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363.000: Introduction

This chapter contains the asset eligibility limits as well as which income and assets are countable for eligibility determination purposes.

363.100: Assets

Assets are items of value that may be converted into cash. All of the household's assets shall be counted in determining eligibility unless specifically exempted by 106 CMR 363.140.

Liquid assets include, but are not limited to, cash on hand, bank deposits, securities, lump sum payments, IRAs, and certain Keogh plans. The current value of all countable liquid assets shall be verified.

Nonliquid assets are those that are not readily convertible to cash. These include land, buildings, and any real property. The countable value of a nonliquid asset shall be its equity value which is determined by fair market value less any encumbrances.

The equity value of nonliquid assets shall be verified when information provided by household members is questionable, as defined by 106 CMR 361.620.

Households with sponsored noncitizens shall have the assets of the sponsor and the sponsor's spouse, if living together, deemed to the household in accordance with 106 CMR 362.270.

The primary source of verification of all assets shall be documentary evidence. A collateral contact or home visit shall be used in accordance with 106 CMR 361.640 when documentary evidence is unavailable.

363.110: Asset Eligibility Limits

The asset eligibility limits in this section do not apply to categorically eligible households as defined in 106 CMR 365.180.

These asset eligibility limits, however, shall be applied to any household with a member disqualified from receiving SNAP benefits due to failing to comply with the SNAP Work Program or for any of the reasons listed in 106 CMR 367.800. Non-SSI elder and/or disabled households with income above the Categorical Eligibility Gross Income standards at 106 CMR 364.976 shall also be subject to asset limits.

The total value of countable assets owned by a household subject to asset limits shall not exceed the following:

(A) $3,250 for any household that includes at least one member who is aged 60 or over and/or disabled as described and verified in accordance with 106 CMR 361.210 (A) and (B); and

(B) $2,250 for all other households.

The household shall report all assets owned or anticipated to be received within the certification period. The equity value of all countable assets will be used to determine if the household is within asset eligibility limits.

363.120: Jointly Owned Assets

(A) Assets owned jointly by separate households shall be considered available in their entirety to each household unless the applicant or recipient household can demonstrate that the asset is inaccessible to that household. If the household has access to only a portion of the asset, the value of that portion shall be counted toward the household's asset level. The entire asset shall only be deemed unavailable or inaccessible to the household if the asset cannot practically be subdivided and access to the asset is dependent on the agreement of a joint owner who refuses to comply. For purposes of this section, ineligible noncitizens and disqualified individuals residing with the household shall be considered household members.

(B) Jointly owned assets shall be considered inaccessible to persons residing in shelters for battered women and children, as defined in 106 CMR 365.550, if:

(1) the assets are jointly owned with members of their former household; and

(2) access to the asset is dependent on the agreement of members of the former household.

363.130: Countable Assets

Countable assets are all those that must be included in determining the total value of the household's assets. If an asset is jointly owned, the value available to the household shall be determined in accordance with 106 CMR 363.120. Assets shall be distinguished from income as defined in 106 CMR 363.200.

Assets counted in determining financial eligibility include, but are not limited to:

(A) Cash

(1) Definition

Cash is currency, checks, or bank drafts in the possession of, or available to, the household.

(2) Verification

The amount of cash shall be countable at application, recertification, and when a change is reported.

The household's declaration of the amount of cash available shall be sufficient verification.

(B) Bank Accounts

(1) Definition

Bank accounts may be in the form of savings, checking, trust accounts, term certificates, or other types of accounts held at banks, savings or loan institutions.

Funds in a bank account are considered available when a member of the household has both ownership of, and access to, the balance of funds in the account.

(2) Joint Bank Accounts

If a household member is a co-holder of a joint bank account, the entire amount on deposit shall be considered available as an asset unless the household demonstrates otherwise.

Crowdfunding accounts (e.g., GoFundMe and Kickstarter) shall also be considered liquid resources if funds are accessible to the household. The actual value of funds accessible to an accountholder shall be counted as a liquid resource.

A household member who states that he or she is not the owner, or is only partial owner, of the funds must verify ownership of the funds. A household member who states that he or she has no access, or only partial access to the funds must verify lack of access.

(3) Verification of Access to and Ownership of Bank Accounts

Claimed lack of access and ownership must be verified. (See Inaccessible Assets). If lack of access is verified, the funds will not be considered available to the household. If the verification submitted does not demonstrate lack of access, the case manager shall then determine ownership.

(a) Verification that a household member lacks access to and ownership of the funds may be demonstrated by the household member's having his or her name removed from the account.

(b) If the verification specified in (3)(a) is not provided, a household member shall verify lack of ownership of all or a portion of a bank account by providing at least two of the following which demonstrate such lack of ownership:

1. Documents showing the origin of the funds, who opened the account, or whose money was used to open the account;

2. Federal or state tax records showing who declares the tax on the interest income received;

3. Records of who makes deposits and withdrawals and, if appropriate, of how withdrawn funds are spent;

4. Any reasonable evidence of relevant written or oral agreements made between the parties listed on the account or by someone who established or contributed to the account, with respect to the ownership of the funds in the account;

5. Evidence as to why the household member is listed on the account.

   If the household member states that he or she does not own the account but is listed as a co-holder solely as a convenience to the other co-holder to conduct bank transactions on his or her behalf, proof of the age, relationship, physical or mental condition, or place of residence of the co-holder shall also be provided;

6. A signed, notarized statement from the household member and from either one of the individuals listed in the joint account, or a person who established or contributed to the account that the household member had no knowledge of the existence of the account; and

7. If only one of the above is available and if the other individual(s) listed on the account or who has opened or contributed to the account is unavailable, unable or unwilling to provide a statement, the household member may provide a signed statement attesting under penalties of perjury as to the ownership of funds in the account.

