

PART XII SPECIAL INCOME DETERMINATIONS

<u>CHAPTER</u>	<u>SUBJECT</u>	<u>PAGES</u>
A.	SELF-EMPLOYMENT INCOME	1
	1. Definition	1
	2. Averaging of Self-Employment Income	1-2
	3. Determining Monthly Income from Self-Employment	3-4
	4. Capital Gains	4
	5. Allowable Costs of Producing Self-Employment Income	4-5
	6. Costs Not Allowed	5
	. Allowable Costs of Producing Income For Day Care Providers	5
	8. Net Loss from Farm or Fishing Operations	5-6
	9. Depreciation	6
B.	BOARDERS	6
	1. Income from the Boarder	6
	2. Costs of Doing Business	6
	3. Earned Income Deduction	7
C.	SPONSORED IMMIGRANTS	7-8
	1. Computing the Countable Income of Sponsors	8-9
	2. Computing Countable Resources of Sponsors	9
	3. Termination of the Sponsor's Obligation	9
	4. Responsibilities of the Sponsored Immigrant	9-10
	5. Reimbursement Procedures	10-12
	6. Awaiting Verification	12
D.	HOUSEHOLDS WITH A DECREASE IN INCOME DUE TO FAILURE TO COMPLY WITH ANOTHER PROGRAM'S RULES	12-13
E.	DISQUALIFIED INDIVIDUALS OR HOUSEHOLDS	13
	1. Disqualified Individuals – Prorated Income/Deductions	13-14
	2. Disqualified Individuals – Fully Countable Income/Deductions	14
	3. Disqualified Households	15
F.	AVERAGING CONTRACT AND SELF-EMPLOYMENT INCOME	15
	1. Annualization	15-16
	2. Adjustments to Annualized Amounts	16-17
	3. Termination of Annualized Income	17
G.	WAGES HELD BY AN EMPLOYER	18
H.	Transitional Benefits for Former TANF Recipients	18
	1. Transitional Benefits Eligibility	18-19
	2. Calculation of Benefits	19
	3. Transitional Benefits Procedures	19-20
	4. Ending Transitional Benefits	20

A. SELF-EMPLOYMENT INCOME

1. Definition

Self-employment income includes:

- a. The total gross income from a self-employment enterprise. Self-employment income also includes the total gain from the sale of any capital goods or equipment related to the business.
- b. Farm income. Income from farming will be that income derived from activities such as:
  - 1) the production and sale of crops and livestock for food;
  - 2) the raising of livestock to produce items such as eggs, wool, milk, etc.; and
  - 3) the production and sale of tobacco, cotton and other non-food crops.
- c. Payments from roomers and boarders.
- d. Income from rental property. (See Part XI.C.2 and E.6.)

The BPS must assess the business structure of self-employment arrangements to determine if the business is incorporated and the number of business owners. Income from business arrangements that are not incorporated must be calculated as described in this chapter and divided over the number of business owners. Income from business arrangements that are incorporated must be handled as wages/salaries (Part XI.C.1), not self-employment income. Note that limited liability companies (LLC) are not incorporated so the income is considered as self-employment. See Part IX.C.3 for a discussion of business resource assessments for SNAP purposes.

2. Averaging of Self-Employment Income (7 CFR 273.11(a))

All self-employment income is calculated in the same manner described below, except income from boarders not residing in a commercial boarding house. Instructions for computing this type of income are described in Part XII.B.

- a. Self-employment income which represents a household's annual support must be annualized over a 12-month period, even if the income is received in a shorter period of time. For example, income from a farmer's crop that represents the farmer's annual support must be averaged over a 12-month period, even though the income is received in a shorter time frame. In addition, self-employment income that represents a household's annual support must be annualized even if the household has income from other sources.

Note: It may be difficult to determine if self-employment income represents a household's annual support when the household has income from other sources. Consider other factors, in addition to the household's statement, to indicate how long the household could sustain itself on such income. Factors include, but are not be limited to, the previous year's business and personal expenses, tax records, anticipated expenses for the current year, income expected to be received from other sources during the coming year, and so on. These factors, when compared with the income from seasonal self-employment, should provide a basis for making a determination about how long the income is intended to support the household.

For example, if the previous year's expenses were proportionate to the household's income from self-employment, it could be an indication that the income would sustain the household for a year; therefore, the household's income should be annualized. If expenses were not proportionate with the income, it might be determined that such income could not sustain the household for a year; therefore, income should be averaged over the period of time the income is intended to cover.

