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210.1 Purpose

This section describes income factors that the case manager must consider when determining Food Supplement Program (FSP) eligibility and benefit levels. It defines income that must be included in the eligibility determination.

210.2 General Information

When determining eligibility for the FSP the local department will:

- A. Evaluate the household's total income. Some of the household's income may be excluded from consideration (see Section 211, Excluded Income).
- B. Determine the excluded income first, as it will have no impact on the household's eligibility.
- C. Identify and verify all included income and correctly enter the income on CARES.

210.3 Included Income

- A. All earned income and unearned income of each household member is included unless specifically excluded.
- B. Identification of income as earned, self-employment, or unearned helps you determine whether the household is entitled to the earned income deduction.

210.31 Earned Income

- A. The case manager will use the **gross** amount of earned income.
- B. No deductions are given for taxes, etc.
- C. A 20 percent earned income deduction is applied to earned income.
- D. Earned income includes:
 - 1. Wages, including tips;
 - 2. Salaries;
 - 3. Vacation pay;

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210.31 Earned Income (continued)

4. Garnishments from wages, such as child support payments.
 - (a) Garnishments may appear as deductions from gross pay. Count the gross wages.
 - (b) Do not count an amount withheld to re-pay a prior over-payment received from that same source.
5. Sick benefits paid by an employer to an employee who expects to return to work;
6. Striker's income prior to the strike as if it were still being received;
7. Training Allowances

Training allowances from vocational and rehabilitative programs recognized by federal, state or local governments are earned income when they are not reimbursements, or to the extent they exceed the expenses they are intended to reimburse. (See Section 211 (G) for treatment of reimbursements.)

8. Earnings from the Workforce Innovation and Opportunity Act programs.

Consider as earned income earnings of individuals who are participating in on-the-job training programs under the Workforce Innovation and Opportunity Act. This does not apply to household members under age 19 who are under the parental control of another adult member, regardless of school attendance. (See Section 211.3 (K) for a complete listing of excludable income under Federal statute.)

- E. In certain special households, income may be treated differently. These special households are described in the following sections:
 - Section 101 – Strikers
 - Section 102 – Students
 - Section 103 – Residents of Shelters
 - Section 104 – Self employed Households/Farmers
 - Section 105 – Households with Boarders

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210.31 Earned Income (continued)

- Section 108 – Households with Non-Members or Disqualified Members
 - Section 109 – Residents of Group Living Arrangements, Veterans and Spouses/Children; Elderly and Disabled Living with others
 - Section 401 – Expedited Households
- F. Military Re-Enlistment Bonuses may be paid in two ways and it is up to the branch of the military to decide who is eligible to receive a bonus and how it is paid:
1. A lump sum which is considered a non-recurring lump sum payment (resource) in the month received, or
 2. As a 50% lump sum and the balance in annual payments. The **entire bonus amount** is counted as earned income.
 - (a) Average the initial lump sum over a 12 month period
 - (b) Treat remaining payments as an annuity and average over 12 months.

210.32 Self-employment Income

- A. Consider as income the earnings from self-employment.
- B. Calculate self-employment income in the following manner:
 1. Households with self-employment income receive a 50 percent earned income deduction applied to its gross earnings. The deduction is intended to cover the self-employed household's cost to do business. If entered correctly, CARES will compute the deduction. (See Section 104 for more information about self-employed households.)
 2. Apply the 20% earned income deduction to the net income amount.

Example: A self-employed daycare provider had \$12,000 gross annual income from her business. The annualized amount is \$1,000 per month. 50% of \$1,000 is \$500. \$1,000 minus \$500 equals \$500. 20% of \$500 is \$100. \$500 minus \$100 equals \$400. \$400 is this customer's net earned income from self-employment.

- (a) NOTE: Consider as self-employment income rental payments received by individuals who own rental property. If the individual is actively engaged in management of the rental property at least 20 hours per week, treat the

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income as earned income and allow the 50 percent cost-to-produce income deduction. If the individual spends less than 20 hours per week managing the property, treat the income as unearned income after subtracting the 50 percent deduction for cost-to-produce.

Example: Mr. and Mrs. Brown own a duplex. They live duplex A and rent out duplex B. They receive \$500 monthly in rental payments from duplex B. They do not spend 20 hours per week in the management of the property. They are entitled to a 50 percent self-employment deduction. ($500 \times .50 = \$250$). The household's countable rental income is \$250.

- (b) Treat room and/or board income as earned income regardless of the time spent in this activity, if the roomers and/or boarders live with the FSP household. Deduct 50 percent of the gross roomer and/or boarder income as the cost-to-produce. Then apply the 20 percent earned income deduction. The remainder is the adjusted net income and is countable earned income for the household.

