this rule do not apply to participants of the LEAP program.

- (F) A dependent child who is eighteen years of age may only be included in the ADC cash assistance group subsequent to reaching age eighteen, if the child is a full-time student in a high school or equivalent level of vocational or technical schooling and can reasonably be expected to complete the program prior to reaching age nineteen. Verification of school attendance for a child who is eighteen years of age must be secured and retained in the assistance group record.

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Certification: Terry Wallace

Aug 21 1992
Date

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Statutory Authority: Revised Code Section 5107.02.

Rule Amplifies: Revised Code Sections 5101.20, 5101.80 and 5101.801.

Prior Effective Dates: 7-1-89 (Emer.), 9-23-89, 1-1-90 (Emer.), 3-22-90, 9-1-90 (Emer.), 11-10-90.

5101:1-3-03 ADC: residence requirement.

- (A) Residence in the state is a requirement for aid to dependent children. Residence is established by a person who is living in Ohio voluntarily with the intention of making his home in Ohio. Residence may also be established by a person who is living in Ohio, is not receiving assistance from another state, and entered Ohio with a job commitment or seeking employment in Ohio, whether or not currently employed. A child is a resident of the state in which the caretaker is a resident.
- (B) Absence from the state for more than thirty days constitutes evidence of intent to establish residence elsewhere, unless a written statement has been submitted to indicate intent to return to Ohio. The written statement must be retained in the case record. The county department of human services shall consider such written statement as acceptable proof of intent to return to Ohio if the statement includes the reason for the absence and the expected date of return. A statement is not considered acceptable proof of intent to return to Ohio when the applicant/recipient contradicts the statement by giving up Ohio living arrangements, applying for public assistance in another state, or securing long-term housing arrangements in another state.
- (C) Individuals/families must have an independent living arrangement and must not be residents in a county home, city infirmary, jail, or other public institution.

Effective Date: Apr 01 1990

Certification: Roland T. Hairston

Mar 21 1990
 Date

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5101:1-3-04 Living with a specified relative.

To be eligible for ADC, a child's home must be with a specified relative. The relative must meet the definition of "specified relative" and the relative and child must share the same home except for temporary absence.

A "specified relative" is one who is responsible for the care and control of the child. This means actually responsible for the support, education, and maintenance of the child; supervising the child; and making the application for assistance on behalf of the child.

(A) The term "specified relative" is limited to the following:

- (1) A blood relative, including those of half blood:
 - (a) Parent, grandparent and other direct ancestors through great-great-great grandparent;
 - (b) Other relationships prefixed by "great", "great-great", "grand", or "great-grand";
 - (c) Aunt or uncle;
 - (d) Nephew or niece;
 - (e) Brother or sister;
 - (f) First cousin; or
 - (g) First cousin once removed (i.e., the child of one's first cousin or the first cousin of one's own parent).
- (2) Any person named above who is related to the child by adoption, for example, the person who legally adopted the child or adopted the child's parent, or the natural children of other adopted children of such person. Although adoption severs the legal relationship between parent and child, it does not sever the biological relationship. A biological parent may be a specified relative if the child returns to share a home with the biological parent.
- (3) A stepfather, stepmother, stepbrother, or stepsister.
- (4) Spouses of any person named above, even though the marriage has been terminated by death, separation or divorce.
- (5) Paternal relatives of an out-of-wedlock child are relatives for public assistance purposes, provided that the father meets one of the definitions of a parent.

- (B) The term "living with" shall include persons who would be physically in the home but are absent due to certain circumstances.
- (1) Examples of temporary absence are hospitalization, detention in a juvenile home until a court commitment, attendance at school, visiting, vacationing, and trips made in connection with current or prospective employment.
 - (2) Assistance may be granted to the relative up to thirty days prior to the child's arrival in the relative's home from placement in a foster family home or institution, provided that no payment was made for the same period to another relative or to foster care for that child.
 - (3) The absence of a member of the ADC assistance group is temporary if all of the following conditions are met.
 - (a) The location of the absent person is known.
 - (b) There is a definite plan for the return of the absent person to the home.
 - (c) The absent person shared the home with the ADC group prior to the onset of the absence.
 - (4) When a child is absent from the specified relative's home because of a placement by a court or public or private agency, temporary absence does not exist.
- (C) For ADC purposes, "parent" means one who has a legal duty to support the child. A legal parent includes the following individuals as long as their parental rights are not legally terminated.
- (1) The biological mother and father of the child.
 - (2) Any person who is adjusted by a court of competent jurisdiction to be parent of the child and/or under legal duty to support the child.
 - (3) An individual who has legally adopted the child.
- (D) In Ohio, a legal marriage may be ceremonial or one which meets the requirements of Chapter 3101. of the Ohio Revised Code or which meets the requirements of valid common-law marriage.

Effective October 10, 1991, common-law marriages are prohibited in the state of Ohio. Common-law marriages that occurred in Ohio prior to the effective date and have not been terminated by death, divorce, dissolution of marriage, or annulment remain valid on or after this effective date.

Common-law marriages that satisfy all of the following remain valid on and after the effective date:

- (1) They came into existence prior to the effective date, or come into existence on or after

that date, in another state or nation that recognizes the validity of common-law marriages in accordance with all relevant aspects of the law of that state or nation. An individual's or couple's statement that they have a common-law marriage is not controlling. Any alleged common-law marriage must be evaluated in accordance with the factors set forth below.

- (2) They have not been terminated by death, divorce, dissolution of marriage, annulment or other judicial determination in this or another state or nation.
- (E) A valid common-law marriage may be established only if the marriage has all the following five elements:
 - (1) At some point, the couple must have a present agreement, i.e., a written or verbal contract, to be husband and wife. They must both regard and accept their relationship as a present marriage and cannot simply intend to marry in the future.
 - (2) They must be mentally and legally competent to make such an agreement. Neither can be presently married to another person.
 - (3) They must have cohabited as husband and wife subsequent to the agreement.
 - (4) They must have held themselves out to the community as husband and wife.
 - (5) At least some members of the community where the individuals live must regard them as husband and wife.
- (F) Custody is not a factor in determining eligibility for ADC. Although another individual or agency may hold legal custody of a child, a specified relative may receive ADC assistance.
- (G) ADC may not be denied either at initial application or at any subsequent time due to the conditions of the home in which the child is residing. If, at any time, the condition of the home is considered to be detrimental to the health or well-being of the child, the eligibility determiner shall make a referral to the social services unit.

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Certification: Arnonld R. Tompkins

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5101:1-3-041 ADC: shared parenting (joint custody).

- (A) For purposes of ADC eligibility, a child can only have one home and cannot be considered to be "temporarily absent" from another home (i.e., both of the child's parents cannot receive ADC benefits concurrently for the same child in the same month.) A dependent child can only be considered to be "sharing a home" with one caretaker relative parent despite a shared parenting/joint custody order permitting the child to reside with each parent for a part of the month. For this reason, the following process set forth in paragraphs (B) to (C) of this rule shall be utilized by the CDHS in determining ADC eligibility for a dependent child in a shared parenting arrangement.
- (B) When only one parent applies for assistance, determine if the child resides with the parent who submits the application for assistance. This issue is resolved at the point of application (provided that the requirements of rule 5101:1-3-04 of the Administrative Code are met), if the other parent is not currently receiving ADC benefits for the child, and the other parent is not also concurrently applying for ADC benefits for the child. If there is no application submitted by the other parent, nor is there an existing ADC assistance group containing the other parent and the child, the child shall be considered to be living and sharing a home with the parent who submitted the application for public assistance. In this situation, the deprivation factor of absence of a parent (i.e., the parent who has not applied for public assistance benefits for the child) is met.
- (C) When both parents apply for assistance for the child and both parents claim that the child is living with and sharing a home with them, the CDHS must first determine whether each applicant is maintaining a home for the child pursuant to rule 5101:1-3-04 of the Administrative Code. If both parents are maintaining a home for the child, the CDHS must first determine if both parents can agree which one of them will withdraw their application for ADC, since both of them cannot concurrently receive assistance for the same child.
 - (1) If both parents agree, and one of the applications is withdrawn, the CDHS shall proceed to determine if the other parent is otherwise eligible for ADC.
 - (2) If the parents cannot agree and neither application is withdrawn, the CDHS shall review the following list of parental activities and responsibilities. This is not an all-inclusive list; there may be additional criteria that may apply generally or in individual case scenarios.
 - (a) Is there a court order granting sole custody to one parent, or designating one of the parents' residences as the child's home for public assistance purposes?
 - (b) If the parents reside in different school districts, where does the child attend school? Who selected the school?
 - (c) Who assists the child with homework or school-related tasks?
 - (d) Who attends parent/teacher conferences and who works with the school regarding the child's educational progress?

- (e) If the child is enrolled in day care, who makes the day care arrangements?
- (f) Who takes the child to and from school and/or day care?
- (g) Which parent is listed as the contact for emergencies at the child's school or day care provider? If both parents are listed, who is the one to be contacted first?
- (h) Who arranges and transports the child to medical and dental appointments? Who selects the physician and dentist? Who maintains the child's medical records?
- (i) Who initiates decisions regarding the child's future?
- (j) Who responds to medical or law enforcement emergencies involving the child? If both parents are to be contacted, who is the one to be contacted first?
- (k) Who arranges for food, clothing, and other household necessities on an ongoing basis?
- (l) Who disciplines the child?
- (m) Who plays with the child and arranges for entertainment?
- (n) Which parent supervises the child's daily dressing and personal hygiene tasks?

As stated previously, the list of parental activities contained in paragraphs (C)(2)(a) to (C)(2)(n) is not an all-inclusive list, and various other factors may need to be examined in making this determination. Obviously, there will be situations in which these questions will be answered positively for both parents. However, in reviewing parental activities, one parent is often identified more than the other. The parent most often identified is the parent who is considered to be sharing a home with the child, and the parent with whom the child's ADC eligibility shall be explored.

- (3) In the event that the exploration set forth in paragraph (C) reveals that this parent is not otherwise eligible for ADC assistance, ADC eligibility for the other parent must also be explored if that parent has a pending application.
- (D) The CDHS must document the decision and the basis for the decision in the assistance group record(s), as well as in running record comment in CRIS-E.

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5101:1-3-05 ADC: general principles regarding resources.

- (A) "Resources" are those possessions belonging to members of an assistance group that may be used for their support. Resources include personal property, real property, and liquid assets as well as assets not in a liquid form. All resources belonging to members of an assistance group must be considered in order to determine their value and availability. Additionally, the resources of certain individuals whose needs are not included in the assistance group are also considered and applied toward the resource limit, as defined in rule 5101:1-3-052 of the Administrative Code. Specifically, the resources of the following individuals are counted: individuals who are sanctioned due to failure without good cause to participate in JOBS or for noncooperation with child support, individuals who are undocumented aliens, and individuals who are disqualified due to intentional program violations.
- (B) A resource owned solely by a member of the assistance group, or by any of the excluded individuals described in paragraph (A) of this rule, is regarded as available in its entirety to all members of the assistance group.
- (C) A resource owned in common with an individual other than a member of the assistance group is considered to be available on a prorated basis unless the assistance group provides documentation to the contrary. Additionally, a resource owned in common with an individual other than the specifically excluded individuals described in paragraph (A) of this rule, is considered available on a prorated basis unless the assistance group provides documentation to the contrary.
- (D) For a resource to be considered in determining ADC eligibility, it must be available to the assistance group. Available is defined as accessible. A resource is considered to be available to the assistance group as long as the owner of the resource (who is a member of the assistance group), or any other member of the assistance group (or any of the specifically excluded individuals identified in paragraph (A) of this rule) is aware, or has reason to be aware of the resource. If the recipient convinces the CDHS that all members of the assistance group were unaware of the resource and had no reason to be aware of the resource, then the resource shall be considered to have been unavailable. The assistance group has the burden of proving that each member of the assistance group (including the specifically excluded individuals identified in paragraph (A) of this rule) was unaware of, and had no reason to be aware of the resource. The resource will be considered to have been unavailable only for the period of time the assistance group can demonstrate that they had no reason to be aware of the resource. Once any member of the assistance group (or any of the individuals identified in paragraph (A) of this rule) becomes, or has reason to become aware of the existence of the resource, the resource will be considered available to the assistance group. The assistance group must have the legal right to control and dispose of the property for it to be counted as a resource.
- (E) Ownership of a resource must clearly be established to evaluate availability.
 - (1) A resource owned solely by a member of the assistance group (or by any of the specifically excluded individuals identified in paragraph (A) of this rule) is considered to be available in its entirety to the assistance group.

- (2) A resource owned in common with an individual other than a member of the assistance group (or any of the specifically excluded individuals identified in paragraph (A) of this rule) is considered to be available to the assistance group on a prorated basis unless documentation is provided to the contrary.
- (F) A resource must be both liquid and available to be considered in determining eligibility for assistance.
- (G) The assistance group must have the legal right to control and dispose of the resource being considered.
- (H) When evaluating any resource, the availability of the resource must be determined.
 - (1) Only resources in which the assistance group has a legal interest and the legal ability to use or dispose of are to be counted.
 - (2) If the ownership of the resource is shared, the assistance group's ability to use or dispose of the resource must be determined.
 - (3) When a member of the assistance group shares ownership of a resource with another person who is a member of the assistance group, it is assumed that the ability to use and dispose of the resource exists unless the assistance group can provide documentation to the contrary. If the owner who is not the assistance group member, or one of the specifically excluded individuals identified in paragraph (A) of this rule, indicates the intention of blocking the assistance group's use or disposal of the resource, the assistance group should be referred to available legal services to determine if they can be of assistance. If legal means of pursuit are available, the assistance group is required to take any and all necessary action to make the resource available. If the assistance group is unwilling to take action to make the resource available, the application must be denied or the assistance terminated. If the assistance group is unable to make the resource available because one of the owners cannot be located, the cost of legal action is prohibitive, etc., the resource is not considered to be available to the assistance group. When there is good cause for being unable to obtain all necessary verification related to availability, an application must be approved pending the receipt of the verifications. Availability of the resource must be reviewed at each reapplication.
 - (4) When ownership of a resource is shared, it is assumed that ownership is on a prorated basis unless otherwise shown by the assistance group. When ownership is shared unequally, the CDHS must determine the amount of the resource that is available to the assistance group.
- (I) The resources of a parent who is living in the home but is not included in the assistance group are counted against the resource limitation on the following basis:
 - (1) All resources held by the natural parent are available to the children in their entirety.
 - (2) All resources owned solely by the stepparent are not considered available to the natural

parent and/or children.

- (3) If a resource is jointly owned and listed with the names connected by "and," the resource is divided equally between the couple. If a resource is jointly owned but is listed with the names connected by "or," the resource is considered available in its entirety to the natural parent. All of the resource is then available to the natural parent's children.
- (J) On rare occasions an assistance group cannot liquidate nonexempt personal property which causes ineligibility because of legal technicalities, general economic conditions in the community, or the inability to find a buyer. When a bona fide effort is made to dispose of a resource and evidence shows there is not a current market for the personal property, then the personal property is not counted.
 - (1) Unavailability of the personal property must be reevaluated at every reapplication.
 - (2) When personal property has been declared unavailable due to a lack of purchase offers, the assistance group must continue attempts to sell the personal property.
 - (3) When personal property has been declared unavailable due to a specified condition, the CDHS must confirm from the assistance group that the specified condition which made the personal property unavailable still exists.

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5101:1-3-052 ADC resources: limitation.

- (A) The total equity value of all countable real property, personal property, and liquid assets owned by members of the assistance group cannot exceed one thousand dollars for the assistance group of any size. "Equity value" means fair market value minus liens or encumbrances (legal debts). "Fair market value" means the price an item of a particular make, model, size, material, or condition will sell for on the open market in the geographic area involved.
- (B) The one-thousand-dollar resource limit does not include:
 - (1) Homestead property which is the usual residence of the assistance group.
 - (a) Homestead property includes one home and all adjoining land.
 - (b) "Adjoining land" means land which is not separated by intervening property owned by someone else. Land which is separated by roads, rivers, streams, etc., is considered to be adjoining.
 - (2) One motor vehicle, the value of which does not exceed one-thousand-five-hundred dollars with consideration of liens or encumbrances.
 - (a) If this vehicle has any excess value over the one-thousand-five-hundred-dollar limit, the excess is applied to the overall one-thousand-dollar resource limitation.
 - (b) The value of all other motor vehicles, with consideration of liens or encumbrances, is counted toward the one-thousand dollar resource limitation.
 - (3) Items or personal property owned by members of the assistance group that are considered as household goods and personal effects.
 - (4) The resources of an SSI recipient, and, effective February 28, 1994, the resources of an individual for whom federal, state or local foster care maintenance or adoption assistance payments are made.
 - (5) Funeral agreements valued at one thousand five hundred dollars or less for each member of the assistance group. Equity value for funeral agreements that exceed one-thousand-five-hundred dollars per assistance group member shall be counted toward the one-thousand-dollar resource limitation.
 - (6) One burial space for each member of the assistance group.
 - (7) Bona fide loans from any source.
 - (8) Educational grants and scholarships from any source for undergraduate and graduate college

expenses.

- (9) Payments received by individuals of Japanese ancestry under section 105 of Public Law 100-383, and payments received by Aleuts under section 206 of Public Law 100-383.
 - (10) Payments received under the provisions of the Agent Orange Compensation Exclusion Act (Public Law 101-201) received on or after January 1, 1989.
 - (11) Earned income tax credit (EITC) payments received after December 31, 1990, in the form of a refund of federal income taxes or in the form of an advance payment by an employer must be disregarded in the month of receipt of such payment and in the month following. When an applicant has received the EITC refund in the month prior to application, any remaining portion of the EITC payment will be considered an exempt resource in the month of application.
 - (12) Effective May 1, 1991, the resources of an individual on whose behalf federal, state or local foster care maintenance payments are made.
 - (13) Effective May 1, 1991, the resources of an individual who is excluded from the ADC standard filing unit on whose behalf federal, state or local adoption assistance payments are made.
 - (14) Payments received under the provisions of the Radiation Exposure Compensation Act (Public Law 101-426) received on or after October 15, 1990.
 - (15) Payments received under the provisions of the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) received on or after October 10, 1980.
 - (16) Payments received under the provisions of Aroostook Band of Micmacs Act (Public Law 102-171) received on or after November 26, 1991.
 - (17) Payments received under the provisions of the Child Care and Development Block Grant (Section 5082 of Public Law 101-508).
 - (18) Escrow accounts established and credited as the direct result of the assistance group's involvement in the family self-sufficiency program on or after May 13, 1992. These escrow accounts are only considered available when the assistance group is no longer receiving any federal, state, or other public assistance for housing.
 - (19) Payments received under the provisions of the Seneca Nation Settlement Act of 1990 (Public Law 101-503) received on or after November 3, 1990.
- (C) The one-thousand-dollar resource limit does include:

- (1) The equity value of real property not used as the residence of the assistance group, assessed according to its equity value. Any income received from income-producing property is counted as income to the case.
- (2) The equity value of any burial spaces in excess of one per person.
- (3) The cash value of life insurance policies.
- (4) Household goods and personal effects not considered as exempt resources.

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5101:1-3-053 ADC resources: liquid assets.

- (A) "Personal property" consists of those resources that are available for the support or maintenance of a person's needs. It consists of those items which are easily transported and stored, such as cash, bonds, life insurance, motor vehicles, etc.
- (B) All liquid assets are countable resources. "Liquid assets" are those resources which are in cash or payable in cash upon demand. The most common types of liquid assets are cash on hand, savings accounts, checking accounts, trusts, stocks, and mortgages. The value of such items must be assessed, combined with the value of all other countable resources, and counted toward the one-thousand-dollar resource limitation.
- (C) The value of a stock is determined by the demand for it when it is bought and sold. As the result of constant trading, the value of stocks frequently varies from day to day. The value of stock is the closing price in a newspaper. The value of stocks traded over the counter is expressed on a "bid" and "asked" basis. The bid price is used to determine the value of a stock. If the closing or bid price of a stock is not shown, a local securities firm must determine its value. If the ownership of the stock is shared, i.e., more than one name is on the face of the stock certificate, it is jointly owned and each person's share is equal.

Shares of stock in an Alaskan native regional or village corporation are exempted from resources.

- (D) A U.S. savings bond is an obligation of the federal government but unlike other government bonds, it is not transferrable; that is, it can only be sold back to the government. Several series of U.S. savings bonds, e.g., I, J, H, can be quickly converted into cash at local banks. However, some bonds, including Series E bonds, must be held at least sixty days from the date of issuance before they can be cashed. Other than those bonds which must be held at least sixty days from the date of issuance before being converted into cash, most savings bonds are convertible within one to two days.
 - (1) U.S. savings bonds are usually registered in the name of the owner(s) shown on the front of the bond and may be redeemed by the owner by completing a form on the back of the bond. If ownership of the bond is shared (more than one name is on the face of the bond), it is jointly owned and each person's share is equal, but any one of them can dispose of the bond.
 - (2) In establishing the value of a U.S. savings bond, the date of issuance on the face of the bond is controlling. The value of the bond depends on the time elapsed from the date of issue. Although many U.S. savings bonds have a table of values on the reverse of the bond, this table is often inaccurate since the interest rate on U.S. bonds may have changed since the bond was issued. A bank can determine the current value. The CDHS must document the

name and title of the person from the bank who provided the information, and the current value of the bond.

