

## SHD Paraphrased Regulations - Food Stamps

### 260 Income

#### 260-1 REVISED 8/04

Under MR/RB, during beginning months, the county shall take into account the actual income already received by the household during the month of application and any anticipated income the county and household are reasonably certain will be received in the remaining beginning months. If a portion of the income cannot be anticipated with reasonable certainty, that portion shall not be counted. (§63-503.212 prior to the implementation of QR/PB in the county)

#### 260-2

The household's net monthly income is determined by adding net earned income to unearned income and subtracting applicable deductions. (§63-503.311)

#### 260-3 REVISED 9/08

Under MR/RB, and for change reporting households under QR/PB, to determine a food stamp household's net monthly income, when there is no elderly or disabled household member, the county shall use the steps listed below. For QR/PB households, the steps below shall be followed after income is averaged over the QR/PB Payment Quarter as specified in §63-509(a)(4):

The county shall use exact dollars and cents. The final figure shall be rounded up for calculations that end in 50 cents or more, and down otherwise.

- (a) Add the gross monthly income earned by all household members minus earned income exclusions.
- (b) Apply the earned income deduction (which is 20% of gross earned income) to the total gross earned income.
- (c) Add to net monthly earned income the total monthly unearned income of all household members, minus income exclusions.
- (d) Subtract the standard deduction which is \$134 for one to three persons through September 2008. The standard deduction increases to \$144 effective October 1, 2008. (ACIN I-61-08)
- (e) Subtract monthly dependent care expenses, if any, up to the current maximum. It is \$200 for dependent children under age two and \$175 for all other dependents. eliminates The cap on the deduction for dependent care expenses is eliminated effective October 1, 2008 families eligible for the deduction are allowed to deduct the entire amount of dependent care expenses when calculating benefit levels. (ACL 08-37)
- (f) Subtract the homeless shelter deduction (which was \$143 as of October 1, 1995 and continuing).
- (g) Subtract allowable monthly child support payments as set forth in §63-502.37 (currently .38). (This deduction no longer applies effective November 1, 2006)
- (h) Total the allowable shelter expenses (see §63-502.36) to determine shelter costs. Subtract from the total shelter costs 50% of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost.

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- (i) Subtract the excess shelter cost (up to the current maximum, which was \$431 effective October 1, 2007 and \$446 effective October 1, 2008) from the household's monthly income after all other deductions. The household's net monthly income has been determined.

(§63-503.311 revised effective November 1, 2006; Handbook §63-1101.2; ACIN I-61-06 ACIN I-45-07; I-61-08; ACL 08-37)

Legally obligated child support payments to a non-household member are now treated as income exclusions rather than deductions (63-502.2(p) effective November 1, 2006)

Effective November 1, 2007, the child support disregard is no longer considered an income exclusion (ACIN I-48-07, September 27, 2007)

#### 260-3B

If the Food stamp household has its \$143 homeless shelter allowance deducted from its income in accord with §63-503.311(f), it is not entitled to an excess shelter deduction under §63-503.311. (§63-502.352, as revised effective June 1, 2001; 7 Code of Federal Regulations §273.9(d)(6)(i))

#### 260-3C REVISED 9/08

Under MR/RB, and for change reporting households under QR/PB, the net monthly income of an FS household that includes a member who is elderly or disabled as defined in §63-102(e) is computed as follows: For QR/PB households, the steps below shall be followed after income is averaged over the QR/PB Payment Quarter as specified in §63-509(a)(4):

- (a)-(b) Add the gross monthly income earned by all household members minus earned income exclusions, and multiply the result by 80%.
- (c) Add to the net monthly earned income the total monthly unearned income of all household members, minus income exclusions.
- (d) Subtract the standard deduction which is currently \$134 for one to three persons through September 2008. The standard deduction increases to \$144 effective October 1, 2008. (ACIN I-61-08)
- (e) Subtract the monthly dependent care costs up to the current maximum. It is \$200 for children under two and \$175 for children two and over. The cap on the deduction for dependent care expenses is eliminated effective October 1, 2008 families eligible for the deduction are allowed to deduct the entire amount of dependent care expenses when calculating benefit levels. (ACL 08-37)
- (f) Subtract the allowable medical expenses (see §63-502.33) of elderly and disabled members of the household in excess of \$35 per month.
- (g) Subtract the homeless shelter deduction which has been \$143 since October 1, 1996 per ACLs No. 96-56 and 02-62)

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- (h) Subtract the allowable monthly child support payments as specified in §63-502.37 (now §63-502.38). (This deduction no longer applies effective November 1, 2006)
- (i) Subtract from the total allowable shelter costs 50% of the preliminary net income figure. This is the amount of the shelter cost deduction.
- (j) Subtract the shelter cost deduction from the preliminary net income figure, and the remaining amount is the household's net monthly income.

(§63-503.312, ACIN I-45-07, I-61-08)

Legally obligated child support payments to a non-household member are now treated as income exclusions rather than deductions (63-502.2(p) effective November 1, 2006)

Effective November 1, 2007, the child support disregard is no longer considered an income exclusion (ACIN I-48-07, September 27, 2007)

#### 260-3D REVISED 9/08

The standard deduction is \$134 for households from one to three persons until October 1, 2008. The standard deduction is \$144 for households from one to three persons effective October 1, 2008

The standard deduction for four persons was \$143 effective October 1, 2007. The standard deduction for four persons is \$147 effective October 1, 2008.

The standard deduction for five persons was \$167 effective October 1, 2007. The standard deduction for five persons is \$172 effective October 1, 2008.

