

5101:4-4-13

Food stamps: types of excluded income.

In the Food Stamp Act of 1977, congress specified the types of income that are excluded for program purposes. Only the following payments are to be excluded from AG income, and no other income shall be excluded. In-kind or vendor payments which would normally be excluded as income but are converted in whole or in part to a direct cash payment under the approval of a federally authorized demonstration project (including projects created by the waiver of provisions of federal law) shall also be excluded from income.

- (A) Any gain or benefit which is not in the form of money payable directly to the AG including in-kind benefits. "In-kind benefits" are those for which no monetary payment is made on behalf of the AG and include meals, clothing, public housing, or produce from a garden.
- (B) A "vendor payment" is a money payment made on behalf of an AG by a person or organization outside of the AG directly to either the AG's creditors or to a person or organization providing a service to the AG.
- (C) Payments made to a third party on behalf of the AG are included or excluded as income as follows:
 - (1) Public assistance (PA), including disability assistance (DA), vendor payments are counted as income unless they are made for medical assistance, child care assistance, energy assistance as defined in paragraph (K) of this rule, emergency assistance (including, but not limited to housing and transportation payments) for migrant or seasonal farmworker AGs while they are in the job stream, or housing assistance payments made through a state or local housing authority.
 - (2) Public assistance provided to a third party on behalf of an AG which is not specifically excluded from consideration as income under paragraph (C)(1) of this rule shall be considered for exclusion under the emergency and special assistance category. To be considered emergency or special assistance and excluded, the assistance must be provided over and above the normal PA payment or cannot normally be provided as part of such payment.
 - ~~(3) Educational assistance provided to a third party on behalf of the AG for living expenses shall be treated the same as educational assistance payable directly to the AG and not excluded as a vendor payment.~~
 - ~~(4)~~(3) Reimbursements made in the form of vendor payments are excluded on the same basis as reimbursements paid directly to the AG in accordance with paragraph (G) of this rule.

- ~~(5)~~(4) In-kind or vendor payments which would normally be excluded as income but are converted in whole or in part to a direct cash payment under a federally authorized demonstration project or waiver shall be excluded from income.
- ~~(6)~~(5) Rent or mortgage payments made to landlords or mortgagees by HUD are excluded.
- ~~(7)~~(6) Monies that are legally obligated and otherwise payable to the AG, but which are diverted by the provider of the payment to a third party for a household expense, shall be counted as income and not excluded. If a person or organization makes a payment to a third party on behalf of an AG using funds that are not owed to the AG, the payment shall be excluded from income.
- (D) The county agency shall exclude any income that is specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the food stamp program. The following laws provide such an exclusion. The following is a listing of some of the incomes excluded by federal statute. The listing is divided into general income exclusions and exclusions applicable to incomes of American Indians or Alaska Natives.
- (1) General exclusions
- (a) Income of an SSI recipient determined necessary for the fulfillment of a plan for achieving self-support (PASS) which has been approved under sections 1612(b)(4)(A)(iii) or 1612(b)(4)(B)(iv) of the Social Security Act of 1935. This income may be spent in accordance with an approved PASS or deposited into a PASS savings account for future use.
 - (b) Federal emergency management assistance housing subsidies to pay for temporary housing required as a result of a disaster and individual and family grant assistance payments made under the Disaster Relief Act (section 312(d) of the Disaster Relief Act of 1974, as amended in 1988).
 - (c) Assistance provided to children under the school lunch program, the summer food service program for children, the commodity distribution program and child and adult care food program (PL 79-396, section 12(e) of the National School Lunch Act of 1946, as amended by section 9(d) of PL 94-105).
 - (d) Assistance provided to children under the special milk program, special

supplemental food program for women, infants, and children (WIC) and the school breakfast program (PL 89-642, the Child Nutrition Act of 1966, section 11(b)).

- (e) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (PL 91-646, section 216).
- (f) PL 93-113, the Domestic Volunteer Services Act of 1973, Titles I and II, ~~as amended~~. Payments under Title I of the act (including such Title I programs as vista, university year for action, and urban crime prevention program) to volunteers shall be excluded for those individuals receiving food stamps or public assistance at the time they joined the Title I program, except that AGs which were receiving an income exclusion for a vista or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 shall continue to receive an income exclusion for vista for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in food stamp participation shall not alter the exclusion once an initial determination has been made. New applicants who were not receiving public assistance or food stamps at the time they joined vista shall have these volunteer payments included as earned income. Any payment to volunteers under Title II (RSVP, foster grandparents, senior companion program and others) are excluded from income.
- (g) Payments received under section 321(d), the Disaster Relief Act of 1974 (PL 93-288), as amended by section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988, November 23, 1988, (PL 100-707). Payments precipitated by an emergency or major disaster as defined in this act, as amended, are not counted as income for food stamp purposes. This exclusion applies to federal assistance provided to persons directly affected and to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. A "major disaster" is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood, or explosion, which the president of the United States determines causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby. An "emergency" is any occasion or instance for which the president of the United States determines that federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe. Most, but not all, federal emergency management assistance funds are

excluded. For example, some payments made to homeless people to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency is not excluded under this provision.

