

256J.37 TREATMENT OF INCOME AND LUMP SUMS.

Subdivision 1. **Deemed income from ineligible household members.** Unless otherwise provided under subdivision 1a or 1b, the income of ineligible household members must be deemed after allowing the following disregards:

- (1) the first 18 percent of the ineligible family member's gross earned income;
- (2) amounts the ineligible person actually paid to individuals not living in the same household but whom the ineligible person claims or could claim as dependents for determining federal personal income tax liability;
- (3) all payments made by the ineligible person according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the ineligible person since the support order was entered, the ineligible person has petitioned for a modification of the support order; and
- (4) an amount for the needs of the ineligible person and other persons who live in the household but are not included in the assistance unit and are or could be claimed by an ineligible person as dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP standard of need when the ineligible person is included in the assistance unit and the MFIP standard of need when the ineligible person is not included in the assistance unit.

Subd. 1a. **Deemed income from disqualified members.** The income of disqualified members must be deemed after allowing the following disregards:

- (1) the first 18 percent of the disqualified member's gross earned income;
- (2) amounts the disqualified member actually paid to individuals not living in the same household but whom the disqualified member claims or could claim as dependents for determining federal personal income tax liability;
- (3) all payments made by the disqualified member according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the disqualified member's legal obligation to pay support since the support order was entered, the disqualified member has petitioned for a modification of the support order; and
- (4) an amount for the needs of other persons who live in the household but are not included in the assistance unit and are or could be claimed by the disqualified member as dependents for determining federal personal income tax liability. This amount is equal to the difference between the MFIP standard of need when the ineligible person is included in the assistance unit and the MFIP standard of need when the ineligible person is not included in the assistance unit. An amount shall not be allowed for the needs of a disqualified member.

Subd. 1b. **Deemed income from parents of minor caregivers.** In households where minor caregivers live with a parent or parents who do not receive MFIP, the income of the parents must be deemed after allowing the following disregards:

- (1) income of the parents equal to 200 percent of the federal poverty guideline for a family size not including the minor parent and the minor parent's child in the household according to section 256J.21, subdivision 2, clause (43);
- (2) 18 percent of the parents' gross earned income;

(3) amounts the parents actually paid to individuals not living in the same household but whom the parents claim or could claim as dependents for determining federal personal income tax liability; and

(4) all payments made by parents according to a court order for spousal support or the support of children not living in the parent's household, provided that, if there has been a change in the financial circumstances of the parent's legal obligation to pay support since the support order was entered, the parents have petitioned for a modification of the support order.

Subd. 2. Deemed income and assets of sponsor of noncitizens. (a) If a noncitizen applies for or receives MFIP, the county must deem the income and assets of the noncitizen's sponsor and the sponsor's spouse as provided in this paragraph and paragraph (b) or (c), whichever is applicable. The deemed income of a sponsor and the sponsor's spouse is considered unearned income of the noncitizen. The deemed assets of a sponsor and the sponsor's spouse are considered available assets of the noncitizen.

(b) The income and assets of a sponsor who signed an affidavit of support under title IV, sections 421, 422, and 423, of Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the income and assets of the sponsor's spouse, must be deemed to the noncitizen to the extent required by those sections of Public Law 104-193.

(c) The income and assets of a sponsor and the sponsor's spouse to whom the provisions of paragraph (b) do not apply must be deemed to the noncitizen to the full extent allowed under title V, section 5505, of Public Law 105-33, the Balanced Budget Act of 1997.

Subd. 3. Earned income of wage, salary, and contractual employees. The county agency must include gross earned income less any disregards in the initial and monthly income test. Gross earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when payments are received over a lesser period of time.

Subd. 3a. Rental subsidies; unearned income. (a) Effective July 1, 2003, the county agency shall count \$50 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than \$50. The income from this subsidy shall be budgeted according to section 256J.34.

(b) The provisions of this subdivision shall not apply to an MFIP assistance unit which includes a participant who is:

(1) age 60 or older;

(2) a caregiver who is suffering from an illness, injury, or incapacity that has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and severely limits the person's ability to obtain or maintain suitable employment; or

(3) a caregiver whose presence in the home is required due to the illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for the participant's presence in the home has been certified by a qualified professional and is expected to continue for more than 30 days.