The standard deduction for six or more persons was \$191 effective October 1, 2007 and is \$197 effective October 1, 2008.

(ACIN I-45-07 and I-61-08, August 21, 2008)

#### 260-3E REVISED 9/06

Effective October 1, 1995 through September 30, 2008 the standard deduction for one to four persons is \$134. The standard deduction for one to three persons is \_\_\_\_ effective \_\_\_\_\_. The standard deduction for four persons is \_\_\_\_ effective \_\_\_\_; the standard deduction for five persons is \_\_\_\_ effective \_\_\_\_\_ and the standard deduction for six or more persons is \_\_\_\_\_. effective \_\_\_\_\_ (ACIN I-\_\_\_\_)

#### 260-3F

Effective October 1, 2\_\_\_\_, the maximum shelter allowance was \_\_\_\_\_(ACIN I-\_\_\_\_\_)

#### 260-3G REVISED 9/08

Effective October 1, 2007 the standard utility allowance (SUA) was \$274. Effective October 1, 2008 the SUA is \$287. (ACIN I-45-07, I-61-08)

#### 260-3H ADDED 3/06

Effective October 1, 2\_\_\_\_, the standard utility allowance was \$\_\_\_\_\_. (ACIN I-\_\_\_\_\_)

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#### 261-1

Except for categorically eligible households and households with an elderly or disabled household member(s), the counties shall determine eligibility for FS benefits pursuant to the maximum gross income standards as promulgated and updated by the United States Department of Agriculture. The gross income standard for a household of \_\_\_ persons as set forth in Handbook §63-1101.31 and set out in All-County Letter No. \_\_\_-\_\_\_, effective October 1, \_\_\_\_\_ is \$\_\_\_\_. A household with income in excess of the standard is ineligible to receive FS. (§63-409.111)

#### 261-2 REVISED 8/04

Except for categorically eligible households, FS eligibility is based on maximum net income standards set forth in Handbook §63-1101. Pursuant to Handbook §63-1101.32 and set out in All-County Letter No. \_\_\_-\_\_\_, effective October 1, \_\_\_\_\_, the maximum net income level for a household of \_\_\_ person(s) is \$\_\_\_\_. A household with income in excess of the standard is ineligible to receive FS. (§63-409.112)

#### 261-3 REVISED 8/04

Under MR/RB, food stamp eligibility under the maximum resource, gross income and net income standards is prospectively determined. In determining prospective eligibility, the county shall consider the household's actual reported budget month income or income that has been averaged, and anticipated income changes in the issuance month. A household is neither eligible for a restoration of benefits nor shall a claim be established against a household for an inaccurate estimate of a household's prospective eligibility. (§63-503.231 prior to the implementation of QR/PB in the county)

#### 261-4

Households with a disabled or elderly (as defined in §63-102(e)) household member are not subject to maximum gross income eligibility standards. These households are subject to maximum net monthly income standards, as set forth in Handbook §63-1101.33, as modified most recently by All-County Letter No. 01-56. (§§63-409.111 and .112)

#### 261-5

"Prospective eligibility" means the determination of a household's eligibility for an issuance month based on an estimate of a household's income, circumstances and composition which will exist in that issuance month. (§63-102(p)(11))

#### 261-6 ADDED 2/05

For food stamp households which are subject to QR, the county shall apply the gross and net monthly income eligibility standards to the averaged QR/PB Payment Quarter's income during the certification period. This determination shall be based on the information reported on and submitted with the households most recent QR 7.

(§63-503.321(a))

#### 263-1

There is a 20% deduction from earned income. (Handbook §63-1101.2)

#### 263-2

Earned income includes all wages and salaries of an employee. (§63-502.131)

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#### 263-4

Earned income includes college work study income which has not been excluded under §63-502.2(l), or after allowable exclusions are applied per §63-502.2(e). (§63-502.137)

#### 264-1 REVISED 8/04

Under MR/RB, the monthly net self-employment income shall be added to any other earned income received by the household, and the net monthly income shall be computed in accordance with §63-503.31.

Under QR/PB, for households that report actual monthly self-employment income on the QR 7, the county shall add all gross self-employment income and average it over the QR Payment Quarter and then add it to other earned income received by the household. Net monthly income shall be computed in accordance with §63-503.31.

(§63-503.415)

#### 264-1A ADDED 8/04

QR households which receive self-employment income on a monthly basis shall report the actual amount of income on the QR 7 for the QR Data Month. The county shall calculate the household's benefits for the QR Payment Quarter based on the actual amount of self-employment income reported on the QR 7 and anticipated income for each month of the upcoming QR Payment Quarter. Self-employment income shall be averaged over the QR Payment Quarter. Changes to income that occur mid-quarter shall be treated as voluntary mid-quarter reports pursuant to §63-509(d). (§63-503.411(a))

#### 264-2

Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed and fertilizer; payments on the principal of the purchase price of income producing real estate and capital equipment, machinery and other durable goods; interest paid to purchase income-producing property, insurance premiums, and taxes paid on income-producing property. (§63-503.413(a), as revised effective June 1, 2001)

#### 264-2A

To determine the net gross income of the applicant or recipient FS household, the household shall choose either actual costs of producing self-employment income or a standard deduction of 40 percent of gross earned income. The actual costs of producing self-employment, or the standard 40 percent of gross earned income, is deducted from total gross earned income to arrive at the net gross earned income amount. Recipients shall be allowed to change the method of deduction only at recertification or every six months, whichever occurs first. (§63-503.413, effective June 1, 2001)

#### 264-3

In determining net self-employment income, certain items shall not be allowed as the cost of doing business:

- (1) Net losses from previous periods.
- (2) Federal, state and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work), as

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those expenses are accounted for by the earned income deduction specified in §63-502.32.