A document or piece of evidence submitted to verify a particular fact shall not count as more than one verification under the above subsections. However, a document, piece of evidence or a statement may address more than one fact needed for verification.

(4) Verification of Bank Account Balances

Bank account balances must be verified at application, recertification, and at times of reported change. The amount shall be verified by bank books, bank statements or online printouts that show the bank balance within 45 days of the date of the application, recertification, or reported change.

If at recertification the household member declares a balance of $25 or less in an account, other than a checking account, verification shall not be required if the balance was $25 or less at the last eligibility determination and the account balance, in combination with other countable assets, is not over the asset limit. The household's declaration shall be recorded in the case record.

(C) Securities

(1) Definition

Stocks, bonds, options, futures, contracts, debentures, mutuals, exchange-traded and money market funds, government, bank, corporate or promissory notes and other financial instruments are countable assets. Tradeable securities are valued at the most recent closing bid price, and non-tradeable securities are valued at current equity value. A security for which there is no market or which is inaccessible shall be noncountable.

(2) Verification

Verification of the current value of each security owned is mandatory at application, recertification, and when a change is reported.

Verification of the value of a security can be made by:

(a) a written statement or online printout from the individual, corporation, licensed stockbroker, bank, or government agency that issued the security;

(b) a current newspaper article showing the date and closing price;

(c) a statement from any bank or other financial services institution of the current value of the security; or

(d) documentation from a current financial publication.

A claim that a particular security has no market value shall be verified by one of the verifications listed above.

A claim that a security is inaccessible shall be verified in accordance with 106 CMR 363.140(F).

(D) Nonrecurring Lump Sum Payments

(1) Definition

Money received in the form of a nonrecurring lump sum payment includes, but is not limited to income tax refunds; rebates or credits; retroactive lump sum Social Security benefits, public assistance, and railroad retirement benefits; lump sum insurance settlements; and refunds of security deposits on rental property or utilities. These payments shall be counted as an asset in the month received, unless exempted by 106 CMR 363.140.

When the receipt of the lump sum payment puts a household over the asset eligibility limit, the Department shall notify the household and shall allow the household to update its entire asset statement. If the household declines to update the asset information, the Department shall begin action to terminate the household's eligibility in accordance with 106 CMR 366.200.

(2) Verification

Lump sum payments shall be verified by one of the following:

(a) a copy of the benefit or award letter;

(b) a copy of the check or payment document; or

(c) a written statement from the agency or person making the payment.

(E) Land or Buildings

(1) Definition

The equity value of all land or buildings shall be counted in the determination of the household's eligibility unless exempted as specified in 106 CMR 363.140(A) and (E).

Equity value is the fair market value less any liens or encumbrances.

Fair market value is the price for which the real estate will sell in the geographic area.

(2) Verifications

The fair market value and equity value of all countable land and buildings owned by the household exclusive of the home and lot as defined in 106 CMR 363.140(A) shall be verified at application and recertification when the information provided by the household is questionable and affects the household's eligibility or benefit level.

Fair market value shall be verified by a copy of the most recent tax bill or the property tax assessment that was most recently issued by the taxing jurisdiction, provided that the assessment is not:

(a) a special purpose assessment;

(b) based on a fixed rate per acre method; or

(c) based on an assessment ratio or providing only a range.

If a current property tax assessment is not available or the household wishes to rebut the fair market value determined by the Department, a comparable market analysis or written appraisal of the value of the land or buildings from a knowledgeable source shall establish the fair market value. A knowledgeable source shall be a licensed real estate agent or broker, a real estate appraiser, bank, savings and loan association, or similar organization, or an official of the local real property tax jurisdiction. The household shall be notified how to rebut the Department's fair market value determination. The household can rebut the fair market value determined by the Department at any time.

If the lender is an organization, the verification of liens or encumbrances on the land or buildings shall be by copies of documents showing the outstanding balance of the loan. If the lender is an individual, the amount of the lien or encumbrance shall be verified either by a copy of the loan instrument and a signed statement from the lender showing the payment schedule and outstanding balance of the loan, or other documents that show the outstanding balance of the loan.

363.140: Noncountable Assets

The following assets are not countable when determining the total value of assets available to a household.

(A) Home and Lot

The home and surrounding property that is not separated from the home by intervening property owned by others is noncountable, including:

(1) Property separated from the home by a public right of way, such as a road.

(2) The home and surrounding property when temporarily unoccupied for reasons of employment, training for employment, illness, vacation, or uninhabitability caused by casualty or natural disaster, provided that the household intends to return.

(3) The value of a lot purchased, or in the process of being purchased, to build a home if the household does not already own a home and, if the new home is partially completed, the value of the partially completed home.

(4) Household belongings such as furniture, appliances, household decorations, linens and cookware; personal belongings such as jewelry, books and toys, even if of more than usual value.

(5) Property to which the household has no ready access, such as property that is the subject of legal proceedings (e.g., probate, divorce suits, etc.), and irrevocable trust funds that were placed in trust at least 12 months before application for SNAP benefits.

(B) Household and Personal Goods, Life Insurance and Pension Funds

(1) Household goods and personal effects, including one burial lot per household member and the value of a prepaid funeral arrangement, not to exceed $1,500, are noncountable assets. A prepaid funeral arrangement may include a contract with a funeral director or a separately identifiable trust fund. Use of any portion of this asset is countable if used for purposes other than funeral or burial arrangements in accordance with 106 CMR 363.130.

(2) The cash value of life insurance policies is noncountable provided the insurance policies are not cashed.

(3) Pension funds are noncountable assets. These include, but are not limited to, pension or traditional defined-benefits plans, 401(k)s, 501(c)(18)s, 403(b)s, 457s, Federal Employee Thrift Savings plans, Keogh plans, Individual Retirement Accounts (IRAs), Roth IRAs, Simple IRAs, Simplified Employer plans, Profit Sharing plans, and Cash Balance plans.