(c) The provisions of this subdivision shall not apply to an MFIP assistance unit where the parental caregiver is an SSI recipient.

(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and inform the participant of the steps necessary to claim an exception. A person who is found not to meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.

Subd. 3b. [Repealed, 2007 c 147 art 2 s 63]

Subd. 4. **Self-employment.** Self-employed individuals are those who are responsible for their own work schedule and do not have coverage under an employer's liability insurance or workers' compensation. Self-employed individuals generally work for themselves rather than an employer. However, individuals employed in some types of services may be self-employed even if they have an employer or work out of another's business location. For example, real estate sales people, individuals who work for commission sales, manufacturer's representatives, and independent contractors may be self-employed. Self-employed individuals may or may not have FICA deducted from the check issued to them by an employer or another party.

Self-employed individuals may own a business singularly or in partnership. Individuals operating more than one self-employment business may use the loss from one business to offset self-employment income from another business. A loss from a self-employment business may not offset income earned under subdivision 3.

Subd. 5. **Self-employment earnings.** The county agency must determine self-employment income according to the following:

(a) Subtract allowable business expenses from total gross receipts. Allowable business expenses include:

- (1) interest on mortgages and loans;
- (2) employee wages, except for persons who are part of the assistance unit or whose income is deemed to the participant;
- (3) FICA funds paid on employees' wages, payment of employee workers' compensation, and unemployment benefits;
- (4) livestock and veterinary or breeding fees;
- (5) raw material;
- (6) seed and fertilizer;
- (7) maintenance and repairs that are not capital expenditures;
- (8) tax return preparation fees;
- (9) license fees, professional fees, franchise fees, and professional dues;
- (10) tools and supplies that are not capital expenditures;
- (11) fuel and transportation expenses other than fuel costs covered by the flat rate transportation deduction;

- (12) advertising costs;
 - (13) meals eaten when required to be away from the local work site;
 - (14) property expenses such as rent, insurance, taxes, and utilities;
 - (15) postage;
 - (16) purchase cost of inventory at time of sale;
 - (17) loss from another self-employment business;
 - (18) attorney fees allowed by the Internal Revenue Service; and
 - (19) tuition for classes necessary to maintain or improve job skills or required by law to maintain job status or salary as allowed by the Internal Revenue Service.
- (b) The county agency shall not allow a deduction for the following expenses:
- (1) purchases of capital assets;
 - (2) payments on the principals of loans for capital assets;
 - (3) depreciation;
 - (4) amortization;
 - (5) the wholesale costs of items purchased, processed, or manufactured which are unsold inventory;
 - (6) transportation costs that exceed the maximum standard mileage rate allowed for use of a personal car in the Internal Revenue Code;
 - (7) costs, in any amount, for mileage between an applicant's or participant's home and place of employment;
 - (8) salaries and other employment deductions made for members of an assistance unit or persons who live in the household for whom an employer is legally responsible;
 - (9) monthly expenses in excess of \$71 for each roomer;
 - (10) monthly expenses in excess of the Thrifty Food Plan amount for one person for each boarder. For purposes of this clause and clause (11), "Thrifty Food Plan" has the meaning given it in Code of Federal Regulations;
 - (11) monthly expenses in excess of the roomer rate plus the Thrifty Food Plan amount for one person for each roomer-boarder. If there is more than one boarder or roomer-boarder, use the total number of boarders as the unit size to determine the Thrifty Food Plan amount;
 - (12) an amount greater than actual expenses or two percent of the estimated market value on a county tax assessment form, whichever is greater, as a deduction for upkeep and repair against rental income;
 - (13) expenses not allowed by the Internal Revenue Code;
 - (14) expenses in excess of 60 percent of gross receipts for in-home child care unless a higher amount can be documented; and
 - (15) expenses that are reimbursed under the child and adult care food program as authorized under the National School Lunch Act, United States Code, title 42.

Subd. 6. **Self-employment budget period.** The self-employment budget period begins in the month of application or in the first month of self-employment. Gross receipts must be budgeted in the month received. Expenses must be budgeted against gross receipts in the month the expenses are paid, except for paragraphs (a) to (c).