- (h) Payments to U.S. citizens of Japanese ancestry and permanent resident Japanese aliens or their Survivors and Aleut Residents of the Pribilof Islands and the Aleutian Islands West of Unimak Island (PL 101-383, section 105(f)(2), wartime relocation of civilians, August 10, 1988, the Civil Liberties Act of 1988).
- (i) Income received (including reimbursements) by individuals participating in programs under the Workforce Investment Act (WIA) of 1998, section 181 (A)(2), except as provided in rule 5101:4-4-19 of the Administrative Code.
- (j) Any amount by which the basic pay of an individual is reduced and reverted to the treasury shall not be considered to have been received by or to be within the control of such individual (PL 99-576, section 303(a)(1), August 7, 1986, Veteran's Benefits Improvement and Health Care Authorization Act of 1986, which amends section 1411(b) and 1412(c) of the Veteran's Educational Act of 1984 - GI bill).
- (k) Funds received by persons fifty-five and older under the senior community service employment program under Title V of the Older Americans Act of 1987 are excluded from income (PL 100-175). The organizations that receive some Title V funds are as follows: green thumb; national council on aging; national council of senior citizens; American association of retired persons; United States forest service; national association for Spanish speaking elderly; national urban league; and the national council on black aging.
- (l) Cash donations based on need received on or after February 1, 1988 from one or more private nonprofit charitable organizations, but not to exceed three hundred dollars in a federal fiscal year quarter (Charitable Assistance and Food Bank Act of 1987; PL 100-232).
- (m) ~~Coupons~~ Food stamp benefits that may be exchanged for food at farmers' markets under WIC demonstration projects (PL 100-435, section 501, September 19, 1988, which amended section 17(m)(7) of the Child Nutrition Act of 1966).
- (n) Payments made from the Agent Orange settlement fund (PL 101-201) or any other fund established pursuant to the settlement in the Agent

Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) which are received on or after January 1, 1989. The disabled veteran will receive yearly payments. Survivors of deceased disabled veterans will receive a lump-sum payment. These payments were disbursed by Aetna insurance company. The Omnibus Budget Reconciliation Act of 1989, December 19, 1989, (PL 101-239) also excludes these payments. (Note: PL 102-4, Agent Orange Act of 1991, February 6, 1991, authorized veterans' benefits to some veterans with service-connected disabilities resulting from exposure to Agent Orange. These VA payments are not excluded by law.)

- (o) Payments made under the Radiation Exposure Compensation Act (PL 101-426, section 6(h)(2), October 15, 1990).
- (p) The Omnibus Budget Reconciliation Act of 1990, Title XI revenue provisions, section 11111, modifications of earned income tax credit, subsection (b) provides that any federal earned income tax credit shall not be treated as income effective with taxable years beginning after December 31, 1990 (PL 101-508).
- (q) PL 101-610, National and Community Service Act (NCSA) of 1990, section 177(d), November 16, 1990, applies to projects conducted under Title I of the NCSA . Title I includes three acts: (i) Serve-America: the Community Service, Schools and Service-Learning Act of 1990, (ii) the American Conservation and Youth Service Corps Act of 1990, and (iii) the National and Community Service Act.

There are about forty-seven different NCSA programs, and they vary by state. Most of the payments are made as a weekly stipend or for educational assistance. The higher education service-learning program and the americorps umbrella program come under this title. The national civilian community corps (NCCC) is a federally managed americorps program. The summer for safety program is an americorps program under which participants earn a stipend and a one thousand-dollar postservice educational award. The National and Community Service Trust Act of 1993, PL 103-82, September 23, 1993, amended the National and Community Services Act of 1990 but it did not change the exclusion. All americorps payments shall be excluded.

- (r) All student financial assistance, including grants, scholarships, fellowships, educational loans on which payment is deferred, work study, veterans' educational benefits, and the like, which are awarded to an AG member enrolled at a recognized institution of post-secondary

education, at a school for the handicapped, in a vocational education program, in a vocational or technical school, or in a program that provides for obtaining a secondary school diploma or the equivalent of a secondary school diploma shall be excluded from consideration as income for food stamp purposes. Student financial assistance received under Title IV (including assistance funded in whole or in part under Title IV) or part E of Title XIII of the Higher Education Act or under bureau of Indian affairs (BIA) student assistance programs. (Section 479(b) and section 1343(e) of Public Law 102-325). Federal Perkins loans authorized under part E of Title IV of the Higher Education Act must be handled in accordance with other Title IV income. Educational assistance authorized under Title IV, Title XIII, and BIA includes (but is not necessarily limited to) the following:

Educational income excluded for dependent care costs shall not be deducted from income under the provisions of rule 5101:4-4-23 of the Administrative Code. Dependent care costs incurred which exceed the amount excluded under the provisions of this paragraph shall be deducted from income in accordance with rule 5101:4-4-23 of the Administrative Code.

