

D. Nonfinancial Eligibility Requirements

1. Age and School Attendance

To be eligible for MAA, MAF, and EXT medical assistance, a child must be under 18 years of age or age 18 and regularly attending school full time. The caretaker(s) may be of any age.

To be eligible for SAC medical assistance, the person must be under age 21. There are no school attendance requirements for SAC.

When determining eligibility for OHP medical assistance, use the following age requirements for each OHP category:

- OHP-OPU: A person age 19 or older who qualifies under the 100 percent income limit.
- OHP-OPC: A person under age 19 who qualifies under the 100 percent income limit.
- OHP-OP6: A person under the age of six who qualifies under the 133 percent income limit.
- OHP-OPP: A pregnant female of any age, or their newborn children under the age of one who qualifies under the 185 percent income limit.
- OHP-CHP: A person under the age of 19 who qualifies under the 185 percent income limit.

For CAWEM, the person must meet the age and school attendance requirements of the program they would qualify for if they met the program's alien/citizen requirements.

To be eligible for the BCCM program, a woman must be under age 65. (The BCC Screening program, coordinated by DHS Health Services, has its own eligibility criteria for screening services which includes a requirement that the woman be at least 40 years old.)

OHP child in school 461-001-0000; Age requirements: 461-120-0510
Regular school attendance: 461-120-0530
OHP-OPU, Effective Dates for the Program: 461-135-1102

2. Oregon Residence

To be eligible for medical assistance, people must be residents of Oregon. They must be currently living in Oregon and intend to remain in the state. There is no requirement that they must have been in Oregon or intend to remain in the state for a minimum amount of time. Residents can leave the state for temporary purposes (e.g., vacation, school

attendance, medical treatment, employment) and keep their residency as long as they intend to return to Oregon.

A new resident receiving medical assistance from another state may receive duplicate medical assistance from Oregon, if the person would be eligible in Oregon and would not otherwise receive medical care.

Residency requirements: 461-120-0010
Statement of intent to reside: 461-120-0050
Duplicate benefits: 461-165-0030

3. Eligibility for People in Correctional Facilities

An inmate of a public institution is not eligible for benefits. An inmate is a person living in a public institution who is:

- Confined involuntarily in a local, county, state, or federal prison, jail, detention facility, or other penal facility, including a person being held involuntarily in a detention center awaiting trial and a person serving a sentence for a criminal offense;
- Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;
- Residing involuntarily in a facility that is under governmental control; or
- Receiving care as an outpatient while residing in a public institution.

A public institution is an institution that is the responsibility of a governmental agency or over which a governmental agency exercises administrative control. Administrative control includes but is not limited to ownership and control of the physical facilities and grounds used to house inmates. A governmental agency exercises administrative control when it is responsible for the ongoing daily activities of a facility; for example, when facility staff members are government employees, or when a governmental agency, board, or officer has final authority to hire or fire employees of the institution. As used in this section, public institution relates to individuals residing in a correctional facility and not a medical facility.

Close benefits for inmates with a basic decision notice effective the last day of the month in which the notice is sent. If the inmate is released prior to the effective date for closure, and DHS is notified of the release prior to the effective date, restore medical benefits.

An individual is no longer an inmate when:

- The person is released on parole or probation;

- The person is on home- or work-release, unless the person is required to report to a public institution for an overnight stay; or
- The person is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and other living arrangements are being made for the individual.

Eligibility for Inmates: 461-135-0950
Notice Situation, Nonstandard Living Situations: 461-175-0230

4. Incarcerated Pregnant Women Receiving Medical Assistance

An inmate as described in section 3 above is not eligible for benefits. However, a pregnant woman determined eligible for medical assistance is assumed eligible for medical assistance through the date her pregnancy ends.

If a pregnant woman receiving medical assistance becomes an inmate of a public institution, her medical benefits are suspended. However, her medical eligibility continues as an assumed eligible pregnant woman. Upon notification the pregnant woman has been released, her medical benefits are restored without an application if she continues to reside in Oregon.

To suspend medical benefits for a pregnant woman who becomes an inmate of a public institution:

- Create a separate medical case for the pregnant woman if she is not already on her own case.
- Use the “SUSM” incoming code to suspend medical benefits. The case will remain in suspense status for six months before the case is auto-closed showing a “SUSPCL” incoming code.
- Use the “IN” reason code and “IN” notice code. The notice code will initiate the “IN” CMS notice (Pregnant female benefits suspended – Incarceration).
- Add the “INM” case descriptor to the case.

To restore the pregnant woman’s medical benefits upon notification she is no longer an inmate of a public institution:

- Start medical eligibility effective the first day she is no longer an inmate of a public institution.
- Remove the “INM” case descriptor from the case.

- If her eligibility period has already passed, complete a *Request for Medical Eligibility* (AFS 148) form and submit it to Client Maintenance Unit.

When An Application Must Be Filed: 461-115-0050

Assumed Eligibility: 461-135-0010

Eligibility for Inmates: 461-135-0950

5. Citizen/Alien Status

Citizenship Documentation Requirements

The Deficit Reduction Act (DRA) of 2005 requires documentation of U.S. citizenship and identity in the case record for certain medical clients. Some clients are not affected by the documentation requirements in the Deficit Reduction Act:

- Noncitizens.
- CHIP children.
- Pregnant and post partum women who are assumed eligible for Medicaid (new applicants who are pregnant are not assumed eligible).

Some Medicaid clients are considered to have met the U.S. citizenship documentation requirements already and do not need to provide evidence of citizenship:

- SSI recipients.
- Medicare recipients.
- SSDI recipients.
- Assumed eligible newborns born in Oregon. Once determined to be an assumed eligible newborn born July 1, 2006 or later, the client is exempt from providing citizenship documentation. A new system code to track Oregon born AENs has been requested.

DRA Implementation Effective Dates

Implementation of the documentation requirements is based on the Date of Request:

- New Medicaid applicants who declare they are citizens and have a Date of Request on or after September 1, 2006, must provide documentation of citizenship and identity as a condition of eligibility.
- Current Medicaid recipients who declare they are citizens must provide documentation of citizenship and identity at their first Medicaid redetermination on or after September 1, 2006, as a condition of continuing eligibility.

Application Processing

Applicants and recipients not excluded from the DRA documentation requirements must meet the citizenship documentation requirements, including EXT, MAA, MAF, OHP, OSIPM, and non-title IV-E SAC program clients.

Medicaid applicants must declare their citizenship status. When signing the (re)application the signers swear, under penalty of perjury, that the citizenship status they have declared for themselves and their children is accurate.

The new provision requires applicants and recipients who declare they are citizens to provide documentation of their citizenship and identity.

- For applicants and recipients, pend for citizenship documentation for 45 days from the date of request. If an applicant or recipient can get the documentation, but needs extra time, it is possible to authorize an extension of the 45-day pend period, but be very careful to provide a new pend notice with a new date and to track progress. Determine what new pend date to use by jointly determining with the client the length of time you both believe will be necessary.
- For recipients, including OHP clients, remember the Due Process requirements. You may need to change the BED need/resource date to prevent the CM system from automatically sending a close notice and closing the case.

The new provision also requires the case record contain documentation to support the declaration of citizenship. DHS staff must view original documents or certified copies from the issuing agency.

You may be provided documentation by mail or in person. If mailed, place a copy in the case record and return original documents via regular mail.

You may also be provided documentation from contracted outreach facilities. Outreach facilities can attest they have viewed the original citizenship and identity documents. They use the *U.S. Citizenship and Identity Proof Documentation* (OHP 7203) form to verify which documents they have viewed. We can accept the OHP 7203 when it is date-stamped by the outreach center and bears the outreach facility identification code.

- DHS has made a commitment that there will be “no wrong door” for applicants and recipients who are providing documents. If an individual brings original documents to any DHS office or branch, even when the client’s case is in another branch, the following steps must be taken:
 - Accept whatever original documents or certified copies from issuing agencies the client brings in.
 - Copy and return the original documents to the client.

- Date stamp the copies, make a note on them that we have viewed the original documents (some branches have a date stamp that already says this) and sign or initial.
- Some branches review the documents provided, and if the documents meet the requirements of citizenship and identity for this provision, they update the CI Person/Alias Update screen before they send the copies to the appropriate branch. This is a decision that can be made on the branch level.
- Narrate in TRACS that the client brought in documentation, state what the documentation was and what branch it is being sent to, if it is going to another branch.
- If an individual provides fraudulent citizenship related documentation, we are required to report it to the agency that issued the document. For example, if a fraudulent birth certificate is submitted, notify the issuing state’s vital records agency.

Once documented, we should not need to verify a client’s U.S. citizenship status again. The expectation is that the citizenship field on Person/Alias Update will be a key tool in tracking citizenship documentation. If you look on Person/Alias Update and the citizenship field indicates acceptable verification has been provided, you do not need to reverify citizenship.

Copies of the accepted documents should be included in the case record. We can photocopy passports and other documents marked “Do not copy” for our files.

The case record includes:

- Imaged documents.
- Case file.
- Updated citizenship field on the client’s Person/Alias Update screen Citizenship Field.

The Person/Alias Update citizenship field must be updated to reflect citizenship status. All reports, audits, and other reviews will use the citizenship field.

Acceptable Documentation

States are required to use the most reliable form of documentation available. A hierarchical list has been provided.

☞ SEE WORKER GUIDE MA-3: CITIZENSHIP AND IDENTITY DOCUMENTATION HIERARCHICAL LIST FOR THE COMPLETE HIERARCHICAL CITIZENSHIP DOCUMENTATION LIST.

- “Primary documents” from the hierarchical list are considered the most reliable and may be used to document both citizenship and identity.
 - However, we can accept secondary documentation if primary documentation is available within 45 days, but secondary is already available. We can also accept secondary level documentation if a client has a passport but they do not have immediate access to it or their birth information is on BBCN.
 - If it is determined that the client cannot obtain a higher level citizenship documentation within 45 days from the DOR, accept lower level documentation. Do not pend for higher level documentation.
 - If the applicant or recipient needs to order birth certificates from out of state, provide the list or the link to state vital records contacts at:
www.cdc.gov/nchs/howto/w2w/w2welcom.htm
- ☞ SEE FSM MULTIPLE PROGRAM WORKER GUIDE MP-3, VITAL STATISTICS, FOR A LIST OF OUT-OF-STATE VITAL RECORDS CONTACTS.

Hardship Criteria

In certain limited circumstances, we may be able to help assist with payments for citizenship documentation until June 30, 2009.

Note: DHS will re-evaluate this policy on an annual basis.

Pay via the *Authorization of Cash Payment* (DHS 437) using pay reason 30 or SPOTS object code 6913 (**do not** use code 6912). We can pay when the individual is unable to pay for the required documentation due to:

- Gross income is at or below 10 percent of the federal poverty level (FPL); or
- Liquid resources are less than \$100; or
- When income, less shelter and utilities, is less than 10 percent FPL; or
- When the client is homeless; or
- When there is domestic violence.

In circumstances where the individual meets one of these hardships, but has a resource to pay the cost of documentation, we will allow them to pay for the documents. We will not purchase driver’s licenses in place of state I.D. We will not pay for passports or naturalization papers except in very rare circumstances. Consult a Medical Program Analyst before paying for passports or naturalization papers.

Payments cannot be made to reimburse the applicant or recipient.

To order a birth certificate for clients meeting the hardship criteria:

- Go to the CDC “Where to Write for Vital Records” website at: <http://www.cdc.gov/nchs/howto/w2w/w2welcom.htm>. The website has links to each state’s vital records for birth certificate requests.
- Follow the state’s instructions for ordering a birth certificate and complete the required letter or form. The requirements vary by state; for example, some states require the client or the client’s parent sign a statement authorizing the request for a birth certificate.
- Mail the required letter or form requesting the birth certificate. Enclose a pay reason 30 revolving-fund check in the requirement amount.

Oregon’s Vital Records Screens

Access to Vital Records screens is limited to viewing. **NEVER PRINT VITAL RECORDS SCREENS!** Narration and updating citizenship documentation fields on the Person/Alias Update screen fully meets the documentation requirements.

We have been given access to screens that provide birth, marriage, and divorce data.

The birth screens are:

BBCN Browse by child’s name

- The mother’s birthplace listed on BBCN is self-disclosed and does not meet documentation requirements.

BBMN Browse by mother’s name

You may need to confirm name changes to verify identity. Vital records has also provided access to marriage and divorce screens:

For marriage:

BMBW Browse by bride

BMBH Browse by groom

BMBD Browse by date of marriage

For divorce:

BABW Browse by wife

BABH Browse by husband

BABD Browse by date

We have also been given access rights to death data:

BDBN Browse by name of deceased

BDBD Browse by date of death and county

- ☞ SEE THE COMPUTER GUIDE CHAPTER XIII(C) FOR MORE INFORMATION ABOUT THE VITAL RECORDS SCREENS.

The Citizenship Field on the Person/Alias Update Screen

- To access the Citizenship field on Person/Alias Update, go to the client's CI-FIND screen. Press F16.

There are three fields that are used to support citizenship. The first field is the "Cit" field. The Cit field indicates if client has met Medicaid required documentation of citizenship, including identification requirement:

An "A" in the Cit field means that the client has provided "Acceptable documentation" and has met the DRA requirements. The client has declared U.S. citizenship and provided Medicaid approved documentation of citizenship and identification.

A "D" in the Cit field means the client has declared U.S. citizenship but has not yet provided documentation.

An "X" in the Cit field means the client has not requested Medicaid or that no information is available.

An "N" in the Cit field means noncitizen who meets Medicaid/SCHIP alien status requirements, i.e., is eligible for full medical benefits (is not limited to CAWEM). A documentation source code is not allowed for persons with an "N" in the Cit field.

Note: Do not code a Refugee with an "N."

A "C" in the Cit field means noncitizen who has not yet met the Medicaid/SCHIP alien status requirements (if otherwise meets medical program requirements may receive CAWEM benefit package). A document source code is not allowed for persons with a "C" in the Cit field.

The "V/R" field indicates whether the documentation has been reported but not verified or verified per the DRA requirements. A "V" means both citizenship and identity meet DRA requirements.

The next field identifies what source was used to report or verify citizenship and identity. For example, "PS" is the code for passport; "BP" is the code for public birth record and includes Vital Records screen verification such as BBCN.

To update the citizenship fields on Person/Alias Update:

- Tab to the bullet to the left of the “Cit” field. Enter an X on the bullet. Press F13. The Citizenship Update screen will display.
- Enter the appropriate codes in the Cit, V/R, and Src fields. Press F9 to save.
- F3 will return you to Person/Alias Update.

Alien Requirements Overview

To determine if an applicant meets the alien status requirements (except CAWEM), see section C.1 of the Noncitizens Chapter (NC C.1).

CAWEM applicants are not required to declare or provide proof of their citizenship or immigration status. Nonapplicants do not have to meet the citizenship or alien status requirement. Nonapplicants are not required to declare or provide proof of their citizenship or immigration status. The disclosure of information regarding citizenship and alien status for nonapplicants is voluntary.

***Note:** Nonapplicants are persons who choose not to apply for benefits or who are not eligible to receive benefits, even though they may be required to provide verification of income and resources.*

To be eligible for the CAWEM program, a client must be ineligible for MAA, MAF, OHP, or OSIPM solely because they do not meet citizenship or alien status requirements. See section C.3. of the Noncitizens Chapter (NC C.3).

☞ SEE THE NONCITIZEN CHART IN THE MULTIPLE PROGRAMS WORKER GUIDE CHAPTER FOR MORE INFORMATION.

Citizen/Alien Status Requirements: 461-120-0110
 Alien Status; Not REF or REFM: 461-120-0125
 Declaration of Citizenship or Alien Status: 461-120-0130
 Application Processing Timeframes; Not Assessment, FS or TA-DVS: 461-115-0190
 Required Verification; OHP: 461-115-0705
 Assumed Eligibility for Medical Programs: 461-135-0010

6. Social Security Number

To be eligible for medical benefits, all applicants (except assumed eligible newborns and CAWEM applicants) must provide a Social Security number (SSN) or verify they have applied for one as a condition of eligibility.

Applicants who do not have to meet the SSN requirement include:

- A newborn is assumed eligible for medical benefits for up to one year.

- CAWEM applicants.

Nonapplicants do not have to meet the SSN requirement. It is only on a voluntary basis that a nonapplicant provide their SSN. Nonapplicants are persons who choose not to apply for benefits or who are not eligible to receive benefits, even though they may be required to provide verification of income and resources.

If an applicant has not been issued a SSN, assist the applicant in applying for a SSN. If an applicant does not recall their SSN, assist the client in verifying the number.

☞ SEE MULTIPLE PROGRAM WORKER GUIDE #2, VERIFYING CLIENT INFORMATION.

Do not deny or delay medical benefits to an otherwise eligible applicant pending the issuance or verification of an individual's SSN. However, if an applicant required to meet the SSN requirement refuses to apply for or provide an SSN, the applicant is not eligible for benefits.

Requirement to Provide or Apply for SSN: 461-120-0210

7. Pursuing Assets

To be eligible for medical assistance, people must actively pursue assets for which they have a legal right or claim, i.e., unemployment compensation, workers compensation, Social Security Benefits, or any third party which may be liable for payments. However, people applying for one of the department's programs are not required to apply for other programs it administers. People eligible for MAA, MAF, SAC, or EXT are not required to pursue SSI benefits.

To pursue assets, they must apply for and satisfy all requirements to receive benefits from other programs. They must also pursue legal remedies to obtain assets from any other source if they can secure legal counsel on a contingency fee basis. People do not have to pursue loans.

People without good cause who do not pursue assets they may be entitled to are not eligible for medical assistance. This ineligibility ends when they provide evidence that they are willing to cooperate. Only the individual who can pursue the asset is assessed the penalty and loses medical eligibility. Other individuals in the benefit group, such as other adults or children, continue to receive medical assistance.

For example: Unless there is good cause not to pursue, clients who have been in a car accident must help pursue third-party coverage. Clients may be pended for *Vehicle-Related Personal Injury* (DHS 451) or *Non-Vehicle-Related Personal Injury* (DHS 451NV) forms.

Pursuing UC

One key asset is unemployment compensation (UC). Most clients applying for or receiving EXT, MAA, MAF, OPC, CHP, OPP and OPU and SAC are required to pursue UC if it could be an available asset.

- ☞ SEE TANF E.7 FOR INFORMATION ABOUT MAA/MAF PWE APPLICANTS AND THE REQUIREMENT TO APPLY FOR UC TO MEET DEPRIVATION REQUIREMENTS.

As with other assets, pursuing UC means applying for UC and, if eligible, meeting the Employment Department work search (or other) requirements. If an individual does not have good cause not to pursue UC, that person is not eligible for SSP medical program benefits.

Pregnant women and pursuit of UC

- Unless the pregnant woman has good cause not to apply or is receiving TANF and determined to be JOBS exempt, require pregnant women at initial MAA application (not yet receiving Medicaid benefits) to pursue UC.
- Unless there is good cause, MAF and OHP pregnant women are also required to apply for UC.
- Once the pregnant woman's Medicaid benefits have begun, she has protected eligibility. Do not require ongoing pregnant Medicaid recipients to pursue UC as part of their eligibility for Medicaid. Once a pregnant woman is receiving Medicaid, she cannot be penalized for refusing to pursue UC.

Applicants

- MAA, MAF and OHP applicants may notify you they will not apply for UC. If an MAA, MAF or OHP applicant lets you know they choose not to apply for UC, determine if the client has good cause for not applying. If they do not have good cause, deny just the applicant who refuses to apply. Do not deny anyone else in the filing group such as the children or second parent.
- If you have pended the MAA or MAF applicant to pursue UC and the applicant does not respond to the pend notice (does not contact you about the UC requirement during the pend period), the entire filing group is denied assistance. You can let the CM system deny everyone on the application for failure to complete the application process (“DD” or “AP” denials). ***The denial is not for failure to pursue UC, but because the client did not complete the application process.***

Note: For OHP only, if the filing group is otherwise eligible and the only item to pend is UC, certify everyone in the household who is not required to pursue UC. If the

pending applicant does not respond to the pend notice and would have been eligible for OHP, send a denial notice for that individual.

Recipients

When pending a client at redetermination, add the BED coding and send the pend notice to require the client to pursue UC.

- If there is more than just UC pending and the client does not respond to the redetermination pend notice, let the CM system send the 77B BED close notice and end benefits for everyone in the household for failure to complete the redetermination process. The CM system will not end benefits for clients who have protected eligibility, such as AENs or women still in their protected eligibility period. ***The closure is not for failure to pursue UC, but because the client did not complete the redetermination process.***

Note: *For OHP only, if the only item to pend is UC, recertify everyone else in the household. Pend for UC and add the BED coding. Do not update the STD need/resource end date.*

If the client pending for pursuit of UC does not respond to the pend notice, the CM system will send the 77B BED close notice and end benefits. CM will end benefits only for the person(s) whose medical was not recertified. It will not end medical for pregnant women or AENs.

For EXT, MAA, MAF and OHP at redetermination/recertification, if a recipient notifies you that they choose not to apply for UC, determine if the client has good cause for not pursuing. If no good cause:

- Send a 10-day close notice and the DHS 462A and end the recipient's medical benefits. Do not end the benefits for anyone else on the case because the recipient refused to apply for UC. If the recipient is pregnant, do not require her to pursue UC as part of her medical redetermination.

For ongoing medically eligible clients not at redetermination:

- If an ongoing EXT, MAA or MAF client reports a change that indicates they might be eligible for UC, pend the client for UC, unless pregnant. If they do not respond, send a 10-day notice and DHS 462A and end their benefits.

Note: *For OHP only, do not pend the client for UC in the middle of the certification. Wait until the next recertification and determine if the client needs to be pending for UC.*

Good Cause

For EXT, MAA, MAF and OHP, if the client has been pended for pursuit of UC and contacts the department within the 45-day pend period with concerns about applying for UC, consider if the client has good cause for not pursuing UC before denying or ending benefits.

- To qualify as good cause, there must be a circumstance beyond the client's control for not pursuing.
- For example, pregnant applicants are not automatically exempt from pursuing UC unless also in JOBS and determined to be JOBS exempt. However, a pregnant client with health concerns may have good cause not to pursue UC.
- For example, attending college is not sufficient good cause. However, a teen parent in high school through the JOBS program may have good cause not to pursue UC.

Note: *The pursuit of UC policy applies to SAC children who are receiving behavioral rehabilitation services (BRS) and psychiatric residential treatment services (PRTS); however, BRS and PRTS children always have good cause not to apply for UC. (SAC cases are carried by the Children's Medical Project Team at the OHP Statewide Processing Center.)*

Frequently asked questions and answers

Question 1: For DV applicants, can we open medical without having them apply for UC?

Answer 1: *Yes, you can give them good cause not to apply if it appears they are not available to look for work because of DV issues.*

Question 2: I have an MAA/TANF client in JOBS. She is attending high school and you are telling me she has to apply for UC?

Answer 2: *JOBS exempt clients do not have to pursue UC (it is in rule 461-120-0330). Technically, mandatory JOBS clients need to pursue UC, but I can see why you would not want a teen parent to have to do so as part of her medical eligibility. You can give her good cause for not applying for UC if it would interfere with her JOBS plan. Remember to narrate your decision. (It could turn out to be a QC error if you do not narrate it.)*

Question 3: Why do we need to pend an OHP client for UC? It does not matter for them because it can not be a part of the three-month income average.

Answer 3: *Unless they have good cause not to, it is a legal requirement that clients pursue assets even for OHP applicants. You are right: pending an OHP applicant for UC*

will not affect this certification's three-month average, but it might lead to a job and make a difference at recertification. Unless they have good cause, even pregnant women who are not yet receiving Medicaid benefits need to apply for UC.