210.33 Unearned Income

- A. The local department will use the gross amount of unearned income. No deductions are given.

Example: No deduction is made from Social Security benefits for Medicare. No deduction is made for taxes withheld from Unemployment Insurance or retirement benefits or from Worker's Compensation.

- B. Unearned income, to which the earned income deduction cannot be applied, includes the following:
- (a) Assistance payments based on need, such as:
- (a) Temporary Cash Assistance (TCA),
 - (b) Temporary Disability Assistance Program (TDAP)
 - (c) Supplemental Security Insurance (SSI),
 - (d) Foster care and guardianship care **only when the child is included in the FSP household,**
 - (e) Adoption subsidies;
 - (f) Public Assistance to Adults (PAA).

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210.33 Unearned Income (continued)

- (g) Annuities,
- (h) Pensions,
- (i) Retirement benefits,
- (j) Severance pay,
- (k) Veteran's benefits,
- (l) Disability payments,
- (m) Unemployment insurance benefits,
- (n) Strike benefits,
- (o) Gross rental income less the 50 percent cost-to-produce from rental property when the household member is not actively engaged in management of the property at least 20 hours per week, ,
- (p) Support or alimony payments made directly to the household by non-household members.
- (q) Payments from government-sponsored programs,
- (r) Income from annuities or dividends, even when not withdrawn,
- (s) Interest and royalties,
- (t) Assistance payments from programs that require as a condition of eligibility the actual performance of work without compensation, other than the assistance payment,
- (u) Unearned income of a sponsor and the sponsor's spouse (if living with the sponsor) that is deemed available to a sponsored immigrant, and
- (v) All other direct money payments that can be construed to be a gain or benefit to the household.

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210.34 Income of an Ineligible or Disqualified Individual

- A. Count the earned or unearned income in its entirety, minus the appropriate deductions, of an individual disqualified from the household for an individual:
 1. Disqualified for Intentional Program Violation as described in Section 480,
 2. During any period he or she is fleeing to avoid prosecution, custody or confinement after conviction for a felony, or violating a condition of parole or probation,
 3. Convicted of an offense that is classified as a drug felony, occurring after August 22, 1996,
 4. Noncompliance with work requirements as described in Section 130.

- B. Count as income the earned or unearned income, less a pro rata share for the individual or individuals who are ineligible:
 1. For failure to comply with social security requirements as described in Section 405,
 2. For failure to comply with the able-bodied adult without dependents (ABAWD) work requirements (such as failing to be employed an average of 80 hours per month) as described in Section 130.24, or
 3. Because they do not meet citizenship or immigrant requirements as described in Section 120.

210.35 Third Party Payments

- A. The local department will count third party payments as household income.

- B. A third party payment is money owed to a household, but paid directly to someone outside the household for a household expense.

- C. Third party payments include:
 1. Wages that are withheld by the employer and paid directly to a third party for household expenses such as rent, property taxes, or child support,
 2. Public Assistance payments that are sent to a third party or to a protective payee for a purpose such as managing the household's expenses,

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3. Money deducted from a court order or binding written support or alimony payment and sent to a third party for household expenses, and
4. Money deducted to repay a prior underpayment of taxes to the IRS. This includes any payments specified by a court order to go directly to a third party rather than the household.

210.36 Failure to Comply with Requirements of a Federal, state or Local Means-tested Assistance Program

A. Reduction of Public Assistance Benefits

1. When a household's means-tested public assistance is reduced or terminated because a household member fails to perform an action required under the assistance program, count the full amount of the public assistance payment as phantom income for FSP benefits. This is done so that the FSP benefits will not increase. Examples of means-tested programs include TCA, TDAP, and PAA.

Note: SSI is not a public assistance program for the purposes of phantom income policy.

2. The failure to comply with a requirement of the means-tested program does not have to be intentional.
3. If the local department is unsuccessful in obtaining the necessary cooperation from another State, federal or local means-tested program, it will not be held responsible for noncompliance with the rule as long as a good faith effort has been made to get the information.
4. The income from the means-tested program is frozen at the same amount received before the penalty.

B. Procedural vs. Substantive Requirements.

1. A procedural requirement, which does not trigger phantom income, is a step that a customer must take to continue to get assistance, such as providing verification. **Do not use phantom income for not complying with a procedural requirement.**
2. A **substantive requirement**, which **does trigger FSP phantom income**, is a behavioral requirement that is designed to improve the well being of the household. Examples include:

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- (a) Work and child support requirements,
- (b) Requirements for school attendance,
- (c) Requirements for health checkups for children under age 6,
- (d) Compliance with substance abuse requirements.

