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Step 9: Subtract the net farm loss (Step 7) from the total arrived at in Step 8. This is the final gross monthly income for use in the gross income test.

NOTE: When the final gross monthly income is a negative number, 0 (zero) is used as the income.

EXAMPLE: The Smith family has \$2,400/year gross income from farming. In addition, Mrs. Smith is self-employed and earned \$600/year. One child receives \$25/month child support and Mr. Smith has gross earnings of \$400/month.

Step 1: Gross monthly farm self-employment income is \$200/month.

Step 2: Monthly farm business costs are \$300/month.

Step 3: \$ 200 Farm self-employment income
-300 Monthly farm business costs
 \$-100 Net monthly farm loss

Step 4: Gross non-farm, self-employment income is \$50/month

Step 5: Monthly business costs for non-farm, self-employment is \$20/month, leaving \$30/month as gross profit from non-farm, self-employment.

Step 6: \$ 30 Month gross profit from non-farm, self-employment
-100 Net monthly farm loss
 \$- 70 New Net Farm Loss

Step 7: Since the result of Step 6 is a negative figure, proceed to Step 8. The new net farm loss = -\$70

Step 8: \$ 25 Child support
+400 Earnings
 \$425

Step 9: \$425 Total gross income
\$- 70 Farm loss
 \$355 Gross income minus farm losses

The gross income test is passed.

5. Migrant Farm Laborers With Seasonal Employment

See Special Situations above.

6. Annual Contract Employment

This section applies to any person employed under a yearly contract, such as school employees, including bus drivers, cooks, janitors, aides and professional staff.

These individuals have their annual income prorated over a 12-month period. Additional earnings, such as for summer work, are added to the prorated amount during the time additional earnings are received.

Although a person may not have signed a new annual contract, he is still considered employed under an annual contract when the contract is automatically renewable, or when he has implied renewal rights. Implied renewal rights are most commonly associated with school contracts.

NOTE: This item does not apply during strike and disaster situations when the other party to the contract cannot fulfill it; or when labor disputes interrupt the flow of earnings specified in the contract. This item also does not apply to migrant workers or substitute employees.

7. Educational Income

All student financial assistance is excluded in its entirety.

NOTE: Income such as stipends is not always considered financial assistance. Income from stipends must be evaluated on a case-by-case basis.

Excluded educational assistance includes, but is not limited to:

- Federal Pell Grants
- Federal Supplemental Educational Opportunity Grants (FSEOG)
- Guaranteed Student Loans, including William D. Ford Federal Direct Loan Program and Federal Direct PLUS loans and Supplemental Loans for Students, Federal Family Education Loan (FFEL) Program
- Leveraging Educational Assistance Partnership (LEAP) and Special Leveraging Educational Assistance Partnership (SLEAP) Programs, formerly known as State Student Incentive Grants

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- Individuals subject to an enumeration penalty
- Ineligible aliens
- **An individual who is found to be an ineligible ABAWD.**

However, his income is deemed as follows:

Step 1: The total non-excluded income of the ineligible individual is divided by the number of persons in the AG, plus the ineligible individual(s). This is each individual's prorata share.

Step 2: Subtract the disqualified individual(s)' share from his total non-excluded income. The remaining amount is counted as income to the AG.

The Earned Income Disregard is applied only to the portion deemed to the AG.

The portion of the AG's allowable child support payments, shelter and dependent care expenses, which is billed to and/or paid by the ineligible individual is prorated as described above.

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

EXAMPLE: The household consists of father, mother and three children. The father has earnings of \$500 per month and is an ineligible individual. There is no other income in the home and the father pays the \$250 rent.

Income for the AG is calculated as follows:

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

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

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The shelter expense is calculated as follows:

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

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

(2) Disqualified Individuals

The income of the following disqualified and excluded individual(s) is counted as if he were a member of the AG.

- An individual who is in a SNAP penalty for failure to comply with SNAP work requirements. See Section 13.6.
- An individual who is excluded by law. See Section 9.1.
- An individual who has been found guilty of an Intentional Program Violation (IPV). See Section 9.1.

All applicable exclusions, disregards, and deductions apply to the individual(s) income, however, the individual is not included in the AG when determining eligibility or benefit level.

NOTE: In no instance is it acceptable for the benefit level to increase when an individual is disqualified and all other case circumstances are the same. Should this happen, please notify the DFA Policy Unit.

b. Failure to Comply With Public Assistance Requirements

NOTE: WV WORKS is the only benefit in West Virginia to which this policy applies.

SNAP benefits must not increase due to a reduction, suspension or termination of income from a federal, State or local welfare or public assistance program, when the reduction (suspension or termination) is due to the client's failure to comply with a requirement of the program. The client must be a SNAP recipient at the time of the failure to comply. This includes a reduction, suspension or termination to accomplish repayment, when the reason for repayment is failure to comply with a program's requirements. This applies to reductions, suspensions or terminations which begin on or after August 1, 1996.

