

## **Worker Guide**

### **Identifying and Budgeting Self-Employment Income**

The purpose of this worker guide is to help caseload-carrying staff identify self-employment, determine allowable costs and budget income correctly for self-sufficiency programs.

#### **1. Overview**

Self-employment is a category of earned income. Because most programs treat self-employment differently than wages, all earned income must be identified either as self-employment or as earnings.

#### **2. Identifying self-employment**

Per OAR [461-145-0910](#), except as provided below, a client is self-employed if he or she:

- Is considered an independent contractor by the business that employs them; or
- Meets four or more of the following criteria:
  - Is engaged in an enterprise for the purpose of producing income. For example, the person operates under their own business name, advertises or otherwise solicits for business;
  - Is responsible for obtaining or providing a service or product by retaining control over the work or services offered. For example, the person establishes their own hours, territory and methods of work and determines what services they will offer;
  - Has principal responsibility for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business. This could mean providing the equipment, supplies and materials needed to do a job or to produce the income; risk of loss. This is principal responsibility for their own business. If, for example, the client is a freelance tattoo artist, we would consider their own potential for gain or loss, not that of the tattoo parlors they work in;
  - Is not required to complete an IRS W-4 form for an employer or does not have federal income tax or FICA payments withheld from a paycheck;
  - Is not covered under an employer's liability insurance or workers' compensation. Many definitions of self-employment hold this as an absolute test.

For SNAP, incorporated businesses are not self-employment. For all other programs, determine if the applicant meets at least four of the self-employment criteria listed above.

The SNAP Webtools page

(<http://www.dhs.state.or.us/training/foodstamps/webtools.htm>) has links to Business Registries for California, Idaho, Oregon and Washington. The registries help identify the status of a business, its address, partners, etc. Recent activity showing current status also confirms that the client has business income records. Refer to [CA-B.15](#) for policy on corporations.

For all programs:

- Home care providers paid by SPD are not self-employed;
- Child care providers paid by DPU, adult foster care providers paid by SPD, realty agents and clients who sell plasma, redeem beverage containers, pick mushrooms for sale or similar enterprises are considered to be self-employed;
- If a financial group member actively manages property 20 hours or more per week, it is considered self-employment. If a financial group member does not actively manage property 20 hours or more per week, the income is counted as unearned after allowing costs per OAR [461-145-0920](#) (usually mortgage [interest only, if not for SNAP]), property taxes and homeowner's insurance).

In most cases, determining whether an individual earns money from an employer or through their own business is relatively simple. For example, sales associates working the cash registers at Target are undoubtedly employees of the corporation. Conversely, a person who works as a gardener, advertises his work, sets his own schedule and prices and is solely responsible for all business decisions is clearly self-employed.

However, many working individuals have a balance of responsibilities and freedoms that fall between these two extremes. The next section of this worker guide will walk through several case situations, using the tests tied to the rule above to answer the question: is this person self-employed?

### **3. Examples of client work situations**

- (1) A married couple has incorporated their tile installation business. They select the stock, set the process, hire their own employees and determine their own business methods. They take a salary from their business.
- (2) A glassblower makes beads, ornaments and other decorative items on demand for a local shop owner. The owner sets the prices and puts in orders according to current need. The glassblower purchases his own supplies. He only does business

with one shop. He does not have tax withholding through the business and is not covered by their employee worker comp/liability policy because they consider him an independent contractor.

- (3) A woman works for a tax accounting business every January through April. She travels among three of the business’s offices as scheduled, and has a desk and computer set up at each location for her use. She takes as many clients as she can each day, and is paid commission of 50 percent of what her clients are charged. The business has her fill out a W-4 and covers her under their liability policy. She tells us she is self-employed because she is not contractually obligated to work only for them.
- (4) An exotic dancer pays weekly rental for her “station” in the club. She is paid no salary, but keeps all her tips. The club provides a DJ and expects her to work a minimum of 20 hours per week. She is responsible for providing her own outfits.