- b. Self-employment income received on a monthly basis but representing a household's annual support must normally be averaged over a 12-month period. Examples of this type of self-employment includes most small businesses, such as grocers, or some farmers. If the averaged amount does not accurately reflect the household's true monthly circumstances because of a substantial increase or decrease in business, the self-employment income must be calculated based on anticipated earnings.
- c. Self-employment income that does not represent a household's annual support must be averaged over the period of time the income is intended to cover. This type of seasonal self-employment includes vendors who receive their income in the summer or during the tourist season and supplement it through another source during the rest of the year.
- d. Households with newly formed enterprises that have been in existence less than a year must have their self-employment income averaged over the amount of time the business has been in operation, and the monthly amount projected for the coming year. If the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, a certification period should be assigned which allows for a timely review of the household's circumstances.

If a household farming for the first year has not yet received its first income, or an established farming household has not yet realized a change in income due to a change in the amount or type of crops raised, the BPS should not anticipate the amount of the expected income from the new crop when determining the household's income.

3. Determining Monthly Income from Self-Employment (7CFR 273.11(a)(2))

- a. For the period over which self-employment income is determined, the BPS must:
  - 1) Add all gross self-employment income, including capital gains, for the period of time over which income is determined.
  - 2) Subtract the cost of producing the self-employment income (See Part XII.A.5.)
  - 3) Divide the remaining self-employment income by the number of months over which the income will be averaged.
- b. When self-employment income is not averaged but is calculated on an anticipated basis, the BPS must:
  - 1) Determine any capital gains the household anticipates receiving during the period over which the income is averaged which is likely to be the certification period.
  - 2) Divide the amount by 12 (use this amount in successive certification periods during the next 12 months unless the anticipated amount of capital gains changes. If this should occur, a new average monthly amount must be calculated.)
  - 3) Add anticipated monthly amount of capital gains to anticipated monthly self-employment income.
  - 4) Subtract the cost of producing the self-employment income. The cost of producing the self-employment income will be calculated by anticipating the monthly allowable costs of producing the income.

If obtaining verification of the cost of doing business will delay the household's certification, the BPS must advise the household that the household's eligibility and benefit level may be determined without providing a deduction for these costs. If these costs or a portion of them cannot be verified within 30 days of the date of application, the BPS must determine the household's eligibility and benefit level without providing a deduction for the unverified portion. The household must be given at least 10 days to provide the verification. For initial applications and reapplications, if the household would be ineligible unless these unverified costs are allowed, the household will have an additional 30 days to take the required action. Action must be taken on recertification applications as allowed by the verification time frames described in Part IV.C.4.

One or more payments to farmers from the Disaster Assistance Act of 1988 must be counted as earned income. These payments, made to farmers who are adversely affected by a drought, are given for crop losses or to buy feed grain. This income is considered a replacement for income lost because of a drought, and for self-employed farmers, the

income must be processed using normal annualizing procedures for self-employment income. Since the payment is counted as income, it is excluded as a resource

4. Capital Gains (7 CFR 273.11(a)(3))

The proceeds from the sale of capital goods or equipment are calculated in the same manner as a capital gain for federal income tax purposes. Even if only 50% of the proceeds from the sale of capital goods is taxed, the BPS must count the full amount of the capital gain as income for SNAP purposes.

Example

Farmer A purchased a tractor for \$3,000. Over a period of 10 years, he claimed \$3,000 in depreciation on the tractor. After 10 years, he sold the tractor for \$1,000. For income tax purposes, the transaction appears as follows:

Purchase price		\$3,000
Depreciation claim	<u>3,000</u>	
Purchase base		0
Sale price		\$1,000
Reported as gross		<u>x 50%</u>
Taxable income		\$ 500

For SNAP purposes, the entire proceeds or \$1,000 would be included as gross income.

5. Allowable Costs of Producing Self-Employment Income (7 CFR 271.11(a)(4))

Allowable costs of producing self-employment income include, but are not limited to, the following:

- a. the identifiable costs of labor, stock, raw material, seed and fertilizer.
- b. payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods or on the principal for improvements to real estate.
- c. interest paid to purchase income producing property, capital assets, equipment, machinery, and other durable goods.
- d. insurance premiums paid on income producing property.
- e. taxes paid on income producing property.
- f. costs of repairs to property needed for general maintenance.
- g. identifiable shelter costs needed for the business enterprise.

For households whose mortgage payments represent an investment in the household's residence as well as an investment in income producing property, the mortgage payment, interest, and taxes will be deductible only as part of the household's shelter costs and not as a cost of producing income. If the household can document, however, that costs on that portion of the home used in the self-employment enterprise are separate and identifiable, payments on the mortgage principal, taxes, interest, and other identifiable costs may be deducted as a cost of doing business.

