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Division of Medicaid Services
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To: FoodShare Wisconsin Handbook Users

From: Rebecca McAtee, Bureau Director
Bureau of Enrollment Policy and Systems

Re: **FoodShare Handbook Release 18-03**

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Effective Date: 07/20/2018

EFFECTIVE DATE	The following policy additions or changes are effective 07/20/2018 unless otherwise noted. Underlined text denotes new text. Text with a strike through it denotes deleted text.
POLICY UPDATES	
1.2.1.3 Responsibility for Verification	Added a list of information types IM workers are responsible for verifying.
2.1.3.1 Scheduling the Interview	Added a list of conditions that qualify as a hardship that merit a home-based certification.
2.1.3.3 Use of an Authorized Representative	Clarified how an authorized representative is designated.
3.2.1.1 Joint or Shared Physical Custody of Children	Added the requirement that the parent claiming the child for receipt of FoodShare benefits must be exercising care and control.
3.2.1.3.1 Shelters for the Homeless	Updated the definition of homelessness.
3.6.1.2 Foster Care Payment	Clarified subsidized guardianship payment=foster care payment.
3.15.1 Student Eligibility	Noted IRS tax dependency status doesn't impact FoodShare eligibility.
3.20.1 Drug Felons	Updated definition of drug felon to exclude persons found to be mentally incompetent.
4.3.3.8 Self-Employment Expenses	Added Expenses Exceeding Income and exception for farm income losses.
4.3.4.2 Counted Unearned Income	Added Note under #14 and added #16 Subsidized guardianship.
4.3.4.3 Disregarded Unearned Income	Added W-2 TSP under Employment Training and Education.
5.1.1.1 TFS Introduction	Added a note on TFS eligibility.
7.1.1.9 Expungement	Added a note on the expiration of EBT when all members of a food unit are deceased.
7.3.1.1 Overpayment Claims Against Food Units	Updated to describe the use of prospective converted budgeting income for establishing overpayments. This aligns with certification policies.

7.3.1.8	Notice of Overissuance	Added a note on due diligence process to obtain the best known address for the member.
7.3.1.9	Overpayment Due to Client and Non-Client Error	Added item to list when not to establish a claim.
7.3.2.1	Client and Non-Client Error	Updated to clarify the basis for calculating an overpayment claim amount.
7.3.2.6	Allotment Reduction	Added detail on when it is appropriate to reduce the allotment.
7.3.2.9	Timely Negative Notice	Removed the text as it has been incorporated into Section 7.3.1.9.
7.3.2.10	Tax Intercept	Added a definition for a delinquent payment before and after a repayment agreement is established.
7.3.2.12	Repayments	Added details concerning repayments and delinquency.
8.1.6	System Generated Payments (New Section)	Information on counting system generated payments for CTS and W-2.

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1.2.1 VERIFICATION INTRODUCTION

1.2.1.3 RESPONSIBILITY FOR VERIFICATION

7 CFR 273.2(f)(5)

The applicant or /member has primary responsibility for providing required verification and for resolving any discrepancies or questionable information. The local agency must assist the applicant or /member in obtaining this verification, provided that the applicant or /member has not refused to cooperate with the application process.

IM workers are responsible for verifying information such as:

- Out-of-state participation
- Fleeing felon or probation and parole violator status
- Out-of-state intentional program violations
- Social Security Income and Medicare
- Immigration status
- WHEAP (State database verified upon receipt)

If all attempts to verify the information have been unsuccessful because the person or organization providing the information has failed to cooperate with the applicant or /member and agency (for example, by charging a fee or refusing to complete a verification form), and all other sources of verification are unavailable, determine an amount to be used for certification purposes based on the best available information. Clearly document the attempts to obtain verification and the reasoning for the estimate that is used. Best available information may include an oral or written statement.