	<b>Tile Company</b>	<b>Glass blower</b>	<b>Accountant</b>	<b>Dancer</b>
<i>Work = occupation</i>	yes		yes	yes
<i>Control over services</i>	yes		no	yes
<i>Resp. success/failure</i>	yes		no	yes
<i>No W-4 form</i>	yes		no	yes
<i>No Workers Comp</i>	yes		no	yes
<b><i>Self-employed?</i></b>	<b>Yes *</b>	<b>Yes</b>	<b>No</b>	<b>Yes</b>

**Reasons for these decisions:**

Tile company. The couple owns the company and has total control. \*They cannot be considered self-employed for SNAP because the company is incorporated.

Glassblower. The glassblower is considered an independent contractor, so there is no need to go through the five-criteria test.

Accountant. She is covered by the business liability policy, files a W-4 and is directed by the company. She is not self-employed.

Exotic dancer. The dancer is paid nothing by the club she works in; she merely pays a fee to be allowed to work there. The club is not her employer; they provide no income, no Workers Comp, no UC, no benefits. She is free to perform in multiple clubs. Although she has to work a minimum number of hours, she sets her own schedule.

**4. Occupations that may be/not be self-employment**

Below are some examples of occupations that are usually challenging. For each of these, an example of a self-employed client vs. an employee is given, again using the test of meeting at least four out of the five criteria.

### Ministers/religious leaders

- (1) Minister A is selected by the local Methodist church to fill their vacancy. The church provides housing, a living stipend and insurance for the minister and his family, but no salary. The church reports his compensation and covers him with the liability policy. The minister takes his other living expenses out of the love offerings (membership donations/pledges) made at the end of each service and for officiating at other ceremonies (e.g., weddings and funerals) as required.  
**Decision:** He is **not** self-employed. He meets none of the tests.
  
- (2) Minister B has started his own small church. It is not affiliated with or authorized by any existing religious organization. He has total control over how he presents his theology and over the content of his communication with parishioners. He is supported by donations, plus income from yard sales, bake sales, etc.  
**Decision:** He is self-employed. The church and the person are one. He meets all five tests for self-employment.

### Hairstylists

- (3) Hairstylist A rents out a station in a local salon. Her station rental pays for the chair, her share of electricity, use of the salon towels, sinks, etc. She purchases all her own hair products, sets her own hours and prices, decides which services she will offer. She is not on the salon's payroll.  
**Decision:** Because of the costs incurred, the lack of employee status through taxes and her freedom to make decisions, she is self-employed.
  
- (4) Hairstylist B works at a chain salon. She is hired for an hourly rate, plus tips. Her hours, services offered and the cost of those services are set by the company. She files a W-4 and is covered by liability.  
**Decision:** She is **not** self-employed.

### Taxicab drivers

- (5) Cab driver A uses a car that the cab company provides. The company pays the insurance on the vehicle and he pays for gas and maintenance. His gross income is a percentage of his fares and is based on a sliding scale. He also receives tips, but they are separate from the fare percentage. He has chosen to work nights; he determines which fares he will accept and the geographic area he will serve. He uses a Schedule C for his taxes.  
**Decision:** He is self-employed.
  
- (6) Cab driver B works for a medi-cab company. She rents her cab and pays gas and maintenance. Her pay is a percentage of the fares, plus tips. She can only pick up fares given to her by dispatch. She does not control her territory or hours.  
**Decision:** She is **not** self-employed.

### Newspaper carriers

(7) Newspaper carrier A picks up copies of the Oregonian each morning at 3:00. He puts each copy into a plastic bag before he delivers them to the subscribers. When the subscriber's monthly fee is due, the carrier encloses the bill with the newspaper. The subscribers will mail him the payments which average about \$2,400 a month. He sends them to the Oregonian. He pays for gas, insurance, and maintenance of his vehicle, cost of the papers, plastic bags and rubber bands. The Oregonian considers him an independent contractor but will reimburse him for gas. He uses a Schedule C for his taxes.