6. Costs Not Allowed (7 CFR 273.11(a)(4)(ii))

The following items are not deductible as a cost of doing business:

- a. net losses from previous periods.
- b. federal, state, and local income taxes.
- c. money set aside for retirement purposes.
- d. other work-related personal expenses, such as transportation to and from work.
- e. depreciation.

NOTE: "b", "c", and "d" are included in the 20% earned income deduction.

7. Allowable Costs of Producing Income for Day Care Providers

When day care is provided in the home of a member of one household to children other than those living in the same SNAP household, an allowance must be made for the cost of meals and snacks that are provided. The allowance is as follows, unless the provider documents actual costs that exceed these amounts:

Breakfast - \$1.66 per meal; Lunch or Supper - \$3.15 per meal; Snacks - \$.93 per meal.

Money paid to day care providers under Section 12 of the School Lunch Act to serve meals to children, other than their own, is countable. Allowable business costs, as described above, are given.

8. Net Loss from Farm or Fishing Operations (7 CFR 273.11(a)(2)(iii))

Self-employed farmers, as defined in Part XII.A.1.b, and self-employed fishermen may have a net loss once allowable costs of doing business are deducted from gross farm income. If the farmer or fisherman receives annual gross proceeds of \$1,000 or more from the farming or fishing enterprise, any net loss amount must be prorated over the year in the same manner used to prorate the farm or fishing income. Losses from farm or fishing self-employment enterprises are offset in two phases. The first phase is offsetting against non-farm or fishing self-employment income. The second phase is offsetting against the total of

earned and unearned income. The gross income eligibility standard is applied after offsetting. The earned income deduction is based on wages and salaries, and any income from self-employment remaining after the first phase of offsetting.

9. Depreciation

Depreciation is not allowed as a cost of producing self-employment income for equipment, machinery or other capital investments necessary to the self-employment enterprise.

B. BOARDERS (7 CFR 273.11(b))

The income of households owning and operating a commercial boarding house is handled as self-employment income under Part XII.A.2 and 3. A commercial boarding house is an establishment licensed as a commercial enterprise that offers meals and lodging for compensation. In localities without licensing requirements, a boarding house is a commercial establishment that offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house is not used to determine if a boarding house is a commercial enterprise.

For all other households containing boarders, the income from the boarders must be calculated following the procedures in this chapter. See Part VI.B. to determine boarder status.

1. Income from the Boarder

The income from boarders must include all direct payments to the household for room and meals, including payments to the household for part of the shelter expenses. Shelter expenses paid by boarders directly to someone outside the household (such as a landlord or utility company) are not counted as income to the household.

2. Cost of Doing Business

To determine the net amount of countable income from a boarder the BPS must deduct the cost of doing business from the gross monthly income figure.

The cost of doing business is equal to one of the following:

- a. The maximum SNAP benefit amount for the number of boarders If the boarders are provided more than two meals per day; or,
- b. Two-thirds of the maximum SNAP benefit amount for the number of boarders If the boarders are provided two meals or less per day; or,
- c. The actual documented costs for providing room and meals, if they are higher than the appropriate SNAP benefit amount.

The allowable cost of doing business may never exceed the amount the household receives from the boarder. If actual costs are used, only separate and identifiable costs of providing rooms and meals to the boarders are allowed.

3. Earned Income Deduction

The 20% earned income deduction as defined in Part X.A.2, will be allowed for all income from boarders. The net boarder payment must be added to all other earned income before allowing the 20% deduction.

C. SPONSORED IMMIGRANTS (7 CFR 273.4(c))

Affected Groups

All immigrants granted U.S. visas based on family connections and some employment-based immigrants must have a sponsor in order to obtain permanent residency. The sponsor must execute an affidavit of support on behalf of the immigrant to demonstrate financial responsibility for the immigrant.

This chapter applies to persons who file visa applications on or after December 19, 1997, and for persons who file for an adjustment of status on or after December 19, 1997.

Individual sponsors must document that they have the capacity to financially support and maintain an immigrant, generally at 125 percent of the federal poverty level. The sponsor must execute a legally enforceable affidavit of support, INS Form 864, on behalf of each immigrant. The sponsorship affidavit also requires an agreement to reimburse agencies for any means-tested public benefits obtained by the sponsored immigrant.

The BPS must evaluate the provisions of this chapter for immigrants who are eligible for SNAP benefits as permanent resident immigrants with 40 quarters of work credited to them (Part VII.F.1.f.) and for permanent residents who are conditionally eligible for SNAP benefits if they meet a qualified status (Part VII.F.2.).