In addition, this applies to any reduction, suspension or termination which was decided or applied as of May 31, 1996 and which has not expired as of August 1, 1996.

For these purposes, all three of the following conditions must be met to meet the definition of a federal, State or local welfare or public assistance program. The program must:

- Be means-tested, and
- Distribute publicly-funded benefits, and
- Be governed by welfare or public assistance laws or regulations.

The following sections provide additional information about use of the policy.

(a) Nature of the Deeming Process

To apply the policy described in this section, the amount of the benefit prior to the reduction, suspension or termination continues to be counted as income, even though the client no longer receives it.

The amount which is counted for SNAP benefits is the amount to which the sanction is or would be applied. When another action is taken prior to imposition of the sanction which changes the amount of the WV WORKS benefit, that amount is counted for SNAP benefits.

EXAMPLE: On April 20, 2001, a WV WORKS AG is notified that a 1/3 sanction will be imposed effective June, 2001 and the benefit amount will be reduced from \$401 to \$268. On May 2, 2001 the client notifies the agency that he began to receive UCI benefits of \$150 per week that day. The amount of the UCI results in closure of the WV WORKS AG and a \$0 check amount effective June, 2001. Because the AG became ineligible prior to imposition of the sanction, no amount of the WV WORKS benefit is counted.

EXAMPLE: Mr. and Mrs. Miller had four children and are notified that a third sanction will be imposed and the benefit amount will be reduced from \$460 to \$0. The WV WORK amount counted for SNAP benefits is \$460. The AG separates; Mr. and Mrs. Miller each will then have \$230 of the WV WORKS benefit counted for the SNAP benefits in their separate AGs. If they reconcile before the end of the sanction period, \$460 WV WORKS benefit will be counted for their SNAP benefit.

(b) Determination of Failure to Comply

The Worker must accept the determination of the program which was reduced, suspended or terminated, as the final authority for the failure to comply. If the determination is not specifically identified and documented by the other program as a failure to comply, the policy in this section is not applied. The Worker must not make a judgment about the correctness of the previous determination and must not ask or attempt to require that the decision be reconsidered.

If the Worker is unable to obtain information about the client's failure from another program outside DHHR, the policy in this section must not be applied. The Worker must record efforts to obtain such information, with copies of appropriate correspondence, if any, filed in the case record. This is necessary to avoid QC errors for non-compliance with the policy.

(c) Deeming Period

The duration of the penalty imposed by the public assistance program is not affected by a break in SNAP certification. However, if the public assistance benefit is terminated for any reason, other than imposition of a sanction or non-compliance penalty, the amount of the public assistance benefit is no longer counted as income. At the end of the sanction or non-compliance penalty period, the income is no longer counted, regardless of whether or not the individual is a public assistance benefit recipient. For WV WORKS sanctions, the income is only deemed during the first 3 months of any sanction period.

(d) Client Notification

The fact that benefits do not increase based on a decrease in income, does not constitute an adverse action. However, client notification, using form letter ES-NL-B is required. See Sections 6.3,B and C.

(e) Denial of a SNAP Fair Hearing

The AG is not entitled to a separate and distinct SNAP Fair Hearing on the issue of failure to comply because this would require the SNAP Program to second guess another program's determination. However, if the public assistance program is WV WORKS, the issue of intent may be dealt with during a WV WORKS Fair Hearing about the imposition of the reduction, suspension or termination.

A SNAP Fair Hearing may be held on the issue of not increasing SNAP benefits when income has decreased.

(f) Other Changes

Changes in household circumstances which are not related to a penalty imposed by another federal, State or local means-tested welfare or public assistance program must be made.

This includes adjustment in the benefit level when new members join the household, whether or not the AG is prohibited from receiving benefits for the new member from such program.

9. Strikers

When the SNAP AG includes an individual who is on strike, the AG is ineligible for the duration of the strike unless:

- The AG was eligible for or receiving SNAP benefits the day prior to the strike; or
- The individual who is participating in the strike is exempt from work requirements for any reason other than employment. Refer to Chapter 13.

To determine if an AG containing a striker is eligible, it is necessary to determine pre-strike eligibility and current eligibility.

a. Definition of a Striker

A striker is an individual involved in a strike or concerted work stoppage by employees, or any slowdown or concerted interruption of operation by employees.

An individual who is a part of the striking union or concerted work stoppage is considered a striker, even if he voted against the strike or concerted work stoppage, and even if he does not actively engage in strike-related activity, such as walking in a picket line. Sympathy strikers are considered strikers. However, an individual who is not a part of the striking union or concerted work stoppage is not considered a striker.