**Decision:** He is self-employed. His gross income is \$2,400.

(8) Newspaper carrier B works for the Healthy Food Weekly (HFW). He drives a car that the company provides. The company pays the insurance on the vehicle and reimburses him for gas. He delivers the weekly paper to a paper stand every Monday so that they can be available to readers each Tuesday morning. He is paid on a weekly basis on the number of deliveries he makes each week. HFW pays him \$.75 for each delivery to the paper stand and his average weekly pay is \$100. Federal and state income taxes are being deducted from his pay check. HFW also offers a health insurance policy for him at a reduced rate since he is not a full-time employee.

**Decision:** He is **not** self-employed. His income will be counted as EML.

## 5. **Examples of self-employment situations**

Real estate agents;  
Selling Avon, Mary Kay, Party Light, Pampered Chef, etc.;  
Selling blood plasma;  
Collecting and redeeming beverage containers;  
Picking mushrooms, collecting firewood, picking brush, etc. for sale;  
Running a franchise (e.g., McDonald's).

## 6. **Examples of non-self-employed jobs**

Beautician hired by salon;  
Jobs in which the person receives both wages/salary and commission;  
Incorporated businesses (SNAP only).

## 7. **Verifying self-employment status and income**

Independent contractor status should be verified only if questionable. Acceptable verification includes:

- A signed contract specifying this;

- A 1099 (Miscellaneous Income) form issued by the business;
- A narrated conversation with the employer.

Income, including money from self-employment, must be verified for all programs.

### EXCEPTION



**For medical, if the income cannot be verified by the client or the worker, accept the client's statement of income. Expenses do not need to be verified unless questionable.**

Acceptable proof of self-employment income includes:

- Income tax return;
- Check stubs or copies of contracts specifying payment schedule;
- Self-employment bookkeeping records;
- Copies of personal checking and savings account bank statements;
- Copies of business account bank statements;
- Proof of salary, stipend, allowance, donations or gifts received;
- Copy of any contract or work agreement;
- Statement from organization or business explaining access rights to an organization's or business' bank accounts.

### EXCEPTION



**For JOBS Microenterprise, the client must provide an income statement quarterly to the department. It must be prepared by a certified public accountant, bookkeeping firm or other entity approved by the department according to generally accepted accounting principles and OAR [461-145-0920](#).**

For SNAP, self-employed clients with no records can be certified once without income verification. At the certification interview, explain to the client – in writing – that they must begin keeping income records and provide the verification at interim change or

recertification, whichever is earlier. Use a *Notice of Proof Needed for Self-Employment Income* ([DHS 858](#) or NOTM FS00858). If they reapply without income verification, they will be closed or denied. Narrate the conversation and notice given.

Clients with marginal employment – such as homeless people – sometimes report very limited earnings from collecting and redeeming beverage containers, selling plasma, returning airport luggage carts for the deposit money, etc. In many cases, requiring them to provide written verification of self-employment earnings would be an unreasonable barrier to eligibility. To get an acceptable estimate of their income, ask the client about their typical monthly earnings. Narrate their response. If the person is not sure about how much money they earn, ask:

- What the money is spent on. For example, if the client says they make enough to buy cigarettes for the month, how much do they smoke? If he picks up cans to pay his OHP premium, does he have any money left over after paying?
- How many days a week they typically pick up cans (or how many times a month they sell their plasma). If the person says he picks up three or four bags of cans a week, about how many cans fit in one bag?
- How much walking around money they get? Most of the time, how much money do you have in your pocket?

#### NOTE



*For SNAP, if the client is claiming marginal income, but substantial living expenses, income verification must be provided. For medical, treat as questionable income and request verification. If no verification is submitted, staff with a medical policy analyst.*

## 8. Identifying countable business income

Most clients accurately report their stake in a business. Others will report only the portion they draw each month in earnings. Some red flags that may lead you to ask about other business income include:

- Paychecks are always in exact hundreds (e.g., \$800, \$1100);
- Paychecks are personal checks or handwritten business checks;
- Wages are too low to cover the client's claimed expenses;

- When you check the employer's business on the computer:
  - The owner has the same last name as the client;
  - The client is listed as an officer or agent of the company.
- Service employees (nail technicians, hairstylists, etc.) report no tips.