Question 4: I have a new OHP applicant family. The father may be eligible for UC. Can I open the OHP children and just pend for the adult?

Answer 4: Yes, if the only eligibility item to pend is pursuit of UC, open OHP benefits for the rest of the filing group. If the client does not respond to the pend notice, determine if you need to send a denial notice. If the client notifies you they choose not to apply for UC, determine if the client has good cause.

Question 5: I have a single parent OHP family that may be eligible for MAA. I know I need to check for MAA first, but what about pursuit of assets? The mother may be eligible for UC.

Answer 5: For ongoing MAA/MAF cases at redetermination, add the BED coding and pend for pursuit of UC. Even if the only pend item is pursuit of UC, if the client does not respond to the pend notice, the CM system will send a "failure to respond to pend" close notice and close everyone on the MAA/MAF case except pregnant women and AENs. (If they notify you they do not want to apply for UC, determine if they have good cause for choosing not to apply.)

*For OHP cases at redetermination, it is okay to open the children and pend the adults **if the only outstanding eligibility item on the pend notice is the pursuit of UC.** (Do not update the adults STD need/resource end date and do not forget to add the BED coding). If there are other pend items, do not recertify anyone on the case. If the client does not respond to the pend notice, the CM system will send a "failure to respond to pend" close notice and close everyone on the OHP case except pregnant women and AENs. As with MAA/MAF clients, if they notify you they do not want to apply for UC, determine if they have good cause for choosing not to apply).*

Question 6: What if my client tells me he is not going to pursue UC?

Answer 6: If he is a new applicant and refuses to apply for UC, we do not need to pend him for pursuit. If he does not have good cause for refusing to apply for UC, deny just the person who refuses to apply for UC and open the children and the second parent on the case, if there is one. (The penalty for failure to apply for UC only applies to the person that does not apply for UC). Send him a denial notice explaining the UC issue and a DHS 462A. The person who refused to pursue UC is still in the need group; his income and resources still affect the family's eligibility.

If he is an ongoing client at redetermination and he refuses to apply, send him a close notice and a DHS 462A and continue the review process for the rest of the family.

If he is an MAA or MAF client, let him know he can change his mind, pursue UC and get back on MAA/MAF at any time. However, if he is an OHP Standard client, he will be treated as a new eligible and will not be able to get back on OHP Standard.

Question 7: My client is pregnant. Does she need to pursue UC?

Answer 7: Yes, she does at initial application (unless she is exempt from JOBS participation. JOBS-exempt clients do not have to pursue UC). If she has health concerns or is unable to look for work, you can give her good cause not to apply for UC, but for medical only clients, it is usually better to have clients apply for UC and let the Employment Department make a decision about whether the client is available to look for work. The good news is it is a prudent person (common sense) decision, so you can pretty much do what you want as long as it makes sense and you narrate it. If you are not sure, ask your lead or a policy analyst.

Do not pend pregnant clients already receiving Medicaid to apply for UC. Technically, they are required to pursue UC, but since they have protected eligibility status, we cannot end their benefits because they refused to apply for UC. Rather than create extra workload, the policy decision is not to require pregnant recipients to apply for UC.

Question 8: Why make them apply for UC if their WBA (weekly benefit amount) will not affect their medical anyway?

Answer 8: We called an Employment Department trainer about WBAs. The trainer said that WBA calculations expire and that we cannot know for sure what the current WBA amount is. It is better to have the client apply, let the Employment Department figure it all out and then make a decision.

Question 9: My client is working part time and I know he is not eligible for UC because his earnings are over the WBA amount. I do not need to make him apply, do I?

Answer 9: Yes, have him apply for UC. Let the Employment Department make the decision. There are lots of ins and outs about UC that we do not know (just like they do not know all our rules).

Question 10: My client is a college student. He did not quit a job to go to school but since he is in school I know he can not get UC. Why make him jump through hoops and apply for UC just to be denied?

Answer 10: We called an Employment Department trainer about this issue. The trainer said that the Employment Department does not automatically deny UC just because the UC applicant is a student. He needs to apply for UC. If he refuses, deny his medical with a denial notice and DHS 462A and open for the rest of the family.

Question 11: My MAA client quit work to go to school. Do I still need to make him apply for UC?

Answer 11: *Yes. For EXT, MAA, MAF and OHP clients, quitting a job does not automatically make the client ineligible for UC. If he refuses to apply for UC, he will no longer be eligible for CAF SSP medical. Send a 10-day close notice and a DHS 462A and end his medical benefits. Narrate your decision.*

Question 12: My MAA client applied for UC and I opened the case, but then he did not follow up on the UC.

Answer 12: *If he does not have good cause, send a 10-day close notice and a DHS 462A and end his benefits.*

Note: *Frequently, there is a time lag from the time the client initially applies for UC and the time the medical is opened. Before opening, check on the UC screens to see if the client is actually pursuing the UC. If not, then determine if the client has good cause. If no good cause, deny just the person who did not pursue UC.*

Question 13: I just found out I am supposed to pend OHP clients for UC. I already opened the case. What do I do now?

Answer 13: *Do nothing right now. Narrate what happened and address it at the next certification.*

Question 14: What if the OHP client loses a job mid-certification? Do we need to make them apply for UC?

Answer 14: *No. OHP clients are not required to report income and job changes. Check at the next recertification to see if the client needs to apply for UC and take care of it then.*

Question 15: What if my MAA client does not want to look for work right now?

Answer 15: *This is a single-parent MAA only client (not JOBS exempt)? If so, unless she has good cause for not looking for work, send her a pend notice. If she does not start pursuing UC, send a 10-day notice of reduction and DHS 462A and end her medical. (Do not end medical for anyone else in the filing group.)*

Question 16: My MAA CWM client just lost his job. Do I need to pend him for UC?

Answer 16: *Yes, but only if he could be eligible for UC. Do not pend if UC is not an available asset. For example, if he is using someone else's SSN or does not have a work permit, it is not an available asset and there is no reason to pend him. Narrate why you did not require him to apply.*

Availability of Income: 461-140-0040
Requirement to pursue assets: 461-120-0330
Personal Injury Claim: 461-195-0303

8. Pursuing Assets; Health Care Coverage and Cash Medical Support

To be eligible for medical assistance, most people must pursue available health care coverage or cash medical support for members of the benefit group. Requirements vary by program, depending upon whether the asset is health care coverage or cash medical support.

Health Care Coverage Cooperation

Cooperation in pursuing health care coverage includes, but is not limited to, applying for, accepting, and maintaining all available cost-effective health care coverage, and identifying and providing information to the department in obtaining health care benefits.

Medicare: Adult clients must make a good-faith effort to obtain coverage under Medicare.

Pursuing claims for damages: Adults must pursue a claim for damages from personal injuries, including the completion of the *Vehicle Related Personal Injury* (DHS 451) and *Non-Vehicle Related Personal Injury* (DHS 451NV) personal injury forms.

Employee-sponsored health care coverage: Cooperation with health care coverage means that persons (except for pregnant women, OHP-CHP-eligible individuals, OHP-OPU-eligible individuals and persons excused for good cause) eligible for medical assistance are required to:

- Apply for, accept, and maintain cost-effective, employer-sponsored health insurance.

Insurance is considered cost-effective when the employee's share of the premium is equal to or less than the Cost-Effective Health Insurance premiums (HIP) standard. If the insurance is not cost-effective, the person cannot be required to apply for or accept the insurance. See Specific Eligibility Requirements, section E of this chapter (MA E.) for more information about obtaining employer-sponsored, cost-effective health insurance.

OHP-OPU clients: Cooperation with health care coverage includes the requirement that OHP-OPU clients cooperate with the FHIAP application process. In the OHP-OPU

program, a person (except for American Indians/Alaska Natives; persons eligible for Indian Health benefits; and persons eligible under CAWEM) who has group health insurance available (but is not enrolled) through an employer is required to:

- Cooperate in determining eligibility for the Family Health Insurance Assistance Program (FHIAP). Under FHIAP, a person receives a monthly subsidy to cover a portion of the person's health insurance premiums.
- If eligible for FHIAP, the person must apply for and accept the health insurance and enroll all OHP-OPU recipients on the case who are eligible for the insurance.

Eligibility under the OHP-OPU program ends and the person receives assistance for the health insurance premiums under FHIAP. If not eligible for FHIAP, the person is not required to enroll in their employer's insurance and, if otherwise eligible, continues to receive benefits under the OHP-OPU program.

Cash medical support: Cash medical support is cash ordered to aid the custodial caretaker in meeting medical needs for the child. Cash medical support is part of the requirement to cooperate with the Division of Child Support and is included in the "Cooperation with the Division of Child Support" subsection below.

Cooperation with the Division of Child Support

Applicants for Medicaid assistance are required to agree to cooperate with the Division of Child Support to obtain health care coverage or cash medical support through a noncustodial parent unless they have good cause not to cooperate.

Exceptions to the requirement to cooperate with the Division of Child Support:

- Parents of OHP-CHP children are not required to cooperate with the Division of Child Support.
- Pregnant women are excused from cooperating with the Division of Child Support.
- Persons with good cause not to cooperate with the Division of Child Support (see the Good Cause subsection below).

Most Medicaid clients cannot be required by the department to complete paternity affidavits or pursue health care coverage or cash medical support at initial application or at redetermination of Medicaid eligibility. Signing the application is proof the client has agreed to cooperate. However, if the Division of Child Support sanctions an adult applicant for failure to cooperate during the application process, the adult applicant who failed to cooperate is denied. Use the CSM case descriptor to identify applicants denied for failure to cooperate.

What cooperation with the Division of Child Support includes:

Medical program recipients (except OHP-CHP clients, pregnant women, and persons excused for good cause) are required to:

- Assist the department and the Department of Justice, Division of Child Support in establishing paternity for a child and obtaining health care coverage and cash medical support.
- Assign cash medical support payments to the department. Once Medicaid coverage for a child receiving cash medical support begins, the Division of Child Support will send the cash medical support payment to DMAP.

☞ SEE THE CHILD SUPPORT CHAPTER FOR INFORMATION ON THE ASSIGNMENT PROCESS AND HOW TO IDENTIFY THE CASH MEDICAL SUPPORT PAYMENT

Applying the penalty for noncooperation with health care coverage and cash medical support:

Adults who do not cooperate and do not have good cause, are not eligible for medical assistance. There is no ineligibility for pregnant females who refuse to cooperate.

***Note:** Medical-only clients may be disqualified for failure to pursue a cash medical support order. They cannot be disqualified for failure to pursue cash support not specifically dedicated to medical expenses.*

Additionally, only the individual who can legally assign rights and obtain the insurance is assessed the penalty for failure to meet this requirement, or in other words, loses medical eligibility. The other individuals in the group, such as other adults and children, continue to receive Medicaid.

Ineligibility for medical assistance ends when the person provides evidence that they are willing to cooperate.

Good cause for not cooperating with the Division of Child Support:

A person is excused for good cause from the requirement to obtain health care coverage or cash medical support from the Division of Child Support if:

- Cooperation would result in emotional or physical harm to the dependent child or to the person. The person's statement alone is sufficient evidence that harm would result. Additional evidence is not necessary to grant good cause.
- Continuing efforts to establish paternity or obtain medical support would be detrimental to the dependent child because the child was conceived as a result of rape or incest. The person's statement alone is sufficient evidence on the issues of conception and detrimental effect to the child. Additional evidence is not necessary to grant good cause.
- Legal proceedings are pending for the adoption of the child.
- The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption.

People who claim good cause for refusing to cooperate on grounds other than those listed above have 20 days from the date of refusal to provide the statement or evidence. If they have difficulty getting evidence, allow a reasonable time to provide the information. Consider them to have good cause if they have made a good-faith effort to provide verification but are unable to do so.

Medical assignment: 461-120-0315
Requirement to pursue assets: 461-120-0330
Clients Required to Obtain Health Care Coverage and Cash Medical Support: 461-120-0345
Medical cooperation: 461-120-0345
Good cause for failure to cooperate: 461-120-0350
Personal Injury Claim: 461-195-0303

9. FHIAP Referral Process; OHP-OPU Program

To be eligible for the OHP-OPU program, a person must not be covered by private major medical health insurance and must not have been covered by private major medical health insurance during the six months preceding the effective date for starting OHP medical benefits.

☞ SEE MEDICAL ASSISTANCE CHAPTER E.8, FOR MORE INFORMATION REGARDING SPECIFIC PROGRAM REQUIREMENTS FOR OHP-OPU.

An OHP-OPU applicant who has access to (but is not enrolled in) group health insurance available through his or her employer must cooperate in determining eligibility for the Family Health Insurance Assistance Program (FHIAP). Exempt from this requirement are OHP-OPU clients who are American Indians/Alaska Natives, persons eligible for Indian Health benefits and for persons eligible under CAWEM.

For an OHP-OPU applicant to complete the application process, the Group Insurance Information form (442-091) is required. Once the application process is completed, medical assistance eligibility is determined.

If eligible:

- Certify OHP medical benefits.
- Make a referral to FHIAP for the OHP-OPU eligible person by mailing the Group Insurance Information form (442-091) along with a copy of the medical assistance application to:

FHIAP
PO Box 5880
Salem, OR 97304-0880

When a person receiving benefits under the OHP-OPU program reports he or she has access to (but not enrolled in) group health insurance available through his or her employer, the person needs to have the Group Insurance Information form (442-091)

completed by the employer and returned. A referral is made for the person by simply mailing the Group Insurance Information form to FHIAP.

The referral will be processed by FHIAP to determine if the OHP-OPU person is eligible for a subsidy under that program. If eligible for FHIAP, the OHP-OPU person must apply for and accept the health insurance.

FHIAP staff will notify the OHP-OPU client and the OHP-OPU client's eligibility worker of the FHIAP eligibility determination:

- If FHIAP eligible, FHIAP staff will notify the OHP-OPU client's eligibility worker when a subsidy will start. The eligibility worker will end OHP-OPU benefits, send a decision notice, and narrate the information on TRACS.
- If not FHIAP eligible, FHIAP staff will notify the OHP-OPU client's eligibility worker and the person of the reason for the FHIAP denial.

A person eligible under a medical assistance program other than OHP-OPU can choose to receive benefits under FHIAP, if eligible for that program. However, a person cannot receive benefits from both programs. Clients should be advised to notify FHIAP that they have applied for DHS medical. Clients who receive FHIAP and DHS medical concurrently may incur a FHIAP overpayment.

Clients Required to Obtain Medical Coverage: 461-120-0345
Specific Program Requirements; OHP: 461-135-1100
Concurrent and Duplicate Program Benefits: 461-165-0030

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Worker Guide CA-1: Identifying and Budgeting Self-Employment Income

B. Specific Types of Assets

1. Adoption Assistance

Adoption assistance is financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272). State adoption assistance is authorized by ORS 440.335.

- (1) For all programs except ERDC and FS, treat adoption assistance as follows:
 - (a) Exclude the entire amount of adoption assistance from Oregon.
 - (b) Exclude the portion of adoption assistance that is for the special needs of the child when the adoption assistance is from other states. This includes needs such as special diet, special clothing, counseling, and medical costs not covered under title XIX. Count the rest of the adoption assistance as unearned income.

Note: Children receiving adoption assistance are excluded from the TANF and MAA filing group. This means that the AA income is excluded when determining eligibility for TANF or MAA and when calculating the TANF benefit level.

☞ SEE TANF C.3 TANF/MAA FILING GROUP.

- (2) For ERDC, exclude adoption assistance.
- (3) For FS, adoption assistance is counted as unearned income.

461-110-0330
461-145-0001

2. Agent Orange Disability Benefits

- (1) For all programs except GA and GAM:
 - (a) Exclude benefits from the Agent Orange Settlement Fund made by Aetna Life and Casualty Insurance Company for settling Agent Orange disability claims.
 - (b) Count payments made under the Agent Orange Act of 1991, and issued by the U.S. Treasury through the Department of Veterans Affairs, as unearned income.
- (2) For GA and GAM, count all Agent Orange payments as lump-sum income (CA A.5).

461-145-0005

3. Alaska Permanent Fund Dividend

The Alaska Permanent Fund Dividend is issued annually to eligible Alaskan residents who apply for the payment. Out-of-state residents, except military personnel and students who claim Alaska as their residence, are not eligible unless they resided in Alaska and filed for the payment before leaving the state.

Count Alaska Permanent Fund Dividend payments as lump-sum income (CA A.5).

461-145-0008

4. Animals

Exclude pets and animals raised as food for the financial group.

Treat income-producing animals according to the policy on income-producing property (CA B.34).

461-145-0010

5. Annuities; Not OSIPM

(1) For the purposes of this policy:

- (a) An annuity does not include benefits that are set up and accrued in a regularly funded retirement account while an individual is working, whether maintained in the original account or used to purchase an annuity, if the Internal Revenue Services recognizes the account as dedicated to retirement or pension purposes. (The treatment of pension and retirement plans is covered in CA B.52).
- (b) In this section of policy only: “*Child*” means a biological or adoptive child who is:
 - (A) Under age 21; or
 - (B) Any age and meets the Social Security Administration criteria for blindness or disability.
- (c) “*Commercial annuities*” mean contracts or agreements (not related to employment) by which an individual receives annuitized payments on an investment for a lifetime or specified number of years.

(2) An annuity is counted as a resource if:

- (a) The annuity does not make regular payments for a lifetime or specified number of years; or

- (b) The annuity does not qualify for exclusion as a resource under subsection (4)(c) of this rule.
- (3) If an annuity is a countable resource under this rule, the cash value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular payments already received, minus any early withdrawals, and minus any surrender fees.
- (4) Commercial annuities and payments from such annuities are counted as follows:
 - (a) In all programs except OSIP, OSIPM, and QMB, annuity payments are counted as unearned income to the annuitant.
 - (b) In the OSIP and QMB programs:
 - (A) For a client in a nonstandard living arrangement (461-001-0000), if a client or the spouse of a client purchases or transfers an annuity prior to January 1, 2006, the transaction may be subject to the rules on resource transfers at OAR 461-140-0220 and following. For an annuity that is not disqualifying but meets the criteria of OAR 461-140-0220, or for a client in a standard living arrangement, the annuity payments are counted as unearned income to the annuitant.
 - (B) If a client or the spouse of a client purchases an annuity on or after January 1, 2006, the annuity is counted as a resource unless it is excluded under paragraph (C) of this subsection.
 - (C) An annuity described in paragraph (B) of this subsection is excluded as a resource if the criteria in subparagraphs (i), (ii), and (iii) of this paragraph are met, except that if an unmarried client is the annuitant, the requirements of subparagraph (iv) of this paragraph must also be met and if a spouse of a client is the annuitant, the requirements of subparagraph (v) of this paragraph must also be met.
 - (i) The annuity is irrevocable.
 - (ii) The annuity pays principal and interest out in equal monthly installments within the actuarial life expectancy of the annuitant. For purposes of this subparagraph, the actuarial life expectancy is established by the actuarial tables of the Office of the Chief Actuary of the Social Security Administration.

☞ SEE SPD WORKER GUIDE #E, TREATMENT OF ANNUITIES.

- (iii) The annuity is issued by a business that is licensed and approved to issue *commercial annuities* by the state in which the annuity is purchased.

- (iv) If an unmarried client is the annuitant, the annuity must specify that upon the death of the client, the first remainder beneficiary is either of the following:
 - (I) The department, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.
 - (II) The child of the client, if the department is the next remainder beneficiary (after this child), up to the amount of medical benefits provided on behalf of the client, in the event that the child does not survive the client.
- (v) If a spouse of a client is the annuitant, the annuity must specify that, upon the death of the spouse of the client, the first remainder beneficiaries are either of the following:
 - (I) The client, in the event that the client survives the spouse; and the department, in the event that the client does not survive the spouse, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.
 - (II) A child of the spouse and the client in the event that this child does not survive the spouse.
- (D) If an annuity is excluded under paragraph (C) of this subsection, annuity payments are counted as unearned income.
- (c) For OSIPM, see CA B.6

Note: For OSIP, OSIPM, and QMB, the purchase of an annuity or transfer of an annuity prior to January 1, 2006, may be subject to transfer of resource policies. Refer to SPD WG E.1 to determine if the annuity will pay out over the client's life expectancy based on the client's age and sex.

☞ SEE OAR 461-140-0210 THROUGH 461-140-0300 REGARDING TRANSFER OF RESOURCES.

461-145-0020

6. Annuities; OSIPM

In the OSIPM program:

- (1) For the purposes of this policy:
 - (a) An annuity does not include benefits that are set up and accrued in a regularly funded retirement account while an individual is working, whether

maintained in the original account or used to purchase an annuity, if the Internal Revenue Services recognizes the account as dedicated to retirement or pension purposes. (The treatment of pension and retirement plans is covered in CA B.52).

- (b) “*Child*” means a biological or adoptive child who is:
 - (A) Under age 21; or
 - (B) Any age and meets the Social Security Administration criteria for blindness or disability.
 - (c) “*Commercial annuity*” means a contract or agreement (not related to employment) by which an individual receives annuitized payments on an investment for a lifetime or specified number of years.
- (2) An annuity that does not make regular payments for a lifetime or specified number of years is a resource.
 - (3) When a client applies for medical benefits, both initially and at periodic redetermination (see OAR 461-115-0050 and 461-115-0430), the client must report any annuity owned by the client or a spouse of the client.
 - (4) By signing the application for assistance, a client and the spouse of a client agree that the department, by virtue of providing medical assistance, becomes a remainder beneficiary as described in sections (8) and (10) of this rule, under any *commercial annuity* purchased on or after February 8, 2006.
 - (5) If the department is notified about a *commercial annuity*, the department will notify the issuer of the annuity about the right of the department as a preferred remainder beneficiary, as described in sections (8) and (10) of this rule, in the amount of medical assistance provided to the client.
 - (6) For a client in a *nonstandard living arrangement* (461-001-0000), if a client or the spouse of a client purchases or transfers a *commercial annuity* prior to January 1, 2006, the transaction may be subject to the rules on resource transfers at OAR 461-140-0220 and following. For an annuity that is not disqualifying but meets the requirements in OAR 461-140-0220, the annuity payments are counted as unearned income to the annuitant.
 - (7) Sections 8 and 9 of this rule apply to a *commercial annuity* if:
 - (a) The client is in a *nonstandard living arrangement* (See OAR 461-001-0000), and the client or the spouse of the client purchases an annuity from January 1, 2006, through June 30, 2006; or
 - (b) The client is in a *standard living arrangement* (See OAR 461-001-0000), and the client or the spouse of a client purchase an annuity on or after January 1, 2006.

- (8) A *commercial annuity* covered by section (7) of this rule is counted as a resource unless the annuity is excluded by meeting the following requirements:
- (a) If an unmarried client is an annuitant, the annuity must meet the requirements of subsection (8)(c) of this rule, and the annuity must specify that upon the death of the client, the first remainder beneficiary is either of the following:
 - (A) The department, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.
 - (B) The child of the client, if the department is the next remainder beneficiary (after this child), up to the amount of medical benefits provided on behalf of the client, in the event that the child does not survive the client.
 - (b) If a spouse of a client is the annuitant, the annuity must meet the requirements of subsection (8)(c) of this rule, and the annuity must specify that, upon the death of the spouse of the client, the first remainder beneficiaries are either of the following:
 - (A) The client, in the event that the client survives the spouse; and the department, in the event that the client does not survive the spouse, for all funds remaining in the annuity up to the amount of medical benefits provided on behalf of the client.
 - (B) A child of the spouse; and the client in the event that this child does not survive the spouse.
 - (c) An annuity covered by section (7) may not be excluded unless the annuity meets all of the following requirements:
 - (A) The annuity is irrevocable.
 - (B) The annuity pays principal and interest out in equal monthly installments within the actuarial life expectancy of the annuitant. For purposes of this paragraph, the actuarial life expectancy is established by the actuarial tables of the Office of the Chief Actuary of the Social Security Administration.
 - (C) The annuity is issued by a business that is licensed and approved to issue a *commercial annuity* by the state in which the annuity is purchased.
- (9) If an annuity is excluded as a resource under section (8) of this rule, the annuity payments are counted as unearned income. If an annuity is a countable resource under section (8) of this rule, the cash value is equal to the amount of money used to establish the annuity, plus any additional payments used to fund the

☞ SEE SPD WORKER GUIDE E., TREATMENT OF ANNUITIES.

annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

(10) This section lists the requirements for a *commercial annuity* purchased by the client or the spouse of the client on or after July 1, 2006, when a client is in a *nonstandard living arrangement*, and the annuity names the client or the community spouse as the annuitant. Annuities that meet all of the requirements of this section are counted as unearned income to the annuitant. The treatment of annuities that do not meet all requirements of this section is covered in sections (11) and (12) of this rule.