C. Limits on Imposing the Sanction.

1. This policy does not apply to customers who fail to perform a required action at the time of application;
2. This policy applies at the time of redetermination for continued benefits if there is no break in participation;
3. The customer must be certified for FSP benefits at the time of the failure to perform the required action.

Example: Mr. B receives TCA for himself, his wife and children. They do not receive FSP benefits. In April Mr. B refused to participate in a work activity and the TCA is closed. In May Mr. B applies for FSP benefits. The case manager will not use phantom income in this situation.

4. Assistance payments are “reduced” if they are decreased, suspended or terminated.

D. Penalty Periods for TCA

1. Failure to Comply with a Child Support Requirement - Failure to comply without good cause results in a full family sanction. The penalty will end upon compliance with the program requirement.
2. Failure to Comply with a Work Requirement - For noncompliance with a work activity the penalty period will end as follows:
 - (a) For the first instance of noncompliance, the penalty ends upon compliance.
 - (b) For the second instance of noncompliance, the penalty ends 10 days after compliance with the activity.
 - (c) For the third and subsequent instance of noncompliance, the penalty period ends after 30 days of compliance with the work requirement.

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(d) 210.36 Failure to Comply with a Federal, State or Local Means-tested Assistance Program (continued)

3. Finding of Fraud - An assistance unit is ineligible for the following periods of time upon a finding of fraud by a court of law:
 - (a) For six months after the first finding of fraud or until full repayment of the overpayment,
 - (b) For 12 months after the second finding of fraud or until full repayment of the overpayment,
 - (c) Permanently after the third finding of fraud.
 4. Failure to comply with substance abuse requirements.
 5. Failure to obtain preschool health or to ensure the school attendance of children in the home. This is a \$25 disallowance.
- E. After a finding of fraud in the TCA program, continue the FSP certification period until it expires. If the household reapplies for FSP benefits during the TCA penalty period, when possible, establish a certification period that ends at the same time the TCA penalty ends.
- Example: An assistance unit that had received \$648 TCA grant is terminated because of a second fraud finding. The family is ineligible for TCA for 12 months. The TCA amount countable for FSP benefits until the end of the penalty period is \$648.
- F. Ending a TCA Penalty Period Without Compliance
- In some situations a penalty period for noncompliance with a requirement is ended and the sanction is considered cured even though an individual does not technically comply with the TCA program requirement. When a penalized household becomes technically or financially ineligible for TCA or another means-tested benefit, the frozen TCA income is no longer counted in the calculation of the FSP benefit.
- G. Include the TCA benefit received prior to the reduction or closure of TCA as income for FSP benefits when a TCA assistance unit is sanctioned for failing to comply with a requirement of Family Investment Program (FIP) or when an assistance unit member has been found guilty of fraud.

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- H. Take action on changes in household circumstances that are not related to the penalty imposed by a means-tested program.
- I. Count the public assistance benefit to maintain the FSP benefit at the same level during the period of reduction, suspension, or termination.
- J. Count the amount recouped from a public assistance benefit for **intentional**, household-caused overpayments.

210.4 Verification

- A. Verify gross non-exempt income at application and recertification.
- B. See Section 420 for required verification when a change is reported.
- C. The primary source for obtaining verification of income is the applicant. Verification may be made from documentary sources such as pay stubs or from verbal or written statements made by the employer or the agency from which the income is received.
- D. In addition to verifying reported income, the local department may need to consider the possibility of unreported income. Some situations that may indicate unreported income are:
 - 1. State Verification Exchange System (SVES) indicates receipt of Social Security Administration administered benefits.
 - 2. Maryland Automated Benefit System (MABS) indicates work history or receipt of unemployment insurance benefits
 - 3. Shelter payments exceed reported income
- E. Verify earned income through the applicant whenever possible by viewing the following:
 - 1. Pay stubs or pay envelopes
 - 2. Employee's W-2 form
 - 3. Wage tax receipts
 - 4. State or federal income tax forms
- F. Other sources of verification include:
 - 1. Employers wage records
 - 2. Statement from employer

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3. MABS/SVES
4. Court support order, divorce or separation papers
5. Award letters

NOTE: In cases where attempts made by the applicant and/or agency to obtain verification are unsuccessful because the source of the income is uncooperative, and all other sources of verification have been tried, do not deny the household solely on this basis. Consult with the applicant and use the best available information to arrive at an amount to be used.