(C) Education Savings Accounts

Section 529 qualified tuition programs, and Coverdell education savings accounts are noncountable assets.

(D) Vehicles

Vehicles, whether licensed or unlicensed, are noncountable. Vehicles include, but are not limited to, cars, trucks, boats and tractors.

(E) Income Producing Property

Income producing property is a noncountable asset when it is essential to employment or self-employment, or when it annually produces income consistent with its fair market value. The income derived from such property, however, shall be countable.

(1) Property essential to the employment or self-employment of a household member includes work-related equipment such as the tools of a tradesperson or the machinery of a farmer, and property such as farm land.

Property essential to the self-employment of a household member engaged in farming shall continue to be excluded for one year after the household member terminates his or her self-employment from farming. Property that is noncountable because it is essential to employment or self-employment need not produce income consistent with its fair market value.

(2) Property that annually produces income consistent with its fair market value, even if used only on a seasonal basis, is noncountable, including rental and vacation homes. Income shall be considered consistent with fair market value if the income produced is as much as the property could reasonably be expected to produce and is comparable with income produced by similar property in the same area.

When it is necessary to determine if property is annually producing income consistent with its fair market value, the worker shall contact local realtors, local tax assessors, the Small Business Administration, or other similar sources to determine the prevailing rate of return. An example of the prevailing rate of return is square-foot rental for similar usage of property in the area.

If the Department determines that the property is not annually producing income consistent with its fair market value (for instance, the property is being leased for a token payment), the equity value of the property shall be counted as an asset. Equity value shall be determined in accordance with 106 CMR 363.130(E).

Installment contracts for the sale of land or buildings must annually produce income consistent with their fair market value in order to be considered a noncountable asset. This shall also apply to the value of property sold under the installment contract or held as security in exchange for a purchase price that is consistent with the fair market value of the property.

(F) Inaccessible Assets

(1) Requirements

An inaccessible asset is not counted when determining eligibility for SNAP benefits.

Inaccessible assets include, but are not limited to: security deposits on rental property or utilities, property in probate, property that the household is making a good faith effort to sell at a reasonable price and that has not been sold, and irrevocable trust funds.

Any funds in a trust, and the income produced by that trust, to the extent it is not available to the household, shall be considered inaccessible to the household if all of the conditions listed below are met:

a. The trust arrangement is not likely to terminate during the certification period and no member of the household has the power to revoke the trust or change the name of the beneficiary during the certification period:

b. The trustee administering the trust is either (a) a court or an institution, corporation, or organization that is not under the direction or ownership of any household member; or (b) an individual appointed by the court who has court-imposed limitations placed on his or her use of the funds; or (c) an individual whose responsibilities are governed by the terms of the irrevocable trust and who is not under the direction or control of any household member;

c. Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a member of the household; and

d. Funds held in an irrevocable trust shall be considered inaccessible to the household if the funds are either established from the household's own funds and the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the creator of the trust, or established from nonhousehold funds by a nonhousehold member.

(2) Verifications

Verification of the inaccessibility of an asset is mandatory at application, recertification or whenever circumstances regarding the accessibility of the asset have changed. The following documents shall be used, as appropriate, to verify inaccessibility:

(a) A copy of the original legal instrument that established the inaccessibility of the asset;

(b) Relevant legal or financial statements that document the inaccessibility of the asset, if the original legal instrument is not available;

(c) Documents that demonstrate that the household member has unsuccessfully attempted to convert the assets into cash;

(d) Any other documents that show inaccessibility;

(e) Documents showing how the holder's name appears on the bank account or security.

1. If the account is titled A <u>or</u> B, both individuals have full access to the account.

2. If the account is titled A <u>and</u> B, neither individual has access to the account without the consent of the co-holder. The household member must submit a written statement from the co-holder denying such consent. If the household member is unable to obtain a written statement of the co-holder, he or she may submit an affidavit stating that he or she does not have the co-holder's consent.

3. If the account is titled A <u>in trust for</u> B, or A <u>for</u> B, A has full access to the account and B has no access to the account;

4. If the account title contains only one name, that individual has full access to the account;

(f) A copy of the trust or other documentation that verifies it is irrevocable and meets all conditions provided in 106 CMR 363.140 (F)(1)(b); and

(g) Lack of access to a joint or individual account may also be demonstrated by proof that the household member does not possess the bank book (or term certificate) <u>and</u> cannot obtain it and that bank policy prohibits withdrawal of the funds without the passbook.

If the household member demonstrates lack of ownership, inaccessibility to the asset or both, the asset is not countable in the determination of eligibility.

(G) Assets of Nonhousehold Members

The assets of a nonhousehold member shall be disregarded when determining the eligibility of the remaining household members except when the nonhousehold member is a disqualified nonhousehold member in accordance with 106 CMR 361.230(D).

The assets of disqualified nonhousehold members must be considered in accordance with 106 CMR 365.500. The noncountable assets listed in 106 CMR 363.140 are also exempt for disqualified nonhousehold members.

(H) Other Noncountable Assets

The following assets are noncountable:

(1) Disaster Payments

Any governmental payments that are designated for the restoration of a home damaged in a disaster and that are subject to a legal sanction if the funds are not used for that purpose. Examples of these payments include, but are not limited to, payments made by the Department of Housing and Urban Development through the Individual and Family Grant Program, disaster loans or grants made by the Small Business Administration or payments precipitated by an emergency or major disaster under the Disaster Relief Act;

(2) Assets Prorated as Income

Assets that have been prorated as income, such as student loans or assets of self employed persons;

(3) Home Produce

Home produce grown or preserved by the household for its own consumption;

(4) Certain Native American Lands

Native American lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs are noncountable.