(a) The annuity must comply with one of the following paragraphs:

(A) The first remainder beneficiary is the spouse of the client, and in the event that the spouse transfers any of the remainder of the annuity for less than fair market value, the department is the second remainder beneficiary for up to the total amount of medical benefits paid on behalf of the client.

(B) The first remainder beneficiary is the annuitant's child, and in the event that the child or a representative on behalf of the child transfers any of the remainder of the annuity for less than fair market value, the department is the second remainder beneficiary for up to the total amount of medical benefits paid on behalf of the client.

(C) The first remainder beneficiary is the department for up to the total amount of medical benefits paid on behalf of the client.

(b) The annuity must be irrevocable and nonassignable.

(c) The annuity pays principal and interest out in equal monthly installments within the actuarial life expectancy of the annuitant. For purposes of this subsection, the actuarial life expectancy is established by the actuarial tables of the Office of the Chief Actuary of the Social Security Administration.

☞ SEE SPD WORKER GUIDE E., TREATMENT OF ANNUITIES

(d) The annuity is issued by a business that is licensed and approved to issue a *commercial annuity* by the state in which the annuity is purchased.

(11) If the client is the annuitant and a commercial annuity does not meet all of the requirements of section (10) of this rule, or the spouse of the client is the annuitant and a *commercial annuity* does not meet the requirements of subsection (10)(a) of this rule, there is a disqualifying transfer under OAR 461-140-0210 and following. See OAR 461-140-0296(5) and (6) for calculation of the disqualification period.

(12) Regardless of whether a *commercial annuity* is a disqualifying transfer of resources, if the annuity does not meet all of the requirements of section (10) of this rule, the annuity is counted as a resource with cash value equal to the amount

of money used to establish the annuity, plus any additional payments used to fund the annuity, plus any earnings, minus any regular monthly payments already received, minus early withdrawals, and minus any surrender fees.

461-145-0022

7. **Approved Accounts; OSIP-EPD and OSIPM-EPD**

Persons participating in the OSIP- or OSIPM- Employed Persons with Disabilities Program are allowed to set moneys aside in an approved account.

- (1) All moneys in an approved EPD account are excluded as income or a resource during the determination of eligibility. However, the exclusion can only be made if the account has been designated as an Approved Account and approved as such by the local branch prior to the eligibility determination.
- (2) Moneys deposited in the approved account that the client wants to be considered as an Employment and Independence Expense to be used as a deduction from countable income must be approved by the branch prior to the deposit being made.
- (3) If moneys from the approved account are used for a purpose not consistent with the definition of approved account in OAR 461-001-0035, the client may be prohibited from utilizing an approved account for the next 12 months for the purposes of the determination of eligibility.

461-145-0025

8. **Bank Account**

A bank account includes a money market account and an account in a financial institution. Except it does not include stock, bond, or certificate of deposit (CD) accounts which are covered under Stocks, Bonds, and Other Securities (CA B.73).

Money in a bank account belonging to one or more members of the financial group is generally counted as a resource unless excluded in CA A.2 or OAR 461-140-0020.

- (1) Money in a bank account is excluded as a resource when:
 - (a) In an approved account excluded under OAR 461-145-0025; or
 - (b) A burial fund excluded under OAR 461-145-0040.
 - (c) A designated bank account is an *excluded* asset for OSIP-IC or OSIPM-IC if:

- (A) The account is designated to receive program benefits by direct deposit through electronic funds transfer; and
- (B) The benefit funds are not commingled with other assets of the client.

461-140-0020

- (d) Funds from excluded income if excluded as a resource under OAR 461-140-0070.
 - (e) An Individual Education Account if excluded under OAR 461-145-0265.
 - (f) Money for a plan for self-support if excluded under OAR 461-145-0405.
 - (g) Proceeds from the sale of a home if excluded as a resource under OAR 461-145-0460.
- (2) Interest and dividends earned on funds in a bank account are counted as unearned income, unless the account is excluded as a resource under section (1).

461-145-0030

- (3) For all programs except OSIP-IC, treat bank accounts held jointly with people not in the financial group as follows:
- (a) For FS, count all funds in the account unless the client proves some or all are not available. Count the available amount.
 - (b) For all other programs, count only those funds contributed to the account by the client. Exclude other funds unless there is clear evidence they are available to the client.

☞ BE SURE TO REVIEW RULE 461-140-0070 ON EXCLUDED RESOURCES BEFORE DETERMINING THE AVAILABILITY OF FUNDS.

9. Burial Arrangements and Burial Fund

Burial arrangements may include prepaid arrangements that make allowance for burial costs. They are generally made with a licensed funeral director, burial insurance, or burial trust funds designating a funeral director as the beneficiary. Burial arrangements do not include a burial space.

Burial space is covered in CA B.10 or OAR 461-145-0050.

Burial funds are an identifiable fund set aside for a client's burial costs. A burial fund does not include a burial space.

- (1) A burial arrangement is treated as follows:
 - (a) For ERDC, FS, MAA, MAF, OHP, REF, REFM, SAC, and TANF, exclude the equity value of one prepaid burial arrangement for each member of the filing group.
 - (b) For grandfathered OSIP and OSIPM clients, exclude up to \$1,000 combined equity value of burial arrangements with a licensed funeral director (plus accrued interest) and life insurance policies. Count the amount of combined cash and equity value of all life insurance and burial arrangements that is over \$1,000 as a resource.
 - (c) For all remaining programs, treat a burial arrangement the same as a burial fund.
- (2) A burial fund is treated as follows:
 - (a) For GA, OSIP, OSIPM, and QMB:
 - (A) A burial fund can only be established from cash, bank accounts, burial contracts, stocks, bonds, or life insurance policies.
 - (B) Burial funds cannot be excluded if they are commingled with nonburial-related assets. The amount set aside for burial must be in a separate account to be considered excluded from resource consideration.
 - (C) The burial fund may be established only from the countable resources of the client (such as cash, burial contracts, bank accounts, stocks, bonds, or life insurance policies). A burial fund may be established if the countable resources of the client exceeds allowable limits. A burial fund exclusion applies only if the burial fund makes the client ineligible due to excess resources.
 - (D) The following calculation determines the exclusion for a burial fund:
 - (i) Exclude up to \$1,500 of a burial fund from resources for each of the following:
 - (I) The client.
 - (II) The client's spouse.
 - (ii) Subtract both the following from the amount each client may set aside for a burial fund:
 - (I) The face value of life insurance policies owned by the client that have already been excluded from resources.

- (II) The amount in an irrevocable burial trust or any other irrevocable arrangement to cover burial costs.
 - (E) Exclude all interest earned on excluded burial funds or increases in the value of excluded burial arrangements if left in the fund.
 - (b) For all other programs, the value of the burial fund is counted as a resource.
- (3) There is no penalty or overpayment for the time period during which the burial arrangement or burial fund existed if a client:
 - (a) Canceled an excluded burial arrangement, **or**
 - (b) Used excluded burial funds for any purpose other than burial costs.

Note: From September 27, 1987, to November 5, 1989, Oregon state law prohibited establishing irrevocable burial trust funds. Burial trust funds established on or after November 5, 1989, may be irrevocable.

☞ REFER TO RULE CA B.43 OR 461-145-0320 FOR POLICY ON LIFE AND TERM INSURANCE.

461-145-0040

10. Burial Space and Merchandise

Burial spaces include conventional grave sites, crypts, mausoleums, urns, and other repositories that are traditionally used for the remains of deceased persons. They also include headstones and the opening and closing of the grave.

- (1) For ERDC, FS, MAA, MAF, OHP, REF, SAC, and TANF, exclude the equity value of one burial space per financial group member.
- (2) For GA, OSIP, OSIPM, and QMB, burial space is excluded if owned by the client and designated for themselves, their spouse, minor and adult children, siblings, parents, and the spouse of any of these people.

Burial merchandise includes, but is not limited to, caskets, liners, burial vaults, markers, and foundations. The equity value of burial merchandise is excluded as a resource if owned by the client and designated for:

- (1) In ERDC, FS, MAA, MAF, OHP, REF, SAC, and TANF, a member of the financial group.

- (2) In GA, GAM, OSIP, OSIPM, and QMB, exclude burial merchandise owned by the client and designated for themselves, their spouse, minor and adult children, siblings, parents, and the spouse of any of these people.

461-145-0050

11. Capital Assets

Capital assets are property that contribute toward earning self-employment income, including microenterprise, either directly or indirectly. Capital assets generally have a useful life of over one year and a combined value of \$100 or more.

☞ SEE WORK-RELATED EQUIPMENT AND INVENTORY FOR MORE INFORMATION (CA B.86).

461-145-0600

12. Cash

Count cash (including cash on hand, cash in a safe deposit box, and cash held by others) as a resource.

Count as a resource foreign currency that can be converted to U.S. currency. The value of foreign currency is its value in U.S. currency, determined by the current exchange rate.

461-145-0060

13. Child Support and Cash Medical Support

- (1) Child support and cash medical support paid by a non-custodial parent for a dependent child or minor parent in the financial group (see OAR 461-110-0530) are considered income of the dependent child or minor parent, whether the support is paid voluntarily or in accordance with an order to pay child support.
- (2) “Pass-through” means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is sent to the client before any remaining amount of current child support is withheld by the State. Pass-through includes current child support only.

“Disregard” means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is not counted as income of the client. Disregard includes current child support only.

- (3) In the ERDC program, child support is considered countable unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.
- (4) In the FS program, child support and cash medical support are treated as follows:
 - (a) Child support payments the group receives that must be assigned to the Department to maintain TANF eligibility are excluded, even if the group fails to turn the payments over to the department.
 - (b) Child support payments received by a filing group (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement are excluded, except:
 - (A) It is considered countable unearned income in the calculation of the wage supplement.; and
 - (B) Any pass-through pursuant to section (2) above is considered countable unearned income.
 - (c) All other child support, including any pass-through pursuant to section (2) above, is considered countable unearned income.
 - (d) Cash medical support is considered countable unearned income except to the extent it is used to reimburse (see OAR 461-145-0440) an actual medical cost.
 - (e) Payments made by a noncustodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.
- (5) In the MAA, MAF, REFM, SAC, and TANF programs:
 - (a) In determining initial eligibility, except for disregard pursuant to section (2) above, child support received by the Division of Child Support is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.
 - (b) In determining ongoing eligibility, except for clients working under a TANF JOBS Plus agreement and except for child support passed through to the client and disregarded pursuant to section (2) above, child support received by the Division of Child Support is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.
 - (c) For clients working under a TANF JOBS Plus agreement:
 - (A) Child support is excluded in determining countable income.

- (B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.
- (C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.
- (d) All other child support payments:
 - (A) Paid directly to the financial group that are not turned over to the Department or to the Division of Child Support or that are paid to a third party on behalf of a member of the financial group is are considered countable unearned income.
 - (B) Paid directly to the financial group that are turned over to the Department or to the Division of Child Support are considered countable unearned income except for any amount of pass-through and disregard pursuant to section (2) above.
- (e) Cash medical support is excluded in determining countable income.
- (f) Cash medical support is excluded.
- (6) In the OSIP, OSIPM, and QMB programs, all child support and cash medical support paid to the financial group are considered countable unearned income. Child support and cash medical support paid by the financial group are not deductible from income.
- (7) In the SFPSS program, notwithstanding section (5) above, for on-going eligibility and benefit determination:
 - (a) Except for disregard pursuant to section (2) above, child support is considered countable unearned income.
 - (b) Cash medical support is excluded in determining countable income.
 - (c) Payments made by a noncustodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.
- (8) Notwithstanding section (5) above, for ongoing eligibility and benefit determination for TANF clients for whom deprivation is based on the unemployment or underemployment of the primary wage earner (PWE):
 - (a) Except for disregard pursuant to section (2) above, child support is considered countable unearned income.
 - (b) Cash medical support is excluded in determining countable income.
 - (c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

- (d) For a filing group (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement:
 - (A) Child support is excluded in determining countable income.
 - (B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.
- (9) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

461-145-0080

14. Contributions

Contributions are monies not gifts or winnings (CA B.30) given voluntarily to a financial group member by someone who is not in the group.

- (1) For all programs except FS and as provided in (3), count contributions as unearned income.
- (2) For FS, count contributions as unearned income. However, exclude cash contributions from charitable sources if all the following are true:
 - (a) The contribution is from a private, nonprofit charitable organization.
 - (b) The contribution is based on need.
 - (c) The contribution does not exceed \$300 per quarter.
- (3) For OHP, charitable contributions raised by a community to assist with a client's medical expenses are not counted as income or against the resource limit (461-160-0015).

☞ FOR NONCASH CONTRIBUTIONS, REFER TO CA B.40 OR OAR 461-145-0280 (IN-KIND INCOME).

☞ SEE CA B.65 FOR INFORMATION ON HOW TO TREAT REFUGEE RESETTLEMENT GRANTS.

461-145-0086

15. Corporations and Business Entities

(1) Identifying Corporations

- (a) A closely held corporation is usually incorporated by one or a small number of owners. For example, a farmer or a farming family incorporates their farming business.

Note: The owner of a closely held corporation will have legal documents showing the date the business was incorporated.

- (b) A Subchapter S-corporation is incorporated under Chapter S of the Internal Revenue code. Each shareholder is responsible to file his or her own taxes on the profits the corporation distributes. For example, a law firm or other partnership may incorporate their business under Chapter S.
- (c) Other corporations include companies that sell stock to investors. Proctor & Gamble, AT&T, and Starbucks, are examples of businesses that sell stock to investors. Owning stock in a corporation does not make the individual self employed.

Note: To locate information on the business see the Secretary of State website at www.sos.state.or.us, Corporation Division. If the business is licensed as a corporation in Oregon, the business name should appear in a business name search.

(2) When a Client's Corporation is Considered Self-Employment

For FS, the owner or shareholders of a corporation are not self employed. For all other programs, the owner of a corporation is considered self employed if they meet self-employment criteria listed per OAR 461-145-0910.

(3) Treatment of Income

- (a) If an individual works for the corporation, he is considered an employee of the corporation. Treat the profits distributed to shareholders of a closely held or Subchapter S-corporation as earned income if they are employees of the corporation. If profits for the current year are expected to be similar to the prior year, treat the profits reported on the most recent IRS 1040 as periodic income (CA A.6).
- (b) If a shareholder of a corporation is not an employee of the corporation and not receiving a salary, count any dividends as unearned income.
- (c) In the FS program, income from business entities and corporations is treated as follows:
 - (A) If a client is actively working in a corporation, the income is treated as earned income.

- (B) If a client is actively working in an unincorporated business entity, refer to CA C.1 to determine if the income is treated as earned or as self-employment.
- (C) If a client is no longer actively working to produce the income, the income is treated as unearned.
- (D) Income from a limited liability company is treated as follows:
 - (i) If a client is a member or a manager member, the income is treated as self-employment income.
 - (ii) If a client is a manager but not a member, the income is treated as earned income.
- (d) If a client owns stock in a corporation, the value of the stock is a countable resource. However, if ownership of the stock is necessary for the client to be employed by the corporation, the resource is excluded.

Example 1: A farmer incorporates his farm, is the sole owner and worker and all of the corporation's assets are related to the farming operation. The farmer's stock in the corporation is essential to his employment. Therefore, the equity value of his stocks is not counted as a resource.

Example 2: An attorney has stock in a Subchapter S-corporation. The ownership of this stock may or may not be required as a condition of his employment for that corporation. If the ownership is required, the equity value of his stocks is not counted as a resource. If ownership is not required, the equity value of his stocks is counted as a resource.

461-145-0088

(4) Corporation Expenditures Benefiting a Principal

In the FS, OHP, OSIP, OSIPM, and QMB programs, an expenditure by a business entity or corporation that benefits a principal, such as a car or housing payment, is considered available when the expenditure is made. For purposes of this rule, a principal is a person with significant authority in a business entity or corporation, including sole proprietor, a self-employed person (see OAR 461-145-0910), a partner in a partnership, a member or manager of a limited liability company, and an officer or principal stockholder of a closely held corporation.

(5) Corporate Assets

Except in cases where the owners of corporations are considered to be self employed, assets held and owned by the corporation are not considered the client's assets.

☞ SEE CA B.63.

16. Disability Benefit

(1) This policy covers public and private disability benefits, except the following:

- (a) Agent Orange disability benefits (covered in OAR 461-145-0005 or CA B.2).
- (b) Radiation Exposure Compensation Act payments (covered in OAR 461-145-0415 or CA B.57).
- (c) Social security based on disability or SSI (covered in OAR 461-145-0490 and OAR 461-145-0510 or in CA B.68 and CA B.71).
- (d) Veterans' benefits (covered in OAR 461-145-0580 or CA B.81).
- (e) Workers' compensation (covered in OAR 461-145-0590 or CA B.85).

(2) For each disability payment covered under this policy:

- (a) If received monthly or more frequently:
 - (A) In the ERDC, FS, MAA, OHP, REF, REFM, SAC, and TANF programs, income from employer-sponsored disability insurance is counted as earned income (see OAR 461-145-0130 or CA B.22) if paid to a client who is still employed while recuperating from a temporary illness or injury.
 - (B) Except as provided in paragraph (A) of this subsection, the payment is counted as unearned income.
- (b) All payments other than those in subsection (a) of this section are counted as periodic or lump-sum income (see OAR 461-140-0110 and OAR 461-140-0120 or CA A.6 and CA A.5).

17. Disaster Relief

A *major disaster* is any natural catastrophe such as a hurricane or drought, or, regardless of cause, any fire, flood or explosion, which the President determines causes damage of sufficient severity and magnitude.

An *emergency* is any occasion or instance for which the President determines that federal assistance is needed to supplant state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

Disaster Unemployment Assistance is emergency assistance authorized under P.L. 100-107 and received by individuals who are unemployed as a result of a major disaster. Individuals receiving *Disaster Unemployment Assistance* are not eligible for other unemployment compensation and cannot receive both at the same time. Payments are limited to 26 weeks.

- (1) Except as otherwise stated in Sections (2) to (6) or in OAR 461-140-0070, the following payments precipitated by an emergency or major disaster, are not counted as income or resources when determining eligibility for or benefit levels.
 - (a) Payments received under the Disaster Relief Act of 1974 (P.L. 93-288, Section 312(d)) as amended by the Disaster Relief and Emergency Assistance Amendments of 1988 (P.L. 100-707, Section 105(i)).
 - (b) Disaster assistance comparable to subsection (a) of this section provided by states, local governments, and disaster assistance organizations.
 - (c) Payments from the Federal Emergency Management Agency (FEMA).
 - (d) Individual and Family Grant Assistance program (IFG).
 - (e) Grants or loans by the Small Business Administration (SBA).
 - (f) Voluntary disaster assistance organizations, such as the Red Cross.
 - (g) Private insurance payments for losses due to a *major disaster* such as flood, wind, land movement.
- (2) Government payments designated for the restoration of a home damaged in a disaster are excluded as income or resources in the month of receipt and as a resource in subsequent months, if the household is subject to a legal sanction if the funds are not used as intended.
- (3) Each payment made to farmers under the Disaster Assistance Act of 1988 (P.L. 100-387) for crop losses or failure in a disaster is excluded.
- (4) Income received from public and private organizations by individuals working in disaster relief efforts and funded under a National Emergency Grant by WIA Title 1 (P.L. 105-220) is excluded. An individual is eligible under this funding

source if he or she is a dislocated worker, a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster. Eligibility under this funding source is limited to a period of up to six months per disaster.

- (5) *Disaster Unemployment Assistance* is excluded as both income and a resource.
- (6) Payments for flood mitigation received by a homeowner under the National Flood Insurance Act of 1968, as amended by P.L. 109-64, are not counted as income or resources.

461-145-0100

18. Disqualifying Income; FS

FS benefits received by TANF recipients may not increase when the TANF cash payment ends or is reduced due to a penalty. Eligibility for and the level of food stamp benefits is determined as if the client were receiving benefits without the reduction in TANF benefits due to the penalty.

☞ SEE FS F.13 FOR MORE INFORMATION ON DQI INCOME.

TANF disqualifying income is the difference between the TANF cash payment prior to the penalty and the TANF cash payment once the penalty is imposed. The loss of the TANF cooperation incentive payment (see OAR 461-135-0210) is not included in the disqualifying income.

The disqualifying TANF income is counted as unearned income when the TANF cash payment is reduced due to any of the following reasons:

- (1) Failure to pursue assets per rule 461-120-0330.
- (2) Failure to help the department obtain child support from a noncustodial parent per rule 461-120-0340.
- (3) Failure to obtain medial coverage per rule 461-120-0345.
- (4) Failure to comply with requirements of the employment programs imposed under 461-130-0330.
- (5) Failure to seek treatment for substance abuse or mental health evaluation and treatment under 461-135-0085.
- (6) TANF intentional program violation (IPV) imposed under 461-195-0621.
- (7) Repayment of a TANF client-caused or IPV overpayment as defined in 461-195-0501 and 461-195-0601. Do not include repayment on an overpayment resulting from aid paid pending due to a hearing request.

Once imposed, the disqualifying income ends when the TANF penalty is lifted, the household becomes ineligible for TANF for other reasons, the overpayment is repaid, or if the TANF cash or MAA case has been closed for at least 12 months.

461-145-0105

19. Dividends, Interest, Royalties

- (1) Dividends are counted as unearned income unless the dividends are from a trust described in CA B.77 (10), in which case the dividends are not counted as income.
- (2) Interest income is counted as unearned income.
- (3) Royalties are counted as unearned income, except that royalties are counted as earned income if the client is actively engaged in the activity from which the royalties are accrued.

461-145-0108

20. Domestic Volunteer Services Act (VISTA, RSVP, SCORE, ACE)

- (1) Treat payments under (title I of Public Law 93-113 Domestic Volunteers Service Act of 1973) including VISTA, University Year for Action and Urban Crime Prevention Program as follows:
 - (a) For ERDC, MAA, MAF, OHP, REF, REFM, SAC, and TANF, exclude these payments unless the total value of all VISTA compensation is equal to or greater than compensation at the state minimum wage. If so, count as earned income.
 - (b) For GA and GAM, count VISTA payments as unearned income.
 - (c) For all other programs:
 - (A) Exclude VISTA payments if the client is receiving program benefits when they join VISTA. Continue to exclude the payments until the client has a break in receiving benefits of more than one month.
 - (B) Count VISTA payments as earned income for clients who joined VISTA before applying for program benefits.

