

5101:1-23-20

Ohio works first: income and eligibility.

Except for the provisions which are listed in rules 5101:1-23-20.1 and 5101:1-23-20.2 of the Administrative Code, all payments received by assistance group members, and in some instances non-assistance group members, are considered income for purposes of determining eligibility for the Ohio works first (OWF) program. Income is categorized as earned or unearned.

(A) What is gross earned income?

(1) "Gross earned income" means the total amount of gross wages before taxes or deductions received in a month by all of the employed individuals in the assistance group.

(2) Gross earned income includes:

(a) All wages, back pay, bonuses and awards paid by the employer, commissions, severance pay, payments from job corps, work training programs, on-the-job training programs, sick leave paid as wages, annual leave, holiday and vacation pay.

(b) Wages legally obligated to members of the assistance group but which are diverted to a third party, as set forth in rule 5101:4-4-13 of the Administrative Code.

(c) Earnings of an individual residing with the assistance group who is a required assistance group member but who is ~~excluded from~~ineligible to be included in the assistance group as set forth in rule 5101:1-23-10 of the Administrative Code.

(d) Earnings of the spouse of a married pregnant woman with no other OWF eligible children.

(i) The spouse's income is added to the pregnant woman's income.

(ii) The assistance group's total income, less appropriate disregards, is compared to the payment standard for two.

(iii) If the total income is less than the payment standard for two, the pregnant woman's eligibility for cash assistance is determined in accordance with paragraph (I) of this rule, using only her income.

(iv) Once the child is born, the spouse must be added to the assistance

group in accordance with the provisions set forth in rule 5101:1-23-10 of the Administrative Code and his income must be used in determining continued eligibility.

- (e) State temporary disability insurance and temporary workers' compensation payments are considered gross earnings when such payments meet all of the following conditions:
 - (i) The payment is employer-funded; and,
 - (ii) The payment is made to an individual who remains employed during recuperation from a temporary illness or injury pending return to the job; and,
 - (iii) The payment is specifically characterized under state law as a temporary wage replacement.

(B) What are gross self-employment earnings?

- (1) "Gross self-employment earnings" means the total profit from a business enterprise after the deduction of either fifty per cent of the gross receipts or the actual verified expenses (i.e., the business expenses directly related to producing the goods or services) from the gross receipts.
- (2) Gross monthly self-employment earnings are based on an estimate of the individual's annual earnings.

(C) What is gross unearned income?

- (1) "Gross unearned income" is income that is not gross earned income from employment or self-employment.
- (2) It is the total amount of unearned income that is received in the month by all members of the assistance group, and of a parent ~~specifically excluded from~~ ineligible to be included in the assistance group, as set forth in rule 5101:1-23-10 of the Administrative Code.
- (3) Gross unearned income includes but is not limited to payments from the following:
 - (a) Annuities;

- (b) Pensions;
- (c) Retirement funds;
- (d) Veterans benefits;
- (e) Workers' compensation;
- (f) Unemployment compensation;
- (g) Social security retirement, survivor's and disability insurance (RSDI) benefits;
- (h) Cash contributions from persons, organizations or assistance agencies;
- (i) Income allocated to the assistance group from a required individual who is ~~excluded from~~ ineligible to be included in the OWF assistance group as set forth in rule 5101:1-23-10 of the Administrative Code.
- (j) A non-recurring lump-sum payment that is not anticipated or expected to be received again. Receipt of a non-recurring lump-sum payment is only considered income in the month received;
- (k) Child support and alimony payments received by the assistance group.
 - (i) Child support is considered as countable income in all budget calculations until the assignment of support is effective as set forth in rule 5101:1-3-10 of the Administrative Code.
 - (ii) Direct payments of support received by an 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.
 - (iii) 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.
 - (iv) When the county agency adds an individual to an existing 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.

- (v) In some circumstances, the child support payments received by the child support enforcement agency (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 may be considered a non-recurring lump sum as set forth in paragraph (C)(3)(j) of this rule.

(D) When is income available to the assistance group?