- (i) ~~Basic educational opportunity grants (BEOG or Pell grants).~~
- (ii) ~~College assistance migrant program (CAMP) for students whose families are engaged in migrant and seasonal farm work.~~
- (iii) ~~Federal direct student loan programs (FDLP) (formerly GSL and FFLEP):~~
 - (a) ~~Federal consolidated loan program.~~
 - (b) ~~Federal direct PLUS program (provides loans to parents).~~
 - (c) ~~Federal direct Stafford loan program.~~
 - (d) ~~Federal direct supplemental loan program (provides loans to students).~~
 - (e) ~~Federal direct unsubsidized Stafford loan program.~~
- (iv) ~~Federal Perkins loan program. Direct loans to students in institutions of higher education (Perkins loans, formerly NDSL).~~
- (v) ~~Federal work study funds. (Not all federal work study funds are issued under Title IV of the Higher Education Act. However, ODJFS has been advised most work study funds issued in the~~

~~state of Ohio are funded with Title IV money.)~~

- ~~(vi) High school equivalency program (HEP).~~
- ~~(vii) National early intervention scholarship and partnership program.~~
- ~~(viii) Ohio instructional grant (OIG). (A portion of OIG money is state student incentives grants which is authorized under Title IV.)~~
- ~~(ix) Presidential access scholarships (super Pell grants).~~
- ~~(x) Robert C. Byrd honors scholarship program.~~
- ~~(xi) State student incentives grants (SSIG).~~
- ~~(xii) Supplemental educational opportunity grants (SEOG).~~
- ~~(xiii) TRIO grants. (Go to organizations or institutions for students from disadvantaged backgrounds):~~
 - ~~(a) Robert E. McNair post-baccalaureate achievement.~~
 - ~~(b) Student support services.~~
 - ~~(c) Upward bound (some stipends go to students).~~
- ~~(xiv) There is only one BIA student assistance program per se. It is the higher education grant program, which is sometimes called the scholarship grant program. However, education or training assistance received under any BIA program must be excluded. There is an adult education program that provides money to adults to get a GED, attend technical schools, and for job training. There is also an employment assistance program. In addition, education and training may be made available under separate programs like the Indian child and family programs. Each tribe has a BIA agency that may be contacted for more information about education and training assistance.~~
- ~~(s) Educational assistance received under section 507 of the Carl D. Perkins Vocational Act that is made available for tuition, mandatory fees, books, supplies, transportation, dependent care, and miscellaneous personal expenses. (PL 98-524 as amended by PL 101-392). The programs under this act include the following:~~
 - ~~(i) Bilingual materials, methods, and techniques program.~~
 - ~~(ii) Bilingual vocational instructor training program.~~

- ~~(iii) Bilingual vocational training program.~~
- ~~(iv) Blue ribbon vocational education program.~~
- ~~(v) Business and education standards program.~~
- ~~(vi) Community education employment centers program.~~
- ~~(vii) Cooperative demonstration programs.~~
- ~~(viii) Demonstration centers for the training of dislocated workers program.~~
- ~~(ix) Demonstration projects for the integration of vocational and academic learning program.~~
- ~~(x) Educational programs for federal correctional institutions.~~
- ~~(xi) Indian vocational education program.~~
- ~~(xii) Internships for gifted and talented vocational education students program.~~
- ~~(xiii) Materials development in telecommunications program.~~
- ~~(xiv) Model programs of regional training for skilled trades.~~
- ~~(xv) Native Hawaiian vocational education program.~~
- ~~(xvi) National center or centers for research in vocational education.~~
- ~~(xvii) National network for curriculum coordination in vocational and technical education.~~
- ~~(xviii) National tech-prep education program.~~
- ~~(xix) State-administered tech-prep education program.~~
- ~~(xx) State vocational and applied technology education program which contains:
 - ~~(a) State program and state leadership activities.~~
 - ~~(b) Program for single parents, displaced homemakers, and single pregnant women.~~
 - ~~(c) Sex equity program.~~~~