- (3) Depreciation.
- (4) Any amount that exceeds the payment a household receives from a boarder for lodging and meals.

(§63-503.413(b), as revised effective June 1, 2001)

#### 264-4 REVISED 8/04

When self-employment income is to be averaged because it is received less often than monthly, the income and expenses from the enterprise, shall be verified for either the last year or the last period during which income was earned and which was intended to cover either a year or a part of a year. The county shall then use this verified information to average the household's income over the next year or period of time the income is intended to cover. If the household has experienced a substantial increase or decrease in business income and can provide the county with information that shows the averaged amount is not reflective of the household's actual circumstances, the county shall then calculate the household's self-employment income based on anticipated earnings rather than prior income. (§63-503.412(a), as modified effective June 1, 2001) Such self-employment income must be averaged over the period of time the income is intended to cover, even if the household has other income.

For QR/PB households, self-employment must be averaged over the certification period or over a QR Payment Quarter (§63-503.412(b), effective June 1, 2001 and revised effective July 1, 2004 with the implementation of QR/PB)

#### 264-5

The proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for federal income tax purposes. (§63-503.414)

Federal law, as set forth in the Internal Revenue Code and IRS Tax Publication 17, provides that once it has been established that a person is operating a trade or business, having the intention of earning income or making a profit, the individual is entitled to special treatment in regard to selling the business property.

Any portion of an asset used for personal purposes will not be considered used in a trade or business.

If the item is used in a trade or business, determine the cost or other basis, plus improvements and expenses of sale. Choose the larger of the depreciation allowed, or that which should have been allowed, since the acquisition of the property. Subtract this depreciation figure, plus the gross sales price, from the cost basis, to determine the net gain or loss from the sale of the capital good. (Internal Revenue Code §1231)

#### 264-6

In determining a household's average self-employment income, the county shall only consider income and expenses which have been verified. (§63-503.412(b), revised to §63-503.412(c), effective June 1, 2001)

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#### 264-7

Under federal regulations, in retrospective budgeting states, the state agency shall calculate the allotment using the household member's income and deductions from the budget month, except the state agency shall annualize self-employment income, which is received other than monthly in accordance with 7 Code of Federal Regulations (CFR) §273.11(a), which provides for prorating the income and expenses. (7 CFR §273.21(f)(2))

#### 264-8

Room rental is self-employment income in the FS program. (§63-502.132(b); All-County Information Notice No. I-03-02, January 14, 2002)

#### 264-8A

The CDSS has set forth a policy interpretation as to the determination of self-employment income when an individual, living in her own home, applies for FS benefits, and the following situation exists: The house is rented out. The claimant has her own bedroom, and rents out the other three bedrooms, at \$200 per month each. There are three other common rooms. No meals are provided, nor is there common purchase and preparation of meal. Shelter costs are \$1000 per month.

In determining the cost of doing business, county welfare departments (CWDs) have the option to do the calculation either by the square footage of the home or by the number of rooms.

By square footage:

- 1) Assume the square footage of the home is 1000 square feet, of which 3000 square feet is rented out. Approximately 1/3 of the cost would be allowed from the \$600.00 (gross income of 3 x \$200.00).
- 2) Cost per month (her housing\* and utility costs) = \$1000.00. Take 33% of \$1,000 = \$333.00.
- 3) Net self-employment income (\$600.00 - \$333.00) = \$267.00.
- 4) Or, allow the 40% standard deduction, instead of calculating actual expenses as in steps 1-3, if the household chooses this option.
- 5) Then, allow the 20% earned income deduction and other deductions, as necessary, after determining the net self-employment income in steps 1-3 or step 4.

By number of rooms:

- 1) 7 rooms and 3 are rented out.
- 2) Percentage of cost is  $3/7 = .43$ .
- 3) Cost per month (her housing\* and utility costs) = \$1000.00. Take 43% of \$1,000 = \$430.00.
- 4) Net self-employment income (\$600 gross income - \$430.00) = \$170.00.

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- 5) Or, allow the 40% standard deduction, instead of calculating actual expenses as in steps 1-4, if the household chooses this option.
- 6) Then, allow the 20% earned income deduction and other deductions, as necessary, after determining the net self-employment income in steps 1-4 or step 5.

\*Housing costs include: mortgage, interest, taxes, and insurance.

Please note that the three common rooms will not be considered in this calculation, as the owner of the home is not charging roommates for the usage of these rooms.

The claimant cannot claim a portion of her share of rent and utilities as business expenses, as well as claiming her full share of rent and utilities as a shelter deduction. However, she can claim part of her share of rent and utilities as business expenses, and the remainder would be allowed as a shelter deduction.