Exemptions

The provisions of this chapter do not apply to the following groups:

- Immigrants without sponsors. This group includes persons who entered the United States without an individual sponsor who signed a legally binding affidavit of support. These immigrants include refugees, asylees, persons whose deportation is withheld, Amerasians and Cuban/Haitian entrants. Note, however, that this exemption does not include Haitian entrants who gain lawful permanent resident status through the Haitian Family Reunification Parole Program if a sponsor executes an affidavit of support.
- Immigrants whose sponsors signed affidavits of support before December 19, 1997 or persons whose sponsors have not signed a legally enforceable affidavit of support.
- Immigrant children under 18 years of age.
- Immigrants who would be indigent without SNAP benefits or other public assistance in

that the household's income, including any assistance from the sponsor, is insufficient to provide food or shelter. Indigence here means that the household's own income and any direct cash or in-kind contribution from the sponsor or others do not exceed the gross income level for the household's size. The only income the BPS may deem from the sponsor for a 12-month renewable period is the amount the sponsor provides if the immigrant is indigent. The BPS must report the immigrant and sponsor's names to the USCIS if an immigrant is determined to be indigent.

This exemption will last for one year from the date of the indigence determination. The BPS may renew the indigence determination for additional 12-month periods.

Before determining indigence, the BPS must explain the determination and reporting requirements to the household or representative. If the household elects not to proceed, the BPS must explain the consequences of this action and of being a "nonapplicant," as addressed in Part II.B. The BPS must not report the names of the sponsored immigrant or sponsor to the USCIS in this instance.

- An immigrant determined to be a battered spouse, child or parent or subject to extreme cruelty in the U.S. The person must be living separately from the batterer. This exemption covers any 12-month period. The exemption may be extended for additional 12-month periods if the immigrant shows that a court, administrative order or the USCIS recognizes the battery and if the BPS determines the battery has a substantial connection to the receipt of SNAP benefits.

#### 1. Computing the Countable Income of Sponsors

A portion of the monthly income of the sponsor and the sponsor's spouse, if he or she executed the affidavit of support, must be considered in determining the eligibility and benefit level of the household of which a sponsored immigrant is a member. The BPS must make the determination as follows:

- a. Calculate the earned income of the sponsor and the sponsor's spouse.
- b. Deduct the 20% earned income deduction from this amount.
- c. Add the unearned income of the sponsor and the sponsor's spouse.
- d. Deduct the gross income eligibility limit for the size of the sponsor's household including any person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes.
- e. The remainder is the countable income for the sponsored immigrant for SNAP purposes.

If the immigrant has already reported gross income information about the sponsor for the sponsored alien rules for TANF, that income amount may be used for SNAP purposes. Allowable deductions are limited to the 20% earned income deduction and the SNAP gross monthly income amount stated above.



- a. obtaining the cooperation of the sponsor;
- b. providing information or documentation necessary to calculate the countable income and resources of the sponsor at application and recertification; and,
- c. providing the names or other identifying information about immigrants for whom the sponsor has signed an agreement to support to enable the BPS to determine how many of these sponsored immigrants applied for or are receiving SNAP benefits so that the sponsor's attributed income and resources can be divided by the number of such immigrants.

If information about other immigrants for whom the sponsor is responsible is not provided, the income and resource amounts will be attributed to the immigrant in their entirety until the information is provided.

The immigrant is also responsible for:

- reporting the required information about the sponsor and sponsor's spouse if a different sponsor is obtained during the certification period; and,
- reporting a change in income should the sponsor or the sponsor's spouse changes or loses employment, or dies during the certification period. These changes must be handled according to the timeliness standards in Parts XIV.A.

The household is primarily responsible for obtaining the information or verification needed to determine the sponsor's or spouse's income and resources but, the BPS must provide assistance as required by Part III.B.

#### 5. Reimbursement Procedures

After SNAP benefits are issued to a sponsored immigrant, the BPS must pursue collection of the total amount of benefits issued. The BPS may lump together the amount of all public benefits issued by the local department instead of pursuing separate collections for each program. Legal and other collection costs may be included in the reimbursement requests.

The BPS must exclude any sponsor who is receiving SNAP benefits from the reimbursement procedures.

The request for reimbursement must be sent to the sponsor by personal service and must include the following:

- a. Date of the sponsor's affidavit or support;
- b. Sponsored immigrant's name;
- c. Immigrant's registration number;

- d. Address of the immigrant;
- e. Immigrant's date of birth;
- f. Type of public benefit received;
- g. Date(s) benefits received; and,
- h. Total amount of benefits received.