Note: *Clients join VISTA as of the date they take the oath. If the client has a previous VISTA contract and received FS benefits in another state, use the date they begin the new assignment in Oregon.*

- (2) Exclude title II of Domestic Volunteer Services Act (Public Law 93-113) payments (National Older Americans Volunteer Programs), which include:
 - (a) Retired Senior Volunteer Program (RSVP) Title II, Section 201.
 - (b) Foster Grandparent Program Title II, Section 211.
 - (c) Older American Community programs.
 - (d) Senior Companion program.
- (3) Exclude title III payments (National Volunteer Programs to Assist Small Businesses and Promote Volunteer Service by Persons with Business Experience), which include:
 - (a) Service Corps of Retired Executives (SCORE) Title III, Section 302.
 - (b) Active Corps of Executives (ACE) Title III, Section 302.

461-145-0110

21. Earned Income; Defined

Earned income is income received in exchange for an individual's physical or mental labor. Earned income includes, all of the following:

- (1) Compensation for services performed, including wages, salaries, commissions, tips, representative payee fees, sick leave, vacation pay, draws, or the sale of one's blood or plasma.
- (2) Income from on-the-job training, paid job experience, JOBS Plus work experience, or Welfare-to-Work work experience.
- (3) In-kind income, when the client is an employee of the person providing the in-kind income and the income is in exchange for work performed by the client.

☞ SEE DEFINITION OF IN-KIND INCOME IN CA B.40 OR OAR 461-145-0280.

Note: *Earned in-kind income may include rent or utilities credit that a client receives in exchange for work performed. To determine the amount, subtract the amount the client pays for rent from the amount the dwelling usually rents for. For example, the rent is \$550, but the client pays only \$100 because of work done for the landlord. The earned in-kind income is \$450 (\$550 - \$100).*

- (4) For self-employment, gross receipts and sales, including mileage reimbursements, before costs.
- (5) In:
 - (a) The FS program, *cafeteria plan* (see OAR 461-001-0000) benefits and funds placed in a flexible spending account.
 - (b) All programs except the FS program, *cafeteria plan* benefits that an employee takes as cash as well as funds placed in a flexible spending account.

Note: Health insurance purchased with flexible benefits must be assigned to the department, per rule 461-120-0315.

- (6) Income from work-study.
- (7) Income from profit sharing that the client receives monthly or periodically.
- (8) The fee for acting as an individual's representative payee, as long as the individual is not included in the filing group.
- (9) In the FS, OHP, OSIP, OSIPM, and QMB programs, an expenditure by a business entity that substantially benefits principal (see OAR 461-145-0088).

461-145-0120

22. Earned Income; Treatment

All earned income not specifically identified below is counted as earned income.

☞ SEE CA B.21 FOR DEFINITION.

- (1) Treat JOBS Plus income as follows:
 - (a) For all programs, client wages received under the Oregon Employment Department UI JOBS Plus or the Tribal TANF JOBS Plus programs are counted as earned income.
 - (b) For all programs except FS and TANF, count the JOBS Plus income from TANF-PLS as earned income.
 - (c) For all programs except TANF, count the JOBS Plus income from NCP-PLS as earned income.
 - (d) For FS:
 - (A) When JOBS Plus income is earned by TANF-PLS clients:

- (i) Count it as earned income in determining initial FS eligibility.
- (ii) Exclude it in determining ongoing eligibility.

Note: *When a person is receiving TANF JOBS Plus, continue to code the TANF grant and the extra JOBS Plus \$10 payment as unearned income.*

- (B) Count as earned income any TANF-PLS JOBS Plus wages received after the month that the client last worked under a JOBS Plus agreement.

☞ SEE ES B.15 FOR EMERGENCY FS PAYMENTS WHILE PARTICIPATING IN TANF JOBS PLUS.

- (e) For TANF:

- (A) When JOBS Plus income is earned by NCP-PLS clients, count it as earned income in determining initial TANF eligibility.

- (B) When determining the need for TANF supplements for TANF-PLS clients, treat the income as follows:

- (i) Exclude it in determining the countable income limit and in calculating the benefit equivalency standards.
- (ii) Count it as earned income in calculating the wage supplement.

☞ SEE ES B.13 FOR MORE ON TANF JOBS PLUS AND ES B.14 FOR CALCULATING THE TANF SUPPLEMENT.

- (C) Count as earned income any JOBS Plus wages received after the month that the client last worked under a JOBS Plus agreement.

Note: *When a JOBS Plus client whose selection is based on receiving UI is eligible for TANF or FS, switch them to TANF-PLS. TANF clients are a higher priority for JOBS Plus selection.*

- (2) Treat Welfare-to-Work work experience income as follows:

- (a) For EXT, MAA, MAF, REF, REFM, and TANF, exclude the first \$260 earned per month. Count the remainder as earned income.
- (b) For FS and OHP, count all Welfare-to-Work income as earned income.

- (3) For ERDC and OHP, exclude all earned income of children.

- (a) For children who turn 19 and are reapplying for OHP as adults, income earned prior to age 19 is counted.

(4) For FS, exclude

- (a) A cafeteria plan benefit, including flexible spending plans, that an employee cannot elect to receive as cash which is designated and used to pay for child care, medical care, or health insurance unless it is reimbursed by the department; **or** allowed as an earned income deduction.

Note: In FS, cafeteria plan benefits taken as cash or used to pay for a service paid by the department are counted as earned income. The intent is not to allow “double-dipping” by the client; that is, being reimbursed twice for the same cost.

- (b) The earned income of an individual under age 18 if they are under the parental control of another member of the household and:

☞ PARENTAL CONTROL IS DEFINED IN FS C.3.

- (A) Attending elementary or high school;
- (B) Attending GED classes recognized by the local school district;
- (C) Completing home-school elementary or high school classes recognized by the local school district; **or**
- (D) Too young to attend elementary school.

- (c) In-kind earned income, except as provided in section (7).

☞ SEE CA B.21 FOR A DEFINITION OF EARNED INCOME AND CA B.40 FOR IN-KIND INCOME.

461-145-0120, 461-145-0280

- (d) Any amount deducted from base pay for future educational costs under Public Law 99-576, 100 Stat. 3248 (1986), for clients on active military duty.
- (e) Income remaining after the month of receipt is a resource.

(5) For EXT, MAA, MAF, REF, REFM, SAC, and TANF programs;

- (a) Exclude the earned income of the following financial group members in the month of receipt. Count any money remaining after the month of receipt as a resource.
 - (A) Dependent children under age 19, or minor parents (under age 18), who are full-time students in grade 12 or below (or the equivalent level of vocational training, GED courses, or home schooling approved by the local school district).

- (B) Dependent children under age 18 who are part-time (as defined by the institution) students in grade 12 or below (or the equivalent level of vocational training, GED courses, or home schooling approved by the local school district), and are not employed full time.
- (C) Dependent children too young to be in school.
- (b) Income remaining after the month of receipt is a resource.
- (c) In-kind earned income is excluded (see CA B.40 and CA B.67).
- (6) For MAA, MAF, REF, REFM, SAC, and TANF, exclude all in-kind income except unearned third party payments.
- (7) In the FS and OHP programs, earned In-kind income (CA B.40) is excluded unless it is an expenditure by a business entity that benefits a principal (CA B.15). If it benefits a principal, it is treated as countable earned in-kind reimbursement (CA B.63).

461-145-0130

23. Earned Income Tax Credit (EITC)

Earned Income Tax Credit (EITC) are federal and state tax programs for low-income families. EITC may be received in one of two ways:

- As an advance in the employee's paycheck.
- As one annual payment received at the time of the normal income tax returns.

For all programs exclude all EITC payments.

461-145-0140

24. Economic Recovery Payment

The economic stimulus act (officially "The American Recovery and Reinvestment Act of 2009") was signed into law on February 17. The Act provided a special one-time only \$250 payment to persons receiving social security (SSB, SSI, SSDI), Railroad Retirement, Veterans' Disability and Veterans' Pension payments.

Exclude the \$250 as income in the month of receipt. Exclude the \$250 as a resource in the month of receipt for the following nine months.

461-145-0143

25. Educational Income

(1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be given to one of the following:

- (a) A student at a recognized institution of post-secondary education. Post-secondary education is education offered by institutions primarily to individuals age 18 or older. Admission may or may not require a high school diploma or equivalent.
- (b) A student at a school for the disabled.
- (c) A student in a vocational education program.
- (d) A student in a program that provides for completion of secondary school diploma or the equivalent.

☞ SEE WG-MP #14 AND OAR 461-145-0150 FOR MORE ON EDUCATIONAL INCOME.

(2) To determine the amount of educational income to exclude, use education expenses listed in the financial aid award letter unless one of the following is true:

- (a) The information is not available in the award letter, or the student provides verification of amounts different from those listed in the award letter. In these situations, use the verified amounts from the student.

Note: Do not require additional verification if the amounts are listed in the award letter (unless the student wants to use different amounts and can verify those amounts).

- (b) The student receives child care benefits (i.e., ERDC or other child care subsidies). In that situation, exclude from educational income the amount the student actually pays for child care (e.g., the ERDC copay) instead of the amount shown in the award letter.
- (c) The student states actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, calculate the number of commuting miles to and from school and multiply by \$0.20. Exclude the calculated amount or the amount from the award letter, whichever is greater.

Note: If a FS client begins receiving ERDC, remember to recalculate FS educational income because the exclusion for child care expenses has changed.

- (3) Exclude the following items:
- (a) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act, Title IV of the Higher Education Act, or made available by the Bureau of Indian Affairs (BIA).
 - (b) All income from educational loans.
- (4) Exclude the cost of the following items from remaining educational funds (including non-title IV work study):
- (a) Tuition, mandatory fees, books and supplies, transportation, required rental or purchase of equipment or materials charged to students enrolled in a specific curriculum, other miscellaneous personal expenses (except room and board), and loan originator fees and insurance premiums required to obtain an educational loan.
 - (b) Additionally for all programs except ERDC, exclude dependent care costs.
- ☞ SEE FS D.3 AND F.19 OR OAR 461-160-0430 FOR INFORMATION ON FS DEPENDENT CARE DEDUCTIONS FOR STUDENTS.
- ☞ FOR ERDC, REFER TO RULE 461-150-0049 FOR BUDGETING EDUCATIONAL INCOME.
- ☞ FOR ERDC AND FS, USE THE *EDUCATIONAL INCOME CALCULATION FOR ERDC AND FOOD STAMPS* WORKSHEET (DHS 7351).
- Note:** *The DHS 7351 is not used for calculating medical eligibility.*
- (5) For a participant in the Parents as Scholars (PAS) component of the JOBS program who is approved for PAS pursuant to OAR 461-190-0199, exclude all remaining educational funds, including those funds intended for room and board.
- (6) For all programs, after allowing exclusions, treat the remaining income as follows:
- (a) Count work study, fellowships, and teaching-assistant income not excluded per section (3) or (4) of this rule as earned income. This may include work study provided through the VA program or other educational programs.
 - (b) For all programs except OHP, count other educational income (grants, loans, Montgomery GI Bill [VA Chapter 30, 32, or 35 or chapter 1606 or 1607], etc.) by prorating it over the period it is intended to cover, then begin counting the prorated amount in the first month of the period if the client has already received the income. If income has not been received, begin counting the prorated amount in the month of the period it is expected to be received.
 - (c) For OHP, count other educational income in the month received.

☞ SEE CA B.81 OR OAR 461-145-0580 FOR MORE ON VETERANS' BENEFITS.

- (7) Count the VA Chapter 31 subsistence allowance according to CA B.81. When participating in this program, the VA pays all tuition, books and fees. All education costs are provided for the student except transportation and child care.
- (8) Clients may be attending school under the displaced workers program. In this instance, the student will continue to receive weekly UC benefits while attending school. Treat Displaced Worker payments the same as UC benefits.

☞ SEE CA B.78 OR OAR 461-145-0550.

461-145-0150

26. Energy Assistance

For all programs, exclude all energy assistance payments or allowances made under any federal, state, or local law (Public Law 96-249). These payments include:

- (a) Energy assistance payments provided through a Department of Health and Human Services Low-Income Assistance Program.
- (b) Energy assistance payments provided through the Low-Income Energy Assistance Act of 1981 under Public Law 97-35, Section 2605(F) (LIEAP).

☞ SEE CA B.33 OR OAR 461-145-0230, ON HOW TO TREAT UTILITY PAYMENTS RECEIVED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE RURAL HOUSING SERVICE.

461-145-0170

27. Family Abuse Prevention Act (FAPA) Payments

FAPA payments are court-ordered payments to victims of domestic violence made under authority of ORS 107.718(1)(h). A payment is considered available when actually received by the victim of abuse.

For all programs, the first \$2,500 is excluded. The excess above \$2,500 is counted as a resource.

461-145-0175

28. | Floating Homes and Houseboats

- (1) Floating homes and houseboats are treated in the same manner as real property under OAR 461-145-0420.

☞ SEE CA B.59 FOR REAL PROPERTY.

- (2) Floating homes and houseboats are subject to OAR 461-145-0220 and 461-145-0250 if applicable.

☞ SEE CA B.32 FOR HOME OR CA B.34 FOR INCOME PRODUCING PROPERTY.

461-145-0185

29. | Food Programs; Other than the FS Program

- (1) For all programs, exclude the following:

- (a) Benefits from the Special Supplemental Food Program for Women, Infants and Children (WIC). Also, exclude WIC demonstration project coupons that may be exchanged for food at farmers' markets.
- (b) The value of supplemental food assistance under the Child Nutrition Act and the National School Lunch Act. This includes the Special Milk Program, School Breakfast Program, the Summer Food Service Program, the Commodity Program, and the Child and Adult Food Program.

Note: This exclusion does not apply to providers.

☞ SEE MP-WG #16 FOR MORE INFORMATION ON SCHOOL LUNCH PROGRAM.

- (c) Benefits from the Senior Farm Direct Nutrition program (OAR 461-135-1175).

461-135-1175

- (d) Nutrition Assistance Program benefits received in Puerto Rico, American Samoa, or the Commonwealth of the Northern Mariana Islands.

- (2) FS clients receiving Tribal Food Distribution Program products are not eligible to receive FS in the same month per OAR 461-165-0030. For all other programs, Tribal Food Distribution Program benefits are excluded.

461-165-0030

☞ SEE FS I.2 FOR INFORMATION ON TRIBAL FOOD DISTRIBUTION PROGRAMS.

461-145-0190

30. Foster Care/Guardianship Assistance Payment

Foster care is when an individual is placed in the home of relatives or other individuals or families by a federal, state, or local governmental foster care program. This could be child or adult foster care.

Guardianship Assistance payments are made by Child Welfare, for children under age 18, when a person has agreed to be the guardian of the child. These payments are authorized under a foster care waiver.

A foster care payment is:

- (1) The payment the foster care provider receives from the foster care program, **and**
- (2) For adults in foster care, this also includes their room and board payment and any service payment the client is required to pay the provider.

Note: An adult in foster care is required to pay the room and board part of the foster care payment. Children in foster care do not make this separate payment.

Note: Per TANF C.5, MA C.5, and OAR 461-110-0630, parents in foster care for whom foster care payments are being made cannot have their needs counted for MAA, MAF, or TANF.

Note: Proctor care administered by or under contract to a state agency is a form of foster care. Treat these situations and income the same as foster care.

Treat foster care/guardianship assistance payments as follows:

- (1) For all programs except ERDC and FS:
 - (a) If the provider of foster care/guardianship is in the financial group:
 - (A) Exclude the amount the placement agency identifies as room and board, clothing, and personal incidental needs (including recreational expenses) of the foster care/guardianship assistance client.
 - (B) Exclude the amount designated for special need items of the foster care/guardianship assistance client.
 - (C) Count the remaining amount as earned income.

- (b) If the provider of foster care/guardianship is not in the financial group, exclude the foster care payments.
- (2) For ERDC, count the payments as unearned income only if the person in foster care/guardianship assistance is in the filing group.
 - ☞ SEE FS C.4 REGARDING INCLUDING OR EXCLUDING THE FOSTER CARE PERSON FROM THE FS FILING GROUP.
- (3) For FS, count the payments for foster care or guardianship assistance as follows:
 - (a) If the person receiving the foster care or assistance is a member of the household group, but not the filing group, exclude the income.
 - (b) If the person receiving the foster care or assistance is a member of the filing group, count the payment from the foster care program as unearned income for the care provider.

Note: Do not count the room and board or service payment as income that the foster care client is paying to the provider when they are in the same filing group. This is because foster care person's income has been counted already and income that changes hands between financial group members is not counted.
 - (c) If the person receiving the foster care or assistance is not a member of the household group, count the payment (both parts) as self-employment income for the foster care provider.

461-145-0200

31. | Gifts and Winnings

Gifts are items given to or received by an individual on or for a special occasion, such as a holiday, birthday, graduation, wedding, etc. They are not given or received on a regular basis.

Winnings are prizes given to an individual in a contest, game of chance, or similar event. *Winnings* in the form of money may be distributed periodically (e.g., monthly) or in a lump-sum.

- (1) Gifts and winnings in the form of either a gift card or certificate are excluded.
- (2) For employment related items, see CA B.22 (OAR 461-145-0130).
- (3) For all programs except ERDC, treat in-kind gifts and winnings according to policy for the specific type of asset. Treat gifts and winnings in the form of money as periodic or lump-sum income. (OAR 461-140-0110 and OAR 461-140-0120).

- (4) For ERDC, exclude all gifts and winnings.

461-145-0210

32. **Groundfish Disaster Benefits**

People working in the commercial fishing industry may qualify for Groundfish Disaster benefits. These benefits are disbursed through the Oregon Employment Department to persons involved in the commercial fishing industry in Oregon's coastal communities.

To qualify for Groundfish Disaster benefits, a groundfisher must be working with the Oregon Employment Department as a displaced worker. They must also commit to not return to work in the commercial fishing industry.

The groundfisher eligible for these benefits may receive assistance for up to nine months. The monthly payments can be as much as \$1,500 for a family or \$1,000 for an individual. The payments may be less if the person is receiving unemployment compensation.

Groundfish Disaster benefits are counted as unearned income for all programs.

461-140-0010

33. **Home**

Home Defined

A home is the place where the filing group lives. A home can be a house, boat, trailer, mobile home, or other habitation. A home also includes the following:

- (1) Land on which the home is built and contiguous property.
 - (a) For all programs except FS, GA, GAM, OSIP, OSIPM, and QMB, property must meet all the following criteria to be considered contiguous property:
 - (A) It must not be separated by land owned by people outside the financial group.
 - (B) It must not be separated by public rights-of-way, such as roads.
 - (C) It must be property that cannot be sold separately from the home.
 - (b) For the FS, GA, GAM, OSIP, OSIPM, and QMB programs, contiguous property is property not separated by land owned by people outside the financial group. In addition:
 - (A) Contiguous property may be separated by public rights-of-way, such as roads; **and**

- (B) Property is contiguous even when it can be sold separately from the home.
- (2) Other dwellings on the land surrounding the home that cannot be sold separately from the home.
- (3) Additionally for FS, land that the financial group is building, or plans to build, their home on.

Exclusion of home and other property

- (1) For a client who has an *initial month* (defined in OAR 461-001-0000) of long-term care or waived services on or after January 1, 2006:
 - (a) For purposes of this subsection:
 - (A) “*Child*” means a biological or adoptive child who is
 - (i) Under age 21; or
 - (ii) Any age and meets the Social Security Administration criteria for blindness or disability.
 - (b) The value of a home is excluded if the financial group occupies the home and has equity in the home of \$500,000 or less.
 - (c) The home is countable as a resource if the client has equity in the home of more than \$500,000, unless one of the following requirements is met:
 - (A) The spouse of the client occupies the home.
 - (B) The child of the client occupies the home.
 - (C) The client is legally unable to convert the equity value in the home to cash.
 - (D) The home equity is excluded under OAR 461-145-0250.
 - (2) For all other financial groups, the value of a home is excluded when the home is occupied by any member of the financial group.
 - (3) In the FS program only, exclude the value of a home when it is occupied by the financial group. Additionally for FS, exclude the value of land the group is building, or plans to build, their home on. If the FS financial group owns (or is buying) the home they live in and has separate land they intend to build on, only exclude the home in which they live. Treat the land they intend to build on as real property (CA B.59) or OAR 461-145-0420.

Exclusion during temporary absence

If the value of the home is excluded above, the value of a home remains excluded in each of the following situations:

- (1) In all programs except GA, GAM, OSIP, OSIPM, and QMB during the temporary absence of all members of the financial group from the property, if the absence is due to illness or uninhabitability from casualty or natural disaster, and the group intends to return home.
- (2) For FS, if the financial group's absence is due to employment or training for future employment.
- (3) For GA, GAM, OSIP, OSIPM, and QMB, if the client's absence is due to receiving care in a medical institution and one of the following is true:
 - (a) The absent client is a single adult who has provided convincing evidence that they will return to the home. The evidence must reflect the subjective intent of the client, regardless of the client's medical condition. A written statement from a competent client is sufficient to prove the intent.

☞ SEE OAR 461-160-0630 FOR MORE INFORMATION.

Review this at each redetermination after the client has been absent from the home for six consecutive months.

- (b) The home remains occupied by the client's spouse, child, or a relative dependent on the client for support. For the purposes of this paragraph, the home is considered occupied when it is temporarily vacant but the home expenses are maintained and the individual intends to return.

☞ FOR NONEXCLUDED HOMES, SEE CA B.59 OR RULE 461-145-0420.

- (c) For MAA, MAF, REF, REFM, SAC, and TANF, if all members of the financial group are absent due to one of the following:
 - (A) The members are employed in seasonal employment, and intend to return to their home when the employment ends; **or**
 - (B) The members are searching for employment and the search requires the filing group to relocate away from their home. Exclude the home for up to six months from the last date all members left their home to search for employment. After the six months, if a member of the financial group does not return, the home is no longer excluded.

Note: *If a home is sold or transferred, review the transaction to determine its effect on the client's eligibility.*

34. Housing and Urban Development

- (1) Treat payments from HUD made to a third party as follows:
 - (a) For EA, ERDC, FS, GA, GAM, OHP, OSIP, OSIPM, and QMB, exclude these payments.
 - (b) For MAA, MAF, REF, SAC, and TANF use the payment in determining Shelter-in-Kind income (CA B.67).
- (2) Treat HUD payments made directly to a member of the financial group, except Youthbuild Program payments and Family Investment Centers payments, as follows:
 - (a) For EA and OHP, count as unearned income.
 - (b) For ERDC, GA, GAM, OSIP, OSIPM, and QMB, exclude these payments.
 - (c) For FS, exclude payments for utilities. Count other payments as unearned income.

Note: Groups who receive utility reimbursements are still eligible for the utility allowance (FUA) if they pay heating costs above the reimbursement (FS F.23).
 - (d) For MAA, MAF, REF, and SAC, use the payment in determining Shelter-in-Kind income. If the payments are made in a lump sum, count as unearned income.
- (3) Treat Youthbuild Program payments as follows:
 - (a) For ERDC and OHP, treat Youthbuild payments as earned income.
 - (b) For FS, exclude payments to clients age 18 and under who are under the control of an adult member of the filing group (FS C.3). Treat other Youthbuild payments as earned income.
 - (c) For TANF, if the Youthbuild Program participant is a dependent child in the filing group, or a caretaker relative age 19 or younger, exclude the payments. If the participant is a caretaker relative over age 19, treat the payments as follows:
 - (A) Exclude incentive payments that are reimbursements for specific expenses not covered by program benefits, e.g., transportation, school supplies, etc.
 - (B) Count on-the-job training (OJT) or work experience payments as earned income.
 - (C) Count the bonus payment (the incentive payment for attendance) as unearned income.

- (4) Exclude the equity value of escrow accounts that are established for families participating in the Family Self-Sufficiency (FSS) program sponsored by HUD.
- (5) Treat payments issued under the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625 (Family Investment Centers) as follows:
 - (a) Count wages as earned income and stipends as unearned income.
 - (b) Exclude service payments for items such as child care, basic education, literacy or computer skills training, employment training, or counseling assistance in attaining a GED, etc.