- (1) Income must be received or reasonably anticipated to be received by the assistance group during the calendar month to be used in determining eligibility for OWF.
 - (a) Availability depends upon the date of receipt and the number of months the income is intended to cover.
 - (b) In certain instances, income may need to be apportioned to future months.
 - (c) 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 regardless of whether the employee chooses to receive the income in fewer months.
- (2) Income received by a member of the assistance group is considered available to all members of the assistance group. This includes the receipt of social security Title II benefits. When a Title II beneficiary is a minor, benefits are usually paid through a representative payee. If the beneficiary is a member of the assistance group, it is necessary to determine if the entire amount of the Title II benefit is counted as income to the assistance group.
 - (a) If the representative payee resides in the same household, the total amount of Title II benefits received for the beneficiary is counted in determining the assistance group's eligibility for OWF.

- (b) 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. Title II benefits retained by a representative payee who does not reside in the same household as the beneficiary are not considered potential income to the OWF assistance group.
 - (3) 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 is the amount made available to the assistance group member unless evidence is produced to the contrary.
 - (4) The income of a parent ~~specifically excluded from the standard filing unit~~ ineligible to be included in the assistance group, as set forth in rule 5101:1-23-10 of the Administrative Code, is considered in determining the assistance group's eligibility and payment, except for excluded income set forth in rule 5101:1-23-20.1 of the Administrative Code.
 - (5) The county agency shall 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.
 - (6) The assistance group, including the person responsible for a child receiving OWF benefits, is responsible for giving information necessary for income determinations, and for taking all actions necessary to obtain unconditionally available income.
 - (a) 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, or RSDI benefits.
 - (b) Ineligibility to participate in OWF results if the assistance group refuses to accept unconditionally available income.
- (E) How is gross earned and unearned income calculated?
- (1) Each assistance group member's monthly gross income amount shall be rounded down to the nearest whole dollar by dropping all cents in gross weekly, biweekly, or semimonthly income prior to applying the conversion factors listed in paragraph (E)(3) of this rule.

- (2) Income received in a frequency other than monthly shall be converted into a monthly amount. All cents shall be dropped after multiplying the individual's income by the appropriate conversion factor, and prior to applying applicable earned income disregards, as set forth in paragraph (H)(2) of this rule. Hourly rates which contain cents are not rounded, but are multiplied in the exact amount.
- (3) Conversion shall be performed using the following factors:
 - (a) Income received on a weekly basis is multiplied by 4.3.
 - (b) Income received biweekly (every two weeks) is multiplied by 2.15.
 - (c) Income received semimonthly (twice a month) is multiplied by 2.
- (4) If the employed individual works the same number of hours per pay period, the gross monthly income shall be computed by either using the gross earnings listed on the individual's pay stubs or by multiplying the number of hours per pay period by the hourly rate of pay.
- (5) If the employed individual has fluctuating hours, the pays shall be averaged before converting to a gross monthly amount.
 - (a) If there are more than four weeks of pay stubs available and the individual states that an average of a longer period of time is more representative because the income received in the most recent four weeks was less or greater than average, the county agency may use all available income-related information for the immediately preceding three-month period. This includes situations when the individual disagrees with the use of income from the past four-week period as representative of future income. Some pay stubs reflect year-to-date earnings and this is an acceptable method of determining average income for longer than the four-week period.
 - (b) If there are fewer than four weeks of pay stubs available, the county agency may use all available income-related information to arrive at a representative figure. This includes situations when the employed assistance group member disagrees with the use of earnings from the past four-week period as indicative of future earnings.
- (6) If there are no pay stubs available because the employment is new, the county

agency may project an estimated amount for a pay period based on the best estimate of the projected wages and hours of employment as reported by the individual.

(F) How is self-employment income calculated?

Self-employment income is calculated by deducting the verified business expenses or a standard deduction of fifty per cent from the gross self-employment receipts. Gross receipts is the total profit of a business enterprise.