- (E) A mortgage is a pledge of a particular property for the payment of a debt or the performance of some other obligation within a prescribed time period. A mortgage may generally be discounted or sold. The amount for which the mortgage could be discounted or sold is the amount of the countable resources. A bank, savings and loan company, or real estate broker is contacted to determine whether a mortgage can be discounted or sold and the amount for which it can be discounted or sold.
- (F) Accrued dividends and interest on savings accounts, certificates, stocks, bonds, etc., are added to the principle and the total evaluated as a liquid asset. Dividends and interest which are paid directly to the family and are not added to the value of the resource are unearned income.
- (G) The amount of funds which an assistance group member is able to withdraw from KEOGH plans, 401K Plans, individual retirement accounts (IRAs), or the Ohio deferred compensation program shall be considered as resources. No portion of the funds withheld for payment of any penalty for early withdrawal (such as taxes, fees, interest, charges, etc.) shall be considered as part of the resource. The funds shall be considered as a resource as of the date that the assistance group member actually receives the funds.
- (H) The cash value of all life insurance of any member of the assistance group is a resource. In order for the value of any life insurance policy to be considered in the total amount of resources, it is necessary that the policy be owned by the applicant/recipient or a member of the assistance group. The cash value of any life insurance must be assessed, combined with the value of all other countable resources, and counted toward the one-thousand-dollar resource limitation.
- (I) Motor vehicles include automobiles, trucks, campers, buses, vans, motorcycles, trailers, boats, snowmobiles, and airplanes. One motor vehicle is exempt as a resource if its value does not exceed one thousand five hundred dollars with consideration of liens and encumbrances. If this vehicle has any excess value over the one-thousand-five-hundred-dollar limit, the excess value is applied to the overall one-thousand-dollar resource limitation.
 - (1) The "net value of a motor vehicle" is its current market value minus any liens or encumbrances. The market value is determined from the current month's "NADA Official Used Car Book," using the column headed "Average Trade In," for the particular year and model, taking into consideration all options on the vehicle and its high or low mileage. Verification of the vehicle's description (year, make, model) and of liens or encumbrances must be secured. For vehicles not listed in the "NADA Official Used Car Book," the county shall assist the client in obtaining an appraisal of current market value from a recognized dealer.
 - (2) There may be instances when an applicant/recipient will dispute the blue book value of the vehicle for some reason, such as damage or inoperability. In these situations, the individual shall be given the opportunity to acquire an independent verification of the value, at his own expense, from a recognized dealer. The individual shall be advised that the county's final determination of value is not bound by such an appraisal but that it will be considered in the

evaluation.

- (3) If a vehicle is no longer listed in the blue book, the applicant/recipient's independent estimate of the value shall be accepted, unless there is reason to believe that the estimate is incorrect. In this case, if it appears that the vehicle's value will affect eligibility, the individual shall obtain an appraisal or produce other evidence of its value, such as tax assessment, insurance company estimate, or newspaper advertisement indicating the sale price of similar vehicles. An applicant/recipient shall provide verification of the value of licensed antique, custom-made, or classic vehicles.
- (J) A "funeral agreement" is defined as preneed (prepaid) funeral contracts, written agreement, contract or series of contracts to provide funeral services and/or funeral goods to be used in connection with the funeral or final disposition of human remains. Payment for these goods or services is made outright or on an installment basis prior to the death of the person so purchasing them or for whom they are purchased.
 - (1) All payments for funeral goods and services made under a preneed funeral contract remain intact as a fund held by a financial institution or in a common or pooled trust fund until the death of the person for whose benefit the agreement is made or until the goods or services are delivered.
 - (2) Any deposit may be released upon demand of the person for whose benefit such deposit was made or upon the demand of the seller for its share of the deposited funds and earned interest if the contract has been canceled.
 - (3) Funeral agreements with equity value of fifteen hundred dollars or less for each family member are excluded from the resource limitation. If the equity value of funeral agreements exceeds fifteen hundred dollars, the excess value is counted toward the one-thousand-dollar resource limitation. Prior to determining whether the excess value is available to the applicant/recipient, the contract will have to be reviewed to determine whether it is revocable or irrevocable.
- (K) The value of burial space held for the purpose of providing a place for burial for each member included in the assistance group is excluded and does not count toward the resource limitation. The equity value of any burial spaces in excess of one per person is countable toward the resource limitation.
- (L) "Household goods" are all personal property customarily found in the home and used in connection with the maintenance, use, and occupancy of the premises.
- (M) "Personal effects" are other items of personal property normally held and recognized as incidental items intended for personal use by one or more household members.

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12-27-84, 1-1-85 (Emer.), 4-1-85, 1-2-86, 10-1-90, 1-1-94, 8-1-95 (Emer.).

5101:1-3-054 ADC resources: real and personal property.

- (A) "Real property" includes all rights in land and objects affixed to the land, such as buildings, fences, crops, trees, etc.
 - (1) The current market value of all types of real property including homestead is calculated by determining the assessed value used for property taxes. The CDHS shall determine the assessed value by using the local county auditor's procedures.
 - (2) The county auditor's assessment of value is presumed to be reasonably accurate as the market value. If the county auditor's value is unreasonable or inaccurate to a prudent person, an appraisal secured from a licensed real estate broker may be submitted as the market value of the real property.
 - (3) For all nonhomestead real property which an assistance group owns or is part owner, the current market value and equity value of nonhomestead real property is a countable resource.
- (B) Real property that is owned by a member of an assistance group and is used by the assistance group as their residence is exempt as a resource. Regardless of its value, the homestead property of the assistance group is not counted toward the one-thousand-dollar resource limitation. The homestead includes one home and all adjoining land in accordance with rule 5101:1-3-052 of the Administrative Code.
 - (1) The assistance group must use the homestead property as their home on a permanent basis. In case of temporary absence, they must return to live in the home within a reasonable amount of time, not to exceed six months.
 - (2) A mobile home or trailer owned by a member of the assistance group is exempt as a resource if it is used by the assistance group as their residence. If a mobile home or trailer is owned by a member of the assistance group and is not used as the home, it is a resource. Its value must be assessed toward the one-thousand-dollar resource limitation.
- (C) Real property may be used as the home and as income-producing property. If an assistance group uses the homestead property as stated in rule 5101:1-3-052 of the Administrative Code and rents part of that property, the property is not counted as a resource. The net income received from renting the property is counted as income to the assistance group.

Effective Date: May 01 1994

Certification: Arnonld R. Tompkins

Apr 21 1994
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Section 5107.02.

Rule Amplifies: Revised Code Sections 5107.02 and 5111.11

Prior Effective Dates: 6-1-76, 12-31-77, 2-3-80, 5-29-80, 1-1-81, 10-1-81, 5-7-82, 7-15-84 (Temp.), 8-31-84, 4-1-88 (Emer.), 6-30-88.

5101-3-055 ADC resources: personal property.

- (A) When nonexempt personal property cannot be liquidated due to legal technicalities, general economic conditions in the community, or the inability to find a buyer, a bona fide effort on the part of the assistance group may be sufficient to determine that the personal property is not countable. A bona fide effort to sell personal property exists when evidence establishes one of the following:
- (1) A knowledgeable source in the geographic area states that the personal property is not salable due to a specified condition of the property; or
- (2) An actual sale attempt at a price not more than the current market value was made in the geographic area within six months of an application or reapplication, and no offer to purchase was received.
- (B) Information about attempts at sale or statements about inability to sell must be verified and placed in the assistance group record. Such information may include copies of sale listings and newspaper advertisements. When sale is attempted, the assistance group record must contain documentation to show whether any offer to purchase is made, regardless of the amount of the offer. This documentation may include a statement from an intermediary involved regarding whether any offer is received and the date, amount, and name of the party making the offer. A statement from the assistance group may be used if no third party is involved in the attempted sale.
- (C) The inability to dispose of nonexempt personal property must be reevaluated at every reapplication.

Effective Date: Sep 23 1989

Certification: Roland T. Hairston

Sep 13 1989
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02, 5111.02.

Prior Effective Dates: 6-1-76, 12-31-77, 2-3-80, 5-29-80, 1-1-81, 10-1-81, 5-7-82, 7-15-84, 4-1-88 (Emer.),
6-30-88, 4-1-89 (Emer.), 5-28-89, 7-1-89 (Emer.).

5101:1-3-056 ADC resources: exempt/nonexempt exchange and replacement.

- (A) When an exempt resource is exchanged for another resource of equal value, the resulting resource is exempt. When an exempt resource is exchanged for a nonexempt resource of any value, the nonexempt resource is a countable resource.
- (B) When an exempt resource is sold, the resulting cash is an exempt resource for six months only if it will be used to purchase an exempt resource.
- (C) A payment of disaster assistance, casualty insurance, or other settlement specifically designated to replace a resource lost due to a disaster is considered as a resource in the same manner as the exempt resource for a period of six months. When the recipient intends to replace or repair the exempt resource but circumstances beyond his control prevent replacement or repair within the six-month period, an extension of up to an additional six months may be granted. Any portion of the payment not used within the applicable period to make replacement or repair of the item is considered to be a liquid asset subject to the resource limitation of one thousand dollars.
- (D) When a nonexempt resource is replaced because of loss due to theft, accident, or disaster, the replacement amount or the replacement item is considered to be a nonexempt resource and is counted toward the one-thousand-dollar resource limitation.
- (E) If a nonexempt resource is exchanged for another resource of the same type and of equal value, the new resource remains nonexempt. If a nonexempt resource is sold, the amount received can be considered as a nonexempt resource only if it is used to purchase the same type of resource of equal value within a thirty-day period of the sale. Otherwise, the amount received from the sale of the nonexempt resource is considered as income.

Effective Date: Jul 15 1984

Certification: Janinne Allen

Jul 02 1984
 Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Section 5107.02.
Prior Effective Dates: 6-1-76, 12-31-77, 2-3-80, 5-29-80, 1-1-81, 10-1-81, 5-7-82.

5101:1-3-057 ADC: checking and saving accounts.

- (A) Checking or savings accounts are considered as cash because deposits are payable on demand. In a joint account all funds in the account are a resource of the applicant/recipient if he has unrestricted access to the funds.
- (B) In situations where an account is shared with others and the amount of funds have an effect on the applicant/recipient's eligibility, the CDHS shall inform the client that if he is restricted access to the account by the contract with the financial institution (depository account/signature card, statement provided by the financial institution) or if a substantial portion of the account was contributed by another person, the applicant/recipient must provide documentation to support his contention.
 - (1) The depository account/signature card will show who has access to the funds. This is the contract with the financial institution, and it shows who has access to the account and whether or not the signatures of more than one owner of the account are needed to withdraw funds. In the absence of the depository account/signature card, a statement from the financial institution is acceptable documentation.
 - (a) If the applicant/recipient provides documentation that access is restricted to the account through the need for the signature of other owners, then the account is considered to be owned by the recipient in proportion to the number of other owners.
 - (b) If the applicant's signature is all that is needed to access the account, then the account is his in its entirety unless documentation is provided that indicates the other person deposited a substantial portion of the funds.
 - (2) When an applicant/recipient provides documentation that shows the other person has a substantial interest in the account, then only the portion the applicant/recipient contributed shall be considered as a resource. Interest accrued on the account shall be allocated according to the portions of ownership. Documentation necessary to show that the applicant/recipient does not own all the funds in the account includes:

- (a) A statement of the applicant/recipient giving his allegation regarding ownership of the funds, the reason for establishing the joint account, who made deposits to and withdrawals from the account, how withdrawals were spent, etc.; and
 - (b) Corroborating statements from other account holder(s); and
 - (c) Where ownership for prior periods needs to be established, the evidence must include a financial institution record, income statement or work record. An example of financial institution records is a passbook, which shows deposits, withdrawals, and interest for the period in question. This may result in determinations showing the recipient owned varying dollar amounts for the prior period.
- (3) If following the evaluation of ownership it is determined that the applicant/recipient's share of the resource is within the allowable limit, assistance can be approved or continued. The applicant/recipient shall be required to remove his assets from the joint account within sixty days from the date his eligibility is determined. The applicant/recipient shall provide documentation that the change has been made.
- (4) If the co-holder of the joint account is incompetent or a minor, it is unnecessary to obtain a corroborating statement from that individual. That person's incompetency or age may be the reason why the claimant is listed as a joint account holder. In the event that this occurs, obtain a corroborating statement from a third party who has knowledge of the circumstances surrounding the establishment of the joint account. If there is no third party, then the CDHS shall make the decision without a corroborating statement and explain why no corroborating statement was obtained. The CDHS shall document the basis for its decision.
- (C) A checking account is verified by examining the last monthly bank statement and the checkbook record to arrive at the current bank balance. A photocopy of the monthly bank statement should be made for the file. If the statement shows deposit and withdrawal activity or cash flow inconsistent with the applicant/recipient's stated financial situation, the case is investigated carefully to establish his source of income. The eligibility determiner discovers whether large withdrawals or checks written actually transferred funds to another person or whether such funds are still available to the applicant/recipient. If the bank statement or checkbook is not available or there is some reason to doubt the accuracy of the checkbook record, verification is obtained by contact with the bank after obtaining the individual's written authorization.
- (D) For passbook savings, the current balance of the savings account is verified by examining the passbook. The eligibility determiner photocopies the page(s) which show activity in the last sixty days. If the passbook shows deposit and withdrawal activity inconsistent with the individual's stated financial situation, he investigates fully to establish the source of income. If the passbook is not available or appears to have been materially altered, the eligibility determiner obtains verification by contact with the institution after securing the individual's written authorization. All the information obtained is recorded in the case record. For nonpassbook savings, the most recent statement or other record of the account in the individual's possession is photocopied.

Effective Date: Aug 01 1985

Certification: Patricia Barry

Jul 22 1985
Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Section 5107.02.
Prior Effective Date: 5/3/85 (Emer.).

5101:1-3-058 ADC: life insurance as a resource.

- (A) The cash value of all life insurance of any member of the assistance group or of the natural or adoptive parent with whom the ADC children live is a resource.
- (B) In order for the value of any life insurance policy to be considered in the total amount of liquid assets, it is necessary that the policy be owned by the applicant/recipient or by a member of the assistance group.
- (C) The cash value of any life insurance must be assessed, combined with the value of all other countable resources, and counted toward the one-thousand-dollar resource limitation.
- (D) The following are definitions of terms contained within life insurance policies.
 - (1) "Insured" is the individual whose life is insured.
 - (2) "Beneficiary" is the individual or entity named in the contract to receive the policy proceeds upon the death of the insured.
 - (3) "Owner" is the person who has the right to change the policy. This is normally the person who pays the premium.
 - (4) "Insurer/assurer" is the company or association which contracts with the owner.
 - (5) "Face value or amount" is the basic death benefit or maturity amount of the policy, which is specified on its face. This amount may be decreased by loans. The face value does not include dividends, additional amounts payable because of accidental death, or other special provisions.
 - (6) "Cash surrender value" is the amount which the insurer will pay upon cancellation of the

policy before death or maturity. The value usually increases with the age of the policy. Loans taken against the policy and still outstanding must be deducted to determine the cash surrender value.

- (E) The eligibility determiner must verify the cash value of all life insurance by examining the policies and recording all pertinent information in the case record.
- (1) The life insurance policy itself generally provides all the information needed to determine whether it must be counted as a resource and the amount to be counted. The policy contains such information as the type of policy involved, the name of the insured person, name of the beneficiary, face value, and date policy was issued.
 - (2) If the policy does not provide needed information, the eligibility determiner must contact the insurance company, local agent, or in the case of group insurance, the employer's payroll office. However, the insurance company, agent, or employer is only contacted when absolutely necessary, such as when the policy does not furnish sufficient information to evaluate the value of the life insurance.

Effective Date: Nov 01 1987

Certification: Patricia Barry

Oct 22 1987
Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Section 5107.05.

5101:1-3-059 ADC: trust as a resource.

- (A) A trust is a right of property held by one party for the benefit of another. The person who holds the legal title to property for the benefit or use of another is the trustee.
- (B) The CDHS should not automatically consider a trust unavailable. In some instances the beneficiary may petition the court to have funds released early in order to meet current needs. The applicant/recipient must attempt to make the resource available by consulting a legal aid service or the county prosecutor's office. If the applicant/recipient is unable to make the resource available or the cost of legal action is prohibitive, the trust is considered unavailable. Unavailability must be reviewed at each reapplication.
- (C) If the person who created the trust is the eligible applicant/recipient, the trust is considered a resource if he has the legal ability to dissolve it and to use the money.
- (D) If an eligible applicant/recipient is a beneficiary of a trust, the trust is not considered as a resource to him when he cannot convert it to cash. Any payment he receives from the trust is unearned income.
- (E) A person who is appointed a trustee generally cannot use any of the funds within the trust for his own benefit. Therefore, an individual may be a trustee of a valuable trust and not be able to receive money from it since he has no access to the funds for his personal use. Under such circumstances, it is not a resource to him. If an individual is acting as a trustee for a trust he created, the trust is a resource.

Effective Date: Feb 01 1995

Certification: Arnonld R. Tompkins

Jan 20 1995

Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Section 5107.02
Rule Amplifies: Revised Code Section 5107.02

5101:1-3-06 ADC: real property not used as the home.

- (A) Real property that is owned by a member of the assistance group but is not used by the assistance group as their residence is a resource. This includes any income-producing land or nonliquid property which provides rental or other income or is used as part of a trade or business. Such things as an apartment house or other structures separate from the homestead property which produce rental income are real property that are resources.
- (B) Any income received from the rental or lease of such items of real property is income to the ADC assistance group.
- (C) Any real property not used as the home must be assessed according to its "equity value," which is the fair market value less legal debts. If the equity value of the real property, not used as the home, in combination with the total value of the assistance group's countable resources is equal to or less than the one-thousand-dollar ADC resource limit, then resource eligibility exists. Resource eligibility for the assistance group must be carefully reevaluated at each reapplication or at any time when a change in the assistance group's resources occurs which may affect eligibility. However, if the equity value of the real property, not used as the home, in combination with the assistance group's countable resources exceeds the one-thousand-dollar resource limit, the assistance group may be conditionally eligible for a limited time, subject to the provisions set forth in paragraph (D) of this rule.
- (D) Assistance groups who own nonexempt real property may be conditionally eligible for a nine-month disposal period subject to the provisions described herein. The following conditions for conditional eligibility are applicable in situations where the assistance group's equity value in the nonexempt real property, in combination with the total value of the assistance group's countable resources, exceeds the one-thousand-dollar resource limit. The conditional eligibility provisions are:

- (1) The assistance group must agree to sell the real property as set forth in rule 5101:1-3-061 of the Administrative Code.
- (2) The assistance group must agree to repay any ADC payments made during the disposal period at the time of disposal, to the extent that payments would not have been made had the disposal occurred at the beginning of the period, as set forth in rule 5101:1-3-062 of the Administrative Code.
- (3) The assistance group must maintain a good faith effort to sell the real property as set forth in rule 5101:1-3-064 of the Administrative Code.
- (4) The assistance group must sign the ODHS 7339 "Agreement for Disposal of Real Property and Repayment of Assistance" as set forth in rule 5101:1-3-065 of the Administrative Code.
- (5) The assistance group must be advised that if the real property is not disposed of within the nine-month disposal period, an ADC overpayment for the amount of assistance paid during the nine-month disposal period will be computed, and recovery initiated, when the property is sold. The amount of the ADC overpayment shall not exceed the net proceeds from the sale of the property. Prior to the sale of the property, no ADC overpayment shall be computed, nor may recovery be initiated.
- (6) The assistance group must be advised that ADC benefits must be terminated at the end of the nine-month period if the real property has not been sold as set forth in rule 5101:1-3-067 of the Administrative Code.
- (7) The assistance group must be advised that if the assistance group becomes ineligible for any other reason during the disposal period, while making a good faith effort to sell the property, eligibility for continued payments ceases. The assistance group must be advised that, when the property is sold, an ADC overpayment for the amount of assistance paid during the portion of the disposal period, prior to termination, will be computed and recovery initiated. The amount of the ADC overpayment shall not exceed the net proceeds from the sale of the property. Prior to the sale of the property, no ADC overpayment shall be computed, nor may recovery be initiated.

Effective Date: Oct 01 1991

Certification: Terry Wallace

Sep 20 1991
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Section 5107.02

Prior Effective Dates: 4-1-88 (Emer.), 6-30-88, 7-1-89 (Emer.), 9-23-89.

5101:1-3-07 ADC: evidence of age, citizenship, and identity.

- (A) Verification of age, citizenship, and identity must be completed before any individual, adult or child, is eligible to be included in the assistance group.
- (B) Evidence of age must be provided to support the given date of birth.
 - (1) A civil birth record or a church record of birth or baptism established before age five are primary documents used to verify age.
 - (2) Alternate documents are acceptable and must be used to avoid delaying assistance to an otherwise eligible individual. Examples of alternate documents are school records, insurance policies, draft card, and official hospital records. To qualify as valid documents of age verification, the alternate document must show the applicant's name and date of birth or age and should be at least one year old (unless it is for a child under age one).
- (C) Evidence of identity must be provided to support that the individual is who he claims to be.
 - (1) Documents used to identify an individual are driver's license, day care or nursery school records, voter's registration, insurance policies, military papers, U.S. passport, and vaccination certificates.
 - (2) The eligibility determiner must be able to compare the information on the documentation with the information on the ADC application or with the individual to ensure identification.
 - (3) A birth or baptismal certificate is not evidence of identity. Children under age seven will

generally have some type of evidence of identity in addition to a birth certificate. However, if such a child (e.g., a newborn infant) has absolutely no other documentary evidence, the birth certificate alone will be acceptable as long as the eligibility determiner has no reason to doubt that the child actually exists.

- (D) Every applicant/recipient is required to establish U.S. citizenship or legal alien status, and must submit at least one document showing U.S. birthplace or in some way indicating U.S. citizenship. "U.S.-born" refers to an individual born in one of the fifty states, District of Columbia, Puerto Rico, Guam, U.S. Virgin Islands, or American Samoa.
- (1) If the applicant is a U.S.-born citizen, a civilian birth, baptismal, or church certificate specifically displaying a U.S. birthplace may be used as verification.
 - (2) If the applicant is a foreign-born U.S. citizen, a citizen certification, U.S. passport, consular's certification of birth, or certificate of naturalization, Form I-197 residents' card may be used for verification.
 - (3) If the applicant is an alien, his status may be verified by forms issued through the immigration and naturalization service, INS Form 151 or I-94.