461-145-0230

35. Income-Producing Property

- (1) Income-producing property is any real or personal property that generates income for the financial group. Examples of income-producing property are:
 - (a) Livestock, poultry, and other animals.
 - (b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.
- (2) Count the income from income-producing property as follows:
 - (a) If a financial group member actively manages the property 20 hours or more per week, treat as self-employment income. (CA C.1, CA C.2 AND CA C.3).
 - (b) If a financial group member does not actively manage the property 20 hours or more per week, count as unearned income with exclusions allowed only in accordance with OAR 461-145-0920. Necessary costs are the actual costs allowable in determining countable self-employment income (CA C.2).

461-145-0250
461-145-0910
461-145-0920
461-145-0930

461-145-0250, 461-145-0920

Note: When the income from income-producing property is treated as unearned income, actual costs are allowed to offset the income. Allow the 50 percent self-employment deduction for FS only when the income is counted as earned income and the household has allowable costs.

Note: For FS, when a filing group is renting out rooms in their home they are not eligible for more than one deduction using the same costs. So if interest on the mortgage payment is used to reduce the income, it cannot also be allowed as a shelter cost.

- (3) Treat the equity value of income-producing property as follows:
- (a) For MAA, MAF, REF, REFM, SAC, and TANF, count it as a resource.
 - (b) For EA, ERDC, and OHP, exclude it.
 - (c) For FS, count as a resource unless one of the following is true:
 - (A) Exclude the equity value of property that produces an annual countable income that is similar to other properties in the community with comparable market value.
 - (B) Exclude the equity value of income-producing livestock, poultry, and other animals.
 - (C) Exclude the equity value if selling the resource would produce a net gain to the financial group of less than \$1,500.
 - (D) Exclude the value of work-related property or capital assets under CA B.86 or OAR 461-145-0600.
 - (d) For GA, GAM, OSIP, OSIPM, and QMB, count as a resource, except as follows:
 - (A) Exclude up to \$6,000 of the equity value if the property produces an annual countable income of at least six percent of its equity value.
 - (B) Exclude the total equity value if **all** the following are true:
 - (i) The property is used in a trade or business of a member of the financial group as evidenced by two or more of the following:
 - (I) The good faith intention of making a profit.
 - (II) Its use is part of a regular occupation for a member of the *financial group*.
 - (III) Holding out to others as being engaged in the selling of goods or services.
 - (IV) Continuity of operations, repetition of transactions, or regularity of activities.
 - (V) A business tax return, including forms such as Profit or Loss from Business or Profession (Schedule C), Computation of

Social Security Self-Employment (Schedule SE), Farm Income and expenses (Schedule F), Depreciation and Amortization (Form 4562), or U.S. Partnership Return of Income (Form 1065).

- (ii) The property is essential to the client's self-support.
- (iii) The property is in current use or, if not in use for reasons beyond the control of the financial group, there must be a reasonable expectation that the required use will resume.

461-145-0250

Examples of income-producing property for Food Stamps:

Example 1: Client reports renting out a room in her home. She receives \$200 a month rent. The client is billed \$500 a month for shelter (rent or mortgage) and pays separately for heating the home. This is a shared shelter situation. Subtract the \$200 rent payment from the shelter costs and allow the client a shelter deduction of \$300 and the FUA. There is no countable income from renting the room.

Example 2: Client reports renting out part of her home to two other individuals. She receives \$400 a month from each. The client is billed \$500 mortgage payment plus \$50 a month taxes and \$25 a month insurance. This is a shared shelter situation. Subtract the \$400 + \$400 from the client's \$575 shelter costs to leave an excess rental income of \$225. Code zero shelter cost for the client and allow the FUA because she pays the heating costs. Code the \$225 excess rental income as PTY. She is probably not actively working 20 hours a week at renting these two rooms, so the income is not self-employment. The \$225 can only be reduced further if there is an allowable cost. For example: \$5 a month advertisement fee to the local paper regarding the room rental. In that situation the income could become \$220 instead of \$225. Do not allow a cost for mortgage, taxes, insurance, or utilities because they have already been considered for the shelter cost and FUA determination.

Example 3: Client reports buying a motel. She lives in the manager's apartment and manages the motel. She also does part of the maid work each day. She is actively working in the motel more than 20 hours a week. The client is not being billed separately for rent and utilities from the motel mortgage and utility bills. Do not allow the shelter cost or FUA. There are allowable costs to running this business. Code the gross income from the business as SEC.

Example 4: Client has two rental cabins on the same property as his home. He is in the process of repairing and fixing these cabins. He has

rented one cabin for \$500 and plans to rent the second cabin for \$500 soon. He is doing all of the repairs himself in his spare time. He estimates he is working on the repairs about 15 hours a week. He is spending an average of \$250 a month to make these repairs and he provides receipts for the past three months. The units are in sad repair and will take many more months of work. Each unit has its own utility meter and the utilities are put into the renter's name. His mortgage payment for the full property is \$1,100 a month plus taxes and insurance. Allow him the full shelter cost of \$1,100 plus taxes and insurance. He has rental income of \$500 less the allowable cost for repairs. There is no allowable cost for mortgage, taxes, insurance, or utilities because there are no separately identified bills for each structure. Code \$250 as PTY (\$500 rental income less actual costs of \$250).

Example 5: Client owns two houses. He lives in one and rents out the other for \$1000 a month. Each house has its own mortgage, taxes, and insurance. The renter is responsible for all utilities at the rental. Currently there are no repairs or other costs associated with renting the house. The mortgage, taxes, and insurance on the rental totals \$900 a month. Rental income of \$1000 less allowable costs of \$900 = \$100 excess income. Code \$100 as PTY.

36. | Income-Producing Sales Contract

An income-producing contract is an agreement between two parties where one party is to pay the other party on an ongoing basis for property or goods. A common income-producing contract exists when the client sells land or a home to another party and the other party pays the client an agreed upon monthly or periodic payment.

- (1) Treat the equity value of income-producing sales contracts as follows:
 - (a) For GA and GAM, count it as a resource.
 - (b) For all programs except GA and GAM, exclude it.
- (2) For all programs except GA and GAM, count the income received from the sales contract, per CA B.66 and OAR 461-145-0460.

461-145-0240

37. | Independent Living Subsidies/Chaffee Housing Program

Independent Living Subsidies are payments made and services provided by Child Welfare to children ages 16 through 20. These payments also include payments under the Chaffee Housing Program. The subsidies are to assist the individuals to live

independently when their foster care payments were discontinued on or after the date they reached 16 years of age.

Note: For a description of these payments, see OAR 413-030-0400 to 0455.

- (1) For all programs except EA and FS, exclude all independent living subsidies issued by Child Welfare.
- (2) For EA and FS, count the payments as unearned income.

Note: See Educational Income for Chaffee Education and Training Grant – CA B.24 and MPWG #14.

461-145-0255

38. Indian (Native American) Benefits

Individuals enrolled as a member in a tribe or band may receive income from the tribe. The income may or may not be prescribed by law. The recipient should have documentation showing the type of payment and where it originated.

Note: The tribal office may also verify if the payment is made under a specific public law (P.L.) and the P.L. number.

Process to determine Indian income

Anytime a client states they are Native American, determine the following:

- Name of the tribe the person has a membership.
- What benefits do they receive from the tribe or from Bureau of Indian Affairs (BIA).
- Ask if they receive any kind of income, including per capita payments, and how often received.
- Verify the kind of payment and if it issued under a specific public law number. The treatment of income for some public laws is noted in this policy. If the public law number is not present in this policy, contact a program analyst with the public law number to research and determine if the income is counted or excluded.

- (1) For all programs, count as unearned income any payments distributed by the tribe or band, which is not excluded under public law. This can include profit share or per capita income from tribal casinos, timber sales, or sale of oil reserves. Payments made to tribal members from these profits are counted if the income is anticipated to be recurring (monthly, quarterly, semi-annually, or once a year). One time payments are nonrecurring and are counted as lump sum income.

(CA A.5). Treat recurring payments received less often than monthly as periodic income. (CA A.6).

Caution: Some per capita payments for timber or mineral sales may be counted while others are excluded. They are excluded only if the sales are off lands held in trust by the Secretary of the Interior. The tribal office will know if any part of the per capita payment was from lands held in trust.

- (2) Commercial fishing income received by members of the Yakima, Warm Springs, Umatilla, or Nez Perce tribes under the Columbia River Fishing Treaty is counted as earned income.

Note: Members may argue the income is excluded, but the treaty only excludes the income for income tax purposes. The treaty does not exclude the income for cash, medical, or food stamp eligibility.

- (3) Treat general assistance payments as follows:

- (a) For all programs except FS, exclude Bureau of Indian Affairs (BIA) General Assistance program payments. Count as unearned income for FS.
- (b) Some tribes use tribal funds for general assistance programs. The payments received under general assistance programs funded by the tribe are counted as unearned income.

Note: The Bureau of Indian Affairs (BIA) considers our cash programs as a prior resource to their General Assistance program. If BIA General Assistance payments continue after the client has started receiving benefits from the department, remind the client to tell BIA about receiving department benefits.

- (4) See Educational benefits in Counting Client Assets B.24 or OAR 461-145-0150 for how to treat BIA educational income.
- (5) Treat payments from tribal-TANF the same as TANF in Counting Client Assets B.55 or OAR 461-145-0410 for program benefits.
- (6) Payments made under the Old Age Assistance Claims Settlement Act (P.L. 98-500, Section 8) to heirs of deceased Indians are excluded except for per capita shares in excess of \$2,000. The first \$2,000 of each payment is excluded as income and as a resource. Count the remainder as lump sum income.
- (7) For all programs, exclude the following:
- (a) The value of Indian lands held jointly with the tribe, or land that cannot be sold without the approval of the Bureau of Indian Affairs.
- (b) Funds, assets, or income received from the trust fund established and paid to the Puyallup Tribe of the State of Washington under Section 9(b) of the Puyallup Tribe of Indians Settlement Act of 1989 (P.L. 101-41).

- (c) Payments to the Confederated Tribes of the Colville Reservation under the Grand Coulee Dam Settlement Act, section 7(b) (P. L. 103-436).
- (8) For GA and GAM, count Indian benefits described in subsection (9) through (15) of this section as periodic or lump sum income unless the client verifies that such benefits are excluded by public law for state-funded programs.
- (9) Assistance paid for Child Welfare under the Indian Child Welfare Act of 1978, (P.L. 95-608) is excluded. This act provides for child and family service grant programs in preparation and implementation of child welfare codes. The programs may include, but are not limited to, family assistance, including homemaker and home counselors, day care, after school care, and employment, recreational activities, and respite care.
- (10) Tribal payments for child care are treated as follows:
 - (a) Provider-direct payments are counted as the provider's earned income.
 - (b) All client-direct payments are excluded.

Note: The client is not allowed a child care deduction for FS for the reimbursed part of their cost.

- (11) Many tribes or bands have received judgments or settlements under public law or a treaty with the United States. Some but not all are identified below. For all programs except GA and GAM, exclude the following payments as income or resources:

Note: There may be other payments excluded under other public laws. Call the policy unit if a client provides information regarding payments under a specific public law not listed in this policy.

- (a) Payments from the distribution of funds held in trust to the Seminole Indians of Florida under P.L. 84-736.
- (b) Payments from the distribution of funds held in trust to the Pueblos of Zia and Jemez tribes of Florida under P.L. 84-926.
- (c) Per capita payments from a distribution of judgment funds and made by the Indian Claims Commission to the Blackfeet and Gros Ventre Tribes of the Fort Belknap Reservation in Montana under P.L. 92-254.
- (d) Payments from the distribution of funds held in trust to the Stockbridge Munsee Indian Community of Wisconsin under P.L. 92-480.
- (e) Payments from the distribution of funds held in trust to the Burns Indian Colony in Oregon under P.L. 92-488.
- (f) Relocation assistance payments to members of the Navaho or Hopi Tribes under P.L. 93-531, section 22.

- (g) Income derived from distribution of receipts from submarginal land held in trust by the United States under Public Law 94-114, section 6, for the following tribes:
- Assiniboine and Sioux Tribe of Montana;
 - Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin;
 - Blackfeet Tribe of Montana;
 - Cherokee Nation of Oklahoma;
 - Cheyenne River Sioux Tribe of South Dakota;
 - Chippewa Tribe of Minnesota;
 - Crow Creek Sioux Tribe of South Dakota;
 - Devil’s Lake Sioux Tribe of North Dakota;
 - Fort Belknap Indian Community of Montana;
 - Keweenaw Bay Indian Community of Michigan;
 - Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin;
 - Lower Brule Sioux Tribe of North Dakota;
 - Navajo Tribe of New Mexico;
 - Oglala Sioux Tribe of South Dakota;
 - Rosebud Sioux Tribe of South Dakota;
 - Shoshone – Bannock Tribes of Idaho;
 - Standing Rock Sioux Tribe of North Dakota;
- (h) Per capita payments made by the Indian Claims Commission from the disposition of funds held in trust to the Grand River Band of Ottawa Indians under Public Law 94-540.
- (i) Indian Claims Commission payments on judgment funds to the Confederated Tribes and Bands of the Yakima Nation or Apache Tribe of the Mescalero Reservation under P.L. 95-433, Section 2.
- (j) Payments made by the Indian Claims Commission to the Passamaquoddy Tribe and Penobscott Nation and the Houlton Band of Maliseet Indians or

- any of their members received under the Maine Indian Claims Settlement Act of 1980 (P. L. 96-420, sections 5 or 9(c)).
- (k) Payments on judgments funds to the Turtle Mountain Band of Chippewas, Arizona under P.L. 97-403.
 - (l) Payments on judgment funds to the Blackfeet, Gros Ventre, and Assinoboine tribes (Montana) and the Papago (Arizona) under P.L. 97-408.
 - (m) Judgment funds held in trust and per capita and interest payments disbursed to the Red Lake Band of Chippewa Indians under P.L. 98-123, section 3.
 - (n) Judgment funds held in trust and per capita and interest payments made to the members of the Assiniboine Tribe of the Fort Belknap Indian Community (Montana) and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana) under P.L. 98-124, section 5.
 - (o) Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior under P.L. 99-146, Section 6(b). The funds are distributed to the following reservations:
 - Wisconsin: Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Lac Courte Oreilles Band of Lake Superior Bands of Chippewa Indians of the Lac du Flambeau Reservation, Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Red Cliff Reservation, St. Croix Chippewa Reservation;
 - Michigan: Keweenaw Bay Indian Community (l'Anse, Lac Vieux Desert, and Ontonagon Bands);
 - Minnesota: Fonde du lac Reservation, Grand Protage Reservation, Nett Lake Reservation (including Vermillion Lake and Deer Creek), White Earth Reservation;
 - (p) Payments and funds held in trust to the White Earth Band of Chippewa Indians in Minnesota under the White Earth Reservation Land Settlement Act of 1985, Section 16 (P.L. 99-264).
 - (q) Per capita payments and income from a distribution of funds held in trust to the Saginaw Chippewa Tribe of Michigan under P.L. 99-346, Section 6(b)(2).
 - (r) Judgment payments disbursed to the Umpqua Tribe Cow Creek Band under Public Law 100-139.
 - (s) Settlement payments, funds distributed or held in trust to members of the Seneca Nation under P.L. 101-503, Section 8(b) the Seneca Nation Settlement Act of 1990.

- (t) Payments to the Aroostook Band under the Micmacs Settlement Act (P.L.102-171).
 - (u) Distributions of judgment funds to the Ottawa and Chippewa Indians of Michigan under P.L. 105-143, Michigan Indian Land Claims Settlement Act.
- (12) Per capita payments from the distribution of judgment funds to the Confederated Tribes of the Umatilla Indian Reservation under P.L. 91-259 are excluded, except per capita payments in excess of \$2,000 are counted as lump sum income (CA A.5).
- Caution:** The exclusion for the per capita payments made from funds held in trust under this law does not apply to per capita payments received from other assets owned by the tribe.
- (13) Per capita payments for assets held in trust to the Sax and Fox Tribe of Oklahoma and Sac and Fox Tribe of the Mississippi in Iowa by the Indian Claims Commission under P.L. 94-189, Section 6 (The Sac and Fox Indian Claims Agreement), are excluded except per capita payments in excess of \$2,000 are counted as lump-sum income (CA A.5).
- (14) Per capita payments distributed or held in trust to the Chippewas of Mississippi under P.L. 99-377 Section 4(b), to those with affiliation with the Mille Lac, White Earth, and Leech Lake Reservations in Minnesota, and paid by the Indian Claims Commission are excluded except per capita payments in excess of \$2,000 are counted as lump-sum income (CA A.5).
- (15) Funds distributed to the Hoopa Valley Tribe and the Yurok Tribe under P.L. 100-580, the Hoopa-Yurok Settlement Act, and paid by the Indian Claims Commission are excluded except per capita payments in excess of \$2,000 are counted as lump-sum income (CA A.5).
- (16) Funds appropriated in satisfaction of judgments awarded to the Seminole Indians under P.L. 101-277 and paid by the Indians Claims Commission are excluded except per capita payments in excess of \$2,000 per financial group member receiving such payment. Payments are allocated to members of the Seminole Nation of Oklahoma, Seminole Tribe of Florida, the Muccosukee Tribe of Indians of Florida, and the independent Seminole Indians of Florida.
- (17) For all programs except GA and GAM, the interests of individuals in trust or restricted lands are not counted as a resource under P. L. 93-134, P.L. 97-458 and Public Law 103-66. In addition, payments received from these lands are excluded.
- (18) For all programs except GA and GAM, exclude per capita payments from judgment funds held in trust by the Secretary of the Interior (trust fund distributions) under P.L. 98-64.

Note: Per capita payments may be authorized for specific tribes under other public laws. Also, the funds in (10) and (11) are disbursed from different sources and therefore are treated differently.

- (19) For all programs except GA and GAM, treat payments made under P.L. 92-203, section 29, Alaska Native Claims Settlement Act as follows:
 - (a) For FS, exclude the entire payment.
 - (b) For all other programs, except FS, GA, and GAM, exclude only the tax-exempt portion of the payment. Count the remainder as unearned income.
- (20) For all programs except GA and GAM, treat payments made under Public Law 100-241, section 15, Alaska Native Claim Settlement Act Amendments of 1987, as follows:
 - (a) Exclude the value of stock, partnership interest, land, or interest in land and an interest in a settlement trust.
 - (b) Exclude the first \$2,000 of each per capita payment per financial group member receiving such payment per year.
 - (c) Count the amount over \$2,000 as lump sum income (CA A.5).

461-145-0260

39. Individual Education Account (IEA)

The IEA is an asset accrued by JOBS Plus participants. Exclude the IEA while it accumulates, while it is saved, and when it is withdrawn for educational purposes.

For the FS program, also exclude funds in a qualified tuition program under section 529 of the Internal Revenue Code or in a Coverdell education savings account.

461-145-0145

40. Inheritance

- (1) An inheritance may be received in the form of monies, property, or other assets.
- (2) An inheritance is treated as follows:
 - (a) In all programs except for the ERDC program:
 - (A) A noncash inheritance is treated according to the policy for a specific type of asset inherited.

- (B) A cash inheritance is counted as periodic (see OAR 461-140-0110) or lump-sum income (see CA A.5 and 461-140-0120).
- (b) In the ERDC program, an inheritance is excluded.

461-145-0270

41. | In-Kind Income

In-kind income is compensation in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party). (See OAR 461-001-0000.)

☞ SEE CA B.67 FOR HOW TO TREAT SHELTER-IN-KIND INCOME.

- (1) For all programs, treat unearned third-party payments as follows:
 - (a) Count payments made to a third party that should legally be paid directly to a member of the financial group as unearned income. This includes court-ordered support payments that the noncustodial parent makes voluntarily to the landlord or mortgage company on behalf of the financial group.
 - (b) Treat payments made to a third party that the payee is not legally obligated to pay directly to a member of the financial group and that the group does not have the option of taking as cash, and payments made by the noncustodial parent to a third party, that are court-ordered but not designated as child support, as follows:
 - (A) For FS, exclude these third-party payments (except per (4) below) unless they are transitional housing payments for the homeless.

Note: Transitional housing for the homeless is a shelter or residence for homeless individuals as they transition to regular housing. There is generally a time limit for the transition period and it may be 24 months.
 - (B) In MAA, MAF, REF, REFM, SAC, and TANF, except for child support (see 461-145-0080), these third party payments are excluded.
 - (C) In OHP, these third-party payments are counted (except per (5) below).
 - (D) For all other programs, exclude these third-party payments.

☞ FOR INFORMATION ON HOW TO TREAT OTHER THIRD-PARTY PAYMENTS MADE BY A NONCUSTODIAL PARENT, SEE CA B.13 OR OAR 461-145-0080.

- (2) For all programs except EXT, MAA, MAF, OHP, REF, REFM, SAC, and TANF, treat earned in-kind income according to CA B.21 and CA B.22 (OAR 461-145-0130).
- (3) For all programs except EXT, MAA, MAF, OHP, REF, REFM, SAC, and TANF, treat unearned in-kind income (except third-party payments) as follows:
 - (a) Exclude court-ordered community service work or bartering. Bartering is the exchange of goods of equal value.
 - (b) Treat items such as cars and furniture according to the administrative rule for the specific type of asset.
- (4) For EXT, MAA, MAF, REF, REFM, SAC, and TANF, exclude all in-kind income (except unearned third party payments).

461-145-0280

- (5) For FS and OHP, exclude in-kind income except count as income child support (461-145-0080) or the expenditures (payments for food, clothing, cars, furniture, shelter, etc.) by a business entity that substantially benefits a principal who is a member of the OHP financial group. A “principal” is a person with significant authority in the business entity, such as the proprietor of a sole proprietorship, including a person who is self-employed, or a partner of a partnership, or a member or manager of a limited liability company, or an officer or principal stockholder of a closely held corporation (OAR 461-145-0088).

Example: Mr. Clean is a partner in a business called Just Right Cleaners. The business makes monthly payments for his car of \$420 each month, house payment of \$1,025, car insurance for \$87.50 for a total of \$1,532.50. These amounts are considered in-kind income and, as well as any other income paid to Mr. Clean, are considered countable income and used to determine eligibility.

461-140-0040
461-145-0120
461-145-0470

42. Job Corps

Job Corps payments are treated as follows:

- (1) A living allowance payment is counted as earned income.
- (2) A readjustment allowance payment is treated as follows:
 - (a) In all programs except the FS program, this payment is counted as earned income.

- (b) In the FS program, this payment is counted as lump-sum income (CA A.5).
- (3) A support service payment for an item already covered by the benefits of the benefit group is counted as unearned income. All other support service payments (including clothing allowances) are excluded.
- (4) A reimbursement is treated as provided in CA B.63 or OAR 461-145-0440.

