

NOTICE OF INTENT

Department of Children and Family Services

Economic Stability

Income Exclusions for Public Assistance Programs

(LAC 67:III.1229, 1938, 1940, and 1980)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 2 Family Independence Temporary Assistance Program, Section 1229 Income; Subpart 3 Supplemental Nutritional Assistance Program (SNAP), Section 1938 Work Registration Requirements and Section 1940 Work Participation Requirements for Able-Bodied Adults without Dependents; and Subchapter I Income and Deductions, Section 1980 Income Exclusions.

Amendment of Sections 1229 and 1980 is necessary to include grant funded research payments as non-countable income for SNAP and cash assistance programs and to add clarification regarding the alignment of countable income across programs. Amendment of Section 1938 is necessary to comply with 7 CFR 273.7. Amendment of Section 1940 is necessary to clarify the individuals who are exempt from work participation requirements.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant and to the authority granted to the department by the Food and Nutrition Services (FNS), the department considers these amendments necessary to clarify the programs' eligibility rules regarding income exclusions and work participation requirements. Excluding grant funded research payments as countable income allows families to participate in studies without negatively impacting their public assistance benefits. Excluding some types of income not countable by cash assistance programs ensures fairness in eligibility determinations for SNAP applicants and recipients. Aligning countable income

across programs also allows for consistency and aids staff in making accurate eligibility determinations.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. Earned Income Credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. Agent Orange Settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and Native Claims and Lands;
14. irregular and unpredictable sources;
15. lump sum payments;

16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. loans;
20. Supplemental Security Income;
21. Wartime Relocation of Civilians Payments;
22. Developmental Disability Payments;
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
25. Radiation Exposure Compensation Payments;
26. payment to victims of Nazi persecution;~~or~~
27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments;
28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime;
29. effective October 1, 2004 additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;
30. effective March 1, 2006, interest income;

31. effective March 1, 2006, dividend income.

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income~~;~~;

32. any payments other than wages received as a result of the Mississippi Canyon 252 Well Incident in the Gulf of Mexico on April 20, 2010~~;~~; or

33. grant funded research payments.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2, (j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014), LR 42:

Subpart 3. Supplemental Nutritional Assistance Program (SNAP)

Chapter 19. Certification of Eligible Households

Subchapter G. Work Requirements

§1938. Work Registration Requirements

A. - A.4. ...

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the

loss of a source of income, the ~~ORS~~ DCFS shall determine whether any household member:

- a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;
- b. voluntarily and without good cause quit a job;
- c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);
- d. refused, at the time of application and every 12 months thereafter, to register for employment;
- e. refused without good cause to participate in an employment and training program;
- f. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved ~~20~~ 30 hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by ~~20~~ 30 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a violation for purpose of this Section. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility

worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the ~~OFS~~ DCFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The ~~OFS~~ DCFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

§1940. Work Participation Requirements for Able-Bodied Adults without Dependents [Effective 10/1/97 by Emergency Rule]

A. Individuals are ineligible to continue to receive SNAP benefits if, during the preceding 36-month period they received SNAP benefits for at least three months (consecutive or otherwise) while that individual did not either:

1. work an average of 20 hours per week;
2. participate in and comply with a Job Training Partnership Act Program, Trade Adjustment Act Program, or Employment and Training Program (other than a job search or job search training program) for 20 hours or more per week; or

3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under age 18, or 50 years of age or older;
2. medically certified as physically or mentally unfit for employment;
- ~~3. a parent of a household member under age 18, even if the household member who is under age 18 does not receive SNAP benefits;~~

~~4.3.~~ residing in a SNAP household where a household member is under age 18, even if the household member who is under age 18 ~~does not~~ is not eligible to receive SNAP benefits;

~~5.4.~~ pregnant; or

~~6.5.~~ otherwise exempt from work registration requirements.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997) amended LR 34:885 (May 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

Subchapter I. Income and Deductions

§1980. Income Exclusions

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from

countable income for the Supplemental Nutrition Assistance Program (SNAP):

1. payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, except that provided under Title IV-A;
2. earnings of an elementary or secondary student through age 17 who is the child of, or under parental control of, a member of the household;
3. legally obligated child support payments to non-household members are excluded when determining eligibility based on gross income standards;
4. effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;
5. Agent Orange Settlement payments income (retroactive to 01-01-89);
6. Agriculture and Stabilization and Conservation Service payments received as a result of a presidentially declared disaster or emergency;
7. assistance payments income that is being recouped for overpayment of non-fraud overpayments;
8. bonus income that is non-recurring or cannot be anticipated to recur;
9. Child Care Food Program payments received for the client's own children;
10. child support income received by FITAP/KCSP recipients, which must be transferred to IV-D to maintain eligibility;
11. child support arrearage payments that were previously counted as income or payment that is a one-time non-recurring lump-sum payment;

12. deposits made into joint accounts when the joint account is considered a convenience account, the income deposited into the account is verified to be a loan, or the account is considered inaccessible to the household;

13. disaster payments provided to rebuild a home or replace personal possessions damaged in a disaster if the household is subject to legal sanction if the funds are not used as intended. This includes Individual and Family Grant payments or Small Business Administration loans;

14. disaster relief income funded under national emergency grants or disaster unemployment assistance paid to an individual who is unemployed as a result of a major disaster;

15. the prorated portion of the income for persons disqualified for SSNs, for ineligible aliens, or for persons who failed to attest to citizenship/alien status;

16. Delta Service Corps income if the allowances, earnings, and payments to individuals participating in the programs are received under Title I of the National and Community Service Act;

17. Domestic Volunteer Service Act income received by volunteers for services performed in programs stipulated in Title II of the amended Domestic Volunteer Service Act of 1973(P.L. 93-118), which include Foster Grandparents and Retired Senior Volunteer Program; or payments received by volunteers for services in programs under Title I (VISTA) if the person was receiving food stamps or public assistance when he joined VISTA or the household was receiving an income exclusion for a Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977;

18. Indian and Native claims and lands income received:

a. under Public Law 94-189, (Sac and Fox Indian Claims Agreement);

b. under Public Law 94-540, (Grand River Band of Ottawa Indians);

c. under Public Law 95-433, Section 2, Confederated Tribes and Bands of the Yakima Nation and the Apache Tribe of the Mescalero Reservation received from the Indian Claims Commission;

d. by certain Indian tribal members under Public Law 94-114, Section 6, regarding submarginal lands held in trust by the United States;

e. under Public Law 93-531 (Navajo and Hopi Tribes);

f. tax-exempt portions made pursuant to Public Law 92-203, The Alaska Native Claims Settlement Act; or

g. under Public Law 96-420 (Passamaquoddy Tribe and Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980);

19. Indian Gambling Operations income paid to children under 18 when the household is not given a choice and the money is deposited in an inaccessible trust fund;

20. in-kind income not in the form of money payable directly to the household except earned income vendor payments made by the employer instead of all or part of the salary;

21. irregular and unpredictable income when the anticipated income will be less than \$30 in a three-month period, and the income is received too infrequently and irregularly to be reasonably anticipated;

22. Strategies to Empower People (STEP) payments for supportive services;

23. loans;

24. non-recurring lump-sum payments;

25. crime victim compensation payments made to a client whose assistance is necessary, in full or in part, because of the commission of a crime against the client, and to the extent it is sufficient to fully compensate the client for losses suffered as a result of the crime;

26. National and Community Service Corporation payments for living allowance (stipend) and child care received by participants as well as in-kind benefits provided to the participants;

27. non-household member's portion of income that is received by a household member which is intended and used for care and maintenance of a third-party beneficiary who is not a household member;

28. Nutrition Programs Income—the value of supplemental food assistance under the Child Nutrition Act of 1966 and under the Special Food Service Program for Children (The National School Lunch Act) or benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965;

29. payments made to victims of Nazi persecution;

30. payments made to persons through the Radiation Exposure Compensation Act, which was enacted October 15, 1990;

31. railroad retirement income that is being recouped for a prior overpayment;

32. reimbursement income which:

a. is not a gain or benefit to the household;

b. is not provided specifically for normal living expenses; or

c. does not exceed the actual expenses for which the reimbursement was paid;

33. relocation assistance income if received under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970;