Effective Date: Nov 16 1986

Certification: Patricia Barry

Nov 06 1986
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Section 5107.02

Prior Effective Dates: 3-1-76, 12-31-77, 7-18-78, 2-1-79, 4-19-79, 6-15-85, 9-1-86 (Emer.).

5101:1-3-09 ADC: enumeration requirement.

- (A) As a condition of eligibility for the ADC program, each assistance group member shall furnish or apply for a social security number.
- (B) The CDHS is required to refer the individual who does not possess a social security number to the local social security office to apply for a social security number and is prohibited from denying, delaying, or terminating ADC pending the issuance or verification of the social security number if the applicant or recipient has complied with the requirement of furnishing or submitting verification of making an application for a social security number.
- (C) Specific sanctions apply to assistance groups of ADC who do not cooperate with the enumeration process.
 - (1) The caretaker relative who refuses to furnish a social security number, or to apply for one for himself under the ADC program, will be excluded from the ADC payment. However, those children for whom a social security number has been furnished or applied for, may have the caretaker relative as payee.
 - (2) The caretaker relative who supplies his own number or cooperates in applying for one but refuses to furnish or apply for a social security number for his child/children will remain in the assistance group. However, the child/children will be removed from the ADC payment. In some cases, the only other remaining member of the assistance group may be the

caretaker relative. In these cases, ADC assistance shall be denied.

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Certification: Arnonld R. Tompkins

Apr 21 1995
Date

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Statutory Authority: Revised Code Section 5107.02

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5101:1-3-091 ADC: enumeration verification.

- (A) For each assistance group member who physically possesses a social security card, the CDHS shall retain a photocopy of the social security card in the assistance group record. If photocopying the card is an impossibility, the individual must be requested to present the social security card at the next reapplication for photocopying. The social security number must be entered into CRIS-E.
- (B) If the assistance group member does not possess a social security card or verification that he has recently applied for a social security number, the CDHS shall refer the individual by completing the top portion of the ODHS 7355 "Notice of Application for Social Security Number." The assistance group member shall take the ODHS 7355 to the local social security district office. The local social security district office will complete the bottom portion of the ODHS 7355 and return the ODHS 7355 to the CDHS by mail.
- (C) For the purposes of the beginning date of aid, the social security number eligibility requirement will be considered met the date the social security administration employee certifies that the individual applied for a social security number.
- (D) For newborns, if the social security number is applied for no later than the first day of the second month following birth or the mother's discharge from the hospital, the social security requirement is considered met on the child's date of birth.

- (E) When a deceased newborn or a newborn who is surrendered at birth for adoption is added for ADC-related medicaid coverage only, an ODHS 7355 shall not be sent to the social security office. The code "DA" shall be added to the appropriate CRIS screen or the ODHS 2109.
- (F) When the ODHS 7355 is returned to the CDHS, the CDHS shall enter the "SS-5 Date" in CRIS-E.

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Certification: Arnonld R. Tompkins

Apr 21 1995
Date

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5101:1-3-14 Deprivation due to incapacity.

- (A) Deprivation of parental support or care exists when at least one of the parents is incapacitated. The incapacity of one or more of the natural or adoptive parents exists when all of the provisions set forth in paragraph (B) of this rule exists. "ADC-I" is financial assistance to a child (children) due to the incapacity of one of the parents.
- (B) Incapacity exists when all of the following conditions are met:
- (1) One of the parents has a physical or mental defect, illness, or impairment;
 - (2) The child meets the deprivation factor of incapacity because the parent's physical or mental defect is considered to be a debilitating condition that substantially reduces or eliminates the parent's ability to support or care for the otherwise eligible child (children). In making the determination of the parent's ability to support, the CDHS must take into account the limited employment opportunities that may be available to incapacitated individuals;
 - (3) The debilitating condition is expected to last for at least thirty days.
- (C) Physical incapacity is established by:

- (1) Certification of disability by another public agency as evidenced by receipt of supplemental security income and/or social security disability benefits, workers' compensation benefits, or VA disability benefits; or
 - (2) Written verification of participation in an approved program with the Ohio rehabilitation services commission (ORSC); or
 - (3) A basic medical examination form (ODHS 7302) or other equivalent medical records completed by a physician (or other appropriate medical professional such as an optometrist), hospital, health department, medical institution, or other appropriate licensed authority substantiating a physical incapacity. "Equivalent medical record" is defined as a written statement of prognosis and diagnosis, hospital summary, etc.; and
 - (4) An ODHS 7004 "Social Summary for Disability Determination" only if the basic medical examination is not conclusive enough to support the determination of physical incapacity. For example, excess weight must be taken into consideration with the person's work history, educational level, age, etc.
- (D) Mental incapacity is established by:
- (1) An ODHS 7004 which indicates a behavioral disorder which is characterized by deviate [sic] social behavior which prevents the applicant from securing and holding employment or carrying out normal relationships at home, in the community, or in employment relationships. Examples of behavior include, but are not limited to, the following: alcoholism, drug addiction, or criminal activity; and/or
 - (2) A psychological examination, including a psychiatric evaluation or psychometric test, completed by a psychiatrist, psychologist, or mental health clinic.
- (E) At the time of application, ADC-I applicants shall be informed that a referral to the ORSC will be made on their behalf if eligibility for ADC-I is established. This referral is automatically generated as a result of the assistance group member's participation status on CRIS-E screen AEIWP being entered as exempt due to incapacitation. The assistance group member's cooperation with a referral to ORSC is not an eligibility requirement for ADC-I.
- (F) The frequency of redetermining medical eligibility is based upon the nature of the incapacity. If the incapacity is permanent, i.e., not subject to change, then no medical redetermination is necessary.
- (1) The following situations fall into this category and require no medical redeterminations:
 - (a) Persons receiving SSI and/or social security disability benefits;
 - (b) Persons with a permanent incapacity when documented on the ODHS 7302.
 - (2) For all other cases, the redetermination of medical eligibility shall be completed at least every

six months, but earlier if indicated by the expected duration of the incapacity.

- (3) If the incapacity is expected to be of short duration (i.e., the injury or illness is minor and is expected to last for at least thirty days but less than ninety days), the case file and running record comments should indicate the date that the incapacity shall be reviewed.
- (4) When incapacity has been established at application on the basis of participation with the OSRC, written verification of continuing participation with ORSC must be secured at the point of reapplication. If participation has ceased, medical information must be obtained to determine continued ADC-I eligibility.

Effective Date: Jan 01 1996

Certification: Arnonld R. Tompkins

Dec 21 1995
Date

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Statutory Authority: Revised Code Sections 5107.02, 5107.03

Rule Amplifies: Revised Code Sections 5107.02, 5107.03

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5101:1-3-15 ADC-U: deprivation due to unemployment.

- (A) Deprivation of parental support of care due to unemployment exists when the parent who is the principal earner is determined to be unemployed in accordance with the provisions set forth in this rule and rules 5101:1-3-151 to 5101:1-3-155 of the Administrative Code and is the parent with whom the child is living.
- (B) "Principal earner" is defined as whichever of the dependent child's parents, in a two-parent household, earned the greater amount of income over the twenty-four-month period immediately preceding the month in which an application is made for ADC-U assistance. There is no minimum amount which the parent must have earned to meet this criteria.

Effective Date: Sep 01 1993

Certification: Arnonld R. Tompkins

Aug 20 1993
Date

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5101:1-3-151 ADC-U:principal earner.

- (A) The designation of principal earner remains effective for each consecutive month for which the family receives ADC-U cash benefits. If there is a break in cash eligibility (excluding suspensions) and a new application is filed, a designation of the principal earner shall be based on the twenty-four-month period which immediately precedes the month in which the new application is filed. The principal earner must also meet the work history requirement.
- (B) The principal earner must meet all of the following criteria:
 - (1) Is employed less than one hundred hours a month; or is employed and the hours of employment exceed the one hundred hour per month standard for a particular month, if his work is intermittent and the excess is of a temporary nature as evidenced by the fact that he worked less than the one-hundred-hour standard for the prior two calendar months and is expected to work less than the one-hundred-hour standard during the next month. In a prospective determination of whether the principal earner meets the one-hundred-hour requirement, the CDHS shall use the actual number of hours the individual expects to work

each month.

- (2) The principal earner must be unemployed by the preceding standard for at least thirty days prior to the receipt of aid.
- (3) The principal earner has not, without good cause, within that thirty-day period prior to receipt of aid, refused a bona fide offer of employment or training for employment. If it has been determined that a bona fide offer was refused, or employment was terminated by the principal earner without good cause, the entire assistance group is ineligible for thirty days from the actual date of refusal or termination. Once initial eligibility is established and payment is issued, the principal earner's refusal, without good cause, of a bona fide offer of employment or training, shall be handled in accordance with the provisions set forth in rule 5101:1-47-39 of the Administrative Code.
- (4) The principal earner must be the parent with the greatest amount of verified earned income in the twenty-four-month period immediately prior to the month of application.
 - (a) In determining which parent will be the principal earner, it does not matter when their relationship started or whether, during the twenty-four-month period prior to the date of application, the father and mother were married to each other or living together. This is solely a test of the amount of earned income each had over the prior twenty-four-month period.

- (i) If neither parent has earnings in the twenty-four months prior to application, i.e., both have zero earnings, the applicants may choose which of the parents is the designated principal earner. The decision as to which parent is the principal earner should include consideration of work history in order to ensure that the designated principal earner will have sufficient work quarters.
 - (ii) In some situations both parents have earnings in the twenty-four-month period prior to application but only one parent's earnings can be verified. In order to determine the principal earner in this case, it is necessary to verify the earnings. When only one parent's earnings can be verified, the principal earner has been established as that person, even though the other parent may claim to have more earnings.
- (b) If both parents earned an equal amount of income in the twenty-four-month period, then the principal earner is by both applicants' choice.
- (5) The principal earner has a prior connection to the labor force as verified by established work history.
- (6) The principal earner is required to apply for and accept any unemployment compensation benefits to which he is entitled (Public Law 94-466). When these benefits are actually received, they are subtracted from the ADC-U money payment.

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Certification: Arnonld R. Tompkins

Aug 20 1993
Date

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Statutory Authority: Revised Code Sections 5107.02, 5107.03

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5101:1-3-155 ADC-U: refusals of offers of employment or training.

In accordance with the provisions set forth in paragraph (B)(3) of rule 5101:1-3-151 of the Administrative Code, the assistance group's principal earner must not, without good cause, have refused a bona fide offer for employment or training for employment, or have terminated employment without good cause.

- (A) Before it is determined that the assistance group's principal earner has refused a bona fide offer of employment or training without good cause, the agency must make a determination that such an offer was actually made.
- (B) When an offer of employment or training is made through a public employment or manpower agency, the determination of whether the offer was bona fide or whether there was good cause to refuse it must be made by that office or agency.
- (C) The assistance group's principal earner must be given an opportunity to explain why the offer was not accepted.
- (D) In determining whether the offer was bona fide or if there was good cause for refusing it, the following questions must be resolved:
 - (1) Whether there was a definite offer of employment at wages meeting any applicable minimum wage requirements and which are customary for such work in the community.
 - (2) Whether there were any questions as to the ability of the principal earner to engage in such employment for physical reasons. When there is doubt about the physical or mental capabilities of the principal earner, an ODHS 7302 "Basic Medical Examination" is required and is an allowable administrative expense.
 - (3) Whether there were any questions of working conditions such as risks to health, safety, or lack of workers' compensation protection.
 - (4) Whether the principal earner had a way to get to or from the particular job.
 - (5) Whether, as a condition of being employed, the principal earner would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization, or would be denied the right to retain membership in and observe the lawful rules of any such organization.
 - (6) Whether the position offered is vacant due directly to a strike, lockout, or other labor dispute.
 - (7) Whether the work is at an unreasonable distance from his residence, considering the type of the work the principal earner has been accustomed to do, and travel to the place of work

involves expenses substantially greater than that required for his former work, unless the expense is provided.

- (8) Whether the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (E) Once eligibility is established and payment is issued, the principal earner's refusal, without good cause, of employment or training shall be handled in accordance with the provisions set forth in rule 5101:1-47-39 of the Administrative Code.

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5101:1-3-18 Eligibility of sponsored aliens.

- (A) A "sponsor" is defined as any person who, or any public or private agency or organization that, executed an affidavit(s) of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.
- (B) For a period of three years following entry for permanent residence into the United States, a sponsored alien who is not exempt pursuant to paragraph (B)(3) of this rule shall provide the CDHS with any information and documentation necessary to determine the income and resources of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.
 - (1) Deeming income of a sponsor.
 - (a) Income of a sponsor and the sponsor's spouse shall be deemed to be the unearned income of an alien for three years following the alien's entry into the United States.
 - (b) No income may be deemed from a sponsor or a sponsor's spouse who is receiving ADC or SSI.
 - (c) The total monthly unearned and earned income of the sponsor and the sponsor's spouse shall be reduced by twenty per cent of the total (not to exceed one hundred seventy-five dollars) of the total amounts received by them in the month as wages or salary or as net earnings from self-employment. From the remainder the following shall also be deducted:
 - (i) The one hundred per cent need standard for a family of the same size and composition as the sponsor and those other people living in the same household as the sponsor who are or could be claimed by the sponsor as dependents to determine his or her federal income tax but whose needs are not taken into consideration in determining eligibility for assistance.
 - (ii) Any amounts actually paid by the sponsor or the sponsor's spouse to people not living in the household who are or could be claimed by them as dependents to determine their federal personal income tax.
 - (iii) Actual payments of alimony or child support, with respect to individuals not living in the household.
 - (iv) In any case where a person is the sponsor of two or more aliens, the

income of the sponsor and the sponsor's spouse, to the extent they would be deemed the income of any one of the aliens shall be divided equally among the sponsored aliens.

- (v) Income which is deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income is actually available.

(2) Deeming resources of a sponsor.

- (a) Resources of a sponsor and the sponsor's spouse (if applicable and if living with the spouse) shall be deemed available for a period of three years following the alien's entry into the United States. Monthly resources deemed available to an alien from the sponsor or the sponsor's spouse shall be the total amount of their resources determined as if they were applying for ADC, less one thousand five hundred dollars.
- (b) In the case where a person is the sponsor of two or more aliens, the resources of the sponsor and sponsor's spouse, to the extent they would be deemed resources as determined here, shall be divided equally among the sponsored aliens.
- (c) Resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the resources are actually available.

(3) Deeming of income and resources of a sponsor these provisions shall not apply to any alien who is:

- (a) Admitted as a conditional entrant refugee to the United States prior to April 1, 1980 under section 203(a)(7) of the Immigration and Nationality Act;
- (b) Admitted as a refugee to the United States after March 31, 1980 under section 207(c) of the Immigration and Nationality Act;
- (c) Paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act;
- (d) Granted political asylum by the attorney general under section 208 of the Immigration and Nationality Act.
- (e) Admitted as a Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Act of 1980. (Public Law 422); or
- (f) The dependent child of the sponsor or sponsor's spouse.

- (4) Aliens who are sponsored by a public or private agency or organization after October 1, 1984.
- (a) For a period of three years following entry for permanent residence into the United States, any alien who is not exempt under paragraph (B)(3) of this rule and has been sponsored by a public or private agency or organization, shall be ineligible for assistance unless the CDHS determines that the sponsor no longer exists or has become unable to meet the alien's needs.
 - (b) If the sponsoring agency/organization indicates financial inability to meet the alien's needs, the CDHS shall request a statement from the agency certifying its financial inability. The statement is to be signed by an agency official and it shall include an explanation of the circumstances affecting the agency's inability to meet the alien's needs, i.e., increased expenses, decreased income.
 - (c) Verification that a sponsoring agency or organization no longer exists shall be documented by the CDHS in one of the following ways:
 - (i) Receipt of undeliverable returned mail;
 - (ii) Previous listing but no current listing in the city or telephone directory;
 - (iii) For profit and nonprofit corporation, contact the secretary of state; or
 - (iv) For nonprofit and charitable organizations, contact the attorney general; or
 - (v) On-site inspection at most recent address known for sponsoring organization.

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Certification: Arnonld R. Tompkins

Dec 22 1993
Date

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Statutory Authority: Revised Code Sections 5101.20, 5107.02

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5101:1-3-19 Strikers.

- (A) By definition, a "strike" is any jointly agreed upon action by employees to stop, interrupt, or slow down the performance of their services to their employer.
- (B) Participation in a strike is not good cause to leave, refuse to seek, or refuse to accept employment.
 - (1) An individual member of the striking union who refuses to cross the picket line is considered a striker.
 - (2) An individual who engages in a strike activity due to sympathy of another strike action is considered a striker.
 - (3) An individual out of work due to a strike action in another section of the place of employment or at another location is not considered to be a striker.
 - (4) An individual who is on strike at the end of the next month and the strike continues through part of the next month when settlement is reached may receive a partial month payment from the date the strike ends.
 - (5) Any employee who is not a member of the striking union but who cannot go to work due to an employer lockout shall not be considered a striker.
- (C) An ADC-R or ADC-U family is totally ineligible in any month that either parent living with the children is participating in a strike on the last day of the month. This is true regardless of whether the parent is included in the assistance grant.
- (D) A child or caretaker relative other than the parent is ineligible for ADC for any month in which he is participating in a strike on the last day of the month.
- (E) When the only dependent child in an ADC case is on strike the last day of the month, the whole case is ineligible for that month.

Effective Date: May 01 1982

Certification: Kenneth B. Creasey

Apr 21 1982
Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Section 5107.05
Prior Effective Date: 10-1-81.

5101:1-3-20 Need.

- (A) As a condition of eligibility, an individual or family must be in financial need in order to be eligible for ADC. "Need" is the deficit between the financial requirement of the individual or family according to the ADC state payment standard, for the individual or family, and the income immediately available to the family or individual.
- (B) A person or family in need, but not meeting all other ADC requirements, is not eligible for ADC.
- (C) A person or family otherwise eligible for ADC, but not in need, is not eligible for ADC.

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Certification: Kenneth B. Creasey

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Date

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5101:1-3-21 ADC concurrent receipt of assistance.

- (A) "Concurrent receipt of assistance" is defined as the receipt of assistance by an assistance group under more than one public assistance money grant in the same month. The receipt of public assistance, from two or more different states, for a duplicate time period, also constitutes concurrent receipt of assistance.
- (B) An individual or family is not eligible to receive financial assistance under more than one federal categorical program in the same month. An ADC assistance group may receive ADC cash assistance in the same month that disability assistance (DA) benefits are issued provided that the amount of DA benefits received is deducted from the ADC grant amount.
- (C) An ADC assistance group member shall not be eligible to receive or have his needs covered by ADC cash assistance in more than one assistance group or more than one county in any given month.
- (D) It is not appropriate to determine that an assistance group member is ineligible for inclusion in a new ADC assistance group solely because the assistance group member's needs are still included in a former ADC assistance group. Rather, the CDHS must determine at what point the assistance group member became ineligible for inclusion in the first assistance group. After this determination is made, the CDHS shall determine eligibility and authorize assistance for the new assistance group. The fact that the assistance group member's needs have not been removed from the former assistance group shall not preclude eligibility or delay the beginning date of assistance for the new assistance group.
- (E) An individual whose needs are met by the supplemental security income (SSI) program shall not be eligible to have his needs included in an ADC assistance group concurrently.
- (F) If the applicant ADC assistance group is receiving or is believed to be receiving ADC cash assistance from another state, the CDHS must determine at what point the assistance group became ineligible for benefits in the former state prior to approving assistance in Ohio. Prior to the approval of assistance, the CDHS must contact the other state to verify when the assistance group became

ineligible and the time period for which assistance was last authorized. Contact with the other state may be a telephone call or a written inquiry. In either situation, details of the contact must be carefully documented in the assistance group record.

- (G) If an assistance group notifies the CDHS that it is moving to another state and will still be requiring aid, assistance may be authorized out of state for one month when it is verified and documented that no assistance will be issued in the new state of residence for that month.

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Certification: Arnold R.Tompkins

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Date

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Prior Effective Dates: 5-1-82, 11-1-83 (Temp.), 1-1-84, 8-1-86 (Emer.), 10-3-86, 7-1-90.

5101:1-3-22 ADC and DA: citizenship requirement.

- (A) An otherwise eligible resident must be either a citizen of the United States, or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, including certain aliens lawfully present in the United States as the result of the application of provisions within the following Acts:

(1) Immigration and Nationality Act

Aliens lawfully admitted includes certain aliens lawfully present in the United States as a result of the application of certain provisions of the Immigration and Nationality Act (INA):

- (a) Section 207 (C), in effect after March 31, 1980 - “Aliens Admitted as Refugees.”
- (b) Section 203(A)(7), in effect prior to April 1, 1980 - “Individuals who were Granted Status as Conditional Entrant Refugees.”
- (c) Section 208 - “Aliens Granted Political Asylum by the Attorney General.”
- (d) Section 212(D)(5) - “Aliens Granted Temporary Parole Status by the Attorney General.”