Lands held in trust for Native Americans; property purchased with payments made to Native Americans under Public Laws 92-254, 93-134, 94-540 and 94-114; and funds distributed to, or held in trust for, members of any Indian tribe pursuant to a judgment of the Indian Claims Settlements or the Secretary of the Interior under Public Laws 94-114, 93-134, 96-420, 97-458, 98-64 and 102-71;

(5) Loans, Grants or Scholarships

All of the following are noncountable assets provided that they are not used to meet costs of living:

(a) A loan verified by a written document, signed by the borrower and the lender that expresses the borrower's intent to repay, the conditions of repayment, and the terms of which specify the purpose of the loan and preclude its use to meet current living costs;

(b) Any grant or scholarship to a student, and the terms of which preclude its use to meet current living costs;

(c) Any grant or loan to a student for educational purposes that is administered by the U.S. Secretary of Education; and

(d) Student financial assistance provided under Title IV of the Higher Education Act of 1965, under the Bureau of Indian Affairs Education Assistance programs, or student financial assistance for attendance costs, such as, but not limited to, tuition, fees, equipment or books, under the Perkins Vocational and Applied Technology Education Act.

(6) Assets Exempt by Law

Certain assets are noncountable for SNAP purposes by a specific provision in federal law, including, but not limited to:

(a) Coupons under a WIC Demonstration Project that can be exchanged for food at farmers' markets;

(b) Highway Relocation assistance payments, Urban Renewal Assistance payments, disaster relief payments used for relocation, and payments from private agencies used for relocation;

(c) State and federal earned income credits (EIC), whether received as an advance payment or as part or all of an income tax refund, in the month of receipt and the following month;

(d) Payments or allowances made to or on behalf of a household for energy assistance under any federal, state, or local law. These payments or allowances must be clearly identified as energy assistance by the legislative body authorizing the program or providing the funds;

(e) Nonliquid assets with a lien in place as a result of taking out a business loan if the household is prohibited by the security or lien agreement with the lienholder (creditor) from selling the assets;

(f) Payments to eligible individuals of Japanese ancestry or their survivors under the Civil Liberties Act of 1988, and payments for eligible Aleuts or their survivors under the Aleutian and Pribilof Islands Restitution Act, Public Law 100-383;

(g) Agent Orange Settlement Fund payments made to Vietnam veterans or their survivors, in accordance with Public Law 101-201, effective January 1, 1989;

(h) Payments made to individuals because of their status as victims of Nazi persecution in accordance with Public Law 103-286;

(i) Assistance to children received under the National School Lunch Act or the Child Nutrition Act;

(j) Crime victim compensation payments under the Crime Act of 1984;

(k) Payments (from $200-$1200 per month) to the child of a Vietnam veteran disabled in any way by spina bifida; and

(l) Payments made under P.L. 101-426, Section 6(h)(2), the Radiation Exposure Compensation Act;

(7) Assets of Certain Household Members

Assets of certain household members are noncountable as follows:

(a) The assets of SSI and/or TAFDC household members shall be considered exempt for SNAP purposes if the household members receive benefits under one or more of the following titles of the Social Security Act: Title XVI (SSI); Titles I, X, or XIV for the aged, blind, or disabled; or Title IV-A (TANF); and

(b) The assets of individuals for whom state and/or federal foster care maintenance payments are made, including assets of the child of the foster child when the foster care maintenance payment includes the child of the foster child;

(8) TAFDC/FEP - Individual Asset Account

Funds maintained in an Individual Asset Account (IAA) as part of the TAFDC Full Employment Program (FEP) shall be excluded until receipt of such funds upon termination of FEP employment. Funds received from the IAA upon termination of FEP employment shall be countable; and

(9) Reimbursements

Any portion of a Workers' Compensation, property damage, personal injury, Compensation to Victims of Violent Crimes Act, death settlement or award, except for compensation for lost wages, that is received as a reimbursement for specified items and used to pay for such items.

(I) Treatment of Exempt Funds

(1) Exempt funds kept in a separate account shall retain their exemption for an unlimited period of time.

(2) Exempt funds that are commingled in an account with other funds shall retain their exemption for six months from the date they are commingled. After six months from the date of commingling, all funds in the commingled account shall be counted as an asset. An exception is the assets of students and self-employment assistance units exempted by 106 CMR 363.140(H)(2) which retain their exemption for the period of time their income is prorated.

363.150: Transfer of Assets

The transfer of asset rules do not apply to categorically eligible households as defined in 106 CMR 365.180.

The transfer of asset rules will be applied to any household which contains a member disqualified from receiving SNAP benefits. Non-SSI elder and/or disabled households with income above the Categorical Eligibility Gross Income standards at 106 CMR 364.976 will also be subject to transfer of asset rules.

(A) Transfers Resulting in Disqualification

At the time of application, households shall be asked to provide information regarding any assets that a household member has transferred within the three-month period before the date of application. Households that have transferred assets knowingly for the purpose of qualifying for, attempting to qualify for, or to remain eligible for SNAP benefits shall be disqualified from participation in the Program for up to one year from the date of the discovery of the transfer. When action is taken to disqualify a certified household, an advance notice of adverse action and the right to continued benefits pending a hearing decision shall be provided to the household. The notice shall also include the reasons for and length of the disqualification.

(B) Transfers Not Resulting In Disqualification

Eligibility for SNAP shall not be affected by a transfer of assets in the following cases:

(1) the asset would not otherwise affect eligibility because the total countable household assets was less than the allowable limits at the time of the transfer;

(2) the assets are sold or traded at or near fair market value;

(3) the assets are transferred between members of the same household; and

(4) the assets are transferred for reasons other than qualifying or attempting to qualify for SNAP benefits, for example, a parent placing funds in an educational trust fund.

(C) Determination of Intent

The Department must demonstrate that the household transferred the asset~~(s)~~ for the purpose of obtaining or maintaining eligibility for SNAP.