Note: *JOBS participants in Job Corps get JOBS child care payments instead of a TANF child care payment.*

Note: *PIVOT (Partners in Vocational and Occupational Training) is a Job Corps program for participants 17-21 years of age, who have had a child by age 17. Treat PIVOT living allowance payments as (1) above.*

461-145-0290

43. | Life Estate

- (1) A *life estate* (See OAR 461-001-0000) is the right to property limited to the lifetime of the person holding it or the lifetime of some other person. In general, a *life estate* enables the owner of the *life estate* to possess, use, and obtain profits from property during the lifetime of a designated person while actual ownership of the property is held by another individual. A *life estate* is created when an individual owns property and then transfers their ownership to another while retaining, for the rest of their life, certain rights to that property. In addition, a *life estate* is established when a member of the financial group purchases a *life estate* interest in the home of another individual.
- (2) For all programs except OSIP, OSIPM, and QMB, if a financial group is living in real property while a member holds a *life estate* in this property, the property is treated as a home (see OAR 461-145-0220). In all other situations, a *life estate* is treated as real property (see OAR 461-145-0420).
- (3) In the OSIP, OSIPM, and QMB programs:
 - (a) A transfer for less than *fair market value* (see OAR 461-001-0000) in which a member of the financial group retains a *life estate* is a disqualifying transfer. A transfer is considered for less than *fair market value* if the *fair market value* of the transferred resource on the day prior to the transfer is greater than the sum of the value of the rights conferred by the *life estate* plus the compensation received for the transfer. For purposes of this subsection, the value of the rights conferred by the *life estate* is established by the Life Estate and Remainder Interest Table of the federal Centers for Medicare and Medicaid Services, State Medicaid Manual, section 3258.9(A).
 - (b) If a member of the financial group purchases a *life estate* interest in the home of another individual on or after July 1, 2006, the purchase is

considered a transfer of resources unless the client resides in this home for at least 12 consecutive months after the date of the purchase. The value of the transfer for a client who does not reside in the home for at least 12 consecutive months is calculated by using the purchase price of the *life estate*.

Note: See SPD Worker Guide E.3 located at http://www.dhs.state.or.us/spd/tools/additional_man/workergd/e.3.htm for an example and the Life Estate and Remainder Interest Table. For technical assistance, contact Estates Administration.

☞ SEE OAR 461-140-0210 FOR MORE ON TRANSFER OF RESOURCES.

461-145-0310

44. Life Insurance

Note: *Burial insurance that has cash surrender value is treated in the same manner as life insurance.*

- (1) Count payments made to the beneficiary of a life insurance policy as unearned income. Allow a deduction, not to exceed \$1,500, for the cost of the deceased person's last illness and burial cost (if these costs were not otherwise insured).
- (2) Treat the equity value of a life insurance policy as follows:
 - (a) For all programs except GA, GAM, OSIP, OSIPM, and QMB, exclude the cash surrender value of the life insurance policy.
 - (b) For grandfathered OSIP and OSIPM clients, the total exclusion available for life insurance and burial arrangements is limited per OAR 461-145-0040 (2)(b).
 - (c) For GA, OSIP, OSIPM, and QMB, except as provided in (b) above, exclude the total cash surrender value of life insurance policies owned by the client or their spouse if the total face value of all policies is less than or equal to \$1,500. If the total face value of all policies is more than \$1,500, count the entire cash surrender value as a resource. The total face value does not include dividend additions that increase the death benefit and cash surrender value.
 - (d) Exclude all term insurance that has no cash surrender value.
 - (e) For GA, GAM, OSIP, OSIPM, and QMB, the cash surrender value of a policy acquired through a viatical settlement is excluded. A viatical settlement allows a third party to acquire the life insurance policy from a

terminally ill person at an agreed upon percentage of the life insurance policy face value.

461-145-0320

45. | Loans and Repayment of Loans

This policy covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.

- (1) A “reverse-annuity mortgage” means a contract with a financial institution under which the financial institution provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves. A “reverse-annuity mortgage” is sometimes referred to in the private sector as a reverse mortgage or a home equity conversion mortgage. The proceeds of a home equity loan or *reverse-annuity mortgage* are considered loans.

Note: A reverse mortgage can be received by a person age 62 or older as a loan against the equity in their home. The loan is due for repayment when the borrower permanently moves out or sells the property or upon death of the borrower.

- (2) A loan is defined as:
 - (a) Except for FS, GA, GAM, OHP, OSIP, OSIPM, and QMB programs, a written agreement between the borrower and lender. The written agreement must stipulate a repayment plan, and be signed and dated before the receipt of money.
 - (b) In the FS, GA, GAM, OHP, OSIP, OSIPM, and QMB programs, the loan agreement may be written or oral and state when repayment is due to the lender.
 - (c) For GA, GAM, OSIP, OSIPM, and QMB, a “bona fide loan agreement” means an agreement that:
 - (A) Is enforceable under state law;
 - (B) Is in effect at the time the cash proceeds are provided to the borrower; and
 - (C) Includes an obligation to repay and a feasible repayment plan.
 - (d) “Negotiable loan agreement” means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.

- (3) Payments for a purported loan that do not meet the requirements of (2) are treated as unearned income.
- (4) When the financial group receives cash proceeds as a borrower from a loan:
 - (a) Treat educational loans according to CA B.24 or OAR 461-145-0150.
 - (b) If the loan is used to purchase a noncash asset (e.g., a car), treat it according to the policy for that asset.
 - (c) For ERDC, EXT, FS, MAA, MAF, OHP, REF, REFM, SAC, and TANF, exclude loans obtained by the financial group in the month received. If retained after the month of receipt, treat in accordance with OAR 461-140-0070.
 - (d) For GA, GAM, OSIP, OSIPM, and QMB:
 - (A) If the loan is a bona fide loan agreement, the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).
 - (B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.
- (5) Unless the loan is considered a transfer of assets for less than *fair market value* (see section (6) below), when a member of a *financial group* is the lender, the loan is treated as follows:
 - (a) In the GA, GAM, OSIP, OSIPM, and QMB programs:
 - (A) If the loan is both a *negotiable loan agreement* and a *bona fide loan agreement*, the loan is counted as a resource of the lender valued at the outstanding principal balance.
 - (B) If the loan does not qualify under paragraph (A) of this subsection, the transfer of assets to the borrower may be considered a transfer for less than *fair market value* (see OAR 461-001-0000). If the transfer is not disqualifying, payments against the principal are counted as income to the lender.
 - (C) Interest income received by the lender is counted as unearned income whether the loan is a *bona fide loan agreement* or not.
 - (b) In all programs other than the GA, GAM, OSIP, OSIPM, and QMB programs, count as unearned income payments made to the financial group on the interest portion of a loan the group has made to someone else. Exclude payments received on the principal.

- (6) In the GA, GAM, OSIP, OSIPM, and QMB programs, in a transaction occurring on or after July 1, 2006, if a client or a spouse of a client uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan, the balance of the payments owing to the client or spouse of the client is a transfer of assets for less than *fair market value*, unless all of the following requirements are met:
- (a) The total value of the transaction is being repaid to the client or spouse of the client within that person's actuarial life expectancy as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.
- ☞ SEE SPD WORKER GUIDE E. TREATMENT OF ANNUITIES
- (b) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.
 - (c) The contract is not cancelled upon the death of the client or the spouse of the client (who made the transaction).

Example: An applicant states she is meeting her needs with a \$300 loan from her sister each month. She has applied for SSI. The sister confirms she is loaning the money and expects repayment when her sister's income begins. This meets the definition of a loan for FS, OSIP and QMB. It can only be considered a loan for ERDC, MAA, MAF, REF, SAC, or TANF if the agreement was written prior to the receipt of the funds.

461-145-0330

46. | Lodger Income

A lodger is a member of the household who pays the filing group for room and board and who is not a member of the filing group. Lodger income is the amount the lodger pays the filing group for room (rent) and board (meals).

Lodger income is treated as follows:

- (1) In the MAA, MAF, REF, REFM, SAC, and TANF programs, lodger income not excluded under OAR 461-155-0350 is treated as self-employment income.
- (2) In all programs except MAA, MAF, REF, REFM, SAC, and TANF, lodger income is treated as self-employment income.

461-145-0340

47. **Manufactured and Mobile Homes**

- (1) Manufactured and mobile homes are treated in the same manner as real property under OAR 461-145-0420.

☞ SEE CA B.59 FOR REAL PROPERTY.

- (2) Manufactured and mobile homes are subject to OAR 461-145-0220 and OAR 461-145-0250 if applicable.

☞ SEE CA B.32 FOR HOME OR CA B.34 FOR INCOME PRODUCING PROPERTY.

461-145-0343

48. **Military Income**

This policy is regarding pay and allowances of a member of a uniformed service. This income is treated as follows:

- (1) For all programs, military pay and allowances of a member of the United States Armed Forces in the financial group is counted as earned income (CA B.22). Except for FS, the amount reduced from basic pay for the GI Bill is excluded per PL 99-576, Veterans Education Act of 1984.
- (2) For all programs except FS, the military pay and allowances of a member of the United States Armed Forces, who is not in the filing group, but available to the financial group is counted as unearned income.
- (3) For FS, if the member of the United States Armed Forces is not included in the filing group, income available to the financial group from this source is counted as unearned income. The additional pay made, due to deployment to a designated combat zone per the Consolidated Appropriations Act of 2005 (PL. 108-447), is excluded. The additional pay must be the result of the deployment to a designated combat zone and not received immediately prior to serving in the combat zone.

In FS, the absent military member of a household is not included in the FS filing group. Only the money they send home, or make available to the group at home, is counted as unearned income. This income is generally made available to the FS filing group in one of several ways:

- (a) Via a direct deposit of all or a portion of the military person's pay into a joint bank account;
- (b) Via an allotment arrangement made by the military person for a portion of his or her pay to be sent to the filing group; or

- (c) Via a direct payment (such as a check) from the military person to the filing group.

All three of these methods are called military service allotments. Regardless of the arrangement made by the absent military member, only the portion of his or her pay, to which the filing group has access, is counted as unearned income to the group.

Workers are required to determine if any of the military allotment available to the filing group should be excluded for FS because the military person is deployed to a designated combat zone.

Procedures for determining the amount of military allotment to count:

- Establish the amount of the military person's pay that was available to the filing group prior to deployment to a designated combat zone.

Available means income that the filing group received and could spend as well as any of the income that may have been direct deposited and automatically used to pay the mortgage, utilities, common bills, etc.

***Note:** If, in the unlikely instance that the military person was a member of the filing group immediately prior to deployment, that person's military income needs to change from the gross earned income to their net military pay for this step.*

- Next, determine the amount of military pay that the deployed person is making available to the filing group now.
 - If the current amount is equal to or less than the amount the household was receiving prior to the deployment to a combat zone, count all of the allotment as unearned income.
 - Exclude any portion of the deployed person's military pay that exceeds the amount the group received prior to deployment to a combat zone.
 - Code the countable part of the military allotment as WAR on page 2 of the FCAS screen.

How to verify this income.

There are several ways the family at home can verify the situation.

- The deployed person's military pay record (Leave and Earnings Statement – LES) is sometimes sent directly to the family at home or can be mailed to the family by the deployed person. The LES will identify the combat zone and if combat pay is being received.
- Deployment to a combat zone can also be established via a copy of the deployment orders.

- If the family does not have a copy of the LES, they may be able to access the information via the web at <https://mypay.dfas.mil/mypay.aspx>. To do this, they need the SSN of the deployed person and their password.
- The filing group may also seek assistance from the local base financial office for the needed combat zone and pay information.
- If the payment is coming to the filing group via direct deposit, the bank statement can also verify the monthly allotment.

The additional pay is excluded when an absent military person with one of these two pay codes is deployed to one of the following combat zones.

- 301 Incentive pay: hazardous duty
- 310 Special pay: duty subject to hostile fire or imminent danger

List of the combat zones allowed the exclusion:

(301)	The Adriatic Sea	(320)	Kuwait
(302)	Afghanistan	(321)	Kyrgyzstan
(304)	Albania	(322)	Macedonia
(305)	Arabian Sea Portion that lies north of 10° North Latitude and west of 68° East Longitude	(323)	Oman
(306)	Bahrain	(324)	Pakistan
(307)	Bosnia	(325)	Persian Gulf
(308)	Croatia	(326)	Philippines (only troops with orders that reference Operation Enduring Freedom (OEF))
(310)	Djibouti	(327)	Qatar
(311)	Egypt	(328)	Red Star
(312)	The Federal Republic of Yugoslavia (Serbia and Montenegro)	(329)	Saudi Arabia
(313)	Gulf of Aden	()	Somalia
(314)	Gulf of Oman	(330)	Tajikistan
(315)	Herzegovina	(331)	Turkey
(316)	The Ionian Sea north of the 30 th Parallel	(332)	United Arab Emirates
(317)	Iraq	(333)	Uzbekistan
(318)	Israel	(334)	Yemen
(319)	Jordan		

49. Motor Vehicle; FS

☞ SEE CA B.49

461-145-0360

50. Motor Vehicle

☞ SEE CA A.3 FOR HOW TO DETERMINE THE FAIR MARKET VALUE OF VEHICLES.

- (1) For FS, MAA, MAF, REF, REFM, SAC, and TANF, exclude up to \$10,000 equity value of all licensed and unlicensed motor vehicles. Count the remaining equity value as a resource.

☞ SEE TANF G-3 FOR MORE INFORMATION ON HOW TO DETERMINE THE RESOURCE VALUE OF MOTOR VEHICLES FOR TANF.
- (2) For EA, ERDC, and OHP, exclude all motor vehicles.
- (3) For GA and GAM, exclude up to \$4,500 equity value of one licensed motor vehicle selected by the financial group. Count any remaining equity in that vehicle and the total equity value of all other vehicles as a resource.
- (4) For grandfathered OSIP and OSIPM financial groups, exclude one motor vehicle in operating condition and count the equity value of any other motor vehicles as a resource.
- (5) For OSIP, OSIPM, and QMB:
 - (a) Exclude the total value of a vehicle selected by the financial group if it is used for employment or necessary and continuing medical treatment. If not, exclude the first \$4,500 of the fair market value.
 - (b) Count the amount above \$4,500 as a resource.
 - (c) Count the total equity value of all other vehicles as a resource.
- (6) For OSIP and OSIP-EPD clients, if a vehicle was purchased as an employment and independence expense (see OAR 461-001-0035), or with moneys from an approved account (CA B.7), exclude the total value of the vehicle.

☞ SEE CA B.61 OR OAR 461-145-0433 FOR INFORMATION ON HOW TO TREAT RECREATIONAL VEHICLES.

461-145-0360

51. National and Community Services Trust Act (NCSTA/AmeriCorps)

- (1) The National and Community Service Trust Act (NCSTA) of 1993 (P.L. 103-82) amended the National and Community Service Act (NCSA) of 1990 (P.L. 101-610) that established a Corporation for National and Community Service. The Corporation administers national service programs providing living allowance, educational award, child care, and in-kind benefits.
- (2) NCSTA payments, including AmeriCorps (except AmeriCorps VISTA which is covered in OAR 461-145-0110) are treated as follows:
 - (a) The living allowance (stipend benefits) is excluded.
 - (b) Educational award and in-kind benefits are treated as follows:
 - (A) In the GA program, these benefits are treated according to the policy for the specific type of asset.
 - (B) In all programs except GA, these benefits are excluded.
 - (c) The child care allowance is treated as follows:
 - (A) For clients in the ERDC, MAA, REF, SAC, and TANF programs who are eligible for direct provider payment of child care, the allowance is counted as unearned income. The allowance is excluded only if the client already pays the provider. The provider may be paid for only the costs not covered by the allowance.
 - (B) For clients in the FS program who are receiving a child care deduction, the allowance is excluded as income and the deduction is allowed only for the costs not covered by the allowance.
 - (C) In all other programs, the allowance is excluded.

Note: The programs administered by the corporation under the NCSTA include AmeriCorps USA and AmeriCorps NCCC. The corporation also oversees the Senior Corps, the Earth Corps, and Learn and Serve. For information on how to treat AmeriCorps VISTA benefits, see CA B.20 (OAR 461-145-0110).

461-145-0365

52. Older Americans Act

For all programs except FS, GA, and GAM, exclude benefits under title III of the Older Americans Act of 1965 (Nutrition Program for the Elderly). For FS, GA, and GAM, count these benefits as unearned income.

For all programs except FS, count as earned income benefits paid to persons age 55 and older under title V of the Older Americans Act of 1965. The organizations receiving

title V funds are: Green Thumb, Experience Works, American Association of Retired Persons, National Association for Spanish-Speaking Elderly, National Council on Aging, National Council on Black Aging, National Council of Senior Citizens, National Urban League, U.S. Forest Service. For FS, exclude all payments made under title V of this Act.

Note: In Oregon, some seniors working for Easter Seals may also be paid using title V funds. Confirm the funding source before excluding the income.

461-145-0370

53. | Pension and Retirement Plans

- (1) Pension and retirement plans include the following:
 - (a) Benefits employees receive only when they retire. These benefits can be disbursed in lump-sum (CA A.5) or monthly payments.
 - (b) Benefits that employees are allowed to withdraw when they leave a job before retirement.
 - (c) The following retirement plans and annuities if purchased by a client with funds from the plans authorized by section 401 of the Internal Revenue Code of 1986:
 - (A) Traditional Defined-Benefit Plan.
 - (B) Cash Balance Plan.
 - (C) Employee Stock Ownership Plan.
 - (D) Keogh Plan.
 - (E) Money Purchase Pension Plan.
 - (F) Profit-Sharing Plan.
 - (G) Simple 401(k).
 - (H) 401(k).
 - (d) Retirement plans and annuities purchased by a client with funds from plans authorized by section 403 of the Internal Revenue Code of 1985 at subsections (a) or (b).
 - (e) The following are retirement plan and annuities if purchased by the client with funds from the plans authorized by section 408 of the Internal Revenue Code of 1986.
 - (A) Individual Retirement Annuity.

- (B) Individual Retirement Account (IRA).
- (C) Deemed Individual Retirement Account or Annuity under a qualified employer plan.
- (D) Accounts established by employers and certain associations of employees.
- (E) Simplified Employee Pension (SEP).
- (F) Simple Individual Retirement Account (Simple-IRA).
- (G) Roth IRA.
- (f) The following retirement plans and annuities offered by governments, nonprofit organizations, or unions:
 - (A) 457(b) Plan.
 - (B) 401(c)(18) Plan.
 - (C) Federal Thrift Savings Plan under 5 USC 8439.
- (2) An annuity purchased by the spouse of a client with funds from a retirement plan described in (1)(c) of this subsection is not considered a retirement plan and is treated in accordance with a CA B.5 or CA B.6 (OAR 461-145-0020 and OAR 461-145-0022).
- (3) Treat benefits the client receives from pension and retirement funds as follows:
 - (a) Count monthly payments as unearned income.
 - (b) Count all other payments as periodic (CA A.6) or lump-sum income.
- (4) In all programs except OSIP, OSIPM, and QMB, count the value of pension and retirement plans that allow clients to withdraw funds before retirement as follows:
 - (a) For all programs except FS and OHP, count as a resource the equity value of the plan, minus any penalty for early withdrawal.
 - (b) For FS, the value of retirement accounts identified in sections 401(a), 403(a), 403(b), 408, 408(k), 408(p), 408A, 451(b), or 501(c)(18) of the IRS code, or in a federal Thrift Savings Plan Account are excluded resources.
 - (c) For OHP, exclude the equity value of the plan.
- (5) In the OSIP, OSIPM, and QMB programs:
 - (a) Except for an annuity purchased with funds from a retirement plan described in subsection (1)(c) above:

- (A) The equity value of a pension or retirement plan is excluded as a resource if the individual is eligible for monthly or periodic payments under the terms of the plans and has applied for these payments.
 - (B) The equity value of all pension and retirement plans not covered by paragraph (A) of this subsection that allow clients to withdraw funds minus any penalty for withdrawal, is counted as a resource.
- (b) The equity value of an annuity purchased with funds from a retirement plan described in subsection (1)(c) above is excluded as a resource if it meets the payout requirements of 461-145-0022(10)(c). Otherwise, the equity value is counted as a resource.

461-145-0380

54. | **Personal Belongings**

Personal belongings are such items as household furnishings, clothing, heirlooms, keepsakes, and hobby equipment. For all programs, exclude the value of all personal belongings.

461-145-0390

55. | **Personal Injury Settlement**

- (1) For all programs except ERDC, treat personal injury settlements as follows:
- (a) Count monthly payments as unearned income.
 - (b) For clients in all programs except grandfathered clients in OSIP and OSIPM, count all other payments as periodic (CA A.6) or lump-sum income (CA A.5).
 - (c) For grandfathered OSIP and OSIPM clients, count the balance from personal injury claims after the department's lien is satisfied as lump-sum income. If the lien was not filed due to the recipient's failure to notify the department of the claim, count the payment as unearned income.
- (2) For ERDC, exclude all personal injury settlements.

☞ FOR WORKERS' COMPENSATION PAYMENT, SEE CA B.85.

461-145-0400

56. Plan for Self-Support

A plan for self-support allows a client to retain a part of his or her assets for a specific period of time so they can meet specific occupational goals. The Social Security Administration may establish a plan for self-support with SSI recipients. SPD may also establish a plan for self-support with some GA, GAM, OSIP, OSIPM, or QMB clients that are not eligible for SSI.

- (1) This policy covers two types of plans for self-support.
 - (a) A plan for self-support approved by the Social Security Administration.
 - (b) A plan of self-support approved by the department (see OAR 461-135-0708).
- (2) Assets listed in an approved plan for self-support are treated as follows:
 - (a) In the Food Stamp program, assets designated for use in an approved plan for self-support are excluded.
 - (b) In all programs except FS, if assets are identified to meet a specific cost directly related to the occupational goal:
 - (A) Resources identified to meet costs, such as purchase of equipment for a trade or business, transportation, books, and maintenance costs at school, are excluded.
 - (B) An income deduction is allowed for the amount identified to meet allowable costs necessary for complying with the plan for self-support including:
 - (i) Room and board, and other maintenance requirements, if the client must be away from home; and
 - (ii) Above-normal expense, if the client remains at home but must buy meals or incur other known expenses while away from home during the day.

461-145-0405

57. Program Benefits

- (1) Treat Pre-TANF Program payments as follows:
 - (a) In FS, count a payment for basic living expenses made directly to the client as unearned income. Exclude all other payments.

Note: For clients being certified for FS at the same time that Pre-TANF Program payments are being made, count payments for basic

living expenses that can reasonably be anticipated. For other clients with ongoing prospectively budgeted FS benefits, count these payments after giving 10-day notice only if the payments can be anticipated for next month.

- (b) In all programs except FS, exclude these payments.
- (2) Treat EA and TA-DVS payments as follows:
- (a) In ERDC and FS, count a payment made directly to the client as unearned income. Exclude dual payee and provider-direct payments.
 - (b) In all programs except ERDC and FS, exclude these payments.
- (3) Exclude payments from ERDC and TANF child care unless the client is the provider.
- (4) Exclude payments from EXT, GAM, MAA, MAF, OHP, OSIP-IC, OSIPM, QMB, REFM, and SAC.
- (5) Treat Food Stamp payments as follows:
- (a) Exclude the value of an FS benefit in all programs except EA. In EA, count the value as a resource when determining the emergency food needs of the filing group.
 - (b) Exclude OFSET service payments.
- (6) Treat benefits from GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF (including the 10 percent late-processing fee discussed in OAR 461-165-0150) as follows:
- (a) In the EA program, count these payments as unearned income, except exclude these payments for a benefit group whose emergent need is the result of domestic violence.
 - (b) In the ERDC program:
 - (A) Post-TANF payments are excluded.
 - (B) All other payments are counted as unearned income.
 - (c) In the FS program:
 - (A) Treat GA, OSIP, Post-TANF, REF, SFPSS, and TANF payments as unearned income.
 - (B) Treat an amount received as a late processing payment as lump-sum income.

- (C) Treat payments made to correct an underpayment as lump-sum income (CA A.5).

☞ SEE CA A.5 FOR LUMP SUM INCOME.

- (D) Treat ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances as unearned income. Exclude all other special needs payments as reimbursements.