2.1.3 INTERVIEWS

2.1.3.1 SCHEDULING THE INTERVIEW

7 *CFR* 273.2(e)(3)

Agencies must make every attempt to schedule interviews to ensure that an initial FoodShare eligibility determination can be completed within the 30-day processing time frame. Priority Service interviews must be completed unless postponed ([2.1.4 Expedited Service at Application](#)).

FoodShare applicants have the right to complete a face-to-face or phone interview ([2.1.3.5 Telephone Interviews](#)). If an applicant requests a face-to-face interview, the interview is typically held at the local office but may be held at a mutually acceptable location such as the applicant's residence.

If a home-based certification interview is scheduled with the applicant or member, a hardship must exist (including but not limited to) and must be case commented:

- Illness
- Transportation difficulties
- Care of a household member
- Hardships due to residency in a rural area
- Prolonged severe weather
- Work or training hours that prevents the household from participating in an in-office interview

Agencies are required to schedule and provide written notice of an interview for an initial FoodShare application. Notice of the interview must be in writing and mailed to the applicant unless the notice cannot be received by the applicant prior to the date of the interview. Verbal notification of the interview is only allowable if an interview letter cannot be received prior to the interview and only if the agency provides this information directly to a responsible adult household member. If verbal notice is provided the agency must document in case comments that a verbal notice was provided, the name of the person who received the verbal notice, the date and time of the interview, and whether the interview will be conducted by telephone or face-to-face.

If the applicant is physically present when the appointment is scheduled, the agency must provide the applicant a print out of the written notice.

The IM worker must make two attempts to contact the applicant or an adult member of the food unit at the time of the scheduled interview. If the first attempt to contact the food unit is unsuccessful, make a second attempt 15 minutes after the first call. If the second attempt is unsuccessful, the IM worker must document in case comments that he or she was unable to contact the food unit at the appointment time, that the follow-up

call was made, and the length of time between calls. Send the Notice of Missed Interview (NOMI), directing the food unit to contact the agency to reschedule.

NOMI requirements must be met if the applicant or member misses the interview.

The agency must notify each applicant/member who misses the application or renewal interview that they missed the scheduled interview and that the applicant/member is responsible for rescheduling a missed interview. The use of Client Scheduling in *CWW* will ensure that the NOMI is generated by CWW and sent to the applicant/member, see [Process Help 1.8.9.7](#) for details on the automated NOMI process. If Client Scheduling is not used, a NOMI must be manually issued by the local agency. A copy of the agency notice must be scanned to the electronic case file. Agencies may not deny an application prior to the 30th day after the application filing date if the applicant fails to appear for the first interview.

For applicants who miss a scheduled appointment and contact the agency to reschedule within the 30-day application processing period (2.1.2 Application Processing Time Frame), the agency must schedule another interview.

An application must not be denied prior to the 30th day, unless the interview has been completed, even if other information has been reported on the application that would make the FoodShare assistance group ineligible.

On-Demand Interviews

Wisconsin received federal approval for a waiver that allows IM consortia to implement an on-demand, or unscheduled, interview model. Under the on-demand interview model, FoodShare applicants and renewing members may call their IM agency to complete the required FoodShare interview during the agency-designated FoodShare on-demand hours.

A consortium must apply this model across all agencies within the consortium. An on-demand interview must be offered at both application and renewal. A consortium implementing the on-demand interview model must continue to provide scheduled face-to-face or telephone interviews upon request.

All FoodShare applications must be screened for expedited service. A consortium must meet the following application and renewal processing standards:

- Expedited applications: IM workers must make at least two attempts to contact an applicant to complete the interview on the same business day the application is received or by the end of the next business day. IM workers must continue to meet all expedited service processing standards.
- Standard 30-day applications: IM workers must make at least two attempts to contact an applicant to complete the interview on the same business day the

application is received or by the end of the second business day following the day it was received.

- Renewals: IM workers must make at least two attempts to contact a member to complete the interview on the same business day the renewal is received or by the end of the fifth business day following the day it was received. **Note:** On-demand interviews must be offered for all renewals when received.