The request for reimbursement must advise the sponsor to respond within 45 days of the request by paying the requested amount or by arranging a payment plan that is satisfactory to the BPS.

If the sponsor does not respond to the reimbursement request, the BPS may file a civil suit against the sponsor at the end of the 45-day period. If a final judgment is obtained against the sponsor, the BPS must mail a certified copy of the judgment and a cover letter containing the reference "Civil Judgment for Congressional Report - 213A(i)(3)IIRIRA" to:

United States Citizenship and Immigration Services  
Statistics Branch  
425 I Street NW  
Washington, D.C. 20536

The BPS must send any reimbursement payments for SNAP benefits and a copy of the reimbursement request letter to:

U.S. Department of Agriculture  
Food and Nutrition Service  
Mid-Atlantic Regional Office  
P.O. Box 953772  
St. Louis, MO 63195-3772

The BPS must send a copy of the reimbursement request letter and reimbursement check to:

U.S. Department of Agriculture  
Food and Nutrition Service  
Mid-Atlantic Regional Office  
300 Corporate Boulevard  
Robbinsville, NJ 08691-1598

Note that while a sponsor's obligation may be terminated for conditions noted in Section b. above, that termination does not relieve the sponsor or the sponsor's estate of the obligation to reimburse programs for the issuance of public benefits provided before the support agreement terminated.

Efforts to collect amounts issued to sponsored immigrants through the Supplemental Nutrition Assistance Program or other means-tested public benefits must be made within 10 years of the date of the last issuance.

6. Awaiting Verification

If the information necessary to determine the amount of the sponsor's or sponsor's spouse's income and resources attributed to the immigrant, is not received or verified in a timely manner, the sponsored immigrant will be ineligible until all necessary facts are obtained. In addition, if questions arise about whether an immigrant has a sponsor, the date of entry, or the date of the adjustment of status, such questions must be resolved before SNAP eligibility can be established for the immigrant. The eligibility of any remaining household members must be determined. The income and resources of the ineligible immigrant (excluding the attributable income and resources of the alien's sponsor and sponsor's spouse) must be treated in the same manner as a disqualified member as set forth in Parts XI.G and XII.E, and considered available in determining the eligibility and benefit level of the remaining household members.

If the sponsored immigrant refuses to cooperate in providing and/or verifying needed information, other adult members of the immigrant's household will be responsible for providing and/or verifying the information required. If the household refuses to cooperate in this regard, the entire household is ineligible. If the information or verification is subsequently received, the BPS must act on the information as a reported change in household membership as required by the timeliness standards in Part XIV.A.

If the same sponsor is responsible for the entire household, the entire household will be ineligible until the needed sponsor information is provided and/or verified.

D. HOUSEHOLDS WITH A DECREASE IN INCOME DUE TO FAILURE TO COMPLY WITH ANOTHER PROGRAM'S RULES

SNAP benefits must not be increased when a household's benefits from another means-tested, publicly funded program are reduced, terminated, or suspended because of a failure to comply with that program's requirements. Changes that are not related to the penalty imposed by the other program must continue to be reflected in the SNAP benefit amount, including adding household members who may be barred from receiving benefits from other public assistance programs. The public assistance income, as a penalty, must not be counted in the calculation of SNAP benefits if the public assistance case is closed at the household's request, failing to sign the VIEW Agreement of Personal Responsibility or for a reason other than noncompliance, regardless of prior case actions that may have been taken due to noncompliance.

1. For federal, state, or local public assistance programs, such as TANF or GR-Unattached Child, failure to comply will be determined to exist after it has been established that policy exemptions and good cause provisions, if appropriate, have not been met. Failure to comply may also be evidenced by a court conviction for a fraud conviction or a finding through the ADH process.

When TANF or GR-Unattached Child benefits are decreased because of the household's failure to comply with that program's requirements, the SNAP benefit amount must be based on both the actual amount of the TANF or GR-Unattached Child payment and the amount of the reduction or penalty. The penalty income must be counted as long as the reduced payment is received. If the PA case is closed, the penalty income must be counted in the SNAP calculation for a minimum of six months following the closure of the PA case or longer if the PA case remains under care.

Example

The BPS reduced a household's TANF grant from \$291 to \$241 per month. The reduction occurred because of the household's failure to comply with the immunization requirements needed by TANF program rules. The TANF amount to be used for SNAP purposes is \$291.

The penalty amount will no longer count if the household reapplies and is approved again for TANF or GR-Unattached Child benefits within the six-month period.