- ~~(d) Programs for criminal offenders.~~
- ~~(e) Secondary school vocational education program.~~
- ~~(f) Postsecondary and adult vocational education program.~~
- ~~(g) State assistance for vocational education support programs by community-based organizations.~~
- ~~(h) Consumer and homemaking education program.~~
- ~~(i) Comprehensive career guidance and counseling program.~~
- ~~(j) Business-labor education partnership for training program.~~
- ~~(xxi) Supplementary state grants for facilities and equipment and other program improvement activities.~~
- ~~(xxii) Tribally controlled postsecondary vocational institutions program.~~
- ~~(xxiii) Vocational education dropout prevention program.~~
- ~~(xxiv) Vocational education leadership development awards program.~~
- ~~(xxv) Vocational education lighthouse schools program.~~
- ~~(xxvi) Vocational education research program.~~
- ~~(xxvii) Vocational education training and study grants program.~~
- ~~(xxviii) Vocational educator training fellowships program.~~
- ~~(t) Section 5(d)(3) of the Food Stamp Act, as amended by PL 101-624, Food Agriculture, Conservation and Trade Act of 1990, Title XVIII, Mickey Leland Memorial Domestic Hunger Relief Act, November 28, 1990, and PL 102-237, Food Agriculture, Conservation, and Trade Act Amendments of 1991, section 903, provide that educational monies are excluded from income as detailed in paragraph (E) of this rule.~~
- ~~(u)~~(s) PL 101-625, section 22(I), November 28, 1990, Cranston-Gonzales National Affordable Housing Act, (42 USCS 1437t(I), provides that, "No service provided to a public housing resident under this section [family investment centers] may be treated as income for purposes of any other program or provision of State or Federal law." This exclusion applies to services such as child care, employment training and

counseling, literacy training, computer skills training, assistance in the attainment of certificates of high school equivalency and other services. It does not apply to wages or stipends. This same public law, section 522(i)(4), excludes most increases in the earned income of a family residing in certain housing while participating in housing and urban development demonstration projects authorized by this public law. Demonstration projects are authorized by this law for Chicago, Illinois, and three other locations. The affected (food and nutrition service) regional offices will be contacted individually regarding these projects.

~~(v)~~(t) Payments made under the youthbuild program under the Housing and Community Development Act of 1992 (PL 102-550). These payments are to be treated like WIA payments in accordance with paragraph (D)(1)(i) of this rule, except as provided in rule 5101:4-4-19 of the Administrative Code.

~~(w)~~(u) Payments from any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) (PL 102-586, section 8, November 4, 1992, which amended the Child Care and Development Block Grant Act Amendments of 1992 by adding section 658S).

~~(x)~~(v) Payments made to individuals because of their status as victims of Nazi persecution (PL 103-286, August 1, 1994).

~~(y)~~(w) PL 103-322, section 230202, September 13, 1994, amended section 1403 of the Crime Act of 1984 (42 U.S.C. 10602) to provide in part that, "(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed state or local program, would otherwise pay, (i) such crime victim compensation program shall not pay that compensation; and (ii) the other program shall make its payments without regard to the existence of the crime victim compensation program." Based on this language, payments received under this program must be excluded from income for food stamp purposes.

~~(z)~~(x) Notwithstanding any other provision of law, the allowance paid under PL 104-204, (section 1805(d), dated September 26, 1996) to a child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child. A monthly allowance from two hundred to one thousand two hundred dollars is paid to a child under this public law.

(2) American Indians or Alaska Natives

- (a) 25 USCS 1407 judgment funds (as amended by PL 93-134 and PL 97-458) provides that: "None of the funds [appropriated in satisfaction of judgments of the Indian claims commission or claims court in favor of any Indian tribe, band, etc.] which - (i) are distributed per capita or held in trust pursuant to a plan approved under the provisions of this Act [25 USCS section 1401 et seq.], or (ii) on the date of enactment of this Act [enacted Jan. 12, 1983], are to be distributed per capita or are held in trust pursuant to a plan approved by Congress prior to the date of enactment of this Act [enacted Jan. 12, 1983], or (iii) were distributed pursuant to a plan approved by Congress after December 31, 1981, but prior to the date of enactment of this Act (Jan. 12, 1983), and any purchases made with such funds, including all interest and investment income accrued thereon while such funds are so held in trust, shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act [42 USCS section 301 et seq.] or, except for per capita shares in excess of two thousand dollars, any federal or federally assisted program." The two thousand-dollar amount applies to each payment made to each person.
- (b) Payments received under the Alaska Native Claims Settlement Act (PL 92-203, section 21(a), section 29, January 2, 1976, and section 15 of PL 100-241, February 3, 1988, the Alaska Native Claims Settlement Act Amendments of 1987).
- (c) Payments made under the Indian Judgment Fund Act (judgment awards) of two thousand dollars or less and initial purchases made with exempt payments distributed between January 1, 1982, and January 12, 1983 (PL 93-134, the Judgment Award Authorization Act, as amended by PL 97-458, section 1407, November 12, 1983, and PL 98-64, August 2, 1983, the Per Capita Distribution Act).
- (d) Effective January 1, 1994, interests of individual indians in trust or restricted lands and up to two thousand dollars per year of income received by individual indians derived from such interests per PL 93-134, section 8, October 19, 1973, the Indian Tribal Judgment Fund Use or Distribution Act as amended by PL 103-66, section 13736, October 7, 1973. Interests include the Indian's right to or legal share of the trust or restricted land and any income accrued from funds in trust

or the restricted lands.