The Department shall base its determination on whether the household had knowledge of the SNAP program, and retained sufficient assets after the transfer was completed to provide for its care and support considering such factors as the household size, living arrangement, and age and health of the members of the household.

(D) Period of Disqualification

The length of the disqualification period is based on the amount by which the countable transferred asset, when added to other countable assets, exceeds the allowable asset limit. The following chart will be used to determine the period of disqualification:

Amount in Excess of the Asset Limit	Period of Disqualification
$ 0 - 249.99	1 Month
250 - 999.99	3 Months
1,000 - 2,999.99	6 Months
3,000 - 4,999.99	9 Months
5,000 - and up	12 Months

363.200: Income

All income to the household, from whatever source, that is anticipated to be received during the period of certification shall be counted when determining a household's eligibility and benefit level except when specifically excluded below. Categorically eligible households, in accordance with 106 CMR 365.180, do not need to meet gross or net income eligibility standards.

363.210: Verification of Income

(A) Initial Application

All gross nonexempt income shall be verified prior to certifying a household as eligible to participate in SNAP. However, when all attempts to verify the income have been unsuccessful because the third party providing the income has failed to cooperate, and all other sources of verification are unavailable, the Department shall determine an amount to be used for certification purposes based on the best available information. If the household has no income, a statement from the household that it has no income shall be acceptable verification.

(B) Recertification

Verification of income at recertification will be the same as at initial application with the exception of TAFDC cases. These cases shall not be required to submit verification of income at redetermination.

(C) Reported Changes

The verification requirements of a reported change are discussed in 106 CMR 366.120.

(D) Verification of Excluded Income

Excluded income may be verified if the information given by the household is questionable, as defined by 106 CMR 361.620.

(E) Unreported Income

When an applicant states that he or she has no source of income during the interview, and the applicant is employable, or appears eligible for other benefits such as Social Security, Unemployment Compensation, or public assistance, it may be necessary to verify that he or she is not receiving income from such sources. Additional situations when the possibility of unreported income should be investigated include, but are not limited to, difficulty finding the head of the household at home, seasonal employment in an area that is at its peak season, or shelter costs higher than reported income, provided that nothing in this section shall limit the ability of the Department to verify information from other government agencies.

(F) Expenses Exceeding Income

A household's report of expenses that exceed its income may be grounds for a determination that further verification is required. However, this circumstance alone shall not be grounds for a denial. The Department shall explore with the household how it is managing its finances, whether the household receives excluded income or has assets, and how long the household has managed under these circumstances.

(G) Methods of Verifying Income

Documentary evidence is the primary source of income verification as defined in 106 CMR 361.640(A). If other types of verification are used, the case manager shall document in the case record why an alternate source was needed. If all attempts to verify income have been unsuccessful because the person or organization that is responsible for providing documentation of the income has failed to cooperate with the household and the case manager, and all other sources of verification are unavailable, the case-manager shall determine an amount to be used for certification purposes based on the best available information.

When verifying that income is exempt as a loan, a legally binding agreement is not required. A statement signed by both parties that indicates that the payment is a loan and must be repaid is sufficient verification. However, if the household receives payments on a recurrent or regular basis from the same source but claims the payments are loans, the case manager may also require that the provider of the loan sign an affidavit that states that repayments are being made or that payments will be made in accordance with an established repayment schedule.

(1) Earned Income

Earned income shall be verified by pay stubs, pay envelopes or a written statement signed by an employer. The verification must show gross wages (including tips, if applicable) and the number of hours worked.

Self-employment income, in accordance with 106 CMR 365.900 through 365.970, shall be verified by business records, tax returns and other appropriate documents showing gross income and the total business expenses associated with the gross income earned.

(2) Unearned Income

Unearned income may be verified using the following types of documents, including, but not limited to Social Security award letters, unemployment compensation award letters, records from the Department of Unemployment Assistance, pension award notices, Veterans Administration award notices, correspondence on benefits, Income Tax records, Railroad Retirement award letters, Railroad Retirement Board records, Workers Compensation records, support and alimony payments evidenced by court order, divorce or separation papers, and contribution checks.

(3) Best Evidence Available

If all attempts to verify gross income are unsuccessful because the person or organization providing the income has failed to cooperate with the household and the Department, and all other sources of verification are unavailable, the Department shall determine the amount to be used for certification purposes based on the best available information.

363.220: Countable Income

For SNAP purposes, countable income must be categorized as either earned or unearned.

(A) Earned Income

(1) Wages

All wages and salaries paid to an employee are counted as earned income.

(2) Self-Employment

The total gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business, is counted as earned income. Payments from roomers and boarders are classified as earned self-employment income. Income from rental property shall be considered earned self-employment income only if a household member actively engages in the management of the property an average of at least 20 hours per week.

(3) Non-Federal Work Study

Non-Title IV work-study earnings and earnings from a fellowship or an assistantship with a work requirement, that are not used for, or identified by the educational institution to be used for, educational expenses are countable as earned income.

(B) Unearned Income

Unearned income is all income that is not earned through employment. This includes, but is not limited to, the following types of unearned income:

(1) Assistance Payments

Income from public assistance programs, such as Transitional Aid to Families with Dependent Children (TAFDC), Emergency Aid to the Elderly, Disabled and Children (EAEDC) or other assistance programs based on need;

(2) Pensions and Social Security

Annuities, pensions, retirement, veterans' or disability benefits, Workers' or Unemployment Compensation, Social Security (RSDI) and SSI benefits and strike benefits;

(3) Foster care payments

Foster care payments when the foster care child or adult is included in the foster care household's SNAP household;

(4) Support and Alimony

Support and alimony payments made directly to the household from nonhousehold members.