2. Social Security (OASDI) benefits, unemployment compensation and veteran's benefits are not means-tested programs. If reduced payments occur for these programs because of a failure to comply, the SNAP benefit amount must be based only on the actual amount of the payment(s).
3. HUD payments and SSI are publicly funded and means-tested programs. If reduced payments occur for these programs because of a failure to comply however, the SNAP benefit amount must be based only on the actual amount of the check(s), to the extent the payment is counted as income for SNAP purposes.

E. DISQUALIFIED INDIVIDUALS OR HOUSEHOLDS (7 CFR 273.11(c))

Individual household members or entire households may be disqualified from receiving SNAP benefits. The reason for disqualification will affect procedures for calculating income and will affect the eligibility and benefit level of the remaining household members.

- 1 Disqualified Individuals – Prorated Income/Deductions  
This section applies to disqualified individuals because:
  - Failure to obtain or refusal to provide a Social Security Number (Part VII.G);
  - An ineligible immigrant (Part VII.F);
  - Questionable citizenship (Part VII.F); or
  - Ineligible because of time-limited benefits because of the work requirement (Part XV).
  - a. Resources – Resources of disqualified individuals count in full to the remaining household members.
  - b. Income – Prorate the income of the disqualified individual. Subtract allowable

exclusions. Divide the income evenly among all household members, including the disqualified individual. Count all but the disqualified individual's portion.

- c. Deductions – Assess who is responsible for an expense or who pays an expense. Divide the expenses of the disqualified individual evenly among all household members, including the disqualified individual. Count all but the disqualified individual's portion except allow the utility standard in full for households entitled to the utility standard regardless of who pays heating or cooling expenses.

Provisions allowed here for the disqualified individual do not alter or cancel provisions of Part X.A when an eligible household member is responsible for or pays an expense. If an eligible household member is responsible for an expense or pays the expense, allow the household the entire expense even if the disqualified individual is also responsible for the expense.

- d. Eligibility and Benefit Level – Do not include the disqualified individual to:
- Assess the resource eligibility limit;
  - Assess the income eligibility limit;
  - Allow the unlimited shelter deduction if there are no other elderly or disabled household members;
  - Assign the benefit level; or
  - Assign the standard deduction.

2. Disqualified Individuals – Fully Countable Income/Deductions

This section applies to disqualified individuals because of:

- An intentional program violation (Part XVII);
- Voluntarily quit a job or reduced work without cause (Part VIII.B)
- Fleeing prosecution/imprisonment or in violation of parole or probation (Part.VI.C.2.e) or
- A felony conviction for sexual abuse, sexual assault, or murder (Part VI.C.2.h).

- a. Resources – Resources of disqualified individuals count in full to the remaining household members.
- b. Income – Income of disqualified individuals count in full to the remaining household members.
- c. Deductions– Count allowable deductions in their entirety to the remaining household members.
- d. Eligibility and Benefit Level – Do not include the disqualified individual to:
- Assess the resource eligibility limit;
  - Assess the income eligibility limit;
  - Assign the benefit level; or
  - Assign the standard deduction.

3. Disqualified Households

Households that contain members who receive lottery or gambling winnings equal to or greater than the resource limit for elderly or disabled households are ineligible upon receipt of the money. See Part IX.B. The households will remain ineligible until they reapply for benefits and meet allowable income and resource eligibility levels. This disqualification will include categorically eligible households and households with elderly or disabled members.

F. AVERAGING CONTRACT AND SELF-EMPLOYMENT INCOME (7 CFR 273.10(c)(3)(ii))

1. Annualization

Households that derive their annual income by contract or self-employment in a period of time shorter than one year must have that income averaged over a 12-month period. Prorating the income over 12 months is appropriate as long as the income from the contract is not received on an hourly or piecework basis. Provisions of this chapter do not apply to migrant or seasonal farm workers but may include school employees, sharecroppers, farmers, and other self-employed households.

Contract income that is not the household's annual income in that it is intended to meet the household's needs for only part of the year must be prorated over the period the income is intended to cover. The procedures for averaging self-employment income for shorter periods than 12 months are described in Part XII.A.2.

The statement of an hourly rate of pay in a contract does not necessarily mean the contract is on an hourly basis and therefore is not to be annualized. If the total amount of annual income for the contract period can be derived from the information contained in the contract, or information that is readily available, exclusive of days which may be missed due to circumstances such as illness or bad weather, the income must be annualized.

Examples

1. A school bus driver's contract states he will receive \$7 per hour for 5 hours per day over the 180-day school year. The school board states the school year has 180 days. Since a total amount of income can either be derived from the contract or is readily available ( $7 \times 5 \times 180 = \$6300$  per year), the total income is annualized.
2. A school cafeteria worker's contract calls for \$7 per hour over the school year of 180 days, but the number of hours available is not indicated. The number of hours per day varies, and the school board cannot anticipate the number. The total amount of income for the contract period cannot be derived from either the contract or other information and, therefore, income is not annualized.