Personal and business bank statements often reveal diverted income. Be sure to check the business name on the account. If you see any *DBA* (doing business as), check the ownership and agents listed for other businesses. Also review the types of payments going into and coming out of the business account. A small business owner may be depositing all earnings into the business, then paying personal bills such as credit cards directly from the business account.

#### NOTE



*For medical, do not pend for bank account statements unless the income is questionable.*

Ask questions to determine how much income to count. Ask what costs the business pays. If tax forms show costs for rent, mortgage, etc., get the address of the property and compare it to the home address. If you determine that the corporation is paying the home mortgage, etc., add those amounts to the client's income and allow the appropriate Shel & Util deductions.

If a cost paid by the company can reasonably be explained as a business vs a personal cost, simply narrate; do not pursue further verification on the cost (e.g., a vehicle registered on WVIR under the business name). For SNAP, count personal bills paid by the business (such as life insurance for the owner/employee) as earned income.

**If the client refuses to answer questions and is reporting income below the level needed to meet their reported expenses, deny the application for failure to supply requested information/verification.**



**NOTE**



*ALWAYS: Review the case narratives – at least back to the last eligibility determination – to help get a clear picture of the situation. This is critical when the amount and source of income is in question. In the rare case that you suspect fraud, follow local procedures for referring the case to Investigations.*

**9. Reading tax forms**

If a business has been in existence at least one full calendar year, tax forms can be a great help with annualizing for SNAP. If not representative, tax forms can still be used as a base to anticipate income for SNAP.

Always request the entire federal tax filing and start with page 1 of the 1040 (*U.S. Individual Income Tax Return*). Not every form will be needed, but it is much better to make just one, comprehensive pending request. Use the following table as your guide to which forms, sections and lines to reference when calculating business income.

**NOTE**



*Local areas should consider whether they want to specialize work with tax forms. Tax forms, including instructions that help identify entries, are available online at [www.irs.gov](http://www.irs.gov). Policy analysts in Central Office are also available to help staff cases.*

<b>Tax Form</b>	<b>Line/ Section</b>	<b>Information Provided</b>
1040	Line 7	Income on this line is earned income.
	Line 12	Self-employment business income; tax filing must include Schedule C.
	Line 17	The client owns a corporation, is in a partnership or owns and rents real estate. You need the 1120-S ( <i>US Income Tax Return for S Corporations</i> ) and Schedule K-1; both partnerships and S corps file this form. The tax return requires a Schedule E.
	Line 27	Self-employment tax. If there is any figure here, look for Schedule SE.
	Lines 28, 29	The person is self-employed per IRS. They may meet the SNAP definition of self-employment.
Sched C	Part I, line 3	Use this figure for gross self-employment income.

Tax Form	Line/Section	Information Provided
	Part II	Information on expenses. For medical, not all expenses allowed under IRS rules are allowed for medical. Refer to OAR <a href="#">461-145-0920</a> and <a href="#">CA-c.2</a> for a list of expenses allowed for medical.
Sched C-EZ	Part I, line A	Type of business.
	Part II, line 1d	Gross receipts; use for gross self-employment income.
Sched E	Part I, Line 1	Type and address of rental properties.
	Line 4	Rental income.
	Part I, exps.	This will be SEC income if self-employed; if not, for SNAP, deduct only the ongoing costs of the property ownership (e.g., mortgage, taxes) for PTY.
	Part II, line 28	Indicates P (partnership, SLF) or S (corporation, EML for SNAP) status.
Sched F	Line 9	Gross farm income. Note: <i>Special rules apply to farm income; see <a href="#">SNAP-G.17</a>.</i>
	Line 6	Crop insurance payments; exclude from the gross.
	Line 8	Gasoline tax credit or refund; exclude from the gross.
1065	Line 1c	Gross income for a partnership.
	Sched K-1	Section J of the K-1 shows the client's partnership share. With the figure from line 1c of the 1065, figure the client's gross self-employment income.
W-2	Detail listing	T in left-hand column indicates <i>taxpayer</i> ; S means wages to the <i>spouse</i> . If a self-employment business is paying wages to the spouse, do not count as earned income. The income and the costs are included in the SEC.
1120S	Line 1e	Gross corporate income; cannot use this figure for SNAP. Need information on wages and expenses paid by the business to be counted as EML. This tells you how much the business made in total.
	Sched K-1	Part II, line F states the client's share of stock ownership in the company.
	Sched K-1	Part III, line 1 is the client's share of the profits. Include in the earned income.
Fed'l Supp		Federal Supporting Statements detail business costs and can identify business payments that directly benefit the client (e.g., rent).