Support and alimony payments of up to $50 per month received as a TAFDC-Related Benefit by a household with a TAFDC client;

(5) Grants, Interest Payments, Dividends

Payments from government-sponsored programs such as the Agricultural Stabilization and Conservation Service Programs, dividends, interest, royalties, and all other direct money payments from any source whatever which can be construed to be a gain or benefit;

(6) Rental Income

Income from rental property shall be counted as unearned income unless a household member actively engages in the management of the property an average of at least 20 hours per week;

(7) Trust Funds

Money withdrawn from trust funds that are excluded from assets under the provisions of 106 CMR 363.140(F) shall be considered income in the month received unless otherwise excluded under 106 CMR 363.230. Dividends from excluded trust funds, which the household has the option of either receiving as income or reinvesting in the trust, are to be considered income in the month they become available to the household, whether collected by the household or reinvested in the trust, unless otherwise excluded under 106 CMR 363.230; and

(8) Deemed Sponsor Income for Sponsored Noncitizens

For households containing sponsored noncitizens, the income of the sponsor and the sponsor's spouse, if living with the sponsor, shall be deemed as unearned income to the household in accordance with 106 CMR 362.270.

(C) Garnishments, Managed Income and Certain Vendor Payments

(1) Garnished Wages

Wages earned by a household member that are garnished or diverted by an employer, and paid to a third party for a household's expenses, such as rent, are considered earned income. However, if the employer pays a household's rent directly to the landlord in addition to paying the household its regular wages, this rent payment is excluded as a vendor payment. In addition, if the employer provides housing to an employee, the value of the housing is not countable as income.

(2) Managed Income

All or part of a Public Assistance (PA) grant, which would normally be provided as money payment to the household, that is diverted to a third party or to a protective payee for the purpose of managing a household's expenses is counted as unearned income. However, payments by the Department that would not normally be provided in a money payment to the household, and that are over and above normal public assistance grants are excluded as a vendor payment if they are made directly to a third party for a household expense. This rule applies even if the household has the option of receiving a direct cash payment.

(3) Certain Vendor Payments

Monies that are legally obligated and otherwise payable to the household, but are diverted by the provider of the payment to a third party for household expenses, are counted as unearned income and not excluded as a vendor payment. The distinction is based on whether or not the person or organization making the payment on behalf of a household is using funds that otherwise are payable to the household. Funds include wages earned by a household member and owed to the household, a PA grant to which a household is legally entitled, and support or alimony payments in amounts that are legally obligated to a household member. Even if an employer, agency, or former spouse who owes these funds to a household diverts them to a third party to pay for a household expense, these payments are still counted as income to the household. However, if an employer, agency, former spouse or other person makes payments for household expenses to a third party from funds that are not legally obligated to the household, the payments are considered vendor payments and excluded from income.

(4) Certain Recouped Monies

Monies withheld from a public assistance grant or repaid by the recipient to the public assistance program are considered countable unearned income if the following conditions apply:

(a) the monies are voluntarily or involuntarily withheld or returned to repay a prior overpayment that was caused by the household's intentional failure to comply with the requirements of another federal or state means-tested program as defined in 106 CMR 360.030, and

(b) the overpayment is not considered excluded income as specified in 106 CMR 363.230.

(5) Failure to Comply With Another Assistance Program's Requirements

The Department will not increase SNAP benefits when a household's benefits under another federal or state means-tested program as defined in 106 CMR 360.030 have been decreased (i.e., reduced or suspended, but not when a household's cash benefits are terminated) due to fraud or a failure to comply with a requirement of the program that imposed the benefit decrease subject to the following conditions:

a. The Department must make a good faith effort to obtain information regarding the failure to comply from the agency imposing the penalty;

b. The Department must adjust SNAP benefits when eligible members are added to the SNAP household regardless of whether or not the household is prohibited from receiving benefits for the additional member under another applicable public assistance program; and

c. The Department must adjust SNAP benefits as a result of changes in household circumstances not related to the penalty imposed by another applicable public assistance program.

(6) Payments That Are Not Considered Income

The following payments are not income for SNAP purposes and should be disregarded when determining a household's eligibility and benefit level:

a. Child support payments made to TAFDC recipients that must be assigned to the Department by the recipient under Title IV-D of the Social Security Act (Child Support Enforcement) to maintain TAFDC eligibility; and

b. Monies withheld from a public assistance grant or repaid by the recipient to any income source or monies received from any income source if the following conditions apply:

1. the monies are voluntarily or involuntarily withheld from or returned to the income source to repay a prior overpayment that was caused by any reason other than the household intentionally failing to comply with the requirements of another federal or state needs-based welfare program, such as TAFDC, EAEDC or SSI; and

2. the overpayment is not considered excluded income as provided in 106 CMR 363.230.

363.230: Excluded Income

The following kinds of income will be excluded when determining a household's eligibility and benefit level.

(A) In-Kind Income and Cash Contributions

Any gain or benefit not in the form of money and provided directly to the household is excluded from income. For example, meals, clothing, public housing, or produce from a garden would be excluded from income.

Any cash contributions from a non-legally responsible person (i.e., someone without a court order or other binding agreement) that are restricted for a specific purpose and provide for a portion of any rent or mortgage, fuel, utilities and/or food or other needs are excluded from income.

(B) Vendor Payments

A vendor payment is a money payment that is paid to a third party for a household expense.

A vendor payment is excluded from income whenever a person or organization outside the household uses its own funds to make a direct payment to a household's creditors or to a person or organization providing a service to the household. The following are examples of excluded vendor payments:

(1) If a relative or friend who is not a household member pays the household's rent from his or her own funds directly to a landlord;

(2) Rent or mortgage payments made to landlords or mortgagees by the Department of Housing and Urban Development (HUD), or by state or local housing authorities on behalf of a household, including utility allowances paid under such programs;

(3) Payments made under the Emergency Assistance (EA) program;

(4) Payments for household expenses made to a third party and not legally owed to the household. The following are examples of such excluded vendor payments:

(a) If an employer pays an employee's rent directly to the landlord in addition to paying the employee his or her regular wages, the rent payment shall be considered an excluded vendor payment.