Note: *In FS, the MNL HH-type to prevent the system from counting special needs payments that are excluded.*

Note: *For FS, for telephone allowances: if a client was receiving a check each month for a telephone allowance which included payment for a basic telephone and a life line, the amount for basic telephone would be considered unearned income and the amount for the life line is considered a reimbursement.*

Note: *For FS, if a client is eligible for a special need but rather than receiving a check has their pay-in reduced, the pay-in amount is considered a medical deduction plus any other out-of-pocket expenses that may be allowable medical deductions.*

- (d) In the OHP program:
 - (A) Exclude GA payments from income for purposes of determining OHP eligibility.
 - (B) Benefits from the Post-TANF program are excluded.
 - (C) Treat benefits from OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, and TANF (including the 10 percent late-processing fee discussed in OAR 461-165-0150) as follows:
 - (i) Count the payments as unearned income if all the individuals included in the benefit group for the cash payment are also in the OHP financial group.
 - (ii) Count a prorated share as unearned income if any of the individuals in the cash payment are not included in the OHP financial group. Determine a prorated share by dividing the total payment by the number of individuals in the TANF benefit group.
 - (iii) Exclude a payment made to correct an underpayment caused by the department if the underpayment occurred prior to the budget period.

- (e) In all programs except the EA, ERDC, FS, and OHP programs:
 - (A) Exclude these payments in the month received, and count any portion remaining following the month of receipt as a resource.
 - (B) Exclude payments made to correct an underpayment.
- (f) In all programs:
 - (A) Exclude JOBS, REF, and TANF JOBS Plus support service payments.
 - ☞ FOR HOW TO TREAT JOBS PLUS INCOME, SEE CA B.22.
 - (B) Treat REF and TANF client incentive payments as follows:
 - (i) Except in TANF, count the cooperation incentive payment (see OAR 461-135-0310) as unearned income.
 - (ii) Count progress and outcome incentive payments other than in-kind payments as lump-sum income (see OAR 461-140-0120). Exclude all other incentives.

☞ SEE CA B.21 AND CA B.22 OR OAR 461-145-0120 FOR TREATMENT OF SUBSIDIZED WAGES (E.G., JTPA WORK EXPERIENCE AND JOBS PLUS WAGES).

Note: When a person is receiving TANF JOBS Plus, continue to code the TANF grant and the extra JOBS Plus \$10 payment as unearned income.

461-145-0410

58. | **Radiation Exposure Compensation Act**

Radiation Exposure Compensation Act payments are issued to compensate individuals for injuries or deaths resulting from exposure to radiation from nuclear testing or uranium mining.

For all programs, these payments are excluded.

461-145-0415

59. | **RARE**

The Research Assistance for Rural Environments (RARE) is a program administered through the University of Oregon. The program assists rural communities in their efforts to improve their economic, social, and environmental conditions. Local communities request the assistance of this program and provide part of the funding. The program is

supported through grants from various federal and state agencies. In addition, this program sometimes includes funding from The National and Community Services Trust Act (AmeriCorps).

RARE participants are graduate-level people who reside in the local community. They work in this program for 11 months and receive monthly living stipend and medical health insurance.

The stipend may include funding from the Corporation for National and Community Services (AmeriCorps). The stipend may be counted differently depending on their participation in AmeriCorps. If the RARE participant is also getting funding from AmeriCorps, they will have a signed agreement showing this participation. With proof of AmeriCorps participation, count the RARE living allowance (stipend benefits) as follows:

- (1) For FS, MAA, MAF, OHP, SAC, and TANF, exclude these payments.
- (2) For ERDC, count as earned income if paid to a caretaker. If not, exclude it.

461-145-0365

***Note:** Ask each RARE participant to provide a copy of the AmeriCorps contract before excluding the stipend income.*

Without proof of AmeriCorps participation, count the RARE living allowance (stipend benefits) as follows:

- (1) For all programs except ERDC, count as earned income.
- (2) For ERDC, count as earned income if paid to a caretaker. If not, exclude it.

461-140-0010

60. Real Property

Manufactured, mobile homes, and floating homes and houseboats are treated the same as real property.

Real property is land, buildings, and whatever is erected or affixed to the land and taxed as real property.

☞ SEE CA B.34 OR OAR 461-145-0250 FOR TREATMENT OF INCOME-PRODUCING PROPERTY.

☞ SEE CA B.32 OR OAR 461-145-0220 FOR TREATMENT OF PROPERTY USED AS THE GROUPS HOME.

- (1) The client has the burden of proof of establishing the fair market value of real property. The department may determine the methodology that will most accurately reflect the value. If decided it is the most accurate, fair market value of real property may be determined using the highest value identified by the county assessor on the most recent property tax statement. The exception is if a real estate appraisal is submitted showing the property is expected to sell for less on the open market.
- (2) Treat real property that is not income-producing (CA B.34) or the financial group's home (CA B.32) as follows:
 - (a) For MAA, MAF, REF, REFM, SAC, and TANF, count as a resource the equity value of all real property that is not excluded under a TANF Interim Assistance agreement (CA B.60).
 - (b) For EA, ERDC, and OHP, exclude real property.
 - (c) For FS, exclude the equity value of real property that the financial group is making a good-faith effort to sell at a fair market price. If the group refuses to make a good-faith effort to sell, count the equity value of the property as a resource. In addition, the resource is excluded if selling it would produce a net gain of less than \$1500 to the financial group.
 - (d) For GA, GAM, OSIP, OSIPM, and QMB:
 - (A) Exclude real property that was the home of the financial group if they are making a good-faith effort to sell at a reasonable price. If the group refuses to make a good-faith effort, count the equity value of the property as a resource.
 - (B) Count the equity value of all other real property as a resource unless the financial group is making a good-faith effort to sell the property. The equity value is counted after the property is excluded for nine months unless the failure to sell is for reasons beyond the reasonable control of the financial group.

Note: A good-faith effort to sell property includes listing the property for sale in the local newspaper, putting a "For Sale" sign on the property, and/or listing the property with a real estate company.

461-145-0420

61. | **Real Property Excluded Under an Interim Assistance Agreement; MAA, MAF, REF, REFM, TANF**

For MAA, MAF, REF, REFM, and TANF, treat real property where the equity value puts the financial group over the TANF resource limit as follows:

- (1) Exclude real property for a maximum of nine months if the financial group signs and complies with the terms of the Interim Assistance Agreement. After the ninth month, count the equity value of the property as a resource.
- (2) To comply with the terms of the Interim Assistance Agreement, the financial group must agree to do the following:
 - (a) Make a good-faith effort to sell the property; **and**
 - (b) Use the proceeds from the sale of the property to reimburse the department for all benefits paid under the terms of the Interim Assistance Agreement. The reimbursement will not exceed the net proceeds of the sale of the property.
- (3) The amount of benefits paid while the financial group has excess real property is an overpayment if the financial group fails to notify the department that they have the property.
- (4) The amount of the benefits paid while the financial group has excess real property up to the net proceeds of the sale of the property is an overpayment if the property sells and the group does not repay the department per the terms of the Interim Assistance Agreement.

Note: *If the financial group has excess real property, complete a TANF Resource Referral form (DHS 647B) and file in the case record with the following:*

- *A signed copy of the TANF Interim Assistance Agreement (DHS 418).*
- *A copy of the legal description of the property.*
- *A copy of the deed or purchase agreement (if available).*

Track the case for the entire 9-month exclusion period. Close the case at the end of the exclusion period.

If the client reapplies, check to see if they still have the property or if the property sold. If the client still has the property, they remain ineligible. If the property sold while the case was closed, and the client did not reimburse the department, compute an overpayment.

Use receipt code 216 when the client makes a payment based on the terms of the TANF Interim Assistance Agreement.

62. | Recreational Vehicles

Recreational vehicles include the following:

- They are used primarily for amusement and not for day-to-day transportation; **and**
 - They cannot be licensed as a motor vehicle for use on a public highway. However, they may be registered or licensed as a nonmotor vehicle.
 - An ATV, boat, camper, dune buggy, plane, snowmobile, or trailer, unless it qualifies as a capital assets (CA B.86) or work-related equipment.
- (1) For all programs except ERDC and OHP, count the equity value of recreational vehicles as a resource. Except for FS, the value is excluded if by selling the vehicle the proceeds would be less than \$1500 to the financial group.
 - (2) For ERDC and OHP, exclude recreational vehicles.

☞ SEE CA B.49 OR OAR 461-145-0360 FOR INFORMATION ON HOW TO TREAT MOTOR VEHICLES THAT DO NOT MEET THE DEFINITION OF RECREATIONAL VEHICLES.

461-145-0433

63. | Refunds

Exclude the following refunds in the month they are received:

- (1) Refunds on merchandise that was purchased or received as a gift.
- (2) Refunds of utility and rental deposits.

Count any refund amount remaining after the month of receipt as a resource.

☞ SEE CA B.75 OR OAR 461-145-0530 FOR INFORMATION ON TAX REFUNDS.

461-145-0435

64. | Reimbursement

“*Reimbursement*” means money or in-kind compensation provided specifically for an identified expense.

- (1) For the treatment of USDA meal reimbursements, see OAR 461-145-0570.

☞ SEE USDA MEAL REIMBURSEMENT PER CA B.80.

- (2) For the treatment of reimbursements for self-employed clients, see OAR 461-145-0920.

☞ SEE SELF-EMPLOYMENT; COSTS THAT ARE EXCLUDED TO DETERMINE COUNTABLE INCOME PER CA C.2.

- (3) Except as provided in section (1) and (2) above, a *reimbursement* (see OAR 461-001-0000) is treated as follows:

- (a) In the ERDC program, a *reimbursement* is excluded, except that a *reimbursement* for child care from a source outside of the department is counted as unearned income.

Note: Payments for extra expenses, such as meal reimbursements for training or conferences, JTPA lunch payments, DHS shelter payments for attendants or housekeepers, and premiums for cost-effective employer-sponsored health insurance are not considered to be expenses paid by program benefits and are excluded as reimbursements. Exclude all jury-duty payments.

- (b) In the FS program:

- (A) A *reimbursement* in the form of money for a normal household living expense, such as rent or payment on a home loan, personal clothing, or food eaten at home, is unearned income.

☞ SEE TREATMENT OF EARNED INCOME (CA B.22) IF AN EMPLOYER IS REIMBURSING THE CLIENT FOR HEALTH INSURANCE OR CHILD CARE IN A CAFETERIA PLAN.

Note: Shared shelter is not a cash reimbursement.

☞ SEE IN-KIND INCOME, CA B.40 OR OAR 461-145-0280.

- (B) Any other *reimbursement*, except as in (3)(c) below, is treated as follows:

- (i) An in-kind *reimbursement* is excluded.
- (ii) A *reimbursement* in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.
- (iii) A *reimbursement* is counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120) if not used for the identified expense.

- (iv) A *reimbursement* for an item already covered by the benefits of the *benefit group* (see OAR 461-110-0750) is counted as periodic or lump-sum income.
- (c) In the FS and OHP programs, an expenditure by a business entity that benefits a *principal* is counted as earned income (see OAR 461-145-0130).
- (d) In all programs except the ERDC and FS programs, a *reimbursement* is treated as follows:
 - (A) An in-kind *reimbursement* is excluded, except as provided in subsection (c) of this section for the OHP program.
 - (B) A *reimbursement* in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.
 - (C) A *reimbursement* is counted as periodic or lump-sum income if not used for the identified expense.
 - (D) A *reimbursement* for an item already covered by the benefits of the *benefit group* is counted as periodic or lump-sum income.

461-145-0440

65. | **Representative Payee Payment**

Representative payees receive payments on behalf of other people who are required to have a representative payee. Some representative's charge a fee to the person they are receiving the payments for.

- (1) Fees paid by a client, to a representative payee, who is required by the Social Security Administration to receive payments through a representative payee is excluded. The amount of the exclusion is limited to the amount authorized by the Social Security Administration. Criteria for this exclusion are in OAR 461-145-0490 and 461-145-0510.
- (2) Fees received by a financial group member, as a representative payee, are counted as earned income per OAR 461-145-0120.
- (3) When a representative payee, who is a member of the financial group receives benefits for another person as their representative payee, treat the income as follows:
 - (a) Excluded as long as the payments are being disbursed as intended for the person requiring the payee per OAR 461-140-0040.

- (b) Counted as unearned income if the payments are being kept by the financial group member and not being disbursed as intended for the person requiring the payee.

66. Resettlement Grants

A Resettlement and Placement (R&P) grant is a payment made by the United States Department of State through national refugee resettlement agencies to local resettlement agencies, refugee sponsors, and refugees. The R&P grants are provided to the resettlement agencies to help with the costs of initial resettlement of refugees in the United States. The resettlement agencies provide a part of this grant to refugees, usually in their first month after arrival, for their initial resettlement needs, and not for ongoing living expenses.

- (1) For ERDC, REF, REFM, and TANF, R&P grants are excluded from consideration as income and resources for purposes of determining program eligibility or benefit levels, except as provided in OAR 461-140-0070.
- (2) For FS, the first \$300 of the R&P grant are exempted from FS eligibility consideration as a cash contribution from a charitable organization (see CA B.14 or rule 461-145-0086(2)). An amount exceeding \$300 paid directly to a FS household from an R&P grant is unearned income.
- (3) For GA, MAA, MAF, OHP, OSIPM, and QMB, an R&P grant determined to be available to the refugee case is considered unearned income.

461-145-0455

67. Sale of a Resource

- (1) For all programs except ERDC, EXT, MAA, MAF, REF, REFM, SAC, and TANF, treat proceeds from the sale of a resource as follows:
 - (a) Count proceeds from the sale of a resource (other than a home) received on a monthly or other periodic basis as unearned income. Treat proceeds received on a lump sum basis as follows:
 - (A) If the proceeds are from the sale of an excluded resource, exclude the amount reinvested in another excluded resource. Count the remainder as a resource.
 - (B) Count the proceeds from all other sales as a resource. If the proceeds put the benefit group over the resource limit, treat the proceeds as periodic (CA A.6) or lump-sum income (CA A.5).

- (b) For all clients except those eligible for OSIPM under 461-135-0771, exclude the proceeds from the sale of the financial group's home, if they intend to reinvest the proceeds in another home within three months from receipt of funds.
 - (c) For clients eligible for OSIPM under 461-135-0771, exclude the proceeds from the sale of the financial group's home, if they intend to reinvest the proceeds in another home within 12 months from receipt of funds.
 - (d) Count the proceeds from the sale of a home that are not reinvested in another home as a resource. Except for GA and GAM, if the proceeds put the benefit group over the resource limit, count the monies as periodic or lump-sum income.
 - (e) In the FS program, if a self-employed client sells a work-related asset (CA B.11), including equipment and inventory (CA B.86), the proceeds of the sale are treated as self-employment income.
- (2) For MAA, MAF, REF, REFM, SAC, and TANF, if the proceeds are from the sale of an excluded resource, exclude the amount reinvested in another excluded resource. Count all other proceeds from the sale of a resource as unearned income.
 - (3) For ERDC and EXT, exclude all proceeds from the sale of a resource.
 - (4) Any costs that are excluded under OAR 461-145-0920 are subtracted from the proceeds from the sale of a resource if the proceeds are treated as income under this rule. This is true even though the income is not from self-employment. Use the actual costs and not the allowed self-employment deduction identified in CA C.3.

461-145-0460

☞ SEE CA B.35 OR OAR 461-145-0240 FOR INFORMATION ON HOW TO TREAT THE PROCEEDS FROM A RESOURCE SOLD ON CONTRACT.

68. | Shelter-in-Kind Income

Shelter-in-kind is when an agency or person outside the household provides the financial group's shelter, or makes a payment to a third party for some or all of the group's shelter costs. Shelter costs are housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or nonbasic telephone charges. (See OAR 461-001-0000.)

- (1) For all programs except GA, GAM, OSIP, OSIPM, and QMB, shelter-in-kind does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities.

- (2) For GA, GAM, OSIP, OSIPM, and QMB, shelter-in-kind also includes situations where the client has no shelter costs.
- (3) Except as provided in section (4):
 - (a) For ERDC, count earned shelter-in-kind as earned income. Unearned shelter-in-kind is excluded.
 - (b) For EXT, MAA, MAF, REF, REFM, SAC, and TANF, except for child support, shelter-in-kind payments are excluded.
 - (c) For GA and GAM, exclude shelter-in-kind payments.
 - (d) For FS, an expenditure by a business entity for shelter costs of a principal (see OAR 461-145-0088) is counted as earned income. See CA B.22 when shelter is part of earned income. See In-Kind Income (CA B.40) when the payments are made by the noncustodial parent. Exclude all other shelter-in-kind housing and utility payments.
 - (e) For OHP, shelter-in-kind payments are excluded, except if the shelter payment is provided by a business entity in which the client is a principal, the payment is countable income. A “principal” is a person with significant authority in the business entity, such as the proprietor of a sole proprietorship, including a person who is self-employed, or a partner of a partnership, or a member or manager of a limited liability company, or an officer or principal stockholder of a closely held corporation.

☞ SEE OAR 461-140-0040.

Example: Sara is the principal owner of a bakery which is an incorporated business. She states on her application that she currently does not receive wages. She also has not received draws from the business. Bank statements and canceled checks show payments made for her home in the amount of \$1,275 per month, tax payments monthly in the amount of \$127, utility payments (electricity, gas, water, garbage, and phone bills) totaling \$380 per month. The total amount of these payments, \$1,782, is countable income for her.

☞ SEE CA B.40, IN-KIND INCOME FOR INFORMATION ON HOW TO TREAT SHELTER-IN-KIND PAYMENTS RECEIVED AS CHILD SUPPORT.

- (f) For OSIP, OSIPM, and QMB, treat shelter-in-kind income as follows:
 - (A) Unearned *shelter-in-kind* income is treated as follows:
 - (i) *Shelter-in-kind payments* from HUD are excluded.
 - (ii) If all *shelter costs* (see OAR 461-001-0000) are covered by a payment, the Shelter-in-Kind Standard for total shelter (see OAR 461-155-0300) is counted as unearned income.

- (iii) If only rent or mortgage costs are covered by a payment, the Shelter-in-Kind Standard for housing costs (see OAR 461-155-0300) is counted as unearned income.
 - (iv) If the client has no *shelter costs*, the Shelter-in-Kind Standard for total shelter (see OAR 461-155-0300) is counted as unearned income.
- (B) Earned *shelter-in-kind income* is treated as follows:
- (i) If shelter is provided for services related to the employer's trade or business and acceptance of the shelter is a condition of employment, the *shelter-in-kind income* is treated in accordance with paragraph (A) of this subsection.
 - (ii) Except as provided in subparagraph (i) of this paragraph, the *fair market value* (see OAR 461-001-0000) of the shelter is counted as earned income.
- (4) A payment for which there is a legal obligation to pay to a member of the *financial group* that is made to a third party for shelter expenses of a member of the *financial group* is counted as unearned income.

461-145-0470

☞ SEE CA B.33 FOR PAYMENTS MADE BY HUD.

69. | Social Security Benefits

For this section, a payment is retroactive if it is issued in any month after the calendar month for which it would normally be received.

Treat all SSB as follows:

- (1) Count monthly payments as unearned income.
- (2) Count all other payments as periodic or lump-sum income except as provided in (3) below.
- (3) In the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs, count retroactive payments as unearned income in the month of receipt except as follows:

When retroactive payments are made through the representative payee of an individual who is required to have a representative payee because of drug addiction or alcoholism, the retroactive payments may be required to be made in installments. If the payments are made in installments, the total of the benefits to be paid in installments is considered unearned income in the month in which the

first installment is made. Any remaining amount from a retroactive payment after the month of receipt is counted as an excluded resource for nine calendar months following the month in which the payment is received. After the nine-month period, any remaining amount is a countable resource.

- (4) The representative payee fee paid by a client who is required by the Social Security Administration to receive payments through a representative payee is excluded. The amount of the exclusion is limited to the amount authorized by the Social Security Administration. The representative payee must be a community-based nonprofit social services agency which is bonded or licensed by the state. They may collect the lesser of 10 percent of the monthly benefit amount or \$37 (\$72 a month in any case in which SSA determined the individual has an alcohol or drug addiction and is incapable of managing such benefits). (The amounts are as of December 1, 2007.)

461-145-0490

70. Social Security Death Benefit

Money remaining from Social Security Death benefits after the payment of burial costs is treated as lump-sum income (see OAR 461-140-0120).

461-145-0500

71. Spousal Support

“Spousal support” is income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the *financial group* (see OAR 461-110-0530).

OAR: 461-001-0000

- (1) For ERDC, MAA, MAF, OHP, OSIP, OSIPM, QMB, and SAC programs, spousal support is counted as unearned income.
- (2) For FS:
 - (a) Payments made by the separated or divorced spouse to a third party for the benefit of the *financial group* are excluded, except that a payment for which there is a legal obligation to pay to a member of the *financial group* that is made to a third-party for shelter expenses of a member of the *financial group* is counted as unearned income.
 - (b) Spousal support (see OAR 461-001-0000) is counted as unearned income.

- (3) In the REF and TANF programs:
- (a) For clients not working under a TANF JOBS Plus agreement, if the spousal support is received by the department or the Department of Justice, and if continued receipt of the *spousal support* is reasonably anticipated, the spousal support is:
 - (A) Counted as unearned income when determining eligibility; and
 - (B) Excluded when determining the REF and TANF benefit amount.

Note: For example, receipt of spousal support can be reasonably anticipated if the support is secured by wage garnishment or if it has been received in each of the two months before the payment month.
 - (b) For clients working under a TANF JOBS Plus agreement:
 - (A) *Spousal support* is excluded in determining countable income.
 - (B) *Spousal support* is excluded when calculating the TANF portion of the benefit equivalency standards.
 - (C) *Spousal support* received by the client is counted as unearned income when calculating the wage supplement.
 - (c) Other *spousal support* payments (not covered under subsections (a) or (b) of this section) are counted as unearned income.

☞ SEE RULE 461-160-0200 FOR INFORMATION ON THE UNEARNED INCOME DEDUCTION FOR SPOUSAL SUPPORT FOR MAF, AND SAC.

461-145-0505

72. | SSI

- (1) For ERDC, FS, GA, GAM, and OHP, count monthly SSI payments as unearned income. Exclude the representative payee fee for clients who must receive payments through a representative payee under P.L. 101-508 or P.L. 103-296. In this instance the representative payee must be a community-based nonprofit social services agency which is bonded or licensed by the state. They may collect the lesser of 10 percent of the monthly benefit amount or \$37 (\$72 a month in any case in which SSA determined the individual has an alcohol or drug addiction and is incapable of managing such benefits). (These amounts are as of January 1, 2006.)

Note: When disability is based on drug addiction or alcoholism, P.L. 103-296 requires that payments to SSA clients be made through an authorized representative.

- (2) For ERDC, GA, GAM, and OHP:
 - (a) Count SSI monthly payments as unearned income.
 - (b) Count SSI lump-sum payments according to the specific program policy on lump-sum.
 - ☞ SEE OAR 461-140-0120.
 - ☞ SEE OSIP E.3 AND GA E.6 IN THE SPD MANUAL; SEE CA A.5 FOR FS.
- (3) For EXT, MAA, MAF, REF, REFM, and TANF:
 - (a) Exclude SSI monthly and lump-sum payments, even if received by a financial group member, if that person will be removed from the group the following month.
 - (b) Treat SSI lump-sum in a bank account held jointly with other financial group members according to CA B.8.
 - (c) Exclude SSI retroactive lump-sum payments in the month paid and the next month, even if the recipient is in the financial group. Count the remainder as a resource after those two months, if the SSI recipient is still in the group.
- (4) In FS, count monthly SSI payments as unearned income and exclude any lump-sum SSI payments.

Note: Clients receiving SSI from California also get FS benefits with the SSI. These clients are not eligible for FS from Oregon until the California SSI ends.

- (5) For OSIP and OSIPM (not OSIP-EPD or OSIPM-EPD), exclude retroactive lump-sum SSI payments for nine months after receipt. After the nine-month period, any remaining amount is counted as a resource. For the purpose of this subsection, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.