There may be instances in which a contract is initiated for a partial year after the start of the normal contract period. In these instances, the income must be prorated over the partial contract period in the same manner as if the person was hired for the entire contract period.

Example

A contract for a school employee is entered into in January. The regular contract period is September - June. Income for SNAP purposes would normally be prorated from September through August. For this partial year, the income must be prorated from January through August.

2. Adjustments to Annualized Amounts

In cases where a contract specifies a set amount over the contract period, plus additional monies of an uncertain amount if additional work is available and done, only the base contract amount is annualized. Additional monies earned over and above the base contract are counted as income when they can be anticipated. The BPS must explore with the household the past receipt of such income and whether the person is receptive and therefore available for the extra employment. In some instances, the pattern of past receipt of extra earnings may suggest that such money should be anticipated.

Example

A school bus driver's contractual amount is \$6300 per year. However, the driver can earn an extra \$10 per trip driving for special school functions. \$6300 divided by 12 equals 525 per month to count as income from the contract.

Suppose in March the client earns an additional \$40 driving to basketball games. He reports receipt of this income to the BPS. No additional money is expected because no other trips are currently planned and his work history shows that no special trips occur after the basketball season. The annualized contract amount of \$525 is the only income considered for future months.

In cases where a contract calls for no pay for those days not worked, income averaging over a 12-month period is still appropriate. If it can be anticipated at the time of certification that certain days will be missed, the salary for these days should not be counted. Otherwise, the income calculation is to be based on the maximum salary. The household may then inform the BPS as days are missed. The average will then be adjusted for the remaining months.

Example

A school bus driver's contract states that he will receive \$1250 for the year, but that he will not be paid for days the school is closed or for days he is sick. When he applies on March 10, he has already missed three days for snow in the contract year and he was sick for two days. The contract reads that \$10 will be deducted for each day not worked. The household is certified with income of \$100 per month ( $\$1250 - \$50 = \$1200$  -:  $12 = \$100.00$ ).

On April 5, the household reports that another two days have been missed which were not anticipated at the time of certification. The household's SNAP income is then adjusted to \$98.33 ( $\$1200 - \$20 = \$1180$  -:  $12 = \$98.33$ ). With

the effective date of the next contract, the maximum income from that contract will be averaged over the year, less the income for any anticipated absences.

It will also be necessary to adjust the average if the contract amount changes during the contract period as a result of an increase in salary. As in the situation above, the average is adjusted for the remaining months of the annualized period.

#### Example

A school employee signs a contract that states that he will receive \$3600 per year. The contract runs from September through June. \$300 is assigned to each month in the year, beginning in September. Effective in January, the employee reports that his salary was increased to \$4800 per year. Now, \$400 is assigned to the months remaining in the contract period ( $\$4800 \div 12 = \$400$ ).

### 3. Termination of Annualized Income

If no further income from the same source is expected, contract income that has been annualized is considered terminated as of the last month included in the annualization.

#### Example

A contract school employee is paid \$6,000 over the ten months in the school year, September through June. She grosses \$600 in each of the 10 months. She does not plan to work for the school board in the next school year.

The BPS annualizes the income over the year September through August and counts  $\$6,000 \div 12 = \$500$  per month.

Should the employee apply in June, the income is not considered terminated in June even though June is the last month she receives pay. The income is terminated in August, the last month included in the annualization.

Income that is interrupted within the contract period is considered terminated the month the change in contract employee status occurs.

#### Example

A school employee stops work in February. The BPS annualized her contract income and assigned income to the months September through August. The income will no longer count for February.

Self-employment income that has been annualized is considered terminated as of the month the person terminates the self-employment enterprise.

## G. WAGES HELD BY AN EMPLOYER

Wages held by an employer at the request of the employee will count as income to the household for the month the wages would otherwise have been paid by the employer. Wages held by the employer as a general practice will not count as income to the household even if it is in violation of law. Held wages will count if the household expects to ask for and receive an advance, or expects to receive income from wages that the employer previously held as a general practice.

This income will count if the BPS did not previously count the income.

Advances on wages count as income in the month received only if the BPS can reasonably anticipate the receipt of the income as defined in Part XIII.A.3. Conversely, when an employer withholds wages to repay an advance that previously counted as income in a SNAP determination, the wages withheld will not count as income.