If the employer provides housing to an employee, the value of the housing shall also be an excluded vendor payment:

(b) Payments specified by a court order or other legally binding agreement to go directly to the third party rather than to the household shall be considered excluded vendor payments; and

(c) Support payments not required by a court order or other legally binding agreement (including payments in excess of an amount specified in a court order or legally binding agreement) that are paid to a third party rather than the household shall be considered excluded vendor payments.

(5) Payments made by a government agency to a child care provider for day care to a household member.

(6) Monies or payments that are not legally owed to the household under a court order or other legally binding agreement can qualify as excluded vendor payments if they are paid to the third party directly.

(C) Infrequent Irregular Incomes

Any income in the certification period that is received too infrequently or irregularly to be reasonably anticipated, and is less than $30 per recipient in a quarter.

(D) Educational Loans, Grants, and Scholarships

The following educational loans, grants and scholarships are excluded from income:

(1) Any non-federal grant, loan or work study earnings that are not used for or identified by the educational institution to be used for educational expenses;

(2) Any grant or loan to a student for educational purposes made or insured under any program administered by the U.S. Secretary of Education;

(3) Student financial assistance provided under Title IV of the Higher Education Act of 1965 or under the Bureau of Indian Affairs Education Assistance programs;

(4) Student financial assistance for attendance costs, such as, but not limited to, tuition, fees, equipment or books, under programs developed pursuant to the Perkins Vocational and Applied Technology Education Act; and

(5) Work-study income under a federally assisted work study program.

For purposes of calculating countable non-federal educational monies under 106 CMR 363.230(D)(1), educational expenses include, but are not limited to: tuition, fees, books, supplies, equipment, rental fees related to equipment necessary to the pursuit of a course of study, transportation, dependent care, origination fees and insurance premiums on educational loans, and miscellaneous personal expenses (other than normal living expenses), incidental to attending a school or institution. Normal living expenses, which are room and board, are not counted as educational expenses.

(E) Other Loans

All loans, including loans from private individuals as well as commercial institutions, are excluded from income. This includes money received from a loan secured by the equity in the home of an individual who is age 60 or over, commonly known as a "reverse mortgage".

(F) Reimbursements

(1) Definition of Excluded Reimbursements

Reimbursements, for past or future expenses, that are specifically designated and used for a specific purpose other than meeting normal living expenses (e.g., rent, personal clothing, or food eaten at home) are excluded so long as they do not exceed actual expenses or represent a gain or benefit to the household.

(2) Examples of Excluded Reimbursements

(a) Reimbursements or flat allowances, including reimbursements made to the household under 106 CMR 362.310(D), for expenses while on the job or for job-related training are excluded. Such expenses may include, but are not limited to, travel, per diem, uniforms, and transportation to and from the job or training site that are provided over and above basic wages for these expenses. Reimbursements for the travel expenses of migrant workers are also excluded.

(b) Reimbursements to volunteers for out-of-pocket expenses incurred in the course of their work.

(c) Reimbursements made to the household for expenses necessary for participation in a SNAP E&T component.

(d) Medical or dependent care reimbursements.

(e) Reimbursements received by assistance units to pay for services provided by Title XX of the Social Security Act are excluded, but Title XX reimbursements for normal living expenses are not excluded under this provision.

(f) Any annual allowance earmarked by the Department for children's clothes is excluded, provided the Department does not reduce the monthly assistance grant for the month the school clothing allowance is issued.

(3) Reimbursements for Multiple Expenses

When a reimbursement, including a flat allowance, covers multiple expenses, expenses do not need to be separately identified as long as normal living expenses are not covered by the reimbursement.

(4) Reimbursements Exceeding Expenses

The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income. However, reimbursements shall not be considered to exceed actual expenses, unless the provider or the household indicates the amount is excessive.

(G) Monies Received for Third Parties

Monies received and used for the care and maintenance of a third party beneficiary who is not a household member are excluded from income. If the intended beneficiaries of a single payment include both household and nonhousehold members, any identifiable portion of the payment intended and used for the care and maintenance of the nonhousehold member shall be excluded. If the nonhousehold member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion applied to the nonhousehold member's pro rata share or the amount actually used for the nonhousehold member's care and maintenance, whichever is less.

(H) Earnings of Elementary or Secondary School Students

Earned income of a student under age 18 who attends elementary or secondary school or classes to obtain a High School Equivalency Test (HiSET) at least half-time and lives with a natural, adoptive or step-parent, is under the parental control of an adult household member other than a parent, or is certified in a separate SNAP household but lives with a natural, adoptive or step-parent is excluded. This exclusion continues during temporary interruptions in school attendance due to semester or vacation breaks, if the student's enrollment will resume following the break. If the student's earnings or the amount of work performed cannot be differentiated from that of the other household members, the total earnings shall be prorated equally among the working members and the student's pro rata share excluded.

(I) Nonrecurring Lump Sum Payments

Money received in the form of nonrecurring lump sum payments is noncountable income. For example, tax refunds, rebates or credits, retroactive lump sum Social Security or SSI benefits, PA payments, Railroad Retirement benefits, retroactive lump sum insurance settlements, refunds of security deposits on rental property and utilities are noncountable income. These payments shall be counted as an asset in the month received unless noncountable in accordance with 106 CMR 363.140.

(J) The Cost of Producing Self-Employment Income

The cost of producing self-employment income is excluded from income in accordance with 106 CMR 365.900 through 365.970.