Note: IM workers must allow at least 15 minutes between the first and second attempt to contact the applicant/member.

Notice of Interview for On-Demand Interviews

If an IM worker is unable to complete the interview at the time he or she contacts a household as described above, the IM worker must send a Notice of Interview. For on-demand interviews, the Notice of Interview language will be generated on the verification checklist (VCL). The household has nine calendar days from the VCL mailing date to call and complete the FoodShare interview. The Notice of Interview provides instructions to complete the interview. If the last day of the on-demand interview time frame falls on a weekend or CARES holiday, the due date will be the next business day. The on-demand interview timeframe of “10 days to call to complete” will not be adjustable in *CWW*. Verification due dates for other types pending after the interview will continue to be based on policy requirements and IM worker action.

2.1.3.3 USE OF AN AUTHORIZED REPRESENTATIVE

7 CFR 273.2(n)

The local agency must inform applicants and prospective applicants, who indicate that they may have difficulty completing the application process, that a non-food unit member may be designated as the authorized representative for application processing purposes. The authorized representative designated for application processing purposes may also carry out food unit responsibilities during the certification period such as reporting changes in the food unit’s circumstances. If an authorized representative applies on behalf of a household, the identity of both the authorized representative and the primary person must be verified. An authorized representative must be designated by the primary person in writing before he or she is authorized to take action on a case. When an authorized representative completes an application or renewal for the food unit, they also register the food unit for work (3.16.1.4 Registering for Work).

A non-food unit member may be designated as an authorized representative for the food unit provided that the person is:

1. An adult who is sufficiently aware of relevant food unit circumstances, and
2. The authorized representative designation has been made in writing by the primary person, spouse, or another responsible adult member of the food unit.

The authorized representative designation may be made in ACCESS or by completing the form [F-10126](#).

The following groups may not serve as authorized representatives:

- Individuals who are disqualified for an Intentional Program Violation (IPV) (3.14.1) cannot serve as authorized representatives during the disqualification period, unless the agency has determined that no one else is available to serve as an authorized representative.
- Homeless meal providers may not act as an authorized representative for a homeless food unit.
- Agency employees who are involved in the certification process or issuance process may not act as an authorized representative. Special written approval may be granted by the State of Wisconsin in extenuating circumstances.
- Retailers who are authorized to accept FoodShare benefits may not act as an authorized representative.

Residents of drug addiction or alcoholic treatment and rehabilitation programs that are certified as authorized retailers by FNS or authorized to receive funding under part B of title XIX of the Public Health Service Act (42 U.S.C 300x et seq), which supports block grants for substance abuse prevention and treatment, must apply and be certified for FoodShare eligibility through the use of an authorized representative. The drug addiction or alcoholic treatment and rehabilitation program must employ an individual for the purpose of being the authorized representative.

Residents of group living arrangements have the option to apply and be certified through the use of an authorized representative independent of the facility or who is an employee of the facility. A residential group living facility must employ an individual to be the authorized representative.

See [3.2.1.5 Group Living Arrangement](#) for additional information regarding these housing situations.

If the state agency has determined that an authorized representative has knowingly provided false information about a food unit's circumstances or has made improper use of FoodShare benefits, it may disqualify that person from being an authorized representative for up to one year. Any drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents and intentionally misrepresent food unit circumstances, may be prosecuted under applicable federal and state statutes.

3.2.1 RESIDENCE

3.2.1.1 JOINT OR SHARED PHYSICAL CUSTODY OF CHILDREN

7 CFR 273.1(b)(1)(iii)

Children are included in the food unit where they reside when they are under the care and control of a *parent* or other caretaker in that food unit.

When a child lives in a shared custody situation the worker should not question the person applying for the child unless the child is already on an open case. The first parent to apply is allowed to claim the child for receipt of FoodShare benefits so long as they are exercising care and control. A worker may accept the applicant's or member's statement regarding household composition.