- (e) Payments of relocation assistance to members of the Navajo and Hopi Tribes under PL 93-531, December 22, 1974.
- (f) Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (PL 94-114, section 6, October 17, 1975). The tribes that may benefit are: Bad River Band of the Lake Superior Tribe or Chippewa Indians of Wisconsin; Blackfeet Tribe; Cherokee Nation of Oklahoma; Cheyenne River Sioux Tribe; Crow Creek Sioux Tribe; Lower Brule Sioux Tribe; Devils Lake Sioux Tribe; Fort Belknap Indian Community; Assiniboine and Sioux Tribes; Lac Courte Oreilles Band of Lake Superior Chippewa Indians; Keweenaw Bay Indian Community; Minnesota Chippewa Tribe; Navajo Tribe; Oglala Sioux Tribe; Rosebud Sioux Tribe; Shoshone-Bannock Tribes; and Standing Rock Sioux Tribe.
- (g) Payments distributed per capita or held in trust to the Sac and Fox Indians and divided between members of the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa awarded in Indian claims commission dockets numbered 219, 153, 135, 158, 231, 83, and 95 (PL 94-189, section 6, December 31, 1975).
- (h) Payments by the Indian claims commission to the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation (PL 95-433, October 10, 1978).
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (PL 94-540, October 18, 1976).
- (j) Child and family service grant programs on or near reservations in the preparation and implementation of child welfare codes. Programs include, but are not limited to, family assistance, including homemaker and home counselors, day care, after school care, and employment, recreational activities, and respite care; home improvement; the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters; education and training of Indians, including tribal court judges and staff in skills relating to child and family assistance and service programs (25 USCS 1931 Indian child welfare, subparagraph (a), PL 95-608, November 8, 1978). Subparagraph (b) provides that assistance under 25 USCS 1901 et seq. shall not be a basis for the denial or reduction of any assistance otherwise authorized under any federally

assisted programs.

- (k) Payments to the Passamaquoddy Tribe, the Houlton Band of Malecite, and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (PL 96-420, section 5, section 9(c), October 10, 1980).
- (l) Payments made to the Turtle Mountain Band of Chippewas, Arizona (PL 97-403, December 31, 1982).
- (m) Payments made to the Blackfeet, Grosventre, and Assiniboine Tribes, Montana, and the Papago, Arizona (PL 97-408, January 3, 1983).
- (n) Payments distributed under PL 98-123, section 3, October 13, 1983, to members of the Red Lake Band of Chippewa Indians as awarded in docket number 15-72 of the United States court of claims.
- (o) Per capita and interest payments made to members of the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana, as awarded in docket 10-81L (PL 98-124, section 5, October 13, 1983).
- (p) Payments made to heirs of deceased Indians except for per capita shares in excess of two thousand dollars per PL 98-500, section 8, October 17, 1984, Old Age Assistance Claims Settlement Act.
- (q) Payments distributed per capita or held in trust for members of the Chippewas of Lake Superior (PL 99-146, section 6(b), November 11, 1985, as awarded in judgments in dockets numbered 18-S, 18-U, 18-C, and 18-T). Dockets 18-S and 18-U are divided among the following reservations. Wisconsin: Bad River Reservation; Lac du Flambeau Reservation; Lac Courte Oreilles Reservation; Sokaogon Chippewa Community; Red Cliff Reservation; St. Croix Reservation. Michigan: Keweenaw Bay Indian Community (L'anse, Lac Vieux Desert, and Ontonagon Bands). Minnesota: Fond du Lac Reservation; Grand Portage Reservation; Nett Lake Reservation (including Vermillion Lake and Deer creek); White Earth Reservation. Under dockets 18-C and 18-T funds are given to the Lac Courte Oreilles Band of the Lake Superior Bands of Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin, the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, the Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, and the St. Croix Chippewa Indians of Wisconsin.