(All-County Information Notice No. I-03-02, January 14, 2002)

#### 265-1A REVISED 8/04

Income includes monies withheld from AFDC and GA/GR grants or other federal, state, or local means tested programs due to the household's failure to comply with that program's requirements. (§63-502.17, effective November 12, 1996) This section refers to §63-503.5 (renumbered to 63-503.7), entitled Failure to Comply with Another Assistance Program's Requirements. Under that section, the county shall not increase FS benefits when reductions in the household's benefits received from the welfare or public assistance (PA) program have been decreased due to the recipient's failure to comply with that program's requirements (except where an individual or household is subject to an FS work sanction imposed under §63-407.541). (§63-503.51 renumbered to §63-501.71 effective July 1, 2004.) For this rule to apply, the welfare or PA program must be "means tested" as defined in §63-502.171. (§63-503.511 renumbered to § 63-503.711 effective July 1, 2004)

#### 265-1B

Disqualifications, sanctions, reductions due to client caused overpayments, and penalties due to late filing of income reports in AFDC (now CalWORKs), as well as GA or GR sanctions or disqualifications, shall not result in increased benefits in the FS program. However, these provisions do not apply to termination of the other program's benefits. (All-County Information Notice No. I-62-96, December 9, 1996, interpreting §63-503.51 which was renumbered to §63-503.71 effective July 1, 2004)

#### 265-1C

In determining the correct benefit level for households whose PA or welfare benefits have been decreased due to failure to comply with requirements of that program, use the benefit amount from the PA or welfare program which would have been issued if no penalty had been imposed. (§63-503.52 renumbered to §63-503.72 effective July 1, 2004) The FS allotment shall not be increased due to this calculation. (§63-503.51 renumbered to §63-503.71 effective July 1, 2004)

#### 265-1D

Under §63-502.17, income includes monies withheld from AFDC and GA/GR grants, or from federal "means tested programs" (as defined in §63-502.171), due to the failure of the recipient to comply with that program's requirements. Social Security Administration (SSA) payments are

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not "means tested", and deductions from the SSA payments to recover unpaid federal taxes have nothing to do with the individual's failure to cooperate with the SSA. It is, nevertheless, the CDSS policy to count as income monies withheld from SSA payments which were deducted by the IRS to collect federal tax claims. (All-County Letter No. 02-55, July 22, 2002)

#### 265-2

Unearned income includes AFDC (now CalWORKs), General Assistance (GA), General Relief (GR), Refuge Cash Assistance, Entrant Cash Assistance, or other assistance program payments which are based on need. (Lump-sum payments from these sources are resources, per §63-501.111.) Such assistance is considered unearned income even if it is a vendor payment, unless that vendor payment is excluded under §63-502.2. (§§63-502.141 and .141(a)) Effective December 1, 1995, GA/GR payments for housing are counted as income unless exempt as unearned income. All other GA/GR vendor payments are excluded income. (§63-502.141(a))

#### 265-2A ADDED 9/08

Adoption assistance payments are treated as unearned income in food stamps with the exception that any portion of the adoption subsidy that is earmarked for an excludable reimbursement (e.g., medical or dependent care expenses) shall be excluded from consideration as income, and determined on a case-by-case basis. (ACIN I-58-08, August 13, 2008)

#### 265-3

Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income except for allowances excluded under §63-502.2(f)(1). (§63-502.141(b))

#### 265-4

Unearned income includes annuities, pensions, retirement or veteran's or disability benefits; worker's or unemployment compensation; social security benefits; striker's benefits (except compensation for picketing); foster care payments for FS household members; "and any deemed income from a sponsor who has signed an I-864 and/or I-864A paid to a sponsored noncitizen". (§63-502.142, as revised effective February 21, 2002)

#### 265-5

In general, support or alimony payments made directly to the household from nonhousehold members are unearned income. (§63-502.144)

#### 265-5A ADDED 3/06

For a CalWORKs AU that has an MFG child, the MFG child's receipt of child support from the local child support agency is considered unearned income to the food stamp household. If the child support payment is received directly from the absent parent and kept by the household, it is also counted as unearned income. (ACIN I-01-06, January 3, 2006)

#### 265-6

It is federal policy that child support intercepted from a UIB check, and retirement benefits from which child support is withheld by court order, are included as gross income to the FS household entitled to the UIB or retirement benefits even when that household has not received

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the withheld child support. (FS Program Policy Memoranda 86-26 and 92-11, interpreting 7 Code of Federal Regulations §273.9(c))

#### 265-7

Veterans' Affairs educational benefits, received under the Vocational Rehabilitation Program, the Montgomery GI Bill (for active personnel and reservists), the Vietnam ERA GI Bill, and the Dependents GI Bill, are income, less excludable expenses as set forth in §63-502.2(e). Veterans' Educational Assistance Program (VEAP) benefits, received as Chapter 32 Post Vietnam Benefits (for those persons who entered military service between January 1, 1977 and June 30, 1985) are treated as resources to the extent that funds were contributed by the veteran. The VA contributes approximately \$2 for every \$1 previously contributed by the veteran. VEAP benefits used for educational expenses are gross income only as to the VA matching funds. If VEAP benefits are not used for educational purposes, no matching funds are provided. (All-County Letter No. 94-06, January 24, 1994)

#### 265-8 REVISED 8/04

Under MR/RB, the only budgeting situation in which weekly or biweekly income can be based on multiplying by 4.3 or 2.15 occurs when the household is exempt from retrospective budgeting (e.g., migrant farmworker or homeless households) and thus is prospectively budgeted. (All-County Information Notice No. I-25-02, April 4, 2002, Question 1, clarifying §63-505.21)

#### 265-8A REVISED 8/05

If the household reports on the QR 7 that income from the QR Data Month will remain the same in the upcoming QR Payment Quarter or the county determines that income from the QR Data Month will remain the same in the upcoming QR Payment Quarter despite the household report that income will change, the county shall compute the food stamp allotment based on income reported for the QR Data Month. If income is received weekly it shall be converted to monthly by using a 4.33 conversion factor. If it is received bi-weekly, it shall be converted to monthly by using a 2.167 conversion factor. The conversion figures may only be used if income is received weekly or bi-weekly throughout the upcoming QR Payment Quarter. (§63-509(a)(5))