If the child is currently on an open case receiving FoodShare and the other parent applies for himself or herself and the child, household composition for the child would be questionable and verification of living arrangement should be requested.

Note: The worker should review all available case comments prior to determining which assistance group the child should be included in. Case comments may provide additional information which would be relevant to which assistance group to place the child.

There may be situations when the residence of a child is not easily determined. There are many methods that can be used to determine the child's residence. If the residence of a child is questionable, court documents can be used to determine if there is a primary caretaker designated. If a court order is being followed, IM should grant benefits to the primary caretaker listed in the document. However, if a court order is not being followed, the worker will need to find out what the current custody situation is and make the determination based on that. It may be a situation of 50-50 joint custody. If one parent is not designated as primary caretaker, the parents can be asked to decide.

Individuals can only be included in one FoodShare assistance group, but may be included in more than one food unit.

If the parents cannot or will not decide, compare the parents' activities and responsibilities against the following list and determine which one is exercising more control than the other:

1. If the parents reside in different school districts, where does the child attend school? Who selected the school?
2. Who assists the child with homework or school-related tasks?
3. Are there tuition costs for the child's education? If so, who pays those costs?
4. If the child is enrolled in day care, who arranges for and pays these costs?
5. Who is responsible for taking the child to and from school and/or day care?
6. Which parent is listed as the contact for emergencies at the child's school or day care provider?

7. Who arranges medical and dental care for the child? Who selects the physician and dentist?
8. Who maintains the child's medical records?
9. Who initiates decisions regarding the child's future?
10. Who responds to medical or law enforcement emergencies involving the child?
11. Who spends money on food or clothing for the child when the child visits the absent parent?
12. Who disciplines the child?
13. Who plays with the child and arranges for entertainment?
14. Are more of the child's toys, clothing, etc. kept at one parent's home than the other's?
15. In which household do the children receive the majority of their meals? If a child is receiving 21 meals per week, determine how many meals the child receives at each household each week. The household where the child receives 11 or more meals a week is the household that would be eligible to receive FoodShare for the child.

Only one parent can receive FoodShare for a child. If you still cannot determine which food group the child should be in, the child should be included in the food group of the parent who first applied. Use the best information available to make your decision, and document in case comments the basis of your determination. If you still cannot determine which food unit the child should be in, call the CARES Call Center.

“Nesting” or “bird's nest” custody is a joint custody arrangement where the children remain in the family home and the parents take turns moving in and out of the family home into separate residences. In other words, the parents are “visiting” the children instead of the children visiting the parents. The parents share financial responsibility for the home and the children. As long as the nesting agreement is in place and being followed, both parents and children will remain as one food unit and assistance group.

Example 1: Holly lives with her mother in Gleason. She attends school in her mother's district and her mother maintains a home for her. She visits her father on the weekends. Her father is receiving FoodShare. Holly is considered as "residing" with her mother. Her father cannot include her in his food unit.

Example 2: Fran (mother) has legal custody of Clarence. However, Clarence resides with grandmother, and occasionally visits his mother. Clarence is considered "residing" with grandmother and would be included in grandmother's food unit if she applied. Clarence would not be included in his mother's food unit since he is residing with his grandmother.

Example 3: Mary and Rich have joint/shared custody of Ryan. Ryan spends days with Rich because Mary works days. Ryan spends nights with Mary because Rich

works nights. However, Mary maintains a home for Ryan, he attends school in his mother's district, and she provides for most of his needs. Ryan is considered "residing" with Mary, and can receive FoodShare with her. Ryan would not be included in Rich's food unit since Ryan is residing with Mary.

Example 4: Pam and Paul have 50/50 shared custody of Emily. Neither is designated as primary caretaker. They do not agree on who exercises more control over Emily. They both have Emily for three and one half days per week. They live in the same school district, both are contacted in an emergency, etc. Paul comes in to the agency to apply for FoodShare first. Emily would be included in Paul's food unit.