(2) Immigration Reform and Control Act of 1986

- (a) All alien granted lawful temporary resident (LTR) status pursuant to section 201, 302, or 303 of the Immigration Reform and Control Act of 1986 (IRCA) who is either:
 - (i) A Cuban or Haitian entrant as defined in paragraph (1) or (2)(A) of Section 501(E) of Public Law 96-422, as in effect April 1, 1983; or
 - (ii) An individual who is not a Cuban and Haitian applicant as defined in this section who was adjusted to LTR status more than five years prior to application.
- (b) All other aliens granted lawful temporary or permanent resident status, pursuant to sections 201, 302, and 303 of IRCA were disqualified for five years from the date LTR status was granted. This includes:
 - (i) Aliens who has been in the U.S. illegally prior to January 1, 1982 were given the opportunity to apply for LTR status under the section 245A of the INA between May 5, 1987 and May 4, 1988. Once LTR status was granted, an alien was required to apply for permanent resident status within forty-two months of the date the LTR status was granted. Failure to file within this timeframe resulted in loss of the LTR status under the 245A section of IRCA.
 - (ii) Aliens who performed seasonal agricultural services for certain periods could apply for LTR status between June 1, 1987 and November 30, 1988 under Section 210 of the INA. These “special agricultural workers” (SAWS) automatically became lawful permanent residents one or two years after the effective date of the LTR status.

(3) Family Unity Provisions of the Immigration Act of 1990

- (a) The family unity provisions in section 301 of the Immigration Act of 1990 granted certain eligible immigrants a temporary stay of deportation and authorization to engage in employment in the United States. To qualify, the individual had to be:
 - (i) An immigrant who is the spouse or unmarried child of an alien legalized in accordance with the provisions of IRCA; and

- (ii) An immigrant who entered the United States before May 5, 1988, resided in the United States on that date, and not lawfully admitted for permanent residence.
 - (b) The family unit provisions provided that these identified individuals are disqualified from receiving ADC in the same manner and for the same period as the legalized alien is ineligible. However, individuals who applied under the family unity provisions and were granted a temporary stay of deportation are considered to be permanently residing in the United States under color or law (PRUCOL) once the five-year ineligibility period has expired.
- (B) In the event that the evidence of alien status is not available, the individual can cite reasons for nonavailability and present convincing evidence.
- Cuban or Haitian entrants are considered to be permanently residing in the United States under color of law and meet the citizenship requirement if they have an INS status of “Cuban/Haitian entrant (status pending).”
- (C) Reference rule 5101:1-15-05 of the Administrative Code for documentation relating to alien/refugee status.

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Certification: Arnold R.Tompkins

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Date

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Statutory Authority: Revised Code Sections 5107.02 5115.05

Rule Amplifies: Revised Code Sections 5107.02, 5115.05

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5101:1-21-01 ADC: financial need based upon size of assistance group.

The amount of financial assistance to be issued depends upon the number of eligible persons. The basic procedure used in computing the amount of assistance is:

- (A) Determine the need according to state standard;
- (B) Determine the amount of income to be deducted from the state standard;
- (C) Authorize the difference between the need and the amount of income.

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1-91 (Emer.), 12-20-91, 8-1-95 (Emer.).

5101:1-21-011 ADC: standard filing unit.

The ADC standard filing unit (assistance group) shall include the natural or adoptive parent(s) and all minor siblings living with a dependent child who applies for and receives ADC. The standard filing unit (SFU) provision only applies to those individuals residing in the same household. One case shall be established for a standard filing unit.

(A) Excluded from the standard filing unit are:

- (1) Parents or children receiving SSI.
- (2) Aliens who fail to meet the citizenship requirement.
- (3) Aliens ineligible due to sponsor income.
- (4) Sanctioned individuals.
- (5) Individuals ineligible due to the prior receipt of lump-sum payments.
- (6) Stepbrothers and stepsisters.

- (7) Effective May 1, 1991, parents or children for whom federal, state or local foster care maintenance payments are being made.
 - (8) Effective May 1, 1991, parents or children for whom federal, state or local adoption assistance payments are being made, as long as the exclusion of the individual in whose behalf the payments are being made, does not result in lower benefits to the ADC assistance group than the benefits that the family would receive if the individual and his income (and resources) were included in the filing unit.
 - (9) Individuals disqualified from the ADC program due to intentional program violation for as long as the disqualification period is applied (i.e., six months, twelve months, or permanently as set forth in Chapter 5101:6-20 of the Administrative Code).
- (B) When the child's own parent is not the caretaker and not in the home and the caretaker is in need, the caretaker (grantee relative) may be included in the standard filing unit.
- (C) A person whose needs are met by either supplemental security income, or federal, state or local foster care maintenance payments is excluded from the standard filing unit and neither the income nor the resources of the SSI recipient or the federal, state or local foster care maintenance payments recipient are considered in determining the family's ADC eligibility.
- (D) A person who does not meet the citizenship requirement is excluded from the standard filing unit. If the individual who does not meet the citizenship requirement is a parent of the children for whom ADC benefits are received, though the individual is excluded from the filing unit, his income, after application of the budgeting methodology set forth in rule 5101:1-23-044 of the Administrative Code, is counted in the determination of eligibility and level of benefits for the remaining assistance group.
- (E) A person who is sanctioned due to his failure to fulfill an eligibility requirement is excluded from the standard filing unit. Effective February 25, 1991, though the individual is excluded from the filing unit, his income, after application of the earned income disregards that are set forth in rule 5101:1-23-033 of the Administrative Code is counted. In addition, if the remaining assistance group subsequently loses ADC cash eligibility due to an increase in hours of or income from employment, or due to the expiration of one of the time limited earned income disregards, the assistance group (excluding the sanctioned individual) is eligible for transitional benefits as set forth in rule 5101:1-39-736 of the Administrative Code.
- (F) An individual who is disqualified for intentional program violation is excluded from the standard filing unit for as long as the disqualification penalty period is applied. Though the individual is excluded from the filing unit, his income, after application of the disregards set forth in rule 5101:1-23-033 of the Administrative Code is counted. In addition, if the remaining assistance group subsequently loses ADC cash eligibility due to an increase in hours of or income from employment, or due to the expiration of one of the time limited disregards, the assistance group (excluding the sanctioned individual) is eligible for transitional benefits as set forth in rule 5101:1-39-736 of the Administrative Code.

- (G) An additional group required to be part of an assistance group are those individuals who fail to cooperate with an eligibility requirement for which there is no sanction. This group includes those who fail to provide information about a family member required to be included in an assistance group and applicants who fail to comply with an initial eligibility requirement, such as enumeration. Continued eligibility for ADC is dependent upon whether there is enough information to determine continued eligibility. If there is insufficient information available, it is necessary to deny an application or terminate assistance. If sufficient information is available to determine ongoing eligibility, then the CDHS must do so. Though the member is required to be a part of the SFU, his failure to meet an eligibility requirement will make only that individual ineligible for ADC. That person is part of the SFU for purposes of determining eligibility as his resources and income are countable to the SFU, but his needs are not included.
- (H) Effective May 1, 1991, a person for whom federal, state or local foster care maintenance payments are made shall be excluded from the standard filing unit and neither the income nor the resources of the individual are considered in determining the eligibility of the remaining assistance group members.
- (I) Effective May 1, 1991, a person for whom federal, state or local adoption assistance payments are made shall be excluded from the standard filing unit and neither the income nor the resources of the individual are considered in determining the eligibility of the remaining assistance group members, as long as the exclusion of the individual on whose behalf the payments are being made, does not result in lower benefits to the ADC assistance group. If the exclusion of the individual for whom adoption assistance payments are made, results in lower benefits to the ADC assistance group, the individual shall be included in the ADC standard filing unit, and his income and resources shall be included in the determination of eligibility and level of benefits calculations.
- (J) The following steps are used in determining the standard filing unit:
- (1) The standard filing unit is determined by first deciding for which child(ren) assistance is requested. The child for whom assistance is requested must be considered eligible by meeting the age and deprivation requirements of ADC eligibility. Income is not a factor at this point.
 - (2) Add to the standard filing unit siblings living in the household who also meet the age (as set forth in rule 5101:1-3-02 of the Administrative Code) and one or more of the deprivation requirements (as set forth in rule 5101:1-3-011 of the Administrative Code). "Sibling" means any and all blood-related or adoptive brothers and sisters who are not specifically excluded. Income is not a factor at this point.
 - (3) Add to the standard filing unit the parent(s) living in the household who are not specifically excluded. A parent must not be added to the standard filing unit unless his/her child(ren) meets the age and deprivation requirements. "Parents" mean any and all natural and adoptive parents who live in the household and are not specifically excluded. When the child resides with someone other than the natural or adoptive parents, and the caretaker (i.e., grandparent, grantee relative) requests to be part of the assistance group, add to the filing unit the caretaker in need. Income is not a factor at this point.

- (4) This group is considered to be the standard filing unit or the assistance group. If a person or persons are required to be in more than one standard filing unit within the same household, then the standard filing units must be combined.
- (5) ADC eligibility is determined for the standard filing unit as a whole. The income and resources (unless exempt or disregarded through policies set forth in rules promulgated under 5101:1 of the Administrative Code) of all people included in the assistance unit are used in determining eligibility for ADC and the amount of the ADC assistance payment.

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5101:1-21-013 ADC: establishing the assistance group.

- (A) When the deprivation factor is incapacity as set forth in rule 5101:1-3-14 of the Administrative Code or unemployment as set forth in rules 5101:1-3-15 to 5101:1-3-155 of the Administrative Code, of either parent, both parents and all eligible children will be included in one assistance group. All income which is not considered to be exempt will be deducted from the ADC uniform payment standard to determine the money payment.
- (B) When otherwise eligible children are living with a parent and a stepparent, the parent must be included in the assistance group. The income of the stepparent must be considered in determining the eligibility of the assistance group. The stepparent shall not be included in the assistance group with the parent and the dependent children. If the stepparent becomes unemployed or incapacitated and in need of assistance, ADC-U or ADC-I is not available unless the stepparent and the parent have a common child.

- (C) When the grantee relative requests assistance for himself and the eligible children, his need must be verified and his resources counted in the same manner as the children's own parent. If the grantee relative's own resources or prorated share of resources owned with a nonrecipient individual (such as a spouse) exceed the ADC resource limit, the grantee relative shall not be eligible to be included in the assistance group.
- (D) When the grantee relative has a spouse, the income of that spouse must be evaluated to determine the spouse's ability to support the grantee relative. If the countable income is sufficient to meet the need of the grantee relative, the grantee relative shall not be eligible to be included in the assistance group. If the countable income is not sufficient to meet the need of the grantee relative, the grantee relative may be included in the ADC assistance group and no portion of the spouse's income is deducted from the payment standard for the assistance group.
- (E) The grantee relative's need is the difference between the ADC grant amount including and excluding the grantee relative. The amount of the spouse's income considered available to meet the grantee relative's need is determined by doing a one hundred per cent need budget for the spouse and all of his other legal dependents.
- (F) If the grantee relative's spouse is in need, the spouse cannot be included in the ADC assistance group. However, if the grantee relative's spouse is in need and the grantee relative and the spouse have a common child, ADC eligibility for the additional assistance group shall be determined separately and independent of the assistance group containing the already eligible children (whose parents are absent).

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5101:1-21-014 ADC: children residing with minor parent.

- (A) A minor caretaker living on her own with her eligible child shall be included as part of the ADC assistance group. If the age of the minor parent raises a question concerning the ability to manage the money payment, a protective payee may be necessary.
- (B) When a minor caretaker and her eligible child reside with the minor caretaker's parents who are an ADC assistance group, there shall be one ADC assistance group. The assistance group shall consist of the eligible child, minor caretaker, and parents and dependent siblings of the minor caretaker.
- (C) When a minor caretaker and her eligible child reside with the minor caretaker's parents who are self-sufficient, the income of the minor caretaker's parents is counted as available when determining eligibility for the assistance group. The method used to allocate the income is set forth in rule 5101:1-23-042 of the Administrative Code.

Effective Date: Sep 25 1988

Certification: Patricia Barry

Sep 15 1988
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Section 5107.02 and 5113.04.

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5101:1-21-015 ADC: cases with SSI income and situations in which a child receiving federal, state, or local foster care maintenance payments, or federal, state, or local adoption assistance payments is placed with a specified relative.

- (A) When an eligible child is living with his own parent or a grantee relative who is an SSI, recipient, the ADC assistance group shall only include the eligible children. The medicaid eligibility for the parent or grantee relative shall be established by a separate application and be determined based on the medicaid requirements. The parent, if determined eligible for medicaid, shall have a separate medicaid assistance group record.
- (1) The income and resources of an SSI recipient are excluded when determining ADC eligibility for the child.
- (2) An SSI recipient shall have the choice of receiving ADC, if eligible, or continuing to receive SSI, but may not receive both at the same time.
- (B) When one or more of the dependent children who would be required assistance group members are receiving SSI benefits, or, effective February 28, 1994, federal, state, or local foster care maintenance payments, or federal, state, or local adoption assistance payments, they are determined to be "needy" for the purposes of making the ADC assistance group eligible because SSI, foster care maintenance, and adoption assistance are means-tested programs. The determination of the assistance payment is based on the need of all of the other eligible individuals in the assistance group, taking into consideration their income and resources. (The income and resources of the SSI recipient or, effective February 28, 1994, the child for whom federal, state or local foster care maintenance payments, or federal, state, or local adoption assistance payments are made are not counted in determining the eligibility of the assistance group.) In some cases, the only other eligible individual whose needs are to be met may be the caretaker relative. In such instances, the ADC payment would be for the caretaker only.

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Certification: Arnold R.Tompkins

Aug 22 1995
Date

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5101:1-21-016 ADC: persons excluded from the assistance group.

Some persons are automatically excluded from being in the assistance group. Exclusions are of three types:

- (A) A basic eligibility requirement, outlined in Chapters 5101:1-3 to 5101:1-19 of the Administrative Code, is not met. Each assistance group member must meet all requirements of a program to be eligible for financial assistance.
- (B) An eligibility factor affecting the individual rather than the assistance group is not met and results in the individual's needs being excluded such as:
 - (1) An individual required to register under rule 5101:1-3-08 of the Administrative Code and who refuses without good cause.
 - (2) An individual required to participate in the registration process (e.g., OBES appraisal interviews), work relief project, or JOBS assignments and who refuses without good cause.
 - (3) An individual who refuses to furnish/apply for a social security number, to assign support rights, to cooperate in securing support.
 - (4) An individual is disqualified from the ADC program due to an intentional program violation as set forth in Chapter 5101:6-20 of the Administrative Code.
 - (5) In any of the situations set forth in paragraphs (B)(1) to (B)(4) of this rule, though the individual who fails without good cause to meet an eligibility requirement is excluded from the filing unit, his income, less the applicable earned income disregards set forth in rule 5101:1-23-033 of the Administrative Code, are counted in the determination of eligibility and level of benefits for the remaining assistance group members.
 - (6) An individual does not meet the citizenship requirement. If the individual who does not meet the citizenship requirement is a parent, his income is countable toward the needs of the remaining assistance group members, after application of the income disregards set forth in rule 5101:1-23-044 of the Administrative Code.
 - (7) The father of a pregnant woman's unborn child and who is living with the pregnant woman who has no other children eligible for ADC, is not eligible for ADC cash assistance or ADC-related medicaid until the child is born. Deprivation must be met for the assistance group which shall consist of all individuals who would be required to be in the assistance group when the child is born, and must be based on unemployment of a parent or incapacity of a parent. The income and resources of all individuals who would be required to be in the assistance group when the child is born must be considered in determining the pregnant woman's ADC cash eligibility as set forth in rule 5101:1-26-06 of the Administrative Code.

(C) The receipt of certain types of income causes an individual to be excluded.

- (1) Receipt of earnings as a result of full-time employment (one hundred hours per month) by the qualifying parent, regardless of the budget deficit, renders the entire assistance group ineligible where the deprivation factor was unemployment of the qualifying parent (ADC-U).
- (2) A parent's OASDI income must be pooled unless he is an SSI recipient.
- (3) Receipt of income based upon need, e.g., supplemental security income. An ADC assistance group member may choose between benefits from the ADC or SSI program. A person whose needs are met by supplemental security income, or, effective February 28, 1994, federal, state or local foster care maintenance payments, or federal, state or local adoption assistance payments is to be excluded from the assistance group and neither his income nor his resources are considered in determining the assistance group's ADC eligibility.
- (4) Effective May 1, 1991, receipt of federal, state or local foster care maintenance payments requires the exclusion of the individual for whom the payment is made.
- (5) Effective May 1, 1991, receipt of federal, state or local adoption assistance payments requires the exclusion of the individual for whom the payment is made, unless excluding the individual and his income will result in lower benefits to the family than the benefits that the assistance group would receive if the individual and his income were included in the assistance group. If excluding the individual (and his income) would result in lower benefits to the family than the benefits that the assistance group would receive if the individual and his income were included in the assistance group, then the individual, for whom the adoption assistance payment is made, and his income shall be included in the filing unit.

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Date

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5101:1-21-017 ADC: assistance group composition.

- (A) The assistance group shall be designated to be ADC-R if all of the children included in the assistance group meet the deprivation factor of absence of one or both of the legal parents (as set forth in rule 5101:1-3-012 of the Administrative Code) including the absence of one or both parents due to death. When there are children, each eligible for ADC but with different deprivation reasons, but at least one child's only deprivation reason is unemployment of a parent, (as set forth in rule 5101:1-3-15 of the Administrative Code) and there is at least one common child of the parents, the ADC-U assistance group shall include all eligible persons and shall be designated as an ADC-U assistance group. If the assistance group becomes ineligible for one category of ADC (ADC-R, ADC-I or ADC-U), eligibility for other categories must be explored for the assistance group in accordance with the provisions set forth in rule 5101:1-21-011 of the Administrative Code. If there are no common children and each adult has children, there shall be two ADC-R cases, even if the parent of some of the children is unemployed.
- (B) Additionally, when there are children who meet both the deprivation factors of unemployment and incapacity, the assistance group shall be designated as an ADC-U assistance group in order to preserve ADC-U work history. If the principal wage earning parent is also temporarily incapacitated, the principal wage earning parent can be excused from JOBS participation (in accordance with rules set forth in Chapter 5101:1-47 of the Administrative Code) during the period for which the principal wage earner is temporarily incapacitated. Also, in order to preserve the ADC-U work history in an ADC-U assistance group when a JOBS sanction is imposed on the principal earner or spouse, the assistance group will continue to be designated as ADC-U despite the imposition of the sanction. The exception to this policy occurs when one of the parents in a two-parent family is receiving SSI benefits. In these situations, an ADC-U assistance group will not be created, an ADC-I assistance group will be created instead.
- (C) When eligible children live with both parents in the home, the deprivation factor will be incapacity or unemployment of either parent. Both parents and all eligible children will be included in one assistance group. All income which is not considered to be exempt will be deducted from the ADC uniform need standard to determine the money payment.
- (D) When otherwise eligible children are living with a parent and a stepparent, the parent must be included in the standard filing unit. The income of the stepparent must be considered in determining the eligibility of the assistance group. The stepparent shall not be included in the standard filing unit with the parent and the dependent children unless the parent considers the stepparent to be an essential person. If the stepparent becomes unemployed or incapacitated and in need of assistance, ADC-U or ADC-I is not available unless the stepparent and the parent have a common child.
- (E) When the grantee relative requests assistance for himself and the eligible children, his need must be verified and his resources counted in the same manner as the child's own parent. If the grantee relative's own resources, or prorated share of resources owned jointly with a nonrecipient individual

(such as a spouse) exceed the ADC resource limit, the grantee relative shall not be eligible to be included in the assistance group. When the grantee relative has a spouse, the income and resources of that spouse must be evaluated to determine the spouse's ability to support the grantee relative. If the countable income is not sufficient to meet the need of the grantee relative, the grantee relative may be included in the ADC assistance group and no portion of the spouse's income is deducted from the need allowance of the assistance group. The grantee relative's need is the difference between the ADC grant amount including and excluding the grantee relative. The amount of the spouse's income considered available to meet the grantee relative's need is determined by doing a one hundred per cent need budget for the spouse and all his other legal dependents. If the spouse of the grantee relative is in need, he cannot be included in the standard filing unit unless the spouse and grantee relative have common children.

Effective Date: May 30 1996

Certification: Arnold R.Tompkins

May 17 1996
Date

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Rule Amplifies: Revised Code Section 5107.02

Prior Effective Dates: 1-1-74, 12-31-77, 10-26-78, 5-1-79, 9-21-79, 10-1-81, 10-1-84 (Emer.), 12-27-84, 1-1-85 (Emer.), 4-1-85, 8-1-86 (Emer.), 10-31-86, 9-1-93, 3-1-96 (Emer.).

5101:1-21-02 ADC: individuals included in the assistance group.