(K) Income Excluded by Law

Certain income is excluded for SNAP purposes by specific provisions in federal law. The following listing of excludable income includes, but is not limited to:

(1) Highway Relocation assistance payments, Urban Renewal Assistance payments, disaster relief payments used for relocation, and payments from private agencies used for relocation;

(2) The tax-exempt portions of payments made under the Alaska Native Claims Settlement Act;

(3) Funds distributed to or held in trust for members of any Indian tribe pursuant to a judgment of the Indian Claims Settlements or the Secretary of the Interior;

(4) Payments to Native Americans under Public Laws 92-254, 93-134, 94-114, 94-540, 96-420, 97- 458, 98-64 and 102-71, including interest income from these payments;

(5) Payments or reimbursements given to~~,~~ volunteers serving as foster grandparents, senior health aides, senior companions, or serving in the Service Corps of Retired Executives, in VISTA, or in any other program established under the Domestic Service Act of 1973;

(6) Youthbuild or Americorps allowances, earnings or payments to individuals participating in those programs;

(7) Payments of state or federal earned income credits (EIC) whether received as advance payments of earned income credits or as part or all of an income tax refund;

(8) Energy assistance payments or allowances as described below:

(a) Any payments or allowances made for the purpose of providing energy assistance under any federal law (other than Part A of Title IV of the Social Security Act (42 USC 601, et seq.)), or

(b) A one-time payment or allowance made under a federal or state law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device;

(9) Funds received by individuals under the Older American Community Service Employment Program pursuant to the Older Americans Act Amendments of 1987, Public Law 100-175;

(10) Cash donations based on need that are received from one or more private nonprofit charitable organizations, not in excess of $300 aggregate per quarter, pursuant to the Charitable Assistance and Food Bank Act of 1987, Public Law 100-232;

(11) Payments for eligible individuals of Japanese ancestry or their survivors under the Civil Liberties Act of 1988, and payments up to $12,000 per person for eligible Aleuts (who were former residents of the Aleutian and Pribilof Islands) or their survivors under the Aleutian and Pribilof Islands Restitution Act, Public Law 100-383;

(12) Agent Orange Settlement Fund payments made to Vietnam veterans or their survivors, in accordance with Public Law 101-201, effective January 1, 1989;

(13) Payments made to individuals because of their status as victims of Nazi persecution in accordance with Public Law 103-286;

(14) Payments (from $200-$1200 per month) to the child of a Vietnam veteran disabled in any way by spina bifida;

(15) Payments made under P.L. 101-426, Section 6(h)(2), the Radiation Exposure Compensation Act;

(16) The value of assistance received under the Child Nutrition Act of 1966 and the National School Lunch Act;

(17) Any amount of basic pay that is reduced under the Veterans Benefits Improvement and Health Care Authorization Act shall revert to the Treasury and not be considered to be received by or in control of such individual;

(18) Coupons under a WIC Demonstration Project that can be exchanged for food at farmers' markets;

(19) No service provided to a public housing resident under the Cranston-Gonzales National Affordable Housing Act;

(20) Crime victim compensation payments under the Crime Act of 1984;

(21) The value of any child care provided under the Child Care and Development Block Grant Act;

(22) The amount of home energy assistance payments or allowances under the Low Income Home Energy Assistance Act;

(23) Payments precipitated by an emergency or major disaster under the Disaster Relief and Energy Assistance Amendments of 1988;

(24) The value of the Medicare Prescription Drug Discount Card Program subsidy authorized by the Medicare Prescription Drug Improvement and Modernization Act of 2003;

(25) Additional income received by a member of the Armed Forces deployed to a combat zone, in accordance with Public Law 108-447; and

(26) Employment income received from a National Emergency Grant as part of the Workforce Investment Act, in accordance with Public Law 105-220, and disaster unemployment assistance in accordance with Public Law 100-707.

(L) Income of Nonhousehold Members

The income of a nonhousehold member shall be excluded when determining the eligibility of the remaining household members, except when the nonhousehold member has been disqualified in accordance with 106 CMR 361.230. The income of a disqualified nonhousehold member must be considered in accordance with 106 CMR 365.520.

(M) Payments Made to SNAP/E&T Participants

Any payment for education and/or training-related costs received in the SNAP E&T Program, Employment Services Program (ESP), in WIA programs, or from other agencies and organizations that are nonduplicative of payments and are provided for specific goods or services. These ~~costs~~ include, but are not limited to, dependent care costs, transportation, and other expenses related to work, training or education, such as uniforms, personal safety items or other necessary equipment, and books or training manuals. These costs shall not include the cost of meals away from home. Also, the value of any dependent care services provided for or arranged under 106 CMR 362.310(D)(5) would be excluded.

The first $130 per month of training stipends including, but not limited to, payments from the Department of Career Services (DCS) or the Massachusetts Rehabilitation Commission (MRC). The balance of the stipend is treated as unearned income, which is countable unless specified as noncountable under another provision of these regulations.

(N) Income of SSI Recipients and PASS Funds

Income of an SSI recipient necessary for the fulfillment of a Plan for Achieving Self Support (PASS) is excluded from income.

The PASS program allows persons who receive or who might qualify to receive SSI benefits to develop a plan in which the goal is to become employed. The PASS must be approved by the Social Security Administration (SSA)to permit~~s~~ the individual to set aside a specified amount of money to be used or deposited into a special bank account for future use.

These specified funds are to be used to achieve the work goal stated in the approved PASS and shall be excluded from income in determining SNAP eligibility and benefit level.

PASS funds may include, but are not limited to, earned income or unearned income, or funds from an insurance settlement. SSI benefits are not used as PASS funds and, therefore, are still considered countable income for SNAP purposes.

Exclusion of PASS funds from income for SNAP purposes is verified by a copy of the PASS agreement and the PASS approval letter from the SSA.

PASS funds are not counted as assets because the assets of a household member who receives SSI are excluded for SNAP purposes, in accordance with 106 CMR 363.140(H)(7).

(O) Legally Obligated Child Support Payments

Legally obligated child support payments paid by a household member for a nonhousehold member, which are verified in accordance with 106 CMR 361.610 (J), are excluded from income for the purpose of applying the appropriate gross income test.