## H. TRANSITIONAL BENEFITS FOR FORMER TANF RECIPIENTS

Transitional Benefits allow SNAP benefits to continue in a frozen amount for a brief period while former TANF recipients adjust financially to the loss of the TANF-related income. References to TANF in this chapter also refer to View Transitional Payments. At any time during the Transitional Benefits period, the household may reapply and receive regular SNAP benefits. The Transitional Benefits component does not apply to Diversionary Assistance cases.

### 1. Transitional Benefits Eligibility

Transitional Benefits will apply to any SNAP case if at least one household member is the Case Name or Payee for a TANF case that closed. When a TANF case closes, the BPS must convert the SNAP case to Transitional Benefits unless:

- the SNAP household is ineligible for Transitional Benefits, as listed below;
- the household requests to remain in the regular program; or
- the household requests closure of the SNAP case.

Transitional Benefits will not apply when:

- there is no active case certified to receive SNAP benefits at the time of the action to close the TANF case;
- the TANF case is closed or there is no TANF payment because of noncompliance with TANF Program rules when:
  - there is a sanction or disqualification of the TANF benefits;
  - the household requests closure of a TANF case that is already being sanctioned because of noncompliance;
  - the household preempts the implementation of a sanction or disqualification by requesting closure of the TANF case; or

- a sanctioned or disqualified case is closed for a reason unrelated to an act of noncompliance but the TANF sanction/disqualification remains in effect.
- the TANF case is closed for failing to sign the VIEW Agreement of Personal Responsibility.
- the TANF case is closed because there are no eligible children in the home as a result of a child protective services investigation;
- the TANF case is closed after discovery that the case was approved in error;
- the SNAP case is sanctioned for noncompliance with SNAP rules or all household members are ineligible or disqualified from receiving SNAP benefits; or
- the TANF case closed because of the household's failure to renew its eligibility at the end of the certification period.

Transitional benefits will also not apply while a TANF case is suspended. Once the TANF case closes however, conversion will be appropriate if the reason for the closure is not one that is listed above.

## 2. Calculation of Benefits

Households will receive benefits during the transitional period based on the circumstances that existed at the time of the TANF case closure. The SNAP benefit amount must exclude the TANF grant as income for the month of the TANF case closure. The SNAP calculations must not include any new income amount that may have caused the TANF case closure. Note, however, new income amounts may be reflected in the SNAP calculations if there is a delay in the closure of the TANF case. The BPS must leave all other eligibility factors in place, including income, deductions and household composition.

The BPS must not reflect any changes in the SNAP benefit amount during the Transitional Benefits period. As the BPS discovers changes or the household reports changes in its circumstances, the BPS must act on those changes for SNAP benefits but override any system recalculations of the benefit amount to reflect the "frozen" amount as calculated above. In instances where household members leave the household and subsequently apply in another SNAP household, the BPS must delete the household members who are in another SNAP household and adjust the allotment for the new household size. In other words, during the Transitional Benefits period, except for household composition changes to delete members to prevent duplicate participation, the BPS must not adjust benefits to reflect changes.

Households receiving Transitional Benefits will not be entitled to adjusted benefits through a mass change if a mass change occurs during the Transitional Benefits period.

## 3. Transitional Benefits Procedures

The Transitional Benefits period will be for five calendar months after the effective date of the TANF case closure. The certification period for Transitional Benefits cases will be five months. The BPS must adjust the original certification period to lengthen or shorten the period so that the certification period will be five months.

The BPS must provide the household with a Notice of Action to notify the household of the revised benefit amount and new certification period. The BPS must send the Notice of Expiration before the last month of the new certification period to notify the household to reapply for benefits to continue to receive SNAP benefits.

Households that receive Transitional Benefits are not required to report changes in their circumstances for SNAP purposes. These households are not subject to the Interim Reporting requirements as addressed in Part XIV.

4. Ending Transitional Benefits

- Eligibility for Transitional Benefits will end the month an application for TANF benefits is filed if any member of the TANF household reapplies for TANF assistance. The BPS must provide an adequate notice for the closure. The application will be treated as an application for SNAP benefits unless the household elects not to apply for SNAP benefits.
- Eligibility for Transitional Benefits will also end as soon as administratively possible if a TANF case is reinstated because of the household's request for continued benefits for a timely-filed appeal. The SNAP case must be changed to reflect the original certification period and calculations that existed before the conversion to Transitional Benefits. The BPS must provide an adequate notice.
- Transitional Benefits will end as soon as administratively possible when the household requests closure of the case. The BPS does not need to send a notice to the household if the request is made in writing or in person. The household must reapply for SNAP benefits to receive additional benefits.
- Transitional Benefits will end when a household moves from Virginia. The BPS does not have to provide either an advance or an adequate notice.