34. Senior Community Service Employment Program (SCSEP) income received by individuals 55 or older;

35. Supplemental Security Income that is being recouped for non-fraud SSI overpayment;

36. unemployment compensation benefits that are paid as the result of unemployment due to a major disaster and funded through the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

37. vendor payments made by a person or organization outside the household/assistance unit directly to the client's creditor or to a person or organization providing the service unless:

a. the vendor payment is made by an employer instead of all or part of the salary;

b. it is a local GA vendor payment provided to cover housing expenses exclusive of energy or utility expenses;
or

c. the vendor payment is made in lieu of payments which are legally obligated to the household;

38. severance pay received in a single lump-sum payment;

39. payments made through the Wartime Relocation of Civilians Law:

a. payments of \$20,000 made to eligible persons of Japanese ancestry who were interned during World War II, or such payments made to the spouse, children or parents if the eligible individual is deceased;

b. payments of \$12,000 made to eligible Aleuts who were relocated from their home on the Pribolof or Aleutian

Islands to an internment camp during World War II, or such payments made to an individual who was born while his mother was relocated;

40. effective March 1, 2006, dividend income.

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income;

41. effective March 1, 2006, interest income;

42. effective March 1, 2006, education assistance;

43. any payments other than wages received as a result of the Mississippi Canyon 252 Well Incident in the Gulf of Mexico on April 20, 2010; or

44. grant funded research payments.

B. Any type of income excluded when determining eligibility or benefits for cash assistance as defined by 45 CFR 260.31(a)(1) and (a)(2), will be excluded from countable income for SNAP, except for those types determined countable by 7 CFR 273.9(c)(19), such as wages, salaries, etc.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447, CFR 273.2, (j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:1616 (September 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

Poverty Impact Statement

The proposed rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, August 25, 2016 to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed Rule will be held on August 25, 2016 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225)342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Kim Matherne</u>	Department:	<u>Children and Family Services</u>
Phone:	<u>(225) 219-2428</u>	Office:	<u>Economic Stability</u>
Return Address:	<u>627 N. 4th St., P.O. Box 94065 Baton Rouge, LA 70804</u>	Rule Title:	<u>Income Exclusions for Public Assistance Programs</u>
		Date Rule Takes Effect:	<u>November 1, 2016</u>

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. Estimated Implementation Costs (Savings) to State or Local Governmental Units (Summary)

The Department of Children and Family Services (DCFS) proposes to amend the following sections of Louisiana Administrative Code (LAC), Title 67, Part III: (1) Subpart 2 Family Independence Temporary Assistance Program, Section 1229 – Income; and (2) Subpart 3 Supplemental Nutritional Assistance Program (SNAP), Section 1938 – Work Registration Requirements; Section 1940 – Work Participation Requirements for Able-Bodied Adults without Dependents; and Subchapter I Income and Deductions, Section 1980 – Income Exclusions.

Amendments to Section 1229 and Section 1980 adds grant funded research payments as non-countable income for SNAP and cash assistance programs as well as to add clarification regarding the alignment of countable income across programs. An amendment to Section 1938 complies with federal law, 7 CFR 273.7. Finally, an amendment to Section 1940 clarifies individuals who are exempt from work participation requirements.

The proposed rule will not impact the overall revenues or expenditures of the department. The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that \$2,982 (\$745.50 Federal and \$745.50 State General Fund for the SNAP portion of the cost and \$1,491 Federal for the TANF/FITAP portion of the cost) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

Implementation of this proposed rule will have no effect on revenue collections of State or local governmental units.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Non-Governmental Groups (Summary)

The proposed rule allows families to participate in grant funded research studies without negatively impacting their public assistance benefits and allows equity in eligibility determinations for SNAP applicants and recipients, by excluding some types of income not countable by cash assistance programs.

IV. Estimated Impact on Competition and Employment (Summary)

This proposed rule will not have an impact on competition and employment for low-income families.

Signature of Agency Head
or Designee

Date

LEGISLATIVE FISCAL OFFICER
OR DESIGNEE

Sammy Guillory, Deputy Assistant Secretary
Typed Name and Title of Agency Head

DATE OF SIGNATURE

DCFS Undersecretary