#### 266-1

Any gain or benefit which is not in the form of money payable directly to the household is excluded as income. This includes in-kind benefits such as meals, clothing and housing. (§63-502.2(a)) This also includes non-cash CalWORKs incentive payments for, e.g., attending workshops, or gift certificates not redeemable for cash. (All-County Information Notice No. I-82-01, October 4, 2001)

#### 266-2

Money that is not legally obligated to be paid to the household, but which is paid to a third party for household expenses, shall be excluded as a vendor payment. If wages are earned by a household member, and are garnished or diverted by an employer and paid to a third party for a household expense, such as rent, then the payment is included as income. (§63-502.2(b)(1))

#### 266-2A ADDED 4/04

Monies received and used for the care and maintenance of a third-party beneficiary who is not a household member is to be excluded. (§63-502.2(h))

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#### 266-3

An AFDC (now CalWORKs), GA/GR, RCA or ECA payment shall be considered an excludable vendor payment and not counted as income if such payment is for the following: Medical assistance; child care assistance; energy assistance; housing assistance payments made to a third party on behalf of a household residing in transitional housing as defined in §63-102t. (now (t)); or emergency assistance provided to a third party on behalf of a migrant or seasonal farmworker household when the household is in the job stream. (§63-502.2(b)(2))

#### 266-3A

CalWORKs lump sum diversion payments are treated as a resource in the FS program, as provided in §§63-501.111 and 63-502.2(b). If the diversion payment is given in the form of vendor payments, it is excludable, as specified in §63-502.2(b)(2). (All-County Letter No. 98-19, March 17, 1998) If the CalWORKs (or TANF) payment, made to divert a family from becoming dependent on welfare, is not defined as an assistance payment, it is excluded from income as a nonrecurring lump sum payment. (§63-502.2(j)(1), effective June 1, 2001)

#### 266-3B

Under CalWORKs, a county must issue vouchers or vendor payments for at least rent and utility payments for any AU in which any parent or caretaker relative has been subject to sanction for at least three consecutive months. In such a situation, the vendor payments are considered income to the FS household under §63-502.2(b). (All-County Letter No. 98-19, March 17, 1998)

#### 266-3C

Vendor payments for child care made by the CalWORKs program or by the California Department of Education are not considered income to the household and cannot be used as a child care deduction.

An expense which is covered (i.e., either already paid and reimbursed, or anticipated to be reimbursed) by an excludable reimbursement payment or vendor payment (§63-502.2(b)(2)) is not a deductible expense. However, if the child care payment is not reimbursed, or reimbursed only in part, the out-of-pocket expense is deductible per §§63-502.34 and 63-1101.2, up to the allowable maximum. Counties must recalculate the FS allotment and issue any applicable benefit supplement in the current month, or restore lost benefits.

(All-County Letter No. 98-19, March 17, 1998)

#### 266-3D ADDED 4/04

All or part of a public assistance grant which would normally be provided in a money payment to the household, but which is diverted to third parties shall be considered as income to the household. Payments by the county that would not normally be provided in a money payment to the household, and that are over and above normal public assistance grants, shall be excluded as a vendor payment if they are made directly to a third party for a household expense. (§63-502.2(b)(3))

#### 266-4

A preliminary injunction issued by the United States District Court in the *Hamilton v. Lyng* case requires the following, in part:

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- (1) AFDC homeless assistance payments must be excluded from income in determining FS eligibility and benefit levels effective with the August 1, 1988 allotments. This exclusion will continue pending the outcome of the lawsuit.
- (2) FS benefits are to be restored retroactive to July 1, 1988 to recipients whose allotments were reduced, suspended or terminated because the homeless assistance they received was counted as income.
- (3) AFDC homeless assistance payments are to be excluded from income in any fair hearing decisions regardless of whether the county action occurred before or after the effective date of the injunction. This would include cases pending back to February 1, 1988.
- (4) At the request of any recipient who has filed an administrative appeal and has conditionally withdrawn the appeal, the county shall rescind the reduction, suspension, or termination of FS benefits that resulted from counting AFDC homeless assistance payments as income.

(All-County Letter (ACL) No. 88-91, July 29, 1988)

On April 10, 1992, the 9th Circuit, in *Hamilton v. Madigan* (92 Daily Journal D.A.R 4886) upheld this injunction, concluding that the "...plain meaning of the Food Stamp Act requires exclusion of both the [homeless] daily shelter payments and deposit payments from income for the purpose of calculating food stamp eligibility."

#### 266-5

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

Effective November 1, 1993, only prospectively budgeted income is excluded. (§63-502.2(d))

#### 266-6A

The student earnings exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, providing the child's enrollment will continue following the break. (§63-502.2(i))

#### 266-6C REVISED 10/07

The earned income of children under age 18 who are FS household members, and who are elementary or secondary school students at least half time, is excluded income. The exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. (§63-502.2(i), as revised effective February 21, 2002)

Effective November 1, 2006, this income exclusion applies to children under age 19. (§63-502.2(i) revised effective November 1, 2006)

Effective no later than November 1, 2007, this exclusion applies only to children under age 18. (ACL 07-31, September 7, 2007; ACIN I-48-07, September 27, 2007)

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#### 266-6D

Under federal regulations, the earned income of eligible students under age 18 is excluded from consideration, as follows:

"The earned income (as defined in paragraph (b)(1) of this section) of any household member who is under age 18, who is an elementary or secondary school student, and who lives with a natural, adoptive, or stepparent or under the parental control of a household member other than a parent. For purposes of this provision, an elementary or secondary school student is someone who attends elementary or secondary school, or who attends classes to obtain a General Equivalency Diploma that are recognized, operated, or supervised by the student's state or local school district, or who attends elementary or secondary classes through a home-school program recognized or supervised by the student's state or local school district. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share excluded."