- (A) The assistance group consists of those individuals eligible to be included in the computation of the maximum amount of financial assistance that can be issued to meet the minimum requirements for food, clothing and shelter.
 - (1) The amount varies according to the number of individuals eligible to be included.
 - (2) To be included in the assistance group, the individuals must meet the eligibility criteria set forth in Chapters 5101:1-3 to 5101:1-19 of the Administrative Code and have income/resources less than the need standard.
- (B) There are two groups of individuals who may be included in the assistance group:
 - (1) An individual under eighteen or an eighteen-year-old meeting the requirements of paragraph (B)(1) of rule 5101:1-3-02 of the Administrative Code who is not in foster care must be living with at least one of the relatives specified in the following paragraph in a place of residence maintained as his or their home and must not have his needs met by another source of financial assistance (e.g., supplemental security income).
 - (a) The term "relative" is limited to the following:
 - (i) Father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, nephew, niece, half brother, half sister, first cousin, or anyone of preceding generation denoted by prefix of grand, great, or great-great. "Paternal relatives of a child born out of wedlock" are relatives for public assistance purposes provided that the father meets one of the definitions of parent in paragraph (A)(4) of rule 5101:1-3-04 of the Administrative Code;
 - (ii) Any individual who legally adopted the child or adopted the child's parent, or the natural children or other adopted children of such individual;
 - (iii) Legally married spouse of any individual named above, even though the marriage has been terminated by death or divorce.
 - (b) The term "living with" shall include individuals who would be physically in the home except for circumstances:
 - (i) That require temporary absence, such as hospitalization, attendance at

school, visiting, vacationing, trips made in connection with current or prospective employment;

- (ii) That require granting assistance to the relative up to thirty days prior to the child's arrival in the relative's home from placement in a foster family home or institution provided that no payment was made for the same period to another relative or to foster care for that child.
- (2) Any other individual must not have his needs met by another source of financial assistance and must be one of the following:
 - (a) The natural or adoptive parent of the individual under eighteen.
 - (b) An adult relative (other than the parent), as specified in paragraph (B)(1) of this rule, whose presence is required to provide care and supervision, and whose income/resources are less than the amount needed for an assistance group size of one.
 - (c) A pregnant woman with no other children eligible for ADC if it has been medically verified that the child is expected to be born in the month the payment is made or within the following three months, and who, if the child had been born and was living with her in the month of payment, would be eligible for ADC. A pregnant woman with other children under eighteen living with her is eligible for an ADC payment throughout her pregnancy.
 - (d) A pregnant woman who is living with the father of her unborn child, with no other children eligible for ADC, is potentially eligible for ADC cash assistance.
 - (i) It must be medically verified that the child is expected to be born in the month the payment is made or within the following three months, and who, if such child had been born and was living with her in the month of payment, would be eligible for ADC-I or ADC-U.
 - (ii) Deprivation must exist and must be based upon unemployment of a parent or incapacity of a parent, even though the father is not potentially eligible for assistance until the child is born.
 - (e) The natural or adoptive parents or caretaker relative, as specified in rule 5101:1-3-04 of the Administrative Code, who is otherwise eligible for ADC except that the needy child or children are recipients of supplemental security income, federal, state, or local foster care maintenance, or federal, state, or local adoption assistance payments.
 - (f) A pregnant woman who is ineligible for ADC is potentially eligible for disability assistance if she meets all other DA eligibility requirements, as set forth in Chapter

5101:1-5 of the Administrative Code.

- (3) A stepparent cannot be included in the ADC assistance group if his spouse, the natural parent, is present in the home unless he (or she) is designated as an essential person by the natural/adoptive parent as set forth in rule 5101:1-21-08 of the Administrative Code. However, if the natural parent is not present, the stepparent may stand in place of the natural parent and be included in the budget as a caretaker relative if he is in need. See rule 5101:1-3-04 of the Administrative Code and paragraph (B)(1) of this rule.

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Certification: Arnold R.Tompkins

Oct 20 1995
Date

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Statutory Authority: Revised Code Section 5107.02.

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5101:1-21-04 ADC: computation of the budget.

- (A) There are three standards which are used in computing eligibility for ADC: they are the one hundred eighty-five per cent standard, the one hundred per cent need standard, and the payment standard. All three standards are used at various times throughout the eligibility and financial calculations. Following is a further explanation of each of the standards.
- (B) The one hundred eighty-five per cent standard is calculated based upon the one hundred per cent standard of need and is used as a limit on the amount of gross income a family may have and still be eligible for ADC.
 - (1) Any month in which the assistance group's gross income exceeds the one hundred eighty-five per cent standard, including the special allowance, if appropriate, the group is ineligible for that month. The assistance group's income includes the income of those individuals applying for or receiving ADC, the income of the natural parent, and the excess income of the stepparent or alien sponsor.
 - (2) Gross income is all earned and unearned income which is counted or not exceeded in determining eligibility for ADC. Gross income includes self-employment earned income after allowing for business expenses as set forth in rules 5101:1-23-21 to 5101:1-23-215 of the Administrative Code, and child support income collected by the child support enforcement agency.
 - (3) Any income which is considered exempt in the calculation of eligibility as listed in rules 5101:1-23-02, 5101:1-23-022, 5101:1-23-06, 5101:1-23-08, 5101:1-23-09, 5101:1-23-12, 5101:1-23-13, 5101:1-23-14, 5101:1-23-17, 5101:1-23-20 and 5101:1-23-23 of the Administrative Code, is excluded from the calculation of gross income for the one hundred eighty-five per cent standard test.
 - (4) Any assistance payment received is excluded. Gross earned income is counted towards the one hundred eighty-five per cent standard without any earned income disregards applied. The appropriate disregards are applied to the income of the stepparent, parent of a minor caretaker, ineligible alien parent, and alien's sponsor before including it in applying the one hundred eighty-five per cent test.
 - (5) A comparison of income to the one hundred eighty-five per cent financial eligibility standard is the first budget step in calculating financial eligibility. Any month in which the assistance

group's income exceeds the one hundred eighty-five per cent standard results in ineligibility for ADC for that month. If the report of income during the month exceeds the one hundred eighty-five per cent standard, the group is ineligible for that month. If ineligible for the payment already received, the payment must be recovered through regular overpayment procedures. This comparison must be done at application, reapplication, and any time income or need changes.

- (C) The one hundred per cent need standard is the amount determined necessary to meet the minimum requirement for food, clothing, housing, utilities, transportation, and personal/incidental items.
- (D) The payment standard is a ratable reduction of the one hundred per cent standard. The payment standard is the figure used to calculate the actual ADC payment and from which all countable income is deducted.
- (E) The following chart shows: (1) the one hundred eighty-five per cent standard or the gross income limitation for ADC eligibility; (2) the one hundred per cent need standard or the amount determined necessary for the minimum requirement for food, clothing, housing, utilities, transportation, and personal/incidental items; and (3) the payment standard which is a ratable reduction based on state appropriation.

Number in assistance group	<u>185% standard</u>	<u>100% standard</u>	<u>Payment standard</u>
1	\$ 1018 <u>1046</u>	\$ 550 <u>566</u>	\$ 203
2	1399 <u>1438</u>	756 <u>777</u>	279
3	1709 <u>1757</u>	924 <u>950</u>	341
4	2111 <u>2170</u>	1141 <u>1173</u>	421
5	2471 <u>2541</u>	1336 <u>1373</u>	493
6	2752 <u>2830</u>	1488 <u>1530</u>	549
7	3073 <u>3159</u>	1661 <u>1708</u>	613
8	3409 <u>3505</u>	1843 <u>1894</u>	680
9	3750 <u>3855</u>	2027 <u>2084</u>	748
10	4091 <u>4206</u>	2211 <u>2273</u>	816
11	4417 <u>4541</u>	2387 <u>2454</u>	881
12	4757 <u>4891</u>	2572 <u>2644</u>	949
13	5093 <u>5237</u>	2753 <u>2831</u>	1016
14	5424 <u>5577</u>	2932 <u>3014</u>	1082
15	5765 <u>5927</u>	3116 <u>3204</u>	1150

Add for each
person above 15

~~421~~ 493 ~~228~~ 234

84

- (F) A "special allowance" is one which is not common to all recipients and for which an unusual circumstance exists. In the ADC program the only special allowance is one given because there is

a pregnant woman in the assistance group. The allowance is provided to assist the pregnant woman with the increased dietary needs due to pregnancy.

- (1) A special allowance of twenty dollars a month shall be added to the ADC standards for a pregnant woman. An allowance shall be granted for each pregnant person in the assistance group. The pregnancy allowance is added to each of the one hundred eighty-five per cent and one hundred per cent standards when computing financial eligibility and to the payment standard when computing the amount of the grant.
 - (2) The pregnancy allowance is to be added only after it has been medically verified that the woman is in at least her sixth month of pregnancy. Although a pregnancy may be verified prior to the sixth month, the special allowance cannot be authorized prior to the woman being in her sixth month of pregnancy. If pregnancy is verified after the woman is past her sixth month of pregnancy, the special allowance may be authorized only from the month in which verification was received.
 - (3) No extra allowance is added to the ADC standards for the expected delivery of twins, triplets, etc.
- (G) An additional allowance may be added to the ADC benefit for individuals in the assistance group who are participating in JOBS or LEAP.

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Certification: Arnold R.Tompkins

Jun 20 1996
Date

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5101:1-23-01 ADC: availability of income.

- (A) Income received by the ADC assistance group must be considered in determining need and the amount of the ADC grant. Certain types of income are excluded from consideration and there are some disregards of earned income.
- (B) "Income" is any benefit in cash which is received by the individual during a calendar month as a result of current or past labor or services, business activities, interests in real or personal property, or as a contribution from persons, organizations, or assistance agencies. To be considered in determining the amount of aid payment, income must, in fact, be received or be reasonably anticipated by members of the assistance group during the budget period as set forth in rules 5101:1-23-03 and 5101:1-23-032 of the Administrative Code.
- (C) The determination of eligibility for ADC is dependent in part upon the amount of income available to the assistance group. Since ADC is a need-oriented program, there must be an established need for assistance. Those persons who have substantial income in excess of established need are not eligible for ADC even though the other eligibility requirements are met.
- (D) Only available income is considered in determining need. Availability depends upon the date of receipt and the number of months the income is intended to cover. It may be necessary in certain instances to apportion income to future months. Such income is current income to the month to which it is apportioned.
- (E) An employee under an annual contract of employment shall have the income from such contract averaged over the number of months covered under the contract. This is done regardless of whether the employee chooses to receive the income in fewer months than the contract covers or whether it is paid in fewer months at the convenience of the employer.
- (F) Income received by a member of the ADC assistance group is considered available to all members of the assistance group. This includes the receipt of social security Title II benefits.
- (G) When a Title II beneficiary is a minor, benefits are usually paid through a representative payee. If the beneficiary is a member of the ADC assistance group, it is necessary to determine if the Title II benefits in their entirety are countable as income to the assistance group.

- (1) The determination is first made by establishing whether or not the representative payee resides in the same household (i.e., residence) as the assistance group.
 - (2) If the representative payee resides in the same household, the total amount of Title II benefits received for the beneficiary is countable income.
 - (3) If the representative payee does not reside in the same household as the beneficiary, only that portion made available to the beneficiary and/or caretaker is countable.
 - (4) Title II benefits retained by a representative payee who does not reside in the same household as the beneficiary are not considered potential income. The requirement to explore potential income in accordance with rule 5101:1-23-011 of the Administrative Code, does not apply.
- (H) If income is received jointly by a member of the assistance group and one or more persons not in the assistance group, the assistance group member's portion to be considered available is the prorated share, unless evidence is produced to the contrary.
- (I) The income and resources of a parent specifically excluded from the standard filing unit regulation as stated in paragraphs (A)(2), (A)(3), (A)(5), and (A)(6) of rule 5101:1-21-011 of the Administrative Code are counted in determining the assistance group's eligibility and payment.
 - (1) SSI recipients and, effective May 1, 1991, parents or children for whom federal, state or local foster care maintenance or adoption assistance payments are made, are the exceptions. If the individual is a sibling, his income and resources are not countable.
 - (2) If the individual who is excluded due to his failure to meet the citizenship requirement is a parent, his income, less the disregarded amounts set forth in rule 5101:1-23-044 of the Administrative Code, is counted in determining the assistance group's eligibility and payment.
- (J) Individuals who are subject to sanction are those who are not ineligible due to a specific exclusion, but rather due to failure on their part to fulfill an eligibility requirement, such as assignment of child support. Individuals who are disqualified due to intentional program violation as set forth in rule 5101:1-25-10 and Chapter 5101:6-20 of the Administrative Code are ineligible to be included in the filing unit for the duration of the disqualification penalty. Sanctioned individuals, and individuals who are disqualified due to intentional program violation, who are otherwise required to be included in the assistance group are treated as follows:
 - (1) Income and resources of these individuals are included in determining eligibility and payment amount of the assistance group.
 - (2) In determining need and the amount of assistance, the needs of such individuals are excluded.
 - (3) Effective February 25, 1991, the earned income of these individuals will be counted after

deducting the applicable earned income disregards set forth in rule 5101:1-23-033 of the Administrative Code. The net amount of the sanctioned individual's income will be considered available as unearned income to the assistance group.

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Certification: Arnold R.Tompkins

Aug 22 1994
Date

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5101:1-23-011 ADC exploration of potential income.

- (A) The county department of human services must explore with each assistance group the potential development of monthly income. The assistance group must apply for any monthly benefits to which it is entitled. It is not appropriate to require the assistance group to apply for lump-sum withdrawals of retirement or pension funds which would negate the drawing of monthly benefits in the near future.
- (B) Resources with income-producing potential include, but are not limited to:
 - (1) Social security insurance, e.g., RSDI, railroad retirement, unemployment insurance, disability insurance, workers' compensation.
 - (2) Benefits available to veterans, servicemen, and their dependents.
 - (3) Supplemental security income for the disabled regardless of age or for those over age sixty-five.
 - (4) Rights and interests in real and personal property.
 - (5) Responsible relatives, especially an absent parent, who may be contributing or have a legal ability to contribute.
 - (6) Other persons who may be contributing, i.e., a cash payment made voluntarily by an individual who is not an assistance group member to the ADC assistance group for its unrestricted use (whether or not the individual who is not a member of the assistance group lives with the ADC assistance group). This does not include situations in which an individual shares a residence with an ADC assistance group and shares responsibility for household expenses through an informal arrangement, as set forth in rule 5101:1-23-12 of the Administrative Code.
 - (7) The assistance group's own capacity for self-help and employment.

- (8) Private pension plans, union welfare funds, life insurance disability benefits, other forms of assistance, etc.
- (C) The assistance group, including the person responsible for a child in ADC, is responsible for giving information necessary to income determinations, and for taking all actions necessary to obtain unconditionally available income.
 - (1) Income shall be unconditionally available if the assistance group has only to claim or accept the income, or to establish eligibility for the income; e.g., relative's offer of a contribution, RSDI.
 - (2) Ineligibility for aid results if the assistance group refuses to accept unconditionally available income.

Effective Date: Sep 23 1989

Certification: Roland T. Hairston

Sep 13 1989
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02 and 5107.05.

Prior Effective Dates: 8-1-75, 4-1-86, 7-1-89 (Emer.).

5101:1-23-02 Exempt income.

- (A) Federal statute and court decisions exclude or exempt certain types of payments or benefits in whole or in part from consideration as income. The exclusions and exemptions vary widely in their effect upon the retention or inclusion of an otherwise eligible person in the assistance group. In some instances, the payments received have no effect on the person's eligibility, and the individual remains part of the assistance group. Rules 5101:1-23-06 to 5101:1-23-18 of the Administrative Code list the various forms of exempt income.
- (B) The monthly earned income of each child receiving ADC, if the child is a full-time student, or a full-time student in a program carried out under JTPA, is exempt from the one hundred eighty-five per cent and one hundred per cent income tests for a period of time not to exceed six months per calendar year. The six months need not be consecutive but must fall within the twelve-month calendar year. The income of students will be considered as the first disregard of earned income at all times.

Effective Date: Apr 01 1985

Certification: Patricia Barry

Mar 20 1985
 Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02 and 5107.04.

Prior Effective Dates: 11-1-76, 12-31-77, 12-1-79, 5-29-80, 9-7-81, 10-1-84(Emer.), 12-27-84, 1-1-85 (Emer.) .

5101:1-23-021 ADC: child support payments.

Court-ordered child support payments made by a member of the assistance group for a child outside the assistance group are exempt from consideration as income. The actual verified amount paid, up to the amount ordered, is exempt.

Effective Date: Oct 01 1987

Certification: Patricia Barry

Sep 21 1987
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02 and 5107.05.

5101:1-23-03 ADC and DA: nonexempt income.

- (A) Unless specifically listed as exempt income in rule 5101:1-23-02 of the Administrative Code, all income is considered as nonexempt income and is to be deducted from the need allowance. In the determination of financial need, the amount of gross monthly income must first be established. Deductions, when applicable, are then made from monthly gross income.
- (B) In calculating gross nonexempt income (both earned and unearned), the amount shall be rounded down to the nearest whole dollar by dropping all cents. All cents in gross weekly, biweekly, or semimonthly income shall be dropped prior to applying the conversion factors to convert the income into a standard month. All cents shall be dropped before and after multiplying by the appropriate conversion factor, prior to applying the earned income disregards. Hourly rates which contain cents are not rounded but are converted in the exact amount.
- (C) Gross nonexempt income (both earned and unearned) which is received in a frequency other than monthly must be converted to a standard month rather than adjusting income each month.

Conversion shall be performed using the following factors:

- (1) Income received on a weekly basis is multiplied by 4.3.
- (2) Income received biweekly (every two weeks) is multiplied by 2.15.
- (3) Income received semimonthly (twice a month) is multiplied by 2.
- (D) In situations in which an individual has fluctuating income, the income must first be averaged (as set forth in rule 5101:1-23-032 of the Administrative Code) to arrive at a figure to be converted into monthly income.

- (E) In calculating the expenses which may be subtracted from gross nonexempt income, the actual amount of each expense shall be used in the calculation. The sum of these expenses shall be deducted from the individual's rounded-down monthly income prior to rounding down in the determination of countable income.
- (F) If there are different categories of allowable expenses, the actual amount of the expenses are added by category. The sum of each category of expenses shall be deducted from the corresponding category of rounded-down gross monthly income.

Effective Date: Oct 30 1995

Certification: Arnold R.Tompkins

Oct 20 1995
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02, 5107.04, 5115.05.

Rule Amplifies: Revised Code Section 5115.05.

Prior Effective Dates: 11-1-76, 5-14-77, 4-5-79, 10-1-81, 12-1-82, 3-1-84, 10-1-84 (Emer.), 12-27-84, 8-1-86 (Emer.), 10-3-86, 10-1-88 (Emer.), 12-20-88, 10-1-89 (Emer.), 12-16-89, 5-1-91, 8-1-95 (Emer.).

5101-23-031 ADC: unearned income.

"Unearned income" is that benefit received in cash which is not the result of current compensation in the form of a wage, salary, or commission for labor or services rendered.

- (A) The gross amount of OASDI, railroad retirement benefits, veterans' benefits, or other sources of public or quasi-public pensions is considered net income, and the full amount received would be deducted as income from the need allowance for the assistance group.
- (B) The gross amount of other types of pensions or other unearned income is usually the same as net deductible income. However, if the individual can substantiate that he is required to pay income tax on such income or has other required expenses in receiving such income, those expenses are deducted in determining net deductible income.
- (C) The entire payment from mortgage and land contract payments is unearned income. The verified amount paid for taxes and insurance on the property are an allowable expense. Any amount the individual pays on the property such as the mortgage payment itself is deducted.
- (D) Sick leave payments received in the form of an insurance benefit are unearned income. Benefits received in the form of wages are earned income.
- (E) The income received from the rental of real property where the property is managed by a management firm or other company is considered unearned income to the family.
 - (1) Management of rental property would entail the actual functions of upkeep of property, collection of rent payments, payment of operation costs, bookkeeping and rental procedures

such as credit analysis, and filling of vacancies.

- (2) A relative, friend or tenant that provides services on a custodial basis would not be considered a property manager.
- (3) When the management firm or other company manages the rental property and the recipient is forwarded an amount (less management expenses), that amount is to be considered unearned income. When the recipient receives the total amount of income from rental property, the unearned income would be the amount remaining after deducting operating expenses and management fees.
- (4) Regardless of whom receives the total income from the rental property, operating and management expenses are to be deducted from the total income.
- (5) If the individual receives income from his efforts as manager of rental property, that situation would be considered self-employment and as such earned income. Only in situations where the individual directly manages the rental property will this be considered self-employment.

Effective Date: Jan 02 1986

Certification: Patricia Barry

Dec 23 1985
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02, 5107.04.

Prior Effective Dates: 11-1-76, 5-14-77, 4-5-79, 10-1-81, 12-1-82, 3-1-84, 10-1-84 (Emer.), 12-27-84.

5101:1-23-032 ADC: earned income.

- (A) "Earned income" is payment received by an individual for services performed as an employee or as a result of his being engaged in self-employment or as a result of providing room and board or board.
- (B) Earned income includes wages, salary, commissions, or profit from activities such as business enterprise, farming, etc., in which the recipient is engaged as a self-employed individual or as an employee.
- (C) Generally, wages include all remunerations from employment. The verified amount which is being garnisheed is excluded from determination of gross earnings.
- (D) "Earned income with respect to self-employment" means the total profit from a business enterprise resulting from a comparison of the gross receipts with the business expenses directly related to producing the goods or services. Where the individual is both employed and self-employed, his gross earned income will consist of his wages plus his proceeds from self-employment minus operating expenses.
- (E) State temporary disability insurance and temporary worker's compensation payments are considered earned income when such payments are employer funded; made to an individual who remains employed during recuperation from a temporary illness or injury pending return to the job; and are specifically characterized under state law as temporary wage replacements. Short-term disability benefits paid under public employees retirement system, state teachers retirement system, school

employees retirement system and highway patrol retirement system meet these conditions.