(1) Gross receipts

(a) In situations in which an individual has self-employment income, the county agency shall determine the gross receipts for the month based on an estimate of the individual's gross annual earnings by reviewing copies of his or her tax return from the previous year, as well as the current business records. The income listed on the previous year's tax return shall be used to estimate the expected earnings for the current and future months, unless the individual contests this determination of expected income. The individual's gross monthly earnings should be determined to be one-twelfth of the gross earnings as shown on the tax return for the preceding year. 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, the gross earnings from self-employment have remained fairly constant (as evidenced by tax returns from previous years) and there is no anticipated change in circumstances.

(i) If the individual contests the estimate of the income from self-employment based solely on information on the previous year's tax return, the individual shall provide a projected estimate of the gross earnings for the current taxable year, based upon the current business records to support the contention. When the individual can estimate the gross earnings for the current taxable year, the county agency shall accept the individual's best estimate and allocate one-twelfth of the gross annual income equally into each month of the taxable year.

(ii) If the individual contests the county agency estimate of income from self-employment based solely on the 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 the contention, the county agency shall project his earnings based on the gross earnings listed on the previous year's tax return.

- (b) If the individual does not have a tax return from the previous year, the county agency shall project an estimate of the individual's annual gross earning from self-employment based on the individual's current business records. The county agency shall determine that one-twelfth of the projected gross earnings from self-employment shall be allocated monthly.
 - (i) If the individual contests the determination, provides a reasonable explanation as to why the county agency projection is not satisfactory and a written estimate of his projected annual gross earnings from self-employment, the county agency shall use the individual's written estimate to base the eligibility determination.
 - (ii) If the individual does not provide a written estimate of projected annual gross earnings, the county agency shall project the estimate based on current records.
- (c) In some situations the previous year's tax return is not representative of the expected earnings for the current year. There are some situations in which it will be difficult to project future earnings from the individual's self-employment and 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.
- (d) In the absence of both the previous year's tax return and current business records, the county agency shall require the individual to provide a written best estimate of his projected annual income. The county agency shall then determine that one-twelfth of the projected annual gross earnings shall be distributed into all months of the taxable year.
- (e) The computed converted monthly figure shall remain unchanged until a change in income occurs as set forth in rule 5101:1-2-20 of the Administrative Code, or until the next reapplication. A reported change in income requires a recomputation of the budget.

(2) Expenses

The assistance group may choose one of the following two methods:

- (a) Fifty per cent standard deduction from the gross self-employment receipts;
or

- (b) Actual deductions from the self-employment receipts as set forth in paragraph (C) of rule 5101:4-6-11 of the Administrative Code.

(G) How is microenterprise development income counted?

- (1) For purposes of this rule, a "microenterprise development participant" is an individual participating in a training and education activity designed to prepare the individual for self-employment opportunities.
- (2) Gross self-employment receipts are set forth in paragraph (F)(1) of this rule.
- (3) The following are allowable operating expenses for up to one year following the month that the participant's business starts or expands:
 - (a) The provisions regarding non-allowable deductions from self-employment income, set forth in rule 5101:4-6-11 of the Administrative Code, are waived. Allowable business expenses shall not exceed seven thousand-five hundred dollars.
 - (b) The purchase of capital equipment or durable goods up to five thousand dollars.
 - (c) The interest and principal portion of a secured business loan not to exceed five thousand dollars.
 - (d) Payments made into an "unencumbered cash reserve account" in any month the total amount in the fund does not exceed three thousand dollars.
- (4) The gross self-employment earnings, after deduction of expenses, up to one hundred thirty-three per cent of the federal poverty guideline for the participant's OWF assistance group size is excluded as countable income. Gross self-employment earnings received in excess of this standard shall be included as gross earned income.

(H) How is initial eligibility determined?

- (1) If an assistance group applies for OWF and it has been more than four months since they last received OWF, the county agency shall determine whether the assistance group's gross income exceeds fifty per cent of the federal poverty

guidelines as set forth in division (D)(1)(a) of section 5107.10 of the Revised Code. The county agency shall complete the following steps:

- (a) Total the monthly gross earned income from each employed family member.
 - (b) Deduct the actual verified dependent care costs of the assistance group for nonpublicly funded dependent care for a child or an incapacitated adult who is residing in the home. The amount that is deducted is the actual verified cost that is paid for each child or incapacitated adult.
 - (c) Add unearned income of assistance group members to the amount in paragraph (H)(1)(b) of this rule.
 - (d) The assistance group is ineligible to receive OWF if the gross income in paragraph (H)(1)(c) of this rule exceeds fifty per cent of the federal poverty guidelines.
- (2) If the assistance group's gross income does not exceed fifty per cent of the federal poverty guidelines, the county agency shall determine whether the assistance group's countable income is less than the payment standard set forth in paragraph (J) of this rule. For purposes of this paragraph, "countable income" shall be defined as:
- (a) The assistance group's gross earned income; minus,
 - (b) The two hundred-fifty dollar and one-half of the remainder disregards set forth in division (D)(3) of section 5107.10 of the Revised Code, if applicable; minus,
 - (c) The actual verified dependent care costs of the assistance group for nonpublicly funded dependent care; plus,
 - (d) The assistance group's gross unearned income.
 - (e) The amount in paragraph (H)(2)(d) of this rule is compared to the OWF payment standard for the assistance group size.
 - (f) The assistance group is ineligible to participate in OWF if the assistance group's countable income equals or exceeds the payment standard.

- (3) If an assistance group applies for OWF and it has not been more than four months since they last received OWF, the county agency shall apply the benefit determination in paragraphs (H)(2)(a) to (H)(2)(f) of this rule.

(I) How are ongoing benefits determined?

- (1) To determine whether an assistance group receiving OWF continues to be eligible, the county agency shall determine whether the assistance group's countable income continues to be less than the payment standard. The determination of the assistance group's countable income is determined by applying the method set forth in paragraph (H)(2) of this rule.
- (2) The assistance group is ineligible to receive OWF if the assistance group's countable income equals or exceeds the payment standard.
- (3) The disregard set forth in division (D)(3) of section 5107.10 of the Revised Code shall not be applied to the assistance group's gross earned income for any month in which the assistance group failed without good cause to make a timely report of earnings as set forth in rule 5101:1-2-20 of the Administrative Code.

(J) What are the income standards used for OWF?

The following standards are used in determining eligibility for OWF:

- (1) The initial eligibility standard for OWF is fifty per cent of the federal poverty guidelines pursuant to section 5107.10 of the Revised Code. The gross income is compared to the initial eligibility standard pursuant to paragraph (H) of this rule to determine initial eligibility. As set forth in division (D)(2) of section 5107.10 of the Revised Code, the initial eligibility standard will be revised on the first day of July of the year in which the United States department of health and human services issues annual revisions to the federal poverty guidelines.
- (2) As set forth in rule 5101:1-23-20.2 of the Administrative Code, the allocation allowance standard is the amount used when a portion of the income of the individual, who is not a member of the assistance group, must be considered in the calculation of income to be applied to the assistance group. This standard is one hundred per cent of the federal poverty guidelines in effect on July 1, 1997.
- (3) The OWF payment standard is the maximum amount of cash assistance an

assistance group may receive. Income that is determined to be available to the assistance group as set forth in this rule is deducted from the OWF payment standard to determine the amount of the OWF cash payment.

- (a) As set forth in section 5107.04 of the Revised Code, the OWF payment standard shall increase on the first day of each January by the cost-of-living adjustment (COLA) that is made in the preceding year.
 - (b) Changes to the OWF payment standards due to the cost-of-living adjustment are issued through an action change transmittal, which can be found in the cash assistance manual at the Ohio department of job and family services website.
- (4) The ninety per cent payment standard is the amount that an assistance group on grant reduction due to an erroneous payment retains from its combined income (without disregards), liquid assets, and assistance payment.
- (a) The work activity expense allowance and the learning, earning and parenting (LEAP) bonus are added after the payment standard is reduced for grant reduction.
 - (b) When an erroneous payment is recovered by grant reduction, and the individual who caused the erroneous payment was disqualified due to an intentional program violation as described in Chapter 5101:6-20 of the Administrative Code, and who is still residing with the otherwise eligible assistance group, the remaining assistance group members shall retain (from combined income, liquid assets, and assistance payment) an amount equal to ninety per cent of the payment standard for the assistance group excluding the disqualified individual's needs.

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Certification

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