The following persons are also not considered strikers:

- An employee who is not working because of a lock-out by the employer
- Employees who are laid off or for whom there is no work because of a strike
- An employee who is not a member of a striking union, but who cannot cross a picket line because of fear of personal injury or death.

NOTE: Any person, who is prohibited by his union's by-laws from crossing a union picket line, may feel he faces the possibility of personal injury if he does cross the picket line of the striking union or concerted work stoppage. The Policy Unit must be contacted before a decision is made on these

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cases. The Policy Unit will determine if each member of the non-striking union does face the possibility of personal injury by crossing the picket line of the striking group. The Policy Unit will determine if the entire non-striking union may be considered non-strikers, or if the decision about the possibility of harm must be made on a case-by-case basis, after consultation with FNS.

The following points are considered in determining whether or not to apply the striker provisions:

- If both the union and the company consider the work stoppage to be a strike, the striker provisions apply.
- If both the union and the company consider the work stoppage to be a lockout, the striker provisions do not apply.
- The fact that a person receives UCI benefits does not necessarily mean that the person is not a striker.
- Striker provisions apply to employees who participate in sympathy or support strikes.
- All non-working members of the bargaining unit which is on strike are strikers, even if they are not members of the union, regardless of their fear of crossing a picket line. Members of the bargaining unit who are working are not considered strikers.
- If the company fires the employee while he is on strike, the striker provisions no longer apply.
- If the employee officially resigns from his job while on strike, the striker provisions no longer apply.
- If a person obtains other employment while on strike, but he does not resign from the struck company, the striker provisions continue to apply.
- If the company hires permanent replacements for the strikers, the striker provisions no longer apply.
- If the company does not allow the strikers to return to their old jobs, but offers them different ones, the striker provisions no longer apply. Employees must be able to return to the same jobs they left when the strike began for the striker provisions to apply.

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- If an employee was locked out by the company the day before the strike, the striker provisions do not apply.
- If the union calls off the strike and tells the strikers to go back to work, and they do not, the striker provisions apply until the strikers go back to work or are fired or quit.
- If the company lays off, furloughs or otherwise notifies employees who are not part of the bargaining unit that no jobs are available because of the strike, the striker provisions do not apply to these employees.
- If a person was laid off when the strike began, the striker provisions do not apply.
- Striker provisions do not apply to self-employed persons, such as independent long-distance truckers.
- The fact that a struck company has applied for Chapter 11 bankruptcy does not mean that the striker provisions no longer apply.

b. **Determining Pre-Strike Eligibility**

If the AG was eligible and receiving SNAP benefits the day prior to the strike, pre-strike eligibility is assumed. If not, it is necessary to determine if the AG would have been eligible the day prior to the strike, had they applied. If the AG would not have been eligible prior to the strike, they are ineligible for current SNAP benefits.

c. **Determining Current Eligibility**

Current eligibility is determined as for any other AG, except as it relates to the amount of the striker's income to count. The amount is determined as follows:

- Determine what the striker's monthly non-excluded income would have been, if he had applied the day prior to the strike, and, if the strike had not occurred.
- Determine the striker's current monthly non-excluded income.

The higher of these two amounts is counted as the striker's income.

Add the determined amount to the current non-excluded income of the non-striking AG members. Eligibility and benefit level are determined as for any other AG and all appropriate deductions apply.

NOTE: Eligible strikers are subject to the work registration requirements detailed in Chapter 13, unless exempt for some reason other than employment.

10. Irregular Income

Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 per quarter, is excluded.

However, should an AG's receipt of irregular income continue over time, it must be anticipated and a determination of a countable amount be made according to the budgeting method outlined in this Section.

11. Lump Sum Payments

Recurring lump sum payments, received by an applicant in the month of application or by a recipient, are treated as unearned income and prorated over the period of time they are intended to cover.

Non-recurring lump sum payments are excluded as income, but are counted as assets. Refer to Chapter 11.

12. Withheld Income

a. From Earned Income

Earnings withheld to repay an advance payment are excluded, if they were counted in the month received. If not counted in the month received, the withheld earnings are considered income.

No other earned income is excluded from consideration just because it is withheld by the employer. This includes income garnishments, such as child support. See Income Disregards and Deductions above for allowable deductions.

b. From Unearned Income

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

(1) Repayment

(a) Means-tested Programs

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

When a client's benefits under a federal or State means-tested program are reduced, due to the client's intentional misrepresentation, the amount being recouped from current benefits is counted as income.

When intentional misrepresentation cannot be documented by the means-tested program, the income is not counted. The Worker must accept the determination of the program which was reduced, suspended or terminated, as the final authority for the determination of intentional misrepresentation. If the determination is not specifically identified and documented by the other program, the policy in this section is not applied. The Worker must not make a judgment about whether or not the client's actions constitute intentional misrepresentation.