- (F) The county department of human services shall determine the monthly gross amount of earnings, i.e., the amount of earnings before taxes and other deductions according to the requirements set forth in paragraphs (G) and (H) of this rule and rule 5101:1-23-03 of the Administrative Code, and apply the appropriate income disregards to determine the monthly net earned income.
- (G) If the employed individual works a set number of hours per pay period, that set number of hours shall be used in computing the individual's gross monthly earned income. The gross monthly income shall be computed by either using the gross earnings listed on the individual's pay stubs or by multiplying the set number of hours per pay period by the hourly rate of pay as the figure to be used in converting the income into a standard month.
- (H) If the employed individual has fluctuating hours, the pay shall be averaged to arrive at a figure to be used in converting the income into a standard month. In these fluctuating income situations, the CDHS shall use actual pay stubs for at least six weeks, when possible, in arriving at a figure to use in converting the income into a standard month.
- (I) Averaging the previous six weeks of earned income is suggested as a guide in determining a representative figure in situations involving fluctuating income. Sometimes, the earned income from the prior six week period is not representative of current or future income. In situations when the prior six week period is not representative of future income, the CDHS shall project countable income for a pay period based on a best estimate. The best estimate shall be determined based on a number of variables which may affect the determination. The variables that may need to be considered include situations when:
 - (1) There are more than six weeks of pay stubs available and the assistance group member advises the CDHS representative that an average of a longer period of time would be more representative of the individual's average earnings because the most recent six weeks of earnings were less or greater than average. In the event that more than six weeks of pay stubs are available at the time that the CDHS is making the determination, the CDHS shall use all income related information within three months of the estimate that is available in order to arrive at a representative figure to be subsequently converted into a standard month. This includes situations when the assistance group member disagrees with the use of earnings from the past six week period as indicative of future earnings. Also, when there are more than six weeks of pay stubs available, but the assistance group member advises the CDHS that the earned income that is expected in the future is going to be less than that in the most recent (six weeks) past, the CDHS shall use all income related information that is available (including the individual's projection of future earnings) to determine a representative figure. Additionally, some pay stubs reflect year-to-date earnings. This is an acceptable method of determining average income for longer than the six week period prior to the eligibility determination.
 - (2) Conversely, if there are fewer than six weeks of pay stubs available at the time of the eligibility determination, the CDHS shall use all income information that is available in order

to arrive at a representative figure. This includes situations when the employed assistance group member disagrees with the use of earnings from the past six week period as indicative of future earnings.

- (3) If there are no pay stubs available because the employment is new, the CDHS shall project an estimated amount for a pay period based on the CDHS' best estimate of the individual's income and circumstances. In this situation, the CDHS' best estimate shall be based on projected wages from and hours of employment as reported by the individual. The CDHS' best estimate for the pay period shall be converted into a standard month as set forth in rule 5101:1-23-03 of the Administrative Code. The CDHS must remind the individual of his reporting responsibilities, especially in regard to its earnings.
- (J) The computed average (and the subsequent conversion to a standard monthly figure) shall remain unchanged until a change in income occurs or until the next reapplication. A reported change in income will require a recomputation of the budget.
- (K) All changes in income, resources and circumstances must be reported to the CDHS in accordance with the provisions set forth in rule 5101:1-2-073 of the Administrative Code. Whenever a change in income is reported (including increases in hourly wages, a change from fluctuating hours to set hours, change in employer, part-time to full-time employment or vice versa), the monthly income must be recomputed according to the policy set forth in this rule and in rule 5101:1-23-03 of the Administrative Code to determine continued eligibility.

Effective Date: Nov 01 1994

Certification: Arnold R.Tompkins

Oct 21 1994
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02, 5107.05.

Prior Effective Dates: 11-1-76, 5-14-77, 4-5-79, 10-1-81, 12-1-82, 3-1-84, 10-1-84 (Emer.), 12-27-84, 8-1-86 (Emer.), 10-3-86, 5-1-91.

5101:1-23-033 ADC: disregards of earned income.

For each individual whose needs are included in the eligibility determination, for each individual whose needs are not included in due to the imposition of a disqualification penalty due to intentional program violation, and/or effective February 25, 1991, for each individual whose needs are not included due to the application of a sanction for the individual's failure to fulfill an eligibility requirement, there are certain disregards allowed in order to determine the countable income. The disregards are deducted from the gross earnings of each employed individual included in the assistance group, each individual who is disqualified for intentional program violation, and/or effective February 25, 1991, for each individual whose needs are not included due to the application of a sanction for the individual's failure to fulfill an eligibility requirement, in the order listed. For self-employed individuals, these disregards are also deducted from gross earnings. These disregards are not allowed when comparing the gross income to the one hundred eighty-five per cent standard. These disregards are not all applicable when determining a stepparent's income when computing the countable income of the grandparents in the minor caretaker budgeting process, and in the determination of countable income to be allocated when there is a parent who is ineligible due to citizenship status.

- (A) The monthly earned income of each dependent child who is a full-time student, a full-time student from a JTPA program, or is a part-time student who is not a full-time employee is totally disregarded when determining the countable income of the ADC assistance group. There is no time limit on this total disregard for participants in a JTPA program or national service program established under the National and Community Service Trust Act of 1993, (i.e., Americorps, Youth Corps).

- (B) JTPA earnings received by a dependent child who is not a full-time student are exempt from consideration as income in the one hundred eighty-five per cent and one hundred per cent need tests and in the assistance group's benefit calculation for six months within a twelve-month calendar period.
- (C) The first ninety dollars of monthly earned income of each individual whose needs are included in the assistance group or who is receiving assistance, each individual who is disqualified due to intentional program violation, and/or effective February 25, 1991, for each individual whose needs are not included due to the application of a sanction for the individual's failure to fulfill an eligibility requirement.
- (D) For individuals found otherwise eligible or who have received assistance in one of the prior four months, thirty dollars and one-third of the remaining income. An assistance group which did not receive a cash payment due to the ten-dollar minimum payment requirement is considered to be receiving assistance.
 - (1) The thirty-dollar disregard is not provided after the twelfth consecutive month it has been applied to earned income unless the individual is again eligible to receive the one-third disregard.
 - (2) The one-third disregard is not provided after the fourth consecutive month it has been applied to earned income unless the individual is not a recipient of ADC for twelve consecutive months.
- (E) An amount equal to the actual cost but not to exceed one hundred seventy-five dollars per child or two hundred dollars if the child is under age two, for the care of each dependent child or incapacitated adult living in the home and receiving ADC if the employed caretaker is employed full time. If the employed caretaker is employed part time, an amount equal to the actual cost, but not to exceed one hundred twenty dollars per child may be deducted. "Full-time employment" is defined as thirty-five hours or more per week. "Part-time employment" is defined as less than thirty-five hours per week. The cost of care for a dependent child or incapacitated adult may be disregarded even though the provider is a household member or relative. The disregard does not apply if the dependent care provider is an assistance group member, a parent of the child receiving dependent care, or a legal guardian of the child receiving dependent care.

The caretaker shall have the following options with respect to child care costs:

- (1) The caretaker may elect to have the actual monthly child care costs (up to the applicable maximums of one hundred seventy-five dollars per child, or two hundred dollars if the child is under age two, for full time or one hundred twenty dollars for part-time) disregarded in the ADC budget calculation.
- (2) The caretaker may elect to have the monthly child care costs met through social service vendor payment. This option is contingent upon the availability of a vendor payment provider and sufficient Title XX funds.

Effective Date: Mar 01 1995

Certification: Arnold R.Tompkins

Feb 17 1995
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02, 5107.05.

Rule Amplifies: Revised Code Sections 5107.02, 5107.05.

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5101:1-23-034 ADC: income from room and board.

When income is received from room and board (or board only), a standard operating expense equal to the zero income level food stamp coupon allotment for the number of boarders in the household is deducted from total income. The remainder is gross earned income.

Effective Date: Dec 27 1984

Certification: Patricia Barry

Dec 17 1984
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02, 5107.05.

Prior Effective Dates: 11-1-76, 5-14-77, 4-5-79, 10-1-81, 12-1-82, 3-1-84, 10-1-84 (Emer.).

5101:1-23-035 ADC: program eligibility for applicants.

- (A) For an applicant of ADC whose income does not exceed the one hundred eighty-five per cent standard, there is a preliminary step to determine whether the assistance group would be eligible for ADC without benefit of the thirty-dollar disregard plus the one-third disregard. This program eligibility does not apply if the assistance group received ADC cash payment in one of the four months prior to the month of application.
- (B) In the program eligibility step, the earned income remaining after all exemptions and disregards other than the thirty-dollar plus one-third, are applied plus any nonexempt unearned income is compared to the one hundred per cent standard. In this budget step, any child support payments are considered as income even though they will be assigned if there is money payment eligibility. In addition, the actual child care costs not to exceed the maximums are allowed as disregards even though vendor pay day care may be provided.
 - (1) If the income is more than the one hundred per cent ADC standard for the assistance group, the assistance group is ineligible for ADC.
 - (2) If the income is equal to or less than the one hundred per cent ADC standard, the assistance group may be eligible for ADC. The budget is recomputed allowing the thirty-dollar disregard

plus the one-third disregard provided the employed assistance group member is eligible for it.

Effective Date: Aug 21 1989

Certification: Patricia Barry

Aug 11 1989

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Statutory Authority: Revised Code Sections 5107.02, 5107.05.
Prior Effective Dates: 4-1-86, 7-1-89 (Emer.).

5101:1-23-038 ADC: treatment of income received from participation in programs established under the National and Community Service Trust Act of 1993.

- (A) The National and Community Service Trust Act of 1993 (NCSTA) establishes educational opportunities for individuals who participate in national service programs. Participants could qualify for a living allowance, basic health insurance, child care services or a child care allowance, aid and services for disabled individuals, and a national service educational award.
- (B) The monthly living allowance received by participants (including minor parents who are caretaker relatives in an ADC assistance group) under NCSTA shall be treated as earned income, with appropriate earned income disregards applied.
- (C) The basic health insurance, child care services or the child care allowance, aid and services, and the national service educational award shall be treated as complementary payments and services to the extent that the funds are used to meet the expenses necessary for participation in a NCSTA program.

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Certification: Arnold R.Tompkins

Feb 17 1995
Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Sections 5107.02, 5107.05.
Rule Amplifies: Revised Code Sections 5107.02, 5107.05

5101:1-23-04 ADC: earned income calculation.

The following is a step-by-step summary of the calculation of earned income in ADC for applicants and recipients.

- (A) Determine nonexempt gross monthly earned and unearned income. Include income of members of the assistance group, any income of the parent not included in the assistance group (i.e., sanctioned, excluded or disqualified due to intentional program violation), excess income of the stepparent, parent of a minor caretaker, or undocumented alien, and excess income of an alien's sponsor.)
- (B) Compare the gross monthly earnings plus any unearned income (minus the fifty dollar child support disregard if applicable) to the one hundred eighty-five per cent standard for the appropriate assistance group size. This step applies to applicants as well as recipients. If the gross monthly income exceeds the one hundred eighty-five per cent standard, the assistance group is ineligible for ADC. If total

income is equal to or less than the one hundred eighty-five per cent standard, go to paragraph (C) of this rule.

- (C) Calculate program eligibility as set forth in rule 5101:1-23-035 of the Administrative Code. If the assistance group has not received an ADC payment in one of the four months prior to the month of application. Allow only disregards for the standard work expense and child care costs from gross earned income of each employed individual. Allow the fifty dollar support disregard if applicable. If income without the thirty dollars and the one third disregards is greater than the one hundred per cent standard plus any special allowance, the assistance group is ineligible for ADC. If income without the thirty dollars and one third disregards is equal to or less than the one hundred per cent standard plus any special allowance, eligibility for a money payment is determined.
- (D) The following are disregards of earned income for each employed individual whose needs are included in the eligibility determination, whose needs are not included due to the imposition of a disqualification penalty due to intentional program violation, and/or, effective February 25, 1991, for each individual whose needs are not included due to the application of a sanction for the individual's failure to fulfill an eligibility requirement.
 - (1) Ninety dollars of each employed individual in the assistance group, for each employed individual who would be included in the assistance group but is disqualified for intentional program violation, and/or, effective February 25, 1991, each employed individual who would be included in the assistance group, but is sanctioned for failure to fulfill an eligibility requirement.
 - (2) Thirty dollars and one-third of the remainder of earned income not already disregarded.
 - (a) Thirty dollars and one-third of the remainder are disregarded for applicants who have received assistance in one of the four months prior to application.
 - (b) The thirty-dollar disregard is limited to an individual for twelve consecutive months (eight additional months immediately following the four-consecutive-month period whether or not the thirty dollars is actually received). After twelve consecutive months, the thirty-dollar disregard is unavailable to that individual until he is once again eligible to receive the one-third disregard of earned income.
 - (c) The one-third disregard is limited to an individual for four consecutive months. After the one-third disregard has been applied to an individual for four consecutive months, it is unavailable to that individual again until the expiration of a twelve-consecutive-month period during which the individual has not been an ADC recipient.
 - (d) The thirty-dollar disregard provision only applies to recipients who have not already received the thirty-dollar and one-third disregard for four consecutive months prior to October 1, 1984 (unless they have been ineligible for ADC for twelve consecutive

months).

- (3) An amount equal to the actual cost, but not to exceed one hundred seventy-five dollars for individuals who are employed full time, or two hundred dollars if the child is under age two (or one hundred twenty dollars if the individual is employed less than full time) for the care of each dependent child or incapacitated adult living in the home and receiving ADC.
- (E) The remaining income after the deductions set forth in paragraph (D) of this rule is countable earned income.
- (F) Add the countable earned income to the nonexempt gross unearned income (minus the fifty dollar support disregard if applicable). Included is any countable income of the stepparent, parent of a minor caretaker, undocumented alien, or alien sponsor and countable income of a parent who is not included in the assistance group (i.e., sanctioned, excluded, or disqualified due to intentional program violation).
- (G) Deduct the total calculated in paragraph (F) of this rule from the ADC payment for the size of the assistance group.
- (H) Deficits or the lack of deficits are treated as follows:
 - (1) If there is a deficit, the assistance group is eligible for ADC.
 - (2) If there is no deficit, the assistance group is ineligible for ADC.

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Certification: Arnold R.Tompkins

Aug 22 1994
Date

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1-89 (Emer.), 12-16-89, 7-12-91 (Emer.), 9-22-91.

5101:1-23-041 ADC: treatment of earned income of a dependent child.

Earned income may be treated specially under certain case situations. The case situations and their special treatment are listed in paragraphs (A) and (B) of this rule.

- (A) Earned income of an individual included in the assistance group as a dependent child is excluded (not deducted) in determining the amount of grant provided the following occur:
 - (1) If he is enrolled in and physically attending a full-time (as certified by the school or institute attended) program of study or training leading to a certificate, diploma, or degree;

- (2) If he is enrolled in and physically attending at least part time (as certified by the school or institute attended) a program of study or training leading to a certificate, diploma, or degree and is regularly employed in or available for and actually seeking part-time employment;
- (3) If he is enrolled in and physically attending at least part time (as certified by the school or institute attended) a program of study or training leading to a certificate, diploma, or degree and is precluded from full-time attendance or part-time employment because of a verified physical handicap;
- (4) "Full-time attendance" and "part-time attendance" are defined as follows:
 - (a) In a secondary school, "full time" is the completion of four Carnegie units per year. A "Carnegie unit" is a measure of counting course credits in secondary education. The completion of one hundred twenty clock hours per year for an individual course equals one Carnegie unit. "Part time" is the completion of two Carnegie units per school year;
 - (b) In a college or university, "full time" is generally twelve semester or eighteen quarter hours and "part time" is considered to be anything less than eighteen quarter hours or twelve semester hours;
 - (c) In a technical school in a program with shop practice, "full time" is thirty clock hours per week. With no shop practice, "full time" is twenty-five clock hours per week. "Part time," without shop practice, is twelve hours per week. With shop practice, "part time" is fifteen hours per week.
 - (d) In a secondary education program of cooperative training or in apprenticeship training, "full-time attendance" is thirty clock hours per week, or six clock hours per day.
 - (e) In a vocational school, required attendance varies from eighteen to twenty-two and one-half hours per week.
 - (f) A teen subject to the school attendance requirements of the LEAP program must meet the school attendance requirements set forth in rule 5101:1-23-60 of the Administrative Code.
 - (g) A child not subject to the LEAP program requirements shall be considered in regular attendance in months in which he is not attending because of official school or training program vacation, illness, convalescence, or family emergency, and for the month in which he completes or discontinues his school or training program. This exclusion does not apply for an individual who is included in the assistance group as the relative caretaker, or for individuals included in the assistance group as

dependent children but who are not enrolled in school on at least a part-time basis. Earnings of these two groups are treated as outlined in paragraph (A) of this rule.

- (B) JTPA earnings received by a dependent child who is not a full-time student are exempt from consideration as income in the one hundred eighty-five per cent and one hundred per cent need tests and in the assistance group's benefit calculation for six months within a twelve-calendar-month period.

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Certification: Roland T. Hairston

Oct 31 1990
Date

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5101:1-23-042 ADC: minor caretaker budgeting.

- (A) When the unemancipated minor caretaker is not living with his parent(s), financial responsibility of the parents to support the caretaker must still be explored.
- (1) If the parents receive income based upon need such as SSI, ADC, or GA, it is assumed that they do not have the ability to support and no action is taken.
 - (2) If the parents have income which is not based upon need, a referral will be made to the

person/unit responsible for support recovery investigation so that the parents' responsibility is established.

- (3) When support payments or contributions from the parents are made to the minor caretaker, the amount of the payment is deducted from the caretaker's grant. These payments will not be deducted until they are actually paid to the caretaker. In each situation, the case record must document the attempts to determine parental responsibility, i.e., investigation of the parents' income as well as attempts to secure support for the caretaker, i.e., referral for child support action.
- (B) When the caretaker of an eligible child is under the age of eighteen and lives with his/her parent(s), the CDHS must review the minor caretaker's parent(s) income. When a minor caretaker resides with a parent and a stepparent (spouse of the minor's parent), only the income of the minor caretaker's biological or adoptive parent(s) is used. The income of the stepparent of the minor caretaker shall not be used in the minor caretaker budget. If the caretaker's parents are self sustaining, an one-hundred per cent ADC budget shall be computed for the parent of the minor caretaker to determine the amount of countable income to apply to the assistance group, consisting of the minor caretaker and the caretaker's child(ren). If the income deemed from the minor caretaker's parent causes ineligibility for cash assistance, the CDHS shall determine eligibility for medicaid coverage in accordance with Chapter 5101:1-39 of the Administrative Code for the child of the minor caretaker.
- (1) A lump-sum payment received by a parent of a minor caretaker who is not a part of the ADC assistance group is considered as income available to the filing unit. When the countable income, including the lump sum, exceeds the needs of the assistance group for the month, the group is ineligible for that month. Any portion of the lump-sum income retained by the parent of the minor caretaker subsequent to the month of receipt represents a resource to the parent of the minor caretaker.
 - (2) The following are the only disregards allowed from the monthly gross income of the parent(s) of the minor caretaker. All remaining income is counted in the one hundred eighty-five per cent standard of need test and is deducted dollar-for-dollar as unearned income from the ADC grant for the assistance group.
 - (a) Effective October 1, 1993, the first ninety dollars of the monthly gross earned income.
 - (b) The amount equal to the one hundred per cent standard for the parent(s) of the minor caretaker and any other individual who meets all of the following conditions.
 - (i) Is living in the home.
 - (ii) Whose needs are not included in the ADC assistance group.

- (iii) Is claimed or could be claimed by the parent(s) as a dependent for federal personal income tax liability under the internal revenue service's rule.
- (c) The amount of the payments made by the parent(s) of the minor caretaker or individuals who are not living in the home but are claimed or could be claimed by the parent(s) of the minor caretaker as dependents for federal personal income tax liability under the internal revenue service's rules.
- (d) The amount paid by the parent(s) of the minor caretaker as alimony or child support for individuals not living in the home.

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Certification: Arnold R.Tompkins

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Date

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5101:1-23-043 ADC: income of a stepparent.

- (A) All income of a stepparent who is living in the home with the ADC children must be considered in determining the eligibility of the ADC children.
- (B) The only disregards allowed are:
 - (1) Effective October 1, 1993, the first ninety dollars of the monthly gross earned income.

- (2) The amount equal to the one hundred per cent standard for the stepparent and any other individuals who are living in the home, whose needs are not included in the ADC assistance grant, and who are claimed by the stepparent as dependents for federal personal income tax liability under the internal revenue service rules.
 - (3) The amount of the payments made by the stepparent to individuals who are not living in the home but are claimed by the stepparent as dependents for federal personal income tax liability under the internal revenue service rules.
 - (4) The amount paid by the stepparent as alimony or child support for individuals not living in the home.
- (C) Nonrecurring lump-sum payments received by a stepparent are considered as income in the month received. That portion retained by the stepparent subsequent to the month of receipt represents a resource to the stepparent.
- (D) Since the parent of the ADC children must be included in the ADC grant, his needs are not included in the one hundred per cent standard allowed in the stepparent disregards. The parent's needs would be considered as part of the ADC payment standard.
- (E) If the parent has earned income and is included in the ADC grant, the applicable earned income disregards are allowed. The monthly net income is counted toward the payment standard for the parent and the ADC children.
- (F) Any unearned income, with the exception of a monthly fifty-dollar child support disregard, is deducted from the payment standard for the assistance group.
- (G) For ADC purposes, a "stepparent" is a person who is ceremonially or legally married to the child's parent.

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Date

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5101:1-23-044 ADC: budgeting methodology applicable when a parent does not meet the citizenship requirement.

- (A) When a parent in an ADC assistance group does not meet the citizenship requirement necessary for receipt of ADC, the alien parent shall be excluded from the ADC assistance group.

- (B) The income of the ineligible alien parent shall be counted in the determination of eligibility and level of benefits after deducting the disregards set forth in paragraphs (C)(1) to (C)(4) of this rule. All remaining income is counted in the one hundred eighty-five per cent standard of need test and is deducted dollar-for dollar as unearned income from the ADC grant for the assistance group.
- (C) The following are the only disregards allowed from the monthly gross income of the ineligible alien parent.
 - (1) Effective October 1, 1993, the first ninety dollars of monthly gross earned income.
 - (2) The amount equal to the one hundred per cent standard for the ineligible alien parent and any other individual who meets all of the conditions set forth in paragraphs (C)(2)(a) to (C)(2)(c) of this rule.
 - (a) The individual is living in the home.
 - (b) The individual's needs are not included in the ADC assistance group.
 - (c) The individual is claimed, or could be claimed, as a dependent for federal personal income tax liability under the internal revenue service's rules.
 - (3) The amount of the payments made by the ineligible alien parent for individuals who are not living in the home but are claimed, or could be claimed by the ineligible alien parent as dependents for federal personal income tax liability under the internal revenue service's rules.
 - (4) The amount paid by the ineligible alien parent as alimony or child support for individuals not living in the home.