## 10. Verifying self-employment costs

The *Self-Employment Income* ([DHS 859B](#)) form may be used to help collect information about costs related to producing self-employment income. For SNAP, the form **cannot** be accepted as verification of either income or costs for self-employed clients. For

medical, the form may be used as verification of income if the client does not have any other form of verification.

Verify self-employment costs as follows:

- ERDC: Verify costs only if questionable;
- SNAP: Ask the client what costs they have related to their self-employment. Narrate the client's statement about allowable costs to support use of the SEC50 percent income exclusion. Do not verify unless questionable;
- TANF: Verify costs only for JOBS Microenterprise. Costs must be verified along with income as specified above, by providing an income statement quarterly to the department.

## **11. Treatment of self-employment income**

For all programs:

- Self-employment is defined the same, except that corporations cannot be considered self-employment for SNAP. Once you have determined that a person is self-employed, treat them that way for all benefits;
- Gross self-employment income (including microenterprise) is the gross sales or receipts (before costs).

Self-employment income is counted as earned income: the differences are in how allowable costs are treated.

ERDC. Self-employment income is counted as earned income.

SNAP. Self-employed clients who have no costs have their gross self-employment income coded as SEN. That income is given the same 20 percent deduction as all other earned income. Most self-employed clients do have allowable costs. Their income is coded as SEC and is given a 50 percent deduction before the 20 percent earned income deduction is applied.

TANF. Self-employment is treated the same as other earned income and given a 50 percent disregard by CMS. The only exception is for JOBS Microenterprises. The earned income deduction for income earned in the Microenterprise is 50 percent of the client's countable income calculated per OARs [461-145-0920](#) and [461-145-0930](#).

## 12. Case scenario

Amy Jefferson applies for cash, medical, day care and food benefits for herself and Billy, her three-year-old son. Amy is a hairstylist. She pays \$460 per month for a space at The Hair Biz. Her rental pays for her share of utilities, exclusive use of her chair, access to a sink, a supply of towels, her share of the receptionist's salary and use of the laundry facilities. Amy sets her own hours, usually putting in 30-35 hours per week. She determines which services to offer, sets her own prices and is solely responsible for collecting the income from her work. Amy is determined to be self-employed.

She provides a copy of the bookkeeping log that she is keeping for tax purposes. Amy's budget month income of \$1,800 is the same as her ongoing average of \$1,800 per month. Her allowable costs for space rental and supplies total \$670.

ERDC. Amy has allowable costs of at least \$1, and chooses to use her deductions for a lower copay. Amy's gross self-employment income of \$1,800-50 percent = \$900; the worker codes her SLF income as the amount intended of \$900. Amy's child care hours are determined by dividing her SLF income after costs of \$900 by the current minimum wage.

### NOTE



*Compare the gross SLF amount to the ERDC income chart. The use of costs deductions are up to the client. If more hours are needed, they may prefer to not use cost deductions. If a lower copay is needed, they may want to use the deductions.*

SNAP. Amy has allowable costs, so she is given the 50 percent self-employment income deduction. Because Amy was not self-employed last year, the worker anticipates her income at \$1,800 per month, codes it as SEC and the computer deducts 50 percent.

TANF. Amy's budget month income of \$1,750 is over the countable income limit. She is over income for TANF. The 50 percent earned income deduction can be applied only after the applicant passes the countable income test.

**NOTE**



*Amy's tips are considered and coded as part of her self-employment income.*

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