461-145-0510

73. Stipends

A stipend is a fixed or regular payment for services rendered. The stipend may include a living allowance, personal expenses or reimburse a person for their costs, such as, a person's time or transportation.

A stipend may be excluded, or counted as earned or unearned income. How it is treated depends on the funding source of the stipend and the program.

First, determine the funding source. The client may not know; you will need to ask the organization. For example, a community agency, college or university, etc., may obtain AmeriCorps, WIA, or some other type of funding to fund the stipend.

Once identified, check in Counting Client Assets.

- The stipend income is countable if it is not specifically excluded in one of the sources in Counting Client Assets, per OAR 461-140-0010.
- If the funding source is not covered in this section of the manual, for FS it is counted as earned income (use the TNG income code on FCAS) and unearned income for all other programs.

Some of the stipend funding sources identified in Counting Client Assets are:

- VISTA (including AmeriCorps VISTA) or various programs under the Domestic Volunteer Services Act (CA B.20).
- Youthbuild Program (CA B.33).
- Job Corps (CA B.41).
- Programs under the National Community Services Trust Act (including AmeriCorps) (CA B.50).
- Programs funded by the Older Americans Act (CA B.51).
- RARE (CA B.58).
- Veterans Administration (CA B.81).
- Vocational Rehabilitation (CA B.83).
- WIA (CA B.84).

Some examples of stipend income that may or may not be funded by sources identified in Counting Client Assets are:

- A tribal member receives a stipend to attend training or GED classes. This income is from the tribe and not funded under a law that excludes the stipend.
- A College or University may pay a stipend to a student in a faculty fellowship program. This income may be from the College or University using state or grant funds and is not funded by a law that excludes the stipend.

- A volunteer in a Community program receives a stipend for the time they worked on a project. This income may be from the community via a grant, state, or local funds and is not funded under a law that excludes the stipend.
- A student is receiving an income each month from ROTC funds each month while attending school. This income is considered a stipend and is not excluded.

74. Stocks, Bonds, and Other Securities

- (1) Except as provided in section (2) below, securities, including stocks, bonds, and certificates of deposit (CDs), are counted as a resource.
- (2) The value of a savings bond issued by the United States Department of the Treasury is excluded during the minimum retention period if the owner has received a denial of a request for a hardship waiver based on financial need.
- (3) A request for a hardship waiver may be made to the United States Department of the Treasury, Bureau of Public Debt, Accrual Services Division, PO Box 1328, Parkersburg, West Virginia 26106-1328.

461-145-0520

75. Strikers' Benefits

Strikers' benefits are payments made to strikers by their union, whether or not based on the striker's participation in picketing. Treat these payments as follows:

- (1) For all programs except FS, count as unearned income.
- (2) For FS, exclude these payments, unless the striker's current income is higher than their pre-strike income. If so, count as unearned income.

☞ SEE FS F.15 FOR MORE INFORMATION ON DETERMINING FS ELIGIBILITY OF A STRIKER AND INCOME CALCULATION.

461-145-0525

76. Tax Refund

For all programs, count the following types of tax refunds as a resource.

- (1) Federal and state tax refunds.

- (2) Property tax refunds, including Elderly Rental Assistance (ERA).

461-145-0530

☞ SEE CA B.23 ON TREATMENT OF EARNED INCOME TAX CREDIT.

77. | Ticket to Work

Ticket to Work is a Social Security program mandated under the Ticket to Work and Work Incentives Improvement Act of 1999. The intent is to enable social security beneficiaries to obtain, regain, or maintain employment and to reduce their dependency on cash assistance.

Ticket to Work is for most Social Security Disability (SSD) and Supplemental Security Income (SSI) clients who are between age 18 and 65. The program is voluntary. Recipients may use the “ticket” to obtain vocational rehabilitation, employment, or other support services from an approved provider of their choice to help them to go to work and achieve their employment goals. The recipient may be placed in on-the-job training or in school.

Most recipients participating in the Ticket to Work program are not receiving money from SSA for Ticket to Work. Instead, SSA is sending payments to the provider to reimburse the provider for their costs to provide the services. The recipient may continue to get SSD or SSI while in the training, etc. They may be paid a wage when work begins. They lose SSD or SSI when their income exceeds the allowable limits for SSD or SSI.

Some recipients of Ticket to Work will receive a stipend or training allowance. For FS, the stipend from a vocational rehabilitation program is counted as earned income. For all other programs, the stipend is counted as unearned income.

For all programs, count the income from employment as earned income. Count the SSD or SSI received by the client as unearned income.

Note: For TANF, REF, REFM, MAA, and MAF, if the Ticket-to-Work participant receives SSI, the stipend does not count as income because the SSI recipient is not in the Financial Group.

461-145-0585, 461-145-0120, 461-145-0130

78. | Trusts

- (1) Trust funds are money, securities, or similar property held by a person or institution for the benefit of another person.
- (2) This section applies to all trust funds in the FS, MAA, MAF, OHP, REF, REFM, SAC, and TANF programs. It also applies to GA, GAM, OSIP, OSIPM, and QMB for trust funds established before October 1, 1993:

- (a) Trust funds are counted as a resource if the fund is legally available for use by a member of the financial group for items covered by program benefits. For OSIP, OSIPM, and QMB, the amount of the trust that is considered legally available is the maximum amount that could be distributed to the beneficiary under the terms of the trust, regardless of whether or not the trustee exercises his or her authority to actually make the distribution.
 - (b) Trust funds are excluded if the fund is not available for use by a member of the financial group. The financial group must try to remove legal restrictions on the trust, unless that would cause an expense to the group.
 - (c) The part of the fund available for use for medical expenses covered by the medical program for which the financial group is eligible is counted.
- (3) In the ERDC program, all trust funds are excluded.
- (4) In the OSIP, OSIPM, and QMB programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) through (11) of this rule. In the GA and GAM programs, trust funds established on or after October 1, 1993, are treated in accordance with sections (5) through (9) of this rule.
- (5) A trust is considered established if the financial group used their resources to form all or part of the trust and if any of the following established a trust, other than by a will:
 - (a) The client.
 - (b) The client's spouse.
 - (c) Any other person, including a court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse.
 - (d) Any other person, including a court or administrative body, acting at the direction or upon the request of the client or the client's spouse.
- (6) If the trust contains resources or income of another person, only the share attributable to the client is considered available.
- (7) Except as provided in section (10) of this rule, the following factors are ignored when determining how to treat a trust:
 - (a) The purpose for which the trust was established.
 - (b) Whether or not the trustees have or exercise any discretion under the trust.
 - (c) Any restrictions on when or if distributions may be made from the trust.
 - (d) Any restrictions on the use of distributions from the trust.

- (8) If the trust is revocable, it is treated as follows:
- (a) The total value of the trust is considered a resource available to the client.
 - (b) A payment made from the trust to or for the benefit of the client is considered unearned income.
 - (c) A payment from the trust other than to or for the benefit of the client is considered a transfer of assets covered by OAR 461-140-0210 and following.
- (9) If the trust is irrevocable, it is treated as follows:
- (a) If, under any circumstances, the funds transferred into the trust are unavailable to the client and the trustee has no discretion to distribute the funds to or for the benefit of the client, the client is subject to a transfer-of-resources penalty as provided in OAR 461-140-0210 and following.
 - (b) If, under any circumstances, payments could be made to or on behalf of the client, the share of the trust from which the payment could be made is considered a resource. A payment from the trust other than one to or for the benefit of the client is considered a transfer of assets that may be covered by OAR 461-140-0210.
 - (c) If, under any circumstances, income is generated by the trust and could be paid to the client, the income is unearned income. Payments made for any reason other than to or for the benefit of the client are considered a transfer of assets subject to disqualification per OAR 461-140-0210.
 - (d) If any change in circumstance makes assets (income or resources) from the trust unavailable to the client, the change is a disqualifying transfer as of the date of the change.
- (10) Notwithstanding the provisions above in this rule, the following trusts are not considered in determining eligibility for OSIPM and QMB:
- (a) A trust containing the assets of a client determined disabled by SSI criteria that was created before the client reached age 65, if the trust was established by one of the following and the state will receive all funds remaining in the trust upon the death of the client, up to the amount of medical benefits provided on behalf of the client:
 - (A) The client's parent.
 - (B) The client's grandparent.
 - (C) The client's legal guardian or conservator.
 - (D) A court.

- (b) A trust established between October 1, 1993, and March 31, 1995, for the benefit of the client and containing only the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical benefits provided on behalf of the client. The trust is the total income in excess of the income standard for OSIPM. The remaining income not deposited into the trust is available for the following deductions in the order they appear prior to applying the patient liability:
 - (A) Personal-needs allowance.
 - (B) Community spouse monthly maintenance needs allowance.
 - (C) Medicare and other private medical insurance premiums.
 - (D) Other incurred medical.

- (c) A trust established on or after April 1, 1995, for the benefit of the client and containing the current and accumulated income of the client. The accumulated amount remaining in the trust must be paid directly to the state upon the death of the client up to the amount of medical assistance provided on behalf of the client. The trust contains all the client's income. The income deposited into the trust is distributed monthly in the following order with excess amounts treated as income to the individual subject to the rules on transfer of assets in division 140 of this chapter of rules:
 - (A) Personal needs allowance and applicable room and board standard.
 - (B) Reasonable administrative costs of the trust, not to exceed a total of \$50 per month, including the following:
 - (i) Trustee fees.
 - (ii) A reserve for administrative fees and costs of the trust, including bank service charges, copy charges, postage, accounting and tax preparation fees, future legal expenses, and income taxes attributable to trust income.
 - (iii) Conservatorship and guardianship fees and costs.
 - (C) Community spouse and family monthly maintenance needs allowance.
 - (D) Medicare and other private medical insurance premiums.
 - (E) Other incurred medical care costs as allowed under OAR 461"160"0030 and 461-160-0055. Contributions to reserves or payments for child support, alimony, and income taxes. Monthly contributions to reserves or payments for the purchase of an irrevocable burial plan with a maximum value of \$5,000.

Contributions to a reserve or payments for home maintenance if the client meets the criteria of OAR 461-155-0660 or 461-160-0630.

- (F) Patient liability not to exceed the cost of waived services or nursing facility care.

(11) For a trust signed on or after July 1, 2006:

- (a) Notwithstanding the provisions of subsections (2) through (9), a trust that meets the requirements of subsection (b) below is not considered in determining eligibility for OSIPM or QMB, except if the client is age 65 or older when the trust is funded or transfer is made to the trust. The transfer may constitute a disqualifying transfer of assets under OAR 461-140-0210 and the following.
- (b) This section applies to a trust that meets all of the following conditions:
 - (A) The trust is established and managed by a nonprofit association.
 - (B) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.
 - (C) The trust is established by the client, client's parent, grandparent, or legal guardian, or a court for clients who have disabilities.
 - (D) To the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the state an amount equal to the total medical assistance paid on behalf of the beneficiary under the state plan for Medicaid.
 - (E) The trust contains the resources or income of a client who has a disability that meets SSI criteria.

(12) In the GA, GAM, OSIP, OSIPM, and QMB programs, the provisions of this rule may be waived for an irrevocable trust if the department determines that denial of benefits would create an undue hardship on the client if, among other things:

- (a) The absence of the services requested may result in a life-threatening situation.
- (b) The client was a victim of fraud or misrepresentation.

79. Unemployment Compensation Benefit

Count most UC benefits received weekly or bi-weekly as unearned income and retroactive payments as lump-sum income (CA A.5) or (OAR 461-140-0120).

The American Recovery and Reinvestment Act of 2009 funded an additional \$25 weekly in unemployment compensation (UC) benefit payments. Payments are for the UC claim weeks beginning February 26, 2009, through December 26, 2009. Clients will begin seeing the additional \$25 UC benefit the first week of March.

- For all SSP/SPD medical programs, all TANF and TANF related programs (including Pre-TANF, single-parent and two-parent TANF, Post-TANF, TA-DVS and SFPSS), the \$25 increase is excluded.
- For the ERDC and FS, the \$25 benefit increase is countable UC income.

The Weekly Benefit Amount does not include the additional \$25 benefit. However, the \$25 is included in the check amount on the E-PAY- Payment List.

If the client does not have any earnings or overpayments withholding, use the Weekly Benefit Amount (WBA) on ECLM- Claim Summary Display for all but ERDC and FS. For ERDC and FS, use the WBA plus \$25.

If the client has earnings or an overpayment withholding, use the E-PAY-Payment List screen to determine the amount of countable UC income.

- For all programs but ERDC and FS, add the check amount, amount of overpayment withheld, amount of child support withheld and amount of federal and state taxes withheld. Subtract \$25 from the total.
- For ERDC, add the check amount, amount of overpayment withheld, amount of child support withheld and the amount of federal and state taxes withheld.
- For FS, add the check amount, amount of child support withheld, amount of federal and state taxes withheld.

Countable UC Income When You Cannot Use the WBA					
<i>E-Pay amounts</i>	<i>Check amount</i>	<i>Overpayment</i>	<i>Child Support</i>	<i>Taxes</i>	<i>Subtract \$25</i>
ERDC	X	X	X	X	
FS	X		X	X	
Medical	X	X	X	X	X
All TANF	X	X	X	X	X

461-145-0550

Note: *Countable UC income includes garnishments and taxes.*

80. | Uniform Relocation Act and Real Property Acquisition Policies Act

Reimbursements from the Federal Uniform Relocation Assistance Act (42 U.S.C 4621-4625) and from the Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651-4655) are counted as a resource for GA and GAM and excluded for all other programs.

461-145-0560

81. | USDA Meal Reimbursement

USDA meal reimbursements are cash reimbursements for family day-care providers who serve snacks and meals. The reimbursements are made by the Department of Education and the amount of the reimbursement is determined by family size and income.

- (1) Count USDA meal reimbursements made to child care providers as self-employment income.
- (2) Exclude the USDA meal reimbursements for a filing group member.

Child care providers often have young children of their own who are present at the same time as children in care. When the provider receives the USDA meal reimbursement, they submit the voucher for both the children in care and their own children who were present for the snacks and meals.

Exclude the part of the meal reimbursement for the providers own children as follows:

- (a) Determine the total number of children (not in filing group) who receive meals or snacks.
- (b) Determine the total number of the children (in filing group) also receiving meals or snacks.
- (c) Total (a) and (b) above.
- (d) Determine the total amount of monthly meal reimbursement.
- (e) Divide the total from (c) into the meal reimbursement in (d) to arrive at the amount of reimbursement per child.
- (f) Multiply the result of (e) by the number of children in (a) to arrive at the countable USDA meal reimbursement. Count as SEC.

USDA Meal Reimbursement Worksheet

_____ (a)	Total number of children who receive meals or snacks (not in filing group).
_____ (b)	Total number of children, in the filing group, receiving meals or snacks.
_____ (c)	Total children in (a) and (b) above.
_____ (d)	Amount of monthly meal reimbursement.
_____ (e)	divided by _____ (c) = _____ (amount of reimbursement per child)
_____ X _____ (a)	= _____ (count as SEC).

☞ SEE CA C.2 OR OAR 461-145-0920 FOR MORE INFORMATION ON SELF-EMPLOYMENT COSTS.

461-145-0570

82. Veterans' Benefits

- (1) Treat veterans' benefits, other than Aid and Attendance and educational or vocational rehabilitation training benefits, as follows:
 - (a) Count monthly payments as unearned income.
 - (b) Count other payments as periodic (CA A.6) or lump-sum income (CA A.5 or OAR 461-140-0120).
- (2) Treat veterans' Aid and Attendance payments as follows:
 - (a) For FS, OHP, and QMB exclude these payments.
 - (b) For OSIP, OSIPM, and QMB clients receiving long-term care or title XIX-waivered services, treat as follows:
 - (A) Exclude the entire payment when determining financial eligibility.
 - (B) Count the entire payment as unearned income when calculating monthly benefits or patient liability.
 - (C) Exclude payments for services not covered by the department's programs.
 - (D) The client is required to repay to the department the amount of the payments received by the client for costs and services already paid for by the department, up to the amount of institutional and home- or

community-based waived care provided to the client during months covered by the payments. Any unrecovered third-party resource or payment above the actual cost is counted as lump-sum or periodic income.

- (c) For all other programs, treat Aid and Attendance payments as follows:
- (A) Exclude payments for services not covered by the department's programs.
 - (B) Reimbursements paid to the client for costs and services already paid for by the department are third-party resources and should be recovered from the client. Count any unrecovered third-party resource or payment above the actual cost as lump-sum or periodic income.

Note: If an applicant/recipient's Aid and Attendance income makes the total income over the 300 percent of SSI, an income cap trust is not needed.

- (3) Exclude payments under Public Law 104-204 to children of Vietnam veterans who are born with spina bifida.
- (4) Treat educational benefits from the Veterans' Administration according to CA B.24 or OAR 461-145-0150.

Note: Educational benefits from the VA include the Montgomery GI Bill (Chapter 30), Survivors and Dependents Educational Assistance (DEA) (Chapter 35), Selected Reserve Educational Assistance Program (Title 10, Chapter 1606), Reserve Educational Assistance Program (Chapter 1607), Active Duty Veterans Educational Assistance Program (VEAP) (Chapter 32), and VA Work Study.

There are other types of VA educational assistance. Please call Central Office for how to handle the other types.

- (5) For FS, count VA vocational rehabilitation maintenance payments for food, shelter, and clothing as unearned income.
- (6) For FS, count the VA Chapter 31 subsistence allowance paid while the disabled veteran participates in training or a vocational rehabilitation plan as earned income. For all other programs, it is unearned income.

Note: The Chapter 31 VA Vocational Rehabilitation program is for disabled veterans and a few dependents. Look for VA disability income also. (For FS, use income type code TNG.)

83. Victims' Assistance

- (1) Payments made under Public Law 103-286 to victims of Nazi persecution, and payments under 42 U.S.C 10602, the Crime Act of 1984 (VOCA), are:
 - (a) Excluded as income and amounts retained are excluded as a resource as long as the amounts are not commingled with other funds for all programs except GA and GAM.
 - (b) In the GA and GAM programs, these payments are counted as unearned income.
- (2) For other types of victims' assistance:
 - (a) Treat payments that are considered a reimbursement (see OAR 461-001-0000) for a lost item according to CA B.63 or OAR 461-145-0440.
 - (b) Treat payments for pain and suffering as personal injury settlements according to CA B.54 or OAR 461-145-0400.

461-145-0582

84. Vocational Rehabilitation Payment

- (1) Count Vocational Rehabilitation Maintenance payments for food, shelter, and clothing as unearned income.
- (2) For FS, count a training allowance or stipend from a vocational rehabilitation program as earned income. For all other programs, it is counted as unearned income.
- (3) Treat Vocational Rehabilitation payments for special itemized needs connected with the evaluation, planning, or placement activity as a reimbursement. These special need payments include:
 - (a) Child care.
 - (b) Clothing.
 - (c) Second residence.
 - (d) Special diet.
 - (e) Transportation.

461-145-0585

85. | Workforce Investment Act (WIA)

Treat Workforce Investment Act (WIA) of 1998 (PL 105-220) payments made under title I-B (see OAR 151-020-0030) as follows:

- (1) Count need-based (stipend) payments as unearned income, except as follows:
 - (a) Exclude for MAA, MAF, OHP, REF, REFM, SAC, and TANF clients under the age of 19 (or under the age of 20 if the client is a caretaker relative); **and**
 - (b) Exclude for all FS clients.
 - (2) Count OJT and work experience payments as earned income, except as follows:
 - (a) Exclude for EXT, MAA, MAF, OHP, REF, REFM, SAC, and TANF clients under the age of 18 (or under the age of 20 if the client is a caretaker relative); **and**
 - (b) Exclude for FS clients who are:
 - (A) Under the age of 19 and under the control of an adult member of the filing group; **or**
 - (B) Receiving OJT payments under the Summer Youth Employment and Training Program.
- Note: FS clients age 18 and younger are considered under the control of an adult member of the household when they or the adult state they are under the adult's control (see FS C.3).*
- (3) For FS, exclude the training stipend received under Section 402, rehabilitation payment.
 - (4) Count support service payments for items already covered by the benefits of the benefit group as unearned income. Exclude all other support service payments (including lunch payments and clothing allowances).
 - (5) A reimbursement (OAR 461-145-0440) is treated as provided in CA B.63.

461-145-0300

86. | Workers' Compensation

- (1) For workers' compensation payments received monthly or more frequently:
 - (a) Except as provided in subsection (b) of this section, these payments are counted as unearned income.

- (b) In the ERDC, FS, MAA, MAF, OHP, REF, REFM, SAC, and TANF programs, income from temporary workers' compensation is counted as earned income (see OAR 461-145-0130 or CA B.22) if paid to a client who is still employed while recuperating from a temporary illness or injury.
- (2) All workers' compensation payments other than those in section (1) are counted as periodic or lump-sum income (see OAR 461-140-0110 and OAR 461-140-0120 or CA A.6 and CA A.5).

461-145-0590

87. Work-Related Capital Assets, Equipment, and Inventory

“Work-related equipment” is property essential to the employment or self-employment of a financial group member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.

“Inventory” is goods that are in stock and available for sale to prospective customers.

- (1) A capital asset (CA B.11 OR OAR 461-001-0000), other than work-related equipment and inventory, is treated as follows:
 - (a) For all programs except FS, MAA and TANF, treat the equity value of all capital assets according to the type of asset it is.
 - (b) For FS, exclude the equity value of capital assets used in a business as follows:
 - (A) For nonfarm assets, as long as the financial group is actively engaged in self-employment activities;
 - (B) For farm assets, for one year from the date the person quit self-employment as a farmer.
 - (c) For MAA, REF, REFM, and TANF:
 - (A) For a self-employed client participating in the microenterprise component of the JOBS program, exclude the value of capital assets.
 - (d) For all other clients, treat the capital asset according to rules for that asset.
- (2) Treat work-related equipment as follows:
 - (a) For EA, ERDC, FS, and OHP, exclude the equity value of work-related equipment as a resource.
 - (b) For GA, OSIP, OSIPM, and QMB, exclude the value of equipment needed by a client who has a disability or is blind, to complete a plan for self-support (CA B.55 or 461-135-0708 and 461-145-0405) as long as the plan is

in effect. For all other equipment, count the equity value of the equipment as a resource except as provided in OAR 461-145-0250(3)(c).

- (c) In the MAA, REF, REFM, and TANF programs:
 - (A) For a self-employed client participating in the microenterprise component of the JOBS program, the equity value of the equipment is excluded.
 - (B) For all other clients, the equity value of the equipment is treated as a resource.
- (d) For MAF and SAC, count the equity value of work-related equipment as a resource.
- (3) Treat inventory as follows:
 - (a) For EA, ERDC, FS, and OHP, exclude the value of inventory as a resource as long as the client is engaged in self-employment activities.
 - (b) For GA, OSIP, OSIPM, and QMB, exclude the value of inventory needed by a client who has a disability or is blind to complete a plan for self-support, as long as the plan is in effect. For all other inventory, count the equity value of the inventory as a resource.
 - (c) In the MAA, REF, REFM, and TANF programs:
 - (A) For a self-employed client participating in the microenterprise component of the JOBS program, the wholesale value of inventory remaining at the end of a quarter, less encumbrances, is counted as a resource.
 - (B) For all other clients, the wholesale value of inventory remaining at the end of a month, less encumbrances, is counted as a resource.
 - (d) For MAF, REF, and SAC, count the wholesale value of inventory remaining at the end of the month, minus any encumbrances, as a resource.
- (4) For FS, count the full amount received from the sale of work-related equipment or inventory as part of the household's self-employment income.