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5101:1-23-06 ADC and DA: relocation assistance.

A relocation assistance benefit, paid by a public agency to a public assistance recipient who has been

relocated as a result of a program of area redevelopment, urban renewal, freeway construction, or any other public development involving demolition or condemnation of existing housing, is exempt income for the ADC and DA programs provided:

- (A) The benefit payment is a nonrecurring lump sum; or
- (B) If more than one payment is made, such payments are made for a limited time in a manner which does not result in duplication of an allowance in the assistance standard.
- (C) Examples are highway relocation assistance paid under sections 163.53 to 163.55 of the Revised Code and any additional relocation payment under Public Law 91-646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970).

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Date

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Statutory Authority: Revised Code Sections 5113.06, 5115.05.

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- (A) With the exceptions of the provisions set forth in paragraphs (I) to (O) of this rule, all other provisions set forth in this rule are applicable in the ADC, ADC-related medicaid, and DA programs.
- (B) Nonrecurring payments received by an assistance group are considered as lump-sum payments. Nonrecurring lump sums can be either earned or unearned income. A nonrecurring payment is income that is not anticipated or expected to be received again. Any income representing an individual's most recent wages shall not be considered a lump sum. Lump-sum payments are those which are accrued over two or more months and which are not expected to be received in the same amount in the future. A lump-sum payment may be unrelated to any time period, such as inheritance or life insurance proceeds.
- (C) Supplemental security income (SSI) benefits received in a lump-sum payment are not considered for this rule.
- (D) The following is a list of commonly received lump-sum payments:
 - (1) Gifts, prizes, and awards.
 - (2) Inheritances and bequests.
 - (3) Property tax refunds.
 - (4) Veteran's benefits.
 - (5) Social security benefits.
 - (6) Retirement and pension funds.
 - (7) Proceeds received as the beneficiary of a life insurance policy.
 - (8) Compensatory awards which include personal injury, wrongful death, and worker's compensation for personal injury.
- (E) An Ohio victim's of crime compensation award shall be treated as a resource and must be evaluated according to the resource limits set forth in rules 5101:1-3-05 to 5101:1-3-053 and 5101:1-5-30 to 5101:1-5-31 of the Administrative Code.
- (F) Lump-sum payments received prior to the month of application are not considered as income. Any of the payment remaining in the month of application is considered a resource.
- (G) Lump-sum payments received as compensation for loss of resources are treated as set forth in rules 5101:1-3-056 and 5101:1-5-31 of the Administrative Code.

- (H) The source, amount, and date of receipt of lump-sum payments must be verified and information recorded in the assistance group record.
- (I) In the ADC and ADC-related medicaid programs only, all nonrecurring lump-sum payments are considered as income in the month received and apportioned toward future months' eligibility. Any income which is exempt under rules 5101:1-23-02 to 5101:1-23-20 of the Administrative Code is exempt from the lump sum requirement.
- (J) In ADC and ADC-related medicaid only, although an assistance group receives a lump-sum payment, the use of some portion of the money may be controlled so that it is unavailable to meet current and future needs.
 - (1) The amount of the lump-sum payment which is designated or controlled by court order, contract, or other legally binding document is excluded from the lump sum provision.
 - (2) The portion of the payment disregarded is the amount the assistance group is legally obligated to pay to someone or is controlled by the court order, contract, or binding document.
 - (3) CDHS must disregard any amount from a lump-sum payment received as a result of a life insurance claim, medical claim, property loss claim, legal settlement, etc., that is designated in the claim for payment of incurred or expected costs. The assistance group has the burden of proof to verify all costs which are to be deducted from the lump sum. The remaining lump-sum amount, after deductions, shall be used to compute the period of ineligibility as set forth in rule 5101:1-23-071 of the Administrative Code.
 - (4) On a rare occasion, the assistance group may have incurred expenses for which the assistance group has an obligation to repay upon receipt of the lump sum. There may be a portion of the lump sum which the assistance group will claim is unavailable for meeting future needs. The amount used to pay bills or loans for expenses incurred for normal living expenses may be excluded from the lump-sum provision provided both of the following conditions are met:
 - (a) The expenses were incurred prior to the receipt of public assistance; and
 - (b) A written or legal document for repayment was executed at the time the expense was incurred.
 - (5) Any amount of the lump-sum payment remaining after an exclusion for prior obligated normal living expenses is to be considered as income in the month received to be apportioned to meet future months' needs in accordance with rule 5101:1-23-071 of the Administrative Code.

- (K) In ADC and ADC-related medicaid only, escrowed rent payments which, by court order, are returned to an assistance group are not considered to be nonrecurring lump-sum payments. The escrowed rent payments are made to satisfy a shelter obligation, which because of certain conditions, are paid to the clerk of courts. If the escrowed rent payments are subsequently returned to the assistance group by court order, regardless of whether or not the court designates that the returned funds be used for any specific purpose, the money does not represent income to the assistance group. Any amount of the returned escrow payments which are not designated by court order for a specific purpose, represents a savings to the assistance group which shall be considered as a liquid asset, and evaluated in accordance with rules 5101:1-3-05 and 5101:1-3-053 of the Administrative Code.
- (L) In the ADC-related medicaid program only, lump-sum payments shall be treated in accordance with the provisions set forth in this rule and rules 5101:1-23-071 to 5101:1-23-075 of the Administrative Code with the following exception: in ADC-related medicaid, the period of ineligibility begins the month following the month of proper termination. Eligibility resumes when eligibility for ADC cash assistance resumes or the period of ineligibility ends.
- (M) In the GA and DA programs only, nonrecurring lump-sum payments are considered personal property, subject to the maximum limitations in the month following receipt, and as income in the month received.
- (N) In the ADC-related medicaid program only, receipt of lump sum payments do not affect the eligibility of pregnant women in receipt of healthy start. However, eligibility of children in receipt of healthy start may be affected. Continued eligibility for children in receipt of healthy start shall be determined in accordance with the provisions set forth in rule 5101:1-23-075 of the Administrative Code.
- (O) In ADC and ADC-related medicaid only, court-ordered rent abatements returned to an assistance group are not considered as nonrecurring lump-sum payments. The decision of the court to award a rent abatement can be the result of either a suit brought against a landlord over severe living conditions or counterclaim brought by a tenant who has had an eviction filed against him. In both situations, the rent abatement amount awarded would be for the difference in rent paid and the determined value of the premises in its current condition. Any amount of the returned rent abatement which is not designated by court order for a specific purpose, represents a savings to the assistance group which shall be considered as a liquid asset not a lump-sum payment, and evaluated in accordance with rules 5101:1-3-05 and 5101:1-3-053 of the Administrative Code.

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5101:1-23-071 ADC: nonrecurring lump-sum period of ineligibility.

- (A) The "period of ineligibility" is defined as the number of months for which the assistance group is found to be ineligible. The period of ineligibility begins with the month the lump sum is received.
- (B) For purposes of applying the lump-sum provision, the family includes all persons whose needs are taken into account in determining eligibility and the amount of payment. To compute the period of ineligibility add all monthly income remaining after the application of the appropriate disregards together with the lump-sum payment and compare it to the one hundred per cent ADC standard for the family size excluding sanctioned individuals and individuals whose needs are excluded from the assistance group due to a failure to perform some action (e.g., a parent who is sanctioned for failure to assign support rights, or a sibling who failed to meet a JOBS participation requirement). While the needs of the sanctioned or ineligible individual are excluded from the one hundred per cent ADC standard for as long as the individual is subject to the sanction or ineligibility, the income of the sanctioned or ineligible individual is counted in determining the period of ineligibility. Once the sanction or ineligibility ceases, the needs of the sanctioned or ineligible individual must be included and the period of ineligibility must be recalculated using the appropriate one hundred per cent ADC standard as set forth in rule 5101:1-23-073 of the Administrative Code. Any ADC payment received by the assistance group is excluded in this calculation.
- (C) The comparison of the monthly income to the family's one hundred per cent ADC standard will result in one of two calculations.
 - (1) When the total income is equal to or less than the one hundred per cent ADC standard for the family, the ADC grant is computed as usual for the month of receipt of the lump sum. The assistance group may be ineligible for that month or may be eligible for a reduced payment. If an overpayment occurred for that month, the CDHS must determine the amount of the overpayment and recoup that amount.
 - (2) When the total monthly income exceeds the one hundred per cent ADC standard, the excess is counted as income available for future months. The family is ineligible for ADC for the number of full months that the excess will support the family at the one hundred per cent standard each month. Any excess income remaining after the full months of eligibility shall be counted as income in the first month following the ineligibility period. This excess income is counted in the one month following the period of ineligibility and will result in a reduced payment or no payment for that month.
- (D) When the period of ineligibility is calculated, only the monthly income to the family for the month of the receipt of the lump sum is considered in the calculation. The purpose of determining the period of ineligibility is to distribute the amount of the lump sum to meet future needs of the assistance

group. Any monthly income of the members of the assistance group is not considered in the calculation beyond that first month.

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5101:1-23-073 ADC: shortening the period of ineligibility.

- (A) The period of ineligibility is shortened when certain circumstances occur prior to the expiration of the period of ineligibility and the assistance group has used or will have to use all or part of the lump-sum payment in order to meet that circumstance. The effect is that the lump-sum payment which was apportioned over future months to meet the assistance group's needs is not available to meet those needs during the entire period of ineligibility, so the period is shortened accordingly.
- (B) The CDHS shall recalculate the period of ineligibility with respect to the remaining months in the period of ineligibility when one or more of the following circumstances exists:
 - (1) An event occurs which had the family been receiving aid would have changed the amount of aid payable. When there is an addition to the family of an individual required to be in the standard filing unit, the need standard to be used in recalculating the period of ineligibility must include additions to the family during the period who are otherwise eligible. Examples of required additions to the family include the birth of a child, a child returning to the home, an individual who was sanctioned when the period of ineligibility was originally computed and for whom the sanction has ended, or any other individual required to be included in the assistance group. However, if the individual added to the unit for the purposes of recalculating the period of ineligibility subsequently leaves the unit, the lump-sum period of ineligibility does not follow that individual, nor is the period of ineligibility recalculated for the remaining members of the unit. The period of ineligibility must be recalculated as of the date that the event occurred which would have affected the payment, had the assistance group been receiving aid. Other examples of events which would have changed the amount of aid payable include eligibility for a special need allowance (i.e., pregnancy allowance) and a general increase in the one hundred per cent need standard.
 - (2) The lump-sum income has been unavailable to the family for reasons beyond their control. Examples are: a legal action has been brought against the assistance group freezing access to a checking or saving account which contains the lump sum, or remainder of it; the lump sum or remainder of it is stolen.
 - (3) The family verifies that medical expenses were incurred and paid in a month during the period of ineligibility. The amount of the medical expense payment must be sufficient to significantly reduce the resource of the family. Routine medical costs such as a visit to the doctor or six-month dental exam and ongoing prescriptions, may be included in the recalculation only when combined with a medical expense payment sufficient to significantly reduce the resources of the assistance group. As set forth in rules 5101:1-23-071 and 5101:1-

23-074 of the Administrative Code, income remaining after the determination of the period of ineligibility is counted as income against the payment standard in the first month following the period of ineligibility. The CDHS shall not initiate the recalculation to shorten the period of ineligibility until the medical expenses equal or exceed the amount of income remaining as set forth in paragraph (E)(3) of rule 5101:1-23-074 of the Administrative Code.

- (4) A life-threatening circumstance exists and the lump sum will be used in connection with the circumstance and there are no other resources sufficient to meet the circumstances. For example, a tornado damaged the roof of the house and in order to repair it, the remainder of the lump sum is used to meet the emergency.
 - (5) The individual who received the lump sum was not a required member of the standard filing unit (e.g., a grantee relative, essential person, etc.) and that individual has requested that the individual's needs be removed from the filing unit (or, in essential person situations, the caretaker relative states that the individual is no longer essential and requests the removal of the individual). When the individual makes this request, the period of ineligibility for the remaining assistance group members ends with the first month following the individual's request for removal, as the lump-sum income is no longer attributed to the remaining assistance group members.
- (C) During the period of ineligibility, when a family claims the lump sum has been or will be used for any of the circumstances listed in paragraphs (B)(1) to (B)(5) of this rule, the burden of proof rests with the family to show that the condition(s) exist. If there is sufficient documentation to show that one or more of the conditions did occur, the CDHS shall recalculate the period of ineligibility. The assistance group record must contain sufficient documentation to indicate the reasons for shortening the period of ineligibility.

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5101:1-23-074 ADC: budgeting procedures to be used to determine period of ineligibility resulting from the receipt of a lump-sum payment.

When a lump-sum payment is received by any member of an assistance group, there are certain steps to follow to determine the period of ineligibility.

- (A) Determine if the lump-sum payment is excluded as income.
- (B) Determine if the payment is designated for a specific purpose as set forth in rule 5101:1-23-07 of the Administrative Code. If so, disregard the amount that is to be used for a specific purpose.
- (C) Total regular monthly income and allow any disregards which apply.
- (D) Add the nonexcluded amount of the lump-sum payment to the regular countable monthly income as determined in paragraph (C) of this rule.
- (E) Compare the total monthly income as determined in paragraph (D) of this rule to the one hundred per cent ADC standard for the assistance group.
 - (1) When the total monthly income is equal to or less than the one hundred per cent standard, apply the lump sum as income in the month received and recoup following regular overpayment procedures.
 - (2) When the total monthly income is more than the one hundred per cent standard, divide the total monthly income by the one hundred per cent standard to determine the months of ineligibility.
 - (3) All income remaining after the determination of the period of ineligibility is counted as income against the payment standard in the first month following the period of ineligibility.
 - (4) After the determination of the period of ineligibility, take the appropriate action to recover any overpayments and terminate or suspend the payment for the length of ineligibility.

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Certification: Patricia Barry

Aug 11 1989

Date

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Prior Effective Dates: 7-1-89 (Emer.).

5101:1-23-08 ADC: bona fide loans.

- (A) A bona fide loan obtained by an ADC assistance group member from any source is exempt from consideration as countable income or resources. A bona fide loan shall not be considered as income available to the assistance group because the loan is a debt that the assistance group has an obligation to repay. The receipt of a bona fide loan (regardless of the source from which and the reason for which the bona fide loan was secured) by an assistance group shall not adversely affect the assistance group's eligibility or level of benefits because the loan does not result in a gain to the assistance group that should be considered as countable income.
- (B) Only bona fide loans are exempt from consideration as income. In determining whether a bona fide loan exists, any of the situations described in paragraphs (C), (D), or (E) of this rule shall suffice as evidence of a bona fide loan.
- (C) A bona fide loan may be established by a written agreement to repay the money within a specified time frame.
- (D) A bona fide loan may be established by the existence of evidence to verify that the loan was obtained from an individual or establishment engaged in the business of making loans.
- (E) A bona fide loan may be established by the fact that the loan is obtained from an individual or establishment not normally engaged in the business of making loans, if one of the situations described in paragraph (E)(1), (E)(2), or (E)(3) of this rule exists. The loan may be defined as a bona fide loan if:
 - (1) The borrower's acknowledgement of the obligation to repay the loan exists (with or without interest); or
 - (2) The borrower has expressed intent to repay the loan either by pledging real or personal property, or anticipated income; or
 - (3) A written statement exists detailing the borrower's plans to repay the loan when future anticipated income is received (e.g., a timetable and plan for repayment).

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Sep 13 1989
Date

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5101:1-23-09 ADC: educational grants and scholarships for college expenses.

- (A) Educational grants and scholarships from any source for undergraduate and graduate college expenses are exempt from consideration as income or resources.
- (B) Educational grants and scholarships are treated in the same manner whether the assistance group member who is the student is an adult or a child.
- (C) Educational grants and scholarships are totally exempt as income or resources whether the funds are paid directly to the school or paid to the student.
- (D) Educational grants and scholarships that are paid for, or to, a student strictly for educational expenses, or grants and scholarships that include educational and living expenses are exempt regardless of the source from which or the terms under which they are granted, as long as the funds are granted as financial assistance to a student attending an undergraduate or graduate educational institution. Examples include, but are not limited to:
 - (1) Any benefit received through participation in the federal work study program, 42 USC 2751, et seq.
 - (2) PELL grant (formerly BEOG).
 - (3) Supplemental education opportunity grant (SEOG).
 - (4) State student incentive grant (SSIG).
 - (5) Ohio instructional grant (OIG).
 - (6) War orphans' scholarship program for children of deceased or disabled veterans.
 - (7) Nursing scholarship program.
 - (8) Health professions scholarship program.

- (9) Law enforcement educational program (LEEP).
- (10) Veterans administration benefits (GI Bill).

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5101:1-23-12 ADC: contributions for shared living expenses.

- (A) Cash payments (contributions) received by an ADC assistance group from an individual who is not an assistance group member, but who resides in the household with the ADC assistance group and shares responsibility for the household expenses through an informal arrangement, shall not be considered unearned income available to the ADC assistance group. The cash contribution given to the ADC assistance group by the individual who is not an assistance group member is not available income to the ADC assistance group because the payment represents the individual's (who is not an assistance group member) share of the household expenses.
- (B) However, if the individual who shares the residence with the ADC assistance group voluntarily gives a cash contribution to the ADC assistance group for its unrestricted use, the cash contribution shall be treated as unearned income to the ADC assistance group.

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Statutory Authority: Revised Code Sections 5107.02.
Prior Effective Date: 7-1-89 (Emer.).

5101:1-23-13 ADC: casual income.

"Casual or inconsequential income" is income in cash or in kind which is unpredictable as to amount and time of receipt, of short duration, and by itself, of negligible importance in meeting continuing needs under the appropriate aid standard. Casual income remains such as long as it is not recurring and does not exceed thirty dollars per recipient in any quarter, beginning with January, April, July, or October. The following examples illustrate some types of income which usually are considered casual income for the ADC program:

- (A) Income from occasional labor and services of a temporary nature and which offers no security as a regular source of maintenance.
- (B) Income from occasional sale of products or resulting from work engaged in wholly or primarily for its therapeutic value, such as knitting, art work, or cabinet work.
- (C) Income from occasional rental of a room which is not ordinarily advertised or listed for rent and which is rented for a short period only.
- (D) The value of the usual small gifts in kind given in commemoration of holidays and anniversaries; or a gift in kind earmarked for a specific purpose and not useful for meeting the continuing needs of the recipient, such as a gift of a ticket for a trip, gifts of personal property such as a radio or refrigerator.
- (E) Returns from home produce, garden, orchard, farm livestock, poultry, or firewood which is sold or exchanged.
- (F) Interest on securities which has no appreciable significance in meeting continuing needs.
- (G) Results of occasional barter transactions, such as the exchange of wood produced on the recipient's property for work on the road leading to his house.

- (H) Emergency relief granted a recipient who has lost or spent his grant.
- (I) The net return from interest in real or personal property which, by itself, makes no appreciable contribution to the continuing needs of a recipient under the aid standard.
- (J) The accrual of interest or appreciation in the value of prepaid funeral arrangements.

Effective Date: Oct 01 1987

Certification: Patricia Barry

Sep 18 1987
Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Sections 5107.04, 5113.03, 5113.04.
Prior Effective Dates: 11-1-76, 12-31-77, 12-1-79, 5-29-80, 9-7-81.

5101:1-23-14 ADC and DA: income in kind.

"Income in kind" is any benefit received other than in cash. Free rent, including the situation where the absent parent is responsible for meeting housing or rent payments, is an example of income in kind. Income in kind is exempt in the determination of need and the amount of the assistance payment for the ADC and DA programs.

Effective Date: Oct 30 1995

Certification: Arnold R.Tompkins

Oct 20 1995
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02, 5115.05.

Prior Effective Dates: 11-1-76, 12-31-77, 12-1-79, 5-29-80, 9-7-81, 10-1-91 (Emer.), 12-20-91, 8-1-95 (Emer.).

5101:1-23-17 ADC: income paid by public or private agencies, or community groups.

Income paid by public or private agencies, or community groups, which is either designated by law to be disregarded or given for a special purpose, shall not be deducted. The following are examples:

- (A) Rural housing loans made by farmers home administration to help individuals and families acquire and/or make needed improvements to a home or other property.
- (B) The value of surplus commodities donated by the department of agriculture.
- (C) Any payments distributed per capita to or held in trust for members of any Indian tribe under Public Law 92-254, Public Law 93-134, or Public Law 94-540.
- (D) Receipts distributed to members of certain Indian tribes as a result of section 5 of Public Law 94-114.
- (E) Tax-exempt portions of payments received by Alaskan natives as a result of the Alaska Native Claims Settlement Act, Public Law 92-203.
- (F) Payments made for supporting services or reimbursement of out-of-pocket expenses to volunteers participating in any program created as a result of Titles II and III, section 418 of Public Law 93-113. Examples are foster grandparents program, senior companions, senior health aides, service corps of retired executives (SCORE), and active corps of executives (ACE).
- (G) Benefits received under Title VII, nutrition program for the elderly, of the Older Americans Act of 1965, Public Law 92-258.
- (H) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as

amended, and the special food service program for children under the National School Lunch Act, as amended, Public Law 92-433 and Public Law 93-150.