(7 Code of Federal Regulations §273.9(c)(7))

#### 266-7

The county shall exempt money received in the form of nonrecurring lump-sum payments. Such payments include income tax refunds and retroactive payments from assistance programs. These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource. (§63-502.2(j))

#### 266-7A

Child support payments collected by the Family Support Division in a month when the FS household (HH) was not receiving FS benefits, and which are paid to the HH in a subsequent month when the HH is receiving FS benefits, are considered a resource in the month received. They are excluded from income as nonrecurring lump sum payments under §63-502.2(j). (*Hixenbaugh v. Anderson*, June 12, 1997 Superior Court Order; All-County Letter No. 97-44, August 13, 1997)

#### 266-7B

Nonrecurring lump sum payments are excluded as income but counted as a resource in the month received unless specifically excluded as a resource by other federal law. (§63-501.1; 7 Code of Federal Regulations (CFR) §273.9(c)(8))

The CDSS has given examples of three types of such payments, based on the federal regulation set forth above:

1. **Retroactive Payments:** Examples of such payments include court-ordered retroactive payments for any assistance program, railroad retirement benefits, retroactive public assistance payments, retroactive lump-sum social security, supplemental or corrective payments received for a previous month from any assistance program, and retroactive payments from the approval of an application for any assistance program.
2. **Return of Resources:** Examples include refunds of security deposits on rental property or utilities.

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3. One-time payment resulting from a government policy or law: Examples include income tax refunds, rebates or credits, lump-sum insurance settlements.

(All-County Information Notice No. I-13-01, February 15, 2001)

#### 266-7C

Disability Insurance Benefits (DIB), Unemployment Insurance Benefits (UIB) and Workers' Compensation benefits are treated as unearned income, per §63-502.142. Normally, those benefits are treated as income in the month received. The CDSS has issued an All-County Information Notice (ACIN) which states that per MPP §63-501.111, if such payments are received for prior months, they are treated as a resource (per §63-502.2(j), rather than as income.

The key factor, according to the CDSS, in determining whether receipt of DIB, UIB or Workers' Compensation is treated as income or a resource is whether the payments are part of a "clearly established payment pattern". This ACIN then refers to a "regular payment pattern" [which is apparently an interchangeable term with "clearly established payment pattern" and "normal payment schedule"]. A "regular payment pattern" would be based on the established schedule of payments (e.g., payment every 14 days, payment upon receipt of doctor's statement).

In an example provided in the ACIN, a household receives three checks covering an initial payment in the form of three separate payment periods. The first check, covering a period from March 1 through March 15, is issued on April 29 and is received on May 3. The second check covering March 16 through April 15 is also issued on April 29 and received on May 3. The third check covers April 16 through May 10, is issued on May 20 and received on May 26.

The first and second checks received on May 3 are treated as a resource because they cover a prior period. The third check received on May 26 is counted as unearned income in May because this payment was received in accordance with "a normal payment schedule".

(ACIN I-25-02, April 4, 2002)

#### 266-8A

Excluded income includes income that is specifically excluded for FS purposes by any other federal statute as specified in §63-507. (§63-502.2(l), effective April 3, 1995)

#### 266-8B

Any payments under Title I of the Domestic Volunteers Services Act, including, e.g., VISTA payments, are excluded from income consideration. (§63-507(a)(14))

In 1994, VISTA's name was changed to AmeriCorps VISTA. Payments under that program are excluded income. (All-County Information Notice No. I-70-02)

#### 266-8C ADDED 8/05

AmeriCorps\*Vista payments are not treated like other Americorps payments that are excluded as income. Volunteer payments received by new applicants, who were not receiving public assistance or food stamps at the time they joined Vista are counted as earned income (§63-502.134) However, §63-507(a)(17) exempts AmeriCorps\*State/National and Americorps\*National Civilian Community Corps payments from consideration as income for food

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stamp eligibility and benefit determination (All-County Information Notice I-34-05, June 24, 2005)

266-9

Reimbursement for past or future expenses, to the extent it does not exceed actual expenses and does not represent a gain or benefit to the FS household, is excluded from household income. The following shall not be considered a reimbursement excludable under this provision:

- (A) Portions of benefits provided under Title IV-A of the Social Security Act for work-related or child care expenses when adjustments have been made to the Public Assistance payments, except for Title IV-A employment, education, or training program expenses.
- (B) Clothing allowances specified in §63-502.2(g)(1)(F) if the monthly AFDC (now CalWORKs) grant is reduced by the amount of the allowance during the month in which the allowance is provided.

(§63-502.2(g)(2))

266-11

Monies withheld from an assistance payment, earned income, or other income source, or monies received from any income source which was voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, are excluded from consideration as income; provided that the overpayment was not excludable under §63-502.2 or (effective November 12, 1996) was not due to the household's failure to comply as specified in §63-502.17. (§63-502.121, as modified effective November 12, 1996)

266-11A ADDED 3/06

When a Social Security recipient receives only \$1252 in Social Security benefits instead of \$1472 because \$220 is owed to the Department of Veterans Affairs, the gross amount of \$1472 is considered income to the food stamp household for purposes of allotment computation because the Veteran's Affairs overpayment is collected from a different source, i.e., the Social Security Administration. (ACIN I-01-06, January 3, 2006).