(a) The purchase cost of inventory items, including materials which are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of the inventory items.

(b) A 12-month rolling average based on clauses (1) to (3) must be used to budget monthly income.

(1) For a business in operation for at least 12 months, the county agency shall use the average monthly self-employment income from the most current income tax report for the 12 months before the month of application. The county agency shall determine a new monthly average by adding in the actual self-employment income and expenses from the previous month and dropping the first month from the averaging period.

(2) For a business in operation for less than 12 months, the county agency shall compute the average for the number of months the business has been in operation to determine a monthly average. When data are available for 12 or more months, average monthly self-employment income is determined under clause (1).

(3) If the business undergoes a major change, the county agency shall compute a new rolling average beginning with the first month of the major change. For the purpose of this clause, major change means a change that affects the nature and scale of the business and is not merely the result of normal business fluctuations.

(c) For seasonal self-employment, the caregiver may choose whether to use actual income in the month of receipt and expenses in the month incurred or the rolling average method of computation. The choice must be made once per year at the time of application or recertification. For the purpose of this paragraph, seasonal means working six or less months per year.

Subd. 7. **Farm income.** Farm income is the difference between gross receipts and operating expenses. The county agency must not allow a deduction for expenses listed in subdivision 5, paragraph (b). Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from home-produced food.

Subd. 8. **Rental income.** The county agency must treat income from rental property as earned or unearned income. Income from rental property is unearned income unless the assistance unit spends an average of ten hours per week on maintenance or management of the property. When the owner spends more than ten hours per week on maintenance or repairs, the earnings are considered self-employment earnings. An amount must be deducted for upkeep and repairs, as specified in subdivision 5, paragraph (b), clause (12), real estate taxes, insurance, utilities, and interest on principal payments. When the applicant or participant lives on the rental property, expenses for upkeep, taxes, insurance, utilities, and interest must be divided by the number of rooms to determine expense per room and expenses deducted must be deducted only for the number of rooms rented.

Subd. 9. **Unearned income.** (a) The county agency must apply unearned income to the MFIP standard of need. When determining the amount of unearned income, the county agency must

deduct the costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

(b) The county agency must convert unearned income received on a periodic basis to monthly amounts by prorating the income over the number of months represented by the frequency of the payments. The county agency must begin counting the monthly amount in the month the periodic payment is received and budget it according to the assistance unit's budget cycle.

Subd. 10. Treatment of lump sums. (a) The county agency must treat lump-sum payments as earned or unearned income. If the lump-sum payment is included in the category of income identified in subdivision 9, it must be treated as unearned income. A lump sum is counted as income in the month received and budgeted either prospectively or retrospectively depending on the budget cycle at the time of receipt. When an individual receives a lump-sum payment, that lump sum must be combined with all other earned and unearned income received in the same budget month, and it must be applied according to paragraphs (a) to (c). A lump sum may not be carried over into subsequent months. Any funds that remain in the third month after the month of receipt are counted in the asset limit.

(b) For a lump sum received by an applicant during the first two months, prospective budgeting is used to determine the payment and the lump sum must be combined with other earned or unearned income received and budgeted in that prospective month.

(c) For a lump sum received by a participant after the first two months of MFIP eligibility, the lump sum must be combined with other income received in that budget month, and the combined amount must be applied retrospectively against the applicable payment month.

(d) When a lump sum, combined with other income under paragraphs (b) and (c), is less than the MFIP standard of need for the appropriate payment month, the assistance payment must be reduced according to the amount of the countable income. When the countable income is greater than the MFIP standard or family wage level, the assistance payment must be suspended for the payment month.

History: 1997 c 85 art 1 s 26; 1997 c 203 art 12 s 11; 1998 c 407 art 6 s 71-75; 1999 c 107 s 66; 1999 c 245 art 6 s 44-48; 2000 c 343 s 4; 2000 c 488 art 10 s 13; 1Sp2001 c 9 art 10 s 21,66; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 1 s 45-47; 2004 c 288 art 4 s 37; 1Sp2005 c 4 art 3 s 14; 2010 c 301 art 1 s 8