- (r) Payments made under the White Earth Reservation Land Settlement Act of 1985, March 24, 1986, section 16(PL 99-264), which involves members of the White Earth Band of Chippewa Indians in Minnesota.
 - (s) Payments made to the Saginaw Chippewa Indian Tribe of Michigan (PL 99-346, section 6(b)(2), June 30, 1986).
 - (t) Payments distributed per capita or held in trust to the Chippewas of the Mississippi (PL 99-377, section 4(b), August 8, 1986, as awarded in judgments in docket number 18-S). The funds are divided by reservation affiliation for the Mille Lac Reservation, Minnesota; White Earth Reservation, Minnesota; and Leech Lake Reservation, Minnesota.
 - (u) Payments made under PL 101-41, the Puyallup Tribe of Indians Settlement Act of 1989, section 10(b), June 21, 1989.
 - (v) Payments, funds, or distributions authorized, established, or directed by PL 101-503, section 8(b), Seneca Nation Settlement Act of 1990, November 3, 1990, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members, for, or be used as a basis for denying or reducing under, any federal program.
 - (w) Funds appropriated in satisfaction of judgments awarded to the Seminole Indians in dockets 73, 151, and 73-A of the Indian claims commission are excluded from resources except for per capita payments in excess of two thousand dollars. Payments were allocated to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the Independent Seminole Indians of Florida (PL 101-277, April 30, 1990).
 - (x) PL 103-436, section 7(b), November 2, 1994, Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act, provides that payments made pursuant to that act are totally excluded from income for food stamp purposes.
- ~~(E) Educational assistance, including grants, scholarships, fellowships, educational loans on which payment is deferred, work study, veterans' educational benefits, and the like, which are awarded to an AG member enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, in a vocational or technical school, or in a program that provides for obtaining a secondary school diploma or the equivalent of a secondary school diploma shall be excluded from consideration as income as follows:~~

- ~~(1) The county agency shall first exclude all amounts which are required to be totally excluded from consideration as income.~~
- ~~(2) Educational assistance not totally excluded as provided for in paragraph (D)(1) of this rule shall be excluded as follows. These provisions apply to federal, state, local, and private educational assistance received by a student and educational assistance provided directly to the student's school or parent or guardian:
 - ~~(a) Earmarked. The county agency shall first exclude amounts of assistance identified (earmarked) by the institution, school, program, or other grantor as made available for the specific costs of tuition, mandatory school fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, dependent care, transportation, and miscellaneous personal expenses (other than normal living expenses). Amounts earmarked as miscellaneous personal expenses for living expenses such as, but not limited to, food, rent, room or board, clothing, and personal hygiene items, shall not be excluded. Amounts earmarked separately from miscellaneous personal expenses for living expenses shall not be excluded. In situations where the institution, school, program, or other grantor has earmarked educational assistance for the allowable costs involved but such earmarking identifies multiple sources of educational assistance and multiple expenses without specifically identifying which educational source is made available for which expense, the county agency shall exclude the total amount of earmarked allowable costs from the total nonexcluded educational income provided. The allowable costs shall not be excluded from each individual education source unless clearly earmarked in that manner.~~
 - ~~(b) Used for. If the institution, school, program, or other grantor does not earmark amounts for the allowable expenses or tuition, mandatory fees, books, supplies, dependent care, transportation, or miscellaneous personal expenses, an exclusion from educational income shall be granted for such allowable educational expenses (other than identifiable normal living expenses such as, but not limited to, food, rent, room or board, clothing, and personal hygiene items) to the extent the assistance is used for such allowable expenses. When the amounts earmarked by the institution, school, program, or other grantor are less than the student actually used for the allowable expense involved, an exclusion shall be allowed for amounts used over the earmarked amounts. Origination fees and insurance premiums on educational loans shall be excluded. When the amounts used for allowable expenses are more than amounts earmarked by the institution, school, program or other grantor, an exclusion shall be allowed for amounts used over the earmarked~~~~

~~amounts. Exclusions based on use shall be subtracted from unearned educational income to the extent possible. If the unearned educational income is not enough to cover the expense, the remainder of the allowable expense shall be excluded from earned educational income.~~

~~(3) The following additional procedures apply with regard to educational assistance excluded pursuant to paragraphs (E)(2)(a) and (E)(2)(b) of this rule (not totally excluded):~~

~~(a) Amounts of allowable expenses to be excluded based on "use" pursuant to the provisions of "used for" and "use exceeds earmarked amount" as provided for in paragraphs (E)(2)(a) and (E)(2)(b) of this rule are those incurred or anticipated for the period the educational income is intended to cover regardless of when the educational income is actually received. The first month that educational income would be counted is the month in which it is received although it is still prorated over the period it is intended to cover. If a student uses other income sources for allowable educational expenses in months before the educational income is received, the expense shall be excluded from the educational income when the educational income is received.~~