- (I) Other payments made by a public or private agency for the purpose of supplementing standards, so long as there is no duplication of payment. This includes payments made by an agency providing vocational rehabilitation and payments made to individuals through participation in a JTPA program including all income received from the summer youth employment training program (SYETP). However, any payments made in the form of wages are not exempt under this rule. Payments made in the form of wages, as in the JTPA on-the-job training (OJT) program, cannot be disregarded.
- (J) Payments to assistance groups participating in the volunteers in service to America (VISTA) program regardless of the amount of the payments. This disregard does not apply when the director of ACTION determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the states where the volunteers are serving, whichever is greater. (Reference: section 404(g) of Public Law 93-113, as amended by section 9 of Public Law 96-143.)
- (K) Need-based payments made to a youth under age twenty-two to enable him to participate in training under the JTPA program, Public Law 97-300.
- (L) HUD (metropolitan housing authority) payments covering rent/utility bills which exceed the rent payment limitations stipulated by the Brooke Amendment.
- (M) Retroactive payments paid as a result of a state hearing.
- (N) Retroactive payments paid as a result of a reconsideration of SSI benefits.
- (O) Foster care payments, made by a state, a political subdivision, or a tax-exempt child placement agency, for a qualified foster-care child boarded in the home.
- (P) Experimental housing allowance program payments made under annual contributions contracts entered into prior to January 1, 1975, under section 23 of the U.S. Housing Act of 1937, as amended. This program is designed to aid low-income families to secure adequate housing.
- (Q) HUD community development block grant funds received by an assistance group. Funds for this program are paid from Title I of the Housing and Community Development Act of 1974 (Public Law 93-383 and Public Law 95-128). The primary purpose of this program is to prevent the deterioration of property occupied and owned by persons with low and moderate income. Rehabilitation projects made possible by this program do not include routine repairs and maintenance, but consist of major repairs or improvements such as complete renovation of the exterior or interior of a house. Funds from this program cannot be used for support and maintenance.

- (R) Cash or in-kind assistance provided for supportive services that are necessary to enable program participation to a youth under age twenty-two eligible for training under the Job Training Partnership Act but who cannot pay for required supportive services. Supportive services may be required for transportation, temporary shelter, meals, health care, etc., Public Law 97-300.
- (S) Compensation provided in lieu of wages to any youth under age twenty-two participating in tryout employment under the Job Training Partnership Act at a private-for-profit work site or at a public and private nonprofit work site when private-for-profit work sites are not available. Individuals in tryout employment may not participate more than twenty hours per week during the school year or two hundred fifty hours per assignment, Public Law 97-300.
- (T) Payments distributed to the Red Lake Band of Chippewa Indians, the Assiniboine Tribe of the Fort Belknap Indian Community, and the Assiniboine Tribe of the Fort Peck Indian Reservation under Public Law 98-123 or Public Law 98-124.
- (U) Home energy assistance (HEA) or support and maintenance assistance (SMA) paid to clients in cash or in kind per Public Law 97-377, Public Law 97-424, or Public Law 98-21.
 - (1) "Home energy assistance" means any assistance related to home energy (e.g., payment/vouchers for heating and/or cooling bills, weatherization, blankets, storm doors, etc.).
 - (2) "Support and maintenance assistance" means in-kind (non-cash) assistance from a private nonprofit organization recognized by ODHHS; to meet food, clothing, or shelter needs (e.g., food, clothing, payment of utility bills, etc.); or cash or in-kind assistance from a rate-of-return entity providing home energy, a supplier of home heating oil or gas, or a municipal utility providing home energy.

The assistance is only in-kind and is provided by a private nonprofit organization; or it is cash or in-kind assistance furnished by a supplier of home heating oil or gas, an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a state or federal governmental body, or a municipal utility providing home energy; and the assistance is provided on the basis of need for such support.
- (V) Payments received by individuals of Japanese ancestry under section 105 of Public Law 100-383, and payments received by Aleuts under section 206 of Public Law 100-383.
- (W) Payments received under the provisions of the Agent Orange Compensation Exclusion Act (Public Law 101-201) received on or after January 1, 1989.
- (X) Payments received under the provisions of the Radiation Exposure Compensation Act (Public Law 101-426) received on or after October 15, 1990.

- (Y) Payments received under the provisions of the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) received on or after October 10, 1980.
- (Z) Payments received under the provisions of Aroostook Band of Micmacs Act (Public Law 102-171) received on or after November 26, 1991.
- (AA) Payments received under the provisions of the Child Care and Development Block Grant (Section 5082 of Public Law 101-508).
- (BB) Escrow accounts established and credited as the direct result of the assistance group's involvement in the family self-sufficiency program on or after May 13, 1992. These escrow accounts are only considered available when the assistance group is no longer receiving any federal, state, or other public assistance for housing.
- (CC) Payments received under the provisions of the Seneca Nation Settlement Act of 1990 (Public Law 101-503) received on or after November 3, 1990.
- (DD) Basic health insurance, child care or child care allowances, auxiliary aid and services for disabled individuals and the national service educational award provided for individuals participating in a national service program established under the National and Community Service Trust Act of 1993 (Public Law 103-82). Payments received as a living allowance shall be considered earned income.

Effective Date: Mar 01 1995

Certification: Arnold R.Tompkins

Feb 17 1995
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02, 5107.04.

Rule Amplifies: Revised Code Sections 5107.02, 5107.04.

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5101:1-23-20 ADC: earned income tax credit.

Effective January 1, 1991, any earned income tax credit (EITC) received, whether added to the individual's wages or as part of an income tax refund, is exempt from consideration as income in the determination of eligibility or level of benefits.

Effective Date: Jul 11 1991

Certification: Terry A. Wallace

Jul 01 1991
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02.

Prior Effective Dates: 7-1-85, 10-1-89 (Emer.), 12-16-89, 10-1-90, 5-1-91 (Emer.).

5101:1-23-21 ADC: definition of self-employment and gross earnings.

- (A) An individual who operates his own business has earnings from self-employment. The gross earnings and the amount and type of operating expenses must be determined.
- (B) An individual who performs managerial duties or puts forth efforts to operate and rent his own real property has earnings from self-employment. Only in situations where the individual directly manages his own rental property will this be considered self-employment.
- (C) "Gross earnings from self-employment" means the total proceeds or gross receipts from self-employment minus operating expenses. Operating expenses are deducted from the total proceeds or gross receipts to determine gross earned income to be applied to the one hundred eighty-five per cent and one hundred per cent standards. Earned income disregards are deducted from the calculated gross earned income.

Effective Date: May 01 1991

Certification: Terry A. Wallace

Apr 19 1991
 Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Sections 5107.02 and 5107.05.
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5101:1-23-211 ADC: self-employment operating expenses.

"Operating expenses" are the identifiable costs of producing goods or services and without which the goods or services could not be produced. Verified costs of certain items necessary for the operation of a self-employment business/farm are appropriately deducted from the total business income to determine gross earnings.

(A) The following are those items which may be deducted as operating expenses:

- (1) The cost of renting land, buildings, machinery, and equipment necessary for the operation of the business or farm.
- (2) The cost of utilities for business or farm buildings.
- (3) The cost of office supplies.
- (4) The amount of real property taxes (except special assessment taxes that increase the value of the property) on business or farm land owned or being purchased by the individual.
- (5) The cost of employee's wages and benefits and the employer's share of the employee's social security taxes.

- (6) The costs of repairs and maintenance of business or farm property (including buildings, machinery, equipment, trucks, etc.) owned or being purchased by the individual, if such expenditures do not appreciably add to the value of the property.
- (7) The interest portion of business and farm loans or mortgages.
- (8) Insurance on business and farm property (including buildings, machinery, livestock, cars, trucks, etc.).
- (9) Business licenses.
- (10) The cost of gas and oil for business or farm vehicles.
- (11) The cost of feed, fertilizer, seeds, plants, and farm supplies.
- (12) The cost of breeding fees, veterinary fees, and livestock medicines.
- (13) The cost of advertising.
- (14) Postage.
- (15) The cost of tools purchased for the business.
- (16) Attorney fees related to the business.
- (17) The cost of tax return preparation.
- (18) Wholesale cost of products sold.
- (19) Business-related travel expenses.
- (20) The cost of business transportation (including parking expenses).

Travel expenses to and from the individual's home to place of employment are not deductible. Travel expenses while at work (such as going to pick-up materials required for the business) are considered a business expense. Personal use of a car is not an allowable expense. All transportation expenses must be prorated according to how the car is used.

- (B) Deductions from gross receipts from self-employment may not be made for any of the following:
 - (1) Monies paid to purchase capital assets, equipment, machinery, and other durable goods.
 - (2) Payments on the principal of mortgages on income-producing real property.

- (3) Any amount claimed as depreciation for federal income tax or other purposes.
 - (4) Any amount claimed as a net loss sustained in any prior period.
 - (5) Any amount claimed as the applicant/recipient's own federal, state, local, and social security taxes.
 - (6) Any amount claimed as personal business and entertainment expenses and personal transportation.
- (C) Standard deduction for operating expenses for home day-care providers:

A flat fifty per cent deduction from gross earnings from self-employment related to being a home day-care provider may be used in lieu of determining and verifying actual operating expenses. If an assistance group is able to document acceptable operating expenses (as set forth in paragraph (A) of this rule) that exceed the fifty per cent standard deduction, the actual expenses may be used in the determination of gross earned income.

Effective Date: Apr 01 1990

Certification: Roland T. Hairston

Mar 22 1990
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02 and 5107.05.

Prior Effective Dates: 11-1-76, 5-14-77, 4-5-79, 10-1-81, 12-1-82, 1-2-86, 8-1-86 (Emer.), 10-3-86, 1-1-90 (Emer.)

5101:1-23-212 ADC: establishing annual gross earned income from self-employment.

- (A) Generally, it will be necessary for the self-employed individual to provide copies of his tax return from the previous year and the individual's current business records in order for a projection of annual gross income to be determined. Additionally, the self-employed individual's estimate of expected income and expenses must be secured.
- (B) The amount of annual gross earned income from self-employment shall be determined by subtracting the allowable annual operating expenses (or, if applicable, the standard deduction as set forth in rule 5101:1-23-211 of the Administrative Code) from the annual gross receipts. The amount of the gross annual self-employment earnings shall then be distributed into all months of the taxable year.

Effective Date: May 01 1991

Certification: Terry A. Wallace

Apr 19 1991

Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Sections 5107.02 and 5107.05.
Prior Effective Dates: 11-1-76, 5-14-77, 4-5-79, 10-1-81, 12-1-82, 1-2-86, 8-1-86 (Emer.), 10-3-86, 10-1-87.

5101:1-23-213 ADC: distributing monthly income from self-employment earnings.

- (A) The CDHS must determine the countable monthly income of a self-employed individual based on an estimate of the individual's gross earnings.
- (B) Whenever possible, the CDHS must secure a copy of the self-employed individual's previous year's tax return. The income listed on the previous year's tax return should be used to estimate the expected earnings for the current and future months.
- (C) Unless the individual contests the determination of expected income as set forth in paragraph (B) of this rule, the estimate of income for the current taxable year shall be based on the previous year's tax return. The individual's gross monthly income should be determined to be one-twelfth of the gross earnings as shown on the tax return for the preceding year. The applicable earned income disregards must subsequently be applied to determine eligibility and level of benefits. This method of estimating the self-employed individual's income should be applicable in situations in which the individual has been self-employed for some time, his gross earnings from self-employment have remained fairly

constant (as evidenced by tax returns from previous years) and there is not anticipated change in circumstances.

- (D) If the individual contests the estimate of his income from self-employment based solely on information on the previous year's tax return, the individual must provide a projected estimate of his gross earnings for the current taxable year, based upon his current business records to support his contention.
- (1) When the individual can estimate his gross earnings for the current taxable year based on his current business records, the CDHS shall accept the individual's best estimate. Using the individual's best estimate of income for the current taxable year, the CDHS shall allocate one-twelfth of the gross annual income equally into each month of the taxable year. The CDHS shall subsequently use the one-twelfth figure as the individual's gross monthly income to which all applicable earned income disregards are applied to arrive at the countable monthly income that shall be compared to the payment standard in the determination of eligibility and level of benefits.
 - (2) If the individual contests the CDHS' estimate of his income from self-employment (based solely on information on his previous year's tax return) but does not provide a projected estimate of gross earnings for the taxable year based on current business records to support his contention, the CDHS shall project his earnings based on the gross earnings listed on his previous year's tax return.
- (E) In the event that the individual does not have a tax return from the previous year because the business is a new one, (or because the individual's records have been destroyed or are unavailable and all attempts to recover the records have been exhausted) the CDHS shall project an estimate of the individual's countable annual income based on the individual's current business records. The CDHS shall base its decision on the individual's business records for the current year unless the individual contests this determination and provides a reasonable explanation as to why the current business records do not reflect the income (and expenses) that he expects to receive in the future. If the individual contests the determination by providing a reasonable explanation as to why the CDHS projection is not satisfactory and provides a written estimate of his projected annual income and expenses, the CDHS shall use the individual's written estimate on which to base the eligibility determination. The CDHS shall determine that one-twelfth of the projected gross earnings shall be allocated as the individual's gross monthly income.
- (F) In some situations the previous year's tax return of a self-employed individual is not representative of the expected earnings/income for the current year. There are some situations in which it will be difficult to project future earnings from the individual's self-employment. Projecting income will be especially difficult in these situations on a monthly basis because the allowable expenses may be higher or even exceed the gross receipts, for a particular month. The previous year's tax return or current business records may not be considered to be accurate indicators of the individual's expected earnings for a variety of reasons. Some examples of these reasons are listed in paragraphs (F)(1) to

(F)(5) of this rule.

- (1) The business may be a new one for which there is no previous year's tax return;
 - (2) The individual may not have record keeping expertise;
 - (3) The business records may not be maintained on a monthly basis;
 - (4) The individual may not have the time, ability, or assistance necessary to develop the necessary data from his record; or
 - (5) There are other circumstances as explained by the individual, which preclude the use of the previous year's tax return or business records as an accurate means of projecting future income.
- (G) In the absence of both the previous year's tax return and current business records, the CDHS shall require the individual to provide a written best estimate of his projected annual income and expenses. The CDHS shall then determine that one-twelfth of the projected annual income (less expenses) shall be allocated as the individual's gross monthly income.

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Certification: Arnold R.Tompkins

Oct 20 1995
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02 and 5107.05.

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5101:1-23-22 Child support income.

- (A) Any child support payments (minus the disregarded amount under rule 5101:1-23-221 of the Administrative Code) whether received by the assistance group or assigned to the CDHS are counted as income in the determination of eligibility.
- (B) Child support (minus the disregarded amount under rule 5101:1-23-221 of the Administrative Code) is considered as countable income in all budget calculations until the assignment of support is effective. The effective date of assignment is given in rule 5101:1-3-013 of the Administrative Code.
- (C) Direct payments of support received by an ADC assistance group from the month of application through the month in which eligibility is determined and assistance is approved shall be budgeted as unearned income by the IV-A worker.

- (D) When eligibility is established, the amount of the ADC assistance payment for the month following the month of approval is determined without child support considered as countable income because the assignment of support will take effect. Once the assignment of support is effective, any child support received by the assistance group is not counted as income in the actual grant calculation.
- (E) An exception to this rule concerns support collections in cases where the ADC payment is suspended. The current support collected during the month of suspension is released to the family and is treated as countable unearned income (minus the disregarded amount under rule 5101:1-23-221 of the Administrative Code) in the month received.
- (F) When the CDHS adds an individual to an existing ADC assistance group, the child support assignment is effective the first day of the month following the month the individual is added to the assistance group. The child support assignment may be deemed retroactive to the date the individual is required to be included in the assistance group. However, the child support payments received by or for the added individual prior to the effective date of assignment shall be treated as unearned income minus the child support disregard.
- (G) When the CSEA notifies the IV-A unit that direct payments have been retained by the assistance group after the assignment is effective, and the assistance group has failed to agree to repay the amounts or to repay the amounts owed, the IV-A unit must determine whether the assistance group is cooperating as defined in rule 5101:1-3-10 of the Administrative Code. If the assistance group is found to have failed to cooperate, the caretaker relative is ineligible for assistance. During the period when the sanction is applied, any direct child support payments received and retained by the assistance group are counted as income in the determination of the ADC assistance payment. These retained child support payments are not subject to IV-D recovery during the sanction period.
- (H) At such time when the assistance group signs the repayment agreement with the CSEA or makes a regularly scheduled payment according to the terms of the agreement, the sanction must be lifted. The payments are no longer counted as income in the calculation of the assistance payment because they are being sent to the CSEA.
- (I) Any new or modified Ohio court orders with an effective date on or after December 1, 1986 are to be sent to the CSEA. Any payment not delivered to the CSEA on a support order with an effective date on or after December 1, 1986 is not considered child support.
- (J) In some circumstances, the child support payments received by the CSEA cannot all be distributed for present, future, and past months. This results in a refund of child support payable directly to the assistance group.

When child support money has been distributed by the CSEA and an amount is refunded to the assistance group, the amount is counted as income in the month received.

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Certification: Arnold R.Tompkins

Apr 16 1993
Date

Promulgated Under: Revised Code Section 111.15.

Statutory Authority: Revised Code Sections 5107.02 and 5107.03.

Prior Effective Dates: 12-1-82, 10-1-84 (Emer.), 12-27-84, 4-1-86, 10-3-86, 10-1-87 (Emer.), 12-24-87, 7-1-89 (Emer.), 9-23-89.

5101:1-23-221 Child support disregard and payment.

- (A) Of any amount of child support that is collected on or after January 1, 1989, and in a month which represents payment on the required support obligation for that month, the first fifty dollars of that amount shall be paid to the assistance group. If the amount collected includes payment on the required support obligation for a previous month or months, the assistance group shall only receive the first fifty dollars of the amount which represents the required support obligation for the month in which support was collected. If the amounts are collected for one assistance group which represents current support payments from two or more absent parents, only the first fifty dollars of the amount collected shall be paid to the assistance group.
- (B) Additional conditions which may affect the child support enforcement agency (CSEA) determination to issue a child support disregard payment are:

- (1) Court-ordered child support with an effective date prior to December 1, 1986 and received directly by the assistance group or by the (CSEA) shall have the first fifty dollars disregarded.
 - (2) The disregard will be applied at eligibility determination and benefit calculation.
 - (3) The disregard payment is issued by the Ohio department of human services (ODHS) only if the child support has been received by the CSEA.
 - (4) Warrant for the disregard payment shall not be issued if the assistance group receives child support directly, but the disregard will be applied in the budget calculation.
- (C) New or modified Ohio court-ordered child support with an effective date on or after December 1, 1986 is to be paid through the CSEA. Any income received by the custodial parent shall be considered a gift and no child support disregard shall be applied in the budget calculation.
- (D) Support is considered current when collected in the month for which there is an obligation. The absent parent may make his support payment in several different ways. If the absent parent pays directly to the CSEA, the payment must be received by the CSEA in the month for which the child support was due in order for that payment to be determined current child support. If the child support is collected through a method such as wage withholding, the payment is considered collected for that month even though the payment is not received by the CSEA until a later month. The ADC assistance group shall not be denied the disregard payment because of a delay in transmitting the payment from the point of collection to the agency responsible for distribution. The date of the withholding from wages, unemployment compensation, military pay, etc., shall be considered the date the child support was collected. That date shall be used to determine if the current child support obligation has been made and whether a child support disregard payment shall be issued. The child support payment must be credited for the period during which the withholding actually occurred.
- (E) The child support disregard payment shall be authorized and disbursed to eligible assistance groups in those months for which future payments have been collected and when an arrearage does not exist.
- (F) The CSEA processes and submits the appropriate information on collections to ODHS, which then issues child support payments directly to the assistance group. The child support disregard payment is processed when the CSEA has received current child support sufficient to issue the payment (e.g., when fifty-dollars has been collected). The CSEA and ODHS must establish and maintain a mutually acceptable time schedule which will assure that the child support disregard payment is issued to the assistance group no later than fifteen days from the CSEA's date of receipt of the payment. When any child support disregard payment is issued, ODHS sends the appropriate notice to the assistance group and a copy of the notice to the CDHS. This requires that the CDHS issue monthly notices as delineated in rule 5101:1-35-2716 of the Administrative Code. Initial notice and change notices as described in rules 5101:1-35-2714 and 5101:1-35-2716 of the Administrative Code are no longer

options for CRIS cases.

- (G) The CDHS receives notice from the CSEA no later than ten working days after the end of the month concerning the total amount of current support collected as well as any excess payments issued to the assistance group. This information is used to determine continued ADC eligibility and to compute ongoing food stamp benefits. Since CRIS is unable to generate a notice to the assistance group when no disregard payment is issued, the CDHS must manually issue the child support disregard notice using the information provided by the CSEA. This action must be completed within five days of receipt of this information from the CSEA.
- (H) The CDHS is responsible for maintaining copies of disregard notices received from ODHS and the CSEA in the assistance group record.
- (I) The CDHS is responsible for processing hearing requests and attending subsequent hearings which result from the issuance (or nonissuance) and/or determination of the amount of child support disregard payments. The CDHS is also responsible for the replacement of any child support disregard payment as delineated in rule 5101:1-25-38 of the Administrative Code.
- (J) Any needed adjustments to the child support disregard payment will be computed and authorized by the CSEA.

Effective Date: Jul 01 1991

Certification: Terry A. Wallace

Jun 21 1991
Date

Promulgated Under: Revised Code Section 111.15.
Statutory Authority: Revised Code Sections 5107.02, 5107.03, and 5107.07.

Prior Effective Dates: 12-1-82, 10-1-84 (Emer.), 12-27-84, 4-1-86, 8-1-86 (Emer.), 10-3-86, 10-1-87,
3-1-89 (Emer.), 5-28-89, 7-1-89 (Emer.), 9-23-89, 12-1-89 (Emer.), 12-16-89, 4-11-
91 (Emer.).

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Certification: Arnold R.Tompkins

Apri 01 1998
Date

5101:2-47-14.1
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Statutory Authority:	Revised Code Sections 5103.03, 5153.16, 5101.141
Rule Amplifies:	Revised Code Sections 5103.03, 5153.16, 5101.141

Review Date:	<u>4/01/03</u>
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Prior Effective Date:	12/30/96
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