266-12 ADDED 8/05

Per §63-502.122, income shall not include child support payments received by CalWORKs recipients directly from a non-household member, which must be transferred to the local child support agency's (LCSA) office or other county agency administering Title IV-D of the Social Security Act (Child Support requirements) to maintain CalWORKs eligibility. Therefore, the MFG child's receipt of child support from the LCSA is exempt as income in food stamps (All County Information Notice I-34-05, June 24, 2005)

266-13 REVISED 6/07

Effective November 1, 2006, Child Support payments that a household member pays to or for an individual living outside of the household are excluded as income.

- (1) The child support exclusion is the monthly amount of child support payments that a household member, with a legal obligation to pay child support payments to or for an individual living outside of the household, actually makes.

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- (2) The payments shall be verified as specified in Section 63-300.51(j).
- (3) Households that fail or refuse to cooperate by supplying the necessary verifications shall have their eligibility and benefit level determined without a child support exclusion.
- (4) Payments are excluded only to the extent that they represent the household's child support obligation which has been ordered by a court or administrative authority.
- (5) Child support payments made to a third party (e.g., a landlord or utility company) on behalf of the nonhousehold member in accordance with the support order shall be included in the child support exclusion. Payments made by a household with a legal obligation to obtain health insurance for a child shall also be included as part of the child support exclusion.
- (6) Amounts paid toward arrearages shall be excluded.

(§63-502.2(p) effective November 1, 2006)

266-13A ADDED 3/07

Q. If an obligator has zero income but another household member has income and he/she is paying the child support for the obligator, is the child support excluded from the Food Stamp (FS) budget?

A. Yes. MPP Section 63-502.2 indicates that obligated child support payments that a household member pays to or for an individual living outside of the household can be allowed as an income exclusion for the household.

All County Information Notice I-96-06, December 26, 2006, question and answer 3)

266-14 REVISED 10/07

Payments excluded or exempt from consideration as income in §44-111, with the exception of the \$225 + 50% disregard, and loans and grants, are excluded or exempt for food stamp purposes. Examples of excluded or exempt income include but are not limited to:

- (A) Federal and state work study programs.
- (B) The first \$50 per month of current child/spousal support paid to or on behalf of an assistance unit shall be disregarded when determining both eligibility and grant amount.
- (C) All payments to and earnings of a child which are derived from participation in Job Training Partnership Act (JTPA) programs. All payments to an adult which are derived from participation in JTPA programs.
- (D) All earned income of a child under 19 years old is exempt if he/she is a full-time student, or he/she has a school schedule that is equal to at least one-half of a fulltime curriculum, and he/she is not employed full time.
- (E) Income and incentive payments earned by a child 16 years of age or older who is participating in the Independent Living Program.

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- (F) Relocation Assistance Benefit.
- (G) Payments received under the California Victims of Crimes Program.
- (H) Allowance for training expenses paid to recipients participating in Department of Rehabilitation training programs.
- (I) Any award or scholarship provided to or on behalf of a dependent child based on the child's academic or extracurricular activity.
- (J) Contribution from persons or organizations that would not be available for expenditure unless used in accord with conditions imposed by the donor. For example, an uncle gives \$200 to the household to purchase new tires. \$200 is exempt when receipts for the intended purpose verify the expenditure.

(§63-502.2(q) and Handbook effective November 1, 2006)

Effective November 1, 2007, the child support disregard is no longer considered an income exclusion.

Effective November 1, 2007, the income of a child between the ages of 18 and 19 is no longer excluded as income, regardless of student status.

No overissuance is to be made prior to November 1, 2007 if the county excluded child support income or earned income of a child under 19 since November 1, 2006 (ACL 07-31, September 7, 2007; ACIN I-48-07, September 27, 2007)

#### 267-1 REVISED 4/04

The eligibility and monthly allotment of households containing individuals who have been excluded for being ineligible non-citizens or who have been disqualified for failure without good cause to apply for or to provide a Social Security number or who have failed to meet the ABAWD requirement shall be determined by using the income and resources of the excluded member or members.

The resources of the excluded members shall continue to count in their entirety to the remaining household members.

The pro-rata share of the income of the excluded members shall be counted as income to the remaining members. This pro-rata share is calculated by first subtracting the allowable exclusions from the excluded member's income and dividing the remaining income evenly among the household members. All but the excluded members' share is counted as income for the remaining household members. With respect to expenses, the earned income deduction shall apply to the prorated income earned by such excluded members. That portion of the household's allowable shelter and dependent care expenses which is either paid by or billed to the excluded members shall be divided evenly among the household's members including the excluded members. All but the excluded members' share is counted as a deductible shelter expense for the remaining household members. Proration of utility expenses shall be applied when actual amounts are claimed. The standard utility allowance shall also be prorated.

(§63-503.442)

## SHD Paraphrased Regulations - Food Stamps

### 260 Income

#### 267-2

If a household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among the persons actually paying or contributing to the expense and only the household's pro rata share deducted. (§63-503.452)

#### 267-3

The member whose citizenship is in question shall be ineligible to participate until proof of United States citizenship is obtained. The member whose citizenship is in question shall have his/her income and resources treated as available to the household in accordance with §63-503.442. (§63-300.532(b))

#### 267-4

Excluded household members who are fleeing felons and probation/parole violators, or drug felons, or sanctioned for Intentional Program Violations, shall have their income and resources counted in their entirety for purposes of determining household eligibility and coupon allotment.

In addition, such excluded household members render the household ineligible for categorical aid status.