~~(b) Where a student receives more than one source of educational income that is not totally excluded, all of the student's nonexcluded educational income, except for nonexcluded work study income, shall first be totaled. Allowable expenses based on earmarking and use shall be totaled and subtracted from this amount. If the nonwork study income is not enough to cover the allowable expenses, any allowable expense not covered shall be excluded from the work study income before the twenty per cent earned income deduction is computed.~~

~~(c) Where work study income is received monthly in relation to costs of attendance that are usually incurred on a less frequent basis, the county agency shall anticipate the work study income for the appropriate quarter, semester, or year, exclude the allowable costs, and prorate the remaining amount over the quarter, semester, or year.~~

~~(d) The twenty per cent earned income deduction shall be applied to work study income and income from a fellowship with a work requirement remaining after the allowable exclusions are made pursuant to paragraphs (E)(2)(a) and (E)(2)(b) of this rule.~~

~~(e) An individual's total educational income exclusions granted under the provisions of paragraphs (E)(2)(a) and (E)(2)(b) of this rule cannot exceed that individual's total educational income.~~

~~(f) The student shall have the primary responsibility for obtaining and~~

~~providing the county agency with verification of allowable exclusions. Acceptable forms of verification may include school budget sheets, receipts, collateral contacts, or other forms of reasonable verification such as prevailing public transportation rates to verify an exclusion for transportation costs.~~

~~(g) Amounts excluded for dependent care costs shall not be deducted from income under the provisions of rule 5101:4-4-23 of the Administrative Code. Dependent care costs incurred which exceed the amount excluded under the provisions of paragraphs (E)(2)(a) and (E)(2)(b) of this rule shall be deducted from income in accordance with rule 5101:4-4-23 of the Administrative Code.~~

~~(F)(E) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred, are excluded as income. Educational loans on which repayment is deferred shall be excluded pursuant to the provisions in paragraphs (E)(1), (E)(2)(a), (E)(2)(b), and (E)(3) paragraph D of this rule, as appropriate. A loan on which repayment must begin within sixty days after receipt of the loan shall not be considered a deferred repayment loan.~~

~~(G)(E) Reimbursements for past or future expenses are excluded to the extent they do not exceed actual expenses and do not represent a gain or benefit to the AG. The following shall not be considered a reimbursement excludable under this paragraph: No portion of benefits provided under Title IV-A of the Social Security Act, to the extent such benefits are attributed to adjustment for work-related or child care expenses shall be considered excludable under this paragraph. No portion of any educational assistance that is provided for normal living expenses (room and board) shall be considered a reimbursement excludable under this paragraph.~~

- (1) When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. Reimbursements for normal living expenses of the AG, such as rent or mortgage, personal clothing, or food eaten at home, are a gain or benefit and therefore are not excluded. To be excluded, these payments must be provided specifically for an identified expense, other than normal living expenses, and used for the purpose intended.
- (2) The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income. However, reimbursements shall not be considered to exceed the actual expenses, unless the provider or the AG indicates the amount is excessive.

~~(H)~~(G) Monies received and used for the care and maintenance of a third-party beneficiary who is not an AG member. If the intended beneficiaries of a single payment are both AG and non-AG members, any identifiable portion of the payment intended and used for the care and maintenance of the non-AG member shall be excluded. If the non-AG member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion applied to the non-AG member's pro rata share or the amount actually used for the non-AG member's care and maintenance, whichever is less.

~~(H)~~(H) The earned income of any AG members who live with a natural, adoptive, or stepparent, or under the parental control of an AG member other than a parent, who are elementary or secondary school students, and who are seventeen years of age or younger. For purposes of this provision, an "elementary or secondary school student" is someone who attends classes to obtain a general equivalency diploma (GED) that are recognized, operated, or supervised by the student's state or local school district. The provision also applies to a student who attends elementary or secondary classes through a home-school program recognized or supervised by the student's state or local school district. This income is excluded even during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings or the amount of work performed cannot be differentiated from that of other AG members, the total earnings shall be prorated equally among the working members and the child's pro rata share excluded. Individuals are considered children for this exclusion if they are under the parental control of another AG member. If an AG contains a student whose income is excluded and the student turns eighteen during the month of application, the student's earnings shall be excluded in the month of application and counted in the following month(s). If the student turns eighteen during the certification period, the student's income shall be excluded until the month following the month in which the student turns eighteen.

~~(J)~~(I) Money received in the form of a nonrecurring lump-sum payment, including, but not limited to, income tax refunds, rebates, or credits; retroactive lump-sum social security, SSI, PA, railroad retirement pension, the learning, earning and parenting (LEAP) program enrollment bonus payment, or other payment; retroactive lump-sum insurance settlements; refunds of security deposits on rental property or utilities; or prevention, retention and contingency (PRC) payments made to divert an AG from becoming dependent on cash assistance if the payment is not defined as assistance. (TANF non-recurrent, short term benefits are defined in 45 CFR ~~261.31~~260.31(b)(1) (revised October 1, 2001)). These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other federal laws.