If the Worker is unable to obtain information from another program outside DHHR, the policy in this section must not be applied. The Worker must record efforts to obtain such information, with copies of

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appropriate correspondence, if any, filed in the case record. This is necessary to avoid QC errors for non-compliance with the policy.

When means tested income is SSI, the agency must not contact SSA staff to obtain information about SSI recipients who had withholding from their payments due to an overpayment of SSI benefits.

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

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

(b) Non-means Tested Programs

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

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

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

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

(2) Failure to Comply

See item 8,b above for WV WORKS income.

(3) Garnishment

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

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

13. Funds Diverted To A PASS

Funds diverted to a PASS account are excluded only when the PASS is established by SSA for an SSI recipient.

14. Unstated Income

There is no provision for counting unstated income.

15. Spenddown

There is no spenddown provision.

16. Unavailable Income

Income intended for the client, but received by another person with whom he does not live, when the individual receiving this income refuses to make it available, is excluded.

17. Income Received For A Non-Income Group Member

Income received by a member of the Income Group, which is intended and used for the care and maintenance of an individual whose income is not used in determining the eligibility or benefit level of the payee's AG, is excluded as income.

This includes SSI payees and other protective payees. This does not include child support payments and/or arrearages received by an AG member for a child who is not in the AG. In this situation, the child support is counted for the AG that receives the income, even when it is forwarded to and/or used for the child.

18. Income Received From Military Personnel Deployed to a Designated Combat Zone

Use the following steps to determine the amount of income to count for the AG when funds are provided by military service personnel while serving in a designated combat zone. A list of combat zones may be found at www.fns.usda.gov

NOTE: The following steps apply to applicant households as well as recipients.

Step 1: Determine the amount of the military person's pay which was actually available to the household prior to deployment to a combat zone as follows:

- If the military person was a member of the SNAP AG or Income Group prior to deployment, the amount is his net military pay.
- If the military person was not a member of the SNAP AG or Income Group prior to deployment, the amount is the amount the person actually made available to the SNAP AG prior to deployment.

Step 2: Determine the amount of military pay the person makes available to the SNAP group while deployed to a combat zone.

Step 3: If the amount in Step 2 is equal to or less than the amount determined in Step 1, the Step 2 amount is counted. If the Step 2 amount is greater than the Step 1 amount, the Step 1 amount is counted.

EXAMPLE: A member of the Air National Guard receives notice that her unit has been activated and will be deployed. This is her only source of income and increases from her traditional ANG pay of \$400 a month to her new federalized pay of \$2,000 a month. She reports this change and her SNAP benefits are adjusted accordingly. She is then deployed to a designated combat zone and is expected to be away for at least 6 months. Her husband reports this change and she is removed from the AG due to her anticipated absence from the home. He also reports that she is making her entire income available to the AG and now grosses an additional \$1,000 a month.

- Step 1 The soldier's net income before deployment was \$1,500 a month.

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- Step 2 The amount made available to the household after deployment, including the additional income is now \$2,250 a month.

- Step 3 Since the amount made available to the AG after deployment is more, the additional amount is excluded. The \$1,500 determined in Step 1 is counted as unearned income for the AG.

EXAMPLE: A member of the Air National Guard receives notice that her unit has been activated and will be deployed. She is sent to Oklahoma for training. She is expected to be deployed to a combat zone, but has not been told when. Her husband applies for SNAP when she leaves for training in March. She is expected to be gone for at least a year. The application is approved without her in the AG. She sends the AG \$1,200 a month and this is counted as unearned income. The husband is also employed and the AG is certified for 6 months.

At the next redetermination, the husband reports that the wife was deployed to a designated combat zone sometime in the last 4 months and is now sending \$1,700 to the AG. The AG was not required to report this change during the certification period as the total income made available to the AG does not exceed the 130% FPL. The \$1,700 is compared to the \$1,200 and the additional \$500 is excluded. The pre-deployment amount of \$1,200 is still counted as unearned income.

EXAMPLE: Same situation as above except that the application was made in December before this policy was implemented. The entire amount made available to the AG was counted as unearned income including, the additional income due to combat pay. During the redetermination, the husband confirms that the wife was deployed to a designated combat zone in November. Benefits are restored retroactive to the December application date.

EXAMPLE: Same situation as above except that the information was reported before the next redetermination. Benefits are restored retroactive to the December application date.

EXAMPLE: An AG receives an allotment of \$700 from their son who is stationed in Delaware. Once he is deployed to a designated combat zone, he decreases the allotment to \$600. Since the amount after deployment is less, the \$600 is counted as unearned income for the AG.