(All-County Letter No. 98-19, March 17, 1998, referencing §§63-402.22, 63-503.44, and 63-801.7)

#### 267-5

It is the policy of the CDSS that when an excluded FOOD STAMPS household (HH) member fits two income and/or resource categories, the stricter treatment of income and/or resources is used. A chart included in the All-County Information Notice (ACIN) set forth the treatment of the excluded HH member's income and resources in these situations. (ACIN I-34-99, p.3, May 11, 1999)

#### 267-6 ADDED 12/04

MPP §63-402.322 provides that foster care children are either boarders and excluded (along with their income) or per §63-402.141(a), are part of the household, in which case their income is counted. (All-County Information Notice I-73-04, question and answer 5, October 13, 2004)

#### 268-1

Scholarships, educational grants, fellowships, deferred payment loans for education, veterans education benefits and similar payments which have not been excluded by federal statute as specified in §63-502.2(l)(4) (now §63-507) are to be considered unearned income to the extent they exceed the amount excluded under §63-502.2(e). (§63-502.145)

Educational loans on which payment is deferred, grants, scholarships, fellowships, college work study, veteran's education benefits, and the like, are excluded to the extent that they are either earmarked by the lender or intended to be used for tuition and mandatory fees, books, supplies, transportation, dependent care or miscellaneous personal expenses (other than living expenses, such as rent or mortgage, personal clothing or food eaten at home) at an institution of post-secondary education (including correspondence schools at that level), a school at any level for the physically or mentally handicapped, or a vocational education program. (§63-502.2(e))

## SHD Paraphrased Regulations - Food Stamps

### 260 Income

#### 268-1A

All educational income received under federal Title IV and from the Bureau of Indian Affairs (BIA), from Title XIII; the Tribal Development Student Assistance Act, and certain Carl D. Perkins payments (as specified in §63-502.2(e)), shall be excluded in its entirety, if it is awarded for school periods beginning on or after July 1, 1992. Effective September 1, 1993, this applies to all new applications. For continuing and restored benefit cases, implementation shall be made at the earliest of the household's request, recertification, the next review of the case, or when the county determines a review is needed. (All-County Letter No. 93-57, August 11, 1993; Public Law 102-325; §63-502.2(l)(4), revised to §63-507(a)(6) effective April 3, 1995)

#### 268-1B ADDED 10/07

Federal and state college work-study payments that are exempt from consideration as income under § 44-111 are exempt from consideration as income, regardless of their use. (§ 63-502.2 (q)(1)(a))

#### 268-2

The major categories of student assistance under Title IV of the Higher Education Act include Basic Educational Opportunity Grants (BEOG), i.e., Pell grants, Supplemental Educational Opportunity Grants (SEOG), Grants to States for Student Incentives, Special Programs for Students from Disadvantaged Backgrounds, Veterans Educational Outreach Program, Guaranteed Student Loan Program, and Work Study Programs. (All-County Letter No. 87-43, March 24, 1987)

#### 268-2A ADDED 8/04

Nonexcluded scholarship, deferred educational loans and educational grant income received less often than monthly for both change reporting and QR households shall be averaged, after exclusions, over the intended period. (§63-503.5)

#### 268-3

An "institution of post-secondary education" for the purposes of §63-502.2(e) means any public or private educational institution which meets the definition of institution of higher education as specified in §63-102i. (now (i)), or admits persons who are beyond the age of compulsory school attendance in the state in which the institution is located. The institution must be legally authorized or recognized by the state to provide an educational program beyond secondary education in the state or a program of training to prepare students for gainful employment. (§63-502.2(e)(3)(A))

#### 268-4

Allowable deductions from educational loans, grants, scholarships, etc. (as set forth in §63-502.2(e)) shall be documented by the student. Documentation may include student budgets, award letters, and receipts.

Until appropriate verification of the deduction is provided, any portion of education assistance received shall not be excluded.

In no case shall excludable expenses exceed the value of the educational assistance received.

(§63-502.2(e)(4))

## SHD Paraphrased Regulations - Food Stamps

### 260 Income

269-1

All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred per §63-502.2(e), are excluded from household income. (§63-502.2(f))

269-1A ADDED 3/07

**QUESTION:**

If a food stamp participant makes a verbal agreement to repay a loan, would the loan be excluded from income, or does the agreement have to be in writing?

**ANSWER:**

“All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.....” shall be excluded from income per MPP 63-502.2(f). The county may elect, on a county-wide basis, to require verification in writing if they so choose, per MPP 63-300(f). If the county wants written verification, the following would apply: “the county welfare department may verify liquid resources and whether monies received by the households are loans. When verifying whether income is exempt as a loan, a legally binding agreement is not required. A simple statement signed by both parties which indicates that the payment is a loan and must be repaid shall be sufficient for verification....”MPP 63-300.5(f)(2).

(All County Information Notice I-91-06, December 5, 2006)

269-2 REVISED 8/04

The nonexcluded portions of educational grants and loans received less often than monthly are to be averaged over the period which they are intended to cover.

This income shall not be budgeted prospectively in the beginning months for a household subject to retrospective budgeting. (§63-503.212(b)(2) prior to the implementation of QR/PB in the county)

The averaged income shall not be counted in more total months than the number of months in the averaged income period. (All-County Letter (ACL) No. 92-72, July 30, 1992)

269-3 ADDED 12/04

If loans are to be excluded (§63-300.5), the county needs a statement signed by both parties, which indicates that the payment is a loan and must be repaid. In addition, if it is still unclear whether regular payments received by the household are loan payments or income, the county must take additional measures to determine that payments received by the household are not regular income. (All-County Information Notice I-73-04, question and answer 11, October 13, 2004)