~~(K)~~(J) Miscellaneous income exclusions.

The following are miscellaneous income exclusions.

(1) Irregular income

Any income in the certification period which is acquired too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty dollars in a quarter.

(2) Costs of self-employment

The cost of producing self-employment income. See rule 5101:4-6-11 of the Administrative Code for the procedures on computing the cost of producing self-employment income.

(3) Income from ineligible AG members

The prorated share of earned or unearned income of an ineligible AG member in accordance with rule 5101:4-6-13 of the Administrative Code.

(4) Energy assistance, as follows:

(a) Any payments or allowances made for the purpose of providing energy assistance under any federal law other than part A of Title IV of the Social Security Act of 1935 (42 U.S.C. 601 et seq.), including utility reimbursements made by the department of housing and urban development and the rural housing service, or

(b) A one-time payment or allowance applied for on an as-needed basis and made under a federal or state law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device. A down payment followed by a final payment upon completion of the work will be considered a one-time payment for purposes of this provision.

(5) Blood and blood plasma sales

Any income which is acquired from the sale of blood or blood plasma.

(6) Garage sales

Any income which is acquired from garage sales.

(7) Interest income

Any interest income from savings or other financial accounts.

(8) Bingo winnings

Any income from bingo winnings.

~~(L)~~(K) Certain payments from the child and adult care food program

That portion of payments from the child and adult care food program (CACFP) to AGs providing child care services intended for the provider's own children's meals. See rule 5101:4-4-19 of the Administrative Code for treatment of that portion of CACFP payments intended for providing services to children other than the provider's own.

~~(M)~~(L) Payments which are not considered income.

The following payments are not considered income.

- (1) Monies withheld from an assistance payment, earned income, or other income source, or monies received from any income source which are voluntarily or involuntarily returned to repay a prior overpayment received from the income source, provided that the overpayment is not otherwise excluded. However, monies withheld from assistance from a federal, state, or local means-tested program (for example, OWF or DA) due to the AG's failure to perform an action required under these programs, shall be included as income in accordance with rule 5101:4-6-16 of the Administrative Code.
- (2) Child support payments received by OWF recipients which must be transferred to the agency administering Title IV-D of the Social Security Act of 1935, as amended, to maintain OWF eligibility.
- (3) Governmental or court-ordered foster care payments received by AGs with foster care individuals who are considered to be boarders.

Effective: 06/01/2003

CERTIFIED ELECTRONICALLY

Certification

05/23/2003

Date

Promulgated Under: 111.15
Statutory Authority: 5101.54
Rule Amplifies: 329.04, 329.042, 5101.54
Prior Effective Dates: 6/2/80, 12/1/80, 1/1/81,
6/18/81, 10/1/81, 2/12/82,
9/27/82, 6/17/83, 7/1/83
(Temp.), 8/19/83 (Temp.),
9/24/83, 11/1/83 (Temp.),
12/22/83, 12/25/83 (Temp.),
2/1/84 (Temp.), 2/16/84
(Temp.), 4/1/84, 8/1/84
(Emer.), 10/20/84, 12/31/84
(Emer.), 2/22/85 (Emer.),
4/1/85, 5/3/85 (Emer.),
5/2/85, 8/1/85, 8/16/85
(Emer.), 9/23/85 (Emer.),
11/1/85 (Emer.), 1/1/86,
5/1/86, 8/1/86 (Emer.),
8/20/86 (Emer.), 10/1/86
(Emer.), 11/15/86, 4/10/87
(Emer.), 6/22/87, 7/1/87
(Emer.), 8/1/87 (Emer.),
9/1/87 (Emer.), 10/25/87,
10/29/87 (Emer.), 11/28/87,
1/22/88, 3/24/88 (Emer.),
6/18/88, 7/20/88 (Emer.),
10/16/88, 7/11/89 (Emer.),
9/17/89, 10/1/89 (Emer.),

12/21/89, 5/25/90, 10/1/90,
2/17/91, 5/1/91 (Emer.),
6/1/91, 10/1/91, 2/3/92,
8/1/92 (Emer.), 10/30/92,
8/1/93, 2/1/94, 9/1/94, 1/1/95,
8/1/95, 8/1/95 (Emer.),
10/13/95, 2/1/96, 9/22/96
(Emer.), 11/22/96, 12/21/96,
4/1/97 (Emer.), 6/6/97,
9/1/97, 2/1/98 (Emer.),
2/23/98, 9/28/98, 7/15/99,
10/1/99 (Emer.), 12/16/99,
6/1/01, 12/5/02