Example 5: Trudy and John have a nesting agreement in place. Trudy is staying in the family home with the children Monday, Tuesday, every other Wednesday, Saturday, and Sunday. John is staying in the family home with the children Thursday, Friday, and every other Wednesday, Saturday, and Sunday. The household bills such as mortgage, utilities, and child care expenses are shared between Trudy and John. As long as this agreement is in place and being followed (even when the divorce is final), Trudy, John, and their children are all considered one food unit and assistance group.

3.2.1.3.1 SHELTERS FOR THE HOMELESS

Determine eligibility for a *homeless* shelter resident as if he or she is living independently (not residing in an institution or facility). Homeless shelters include transitional and temporary housing. An individual residing at a shelter for the homeless is homeless.

3.6.1 FOSTER CARE RECIPIENTS

3.6.1.2 FOSTER CARE PAYMENT

A foster care provider is the person providing foster care for a foster person. Money paid for the care of a foster care recipient is income of the recipient, not the provider.

Count the foster care recipient's income only if the foster care recipient is in the food unit.

A subsidized guardianship payment is equivalent to a foster care payment and is to be counted the same.

3.15.1 STUDENT ELIGIBILITY

7 *CFR* 273.5

An institution of higher education requires a high school diploma or equivalency certificate for enrollment, or is a regular college or university degree program that does not require a high school degree as a condition of enrollment. It does not include any adult basic education program. Higher education institution examples are business, vocational, trade, technical schools, colleges, and universities.

Anyone, age 18-49, enrolled half-time or more in an institution of higher education is ineligible, unless he or she meets one of the following criteria:

1. Employed at least an average of 20 hours a week with earnings equal to at least the federal minimum wage.
 - a. Weekly earnings must be at least $\$7.25 \times 20 \text{ hours} = \145 per week. Use student monthly hours to calculate a weekly average. Students whose employment hours fluctuate from week to week may be determined eligible for FoodShare, provided they maintain an average of 20 hours per week at minimum wage or a total of 80 hours per month.
2. Self-employed at least an average of 20 hours a week with self-employment earnings (after self-employment expenses are subtracted) equivalent to at least the federal minimum wage.
 - a. Weekly earnings must be at least $\$7.25 \times 20 \text{ hours} = \145 per week. Use student monthly hours to calculate a weekly average. Students whose employment hours fluctuate from week to week may be determined eligible for FoodShare, provided they maintain an average of 20 hours per week at minimum wage or a total of 80 hours per month.
3. Employed and self-employed for a combined average of 20 hours a week with total earnings equivalent to at least the federal minimum wage.
 - a. Weekly earnings must be at least $\$7.25 \times 20 \text{ hours} = \145 per week. Earnings are based on self-employment income (after self-employment expenses are subtracted) plus gross income from other employment. Use student monthly hours to calculate a weekly average. Students whose employment hours fluctuate from week to week may be determined eligible for FoodShare, provided they maintain an average of 20 hours per week at minimum wage or a total of 80 hours per month.
4. Participating in a federal or state work study program.
 - a. Continue the exemption until the end of the month in which the school term ends or the student refuses to do his or her assigned work. A student who has stopped working during the school year because the work study funding has run out would continue to be classified as an eligible student until the end of the school term.
 - b. The exemption does not cover school breaks longer than one month, unless the student is participating in work study during the break.
5. Responsible for the care of a dependent household member under age six. If two people exercising *parental control* are in the food unit, allow student status to only one person per *child*.

6. Responsible for the care of a dependent household member who has reached age six but is under age 12 if the agency determines adequate child care is unavailable. If two people exercising parental control are in the food unit, allow student status to only one person per child.
7. Is a single parent enrolled in an institution of higher education on a full-time basis, as determined by the institution, and is exercising care and control of a dependent food unit member under the age of 12. To apply this provision there must be only one biological or adoptive parent or *stepparent* in the same food unit as the child. If there is no biological or adoptive parent or stepparent living with the child, another full-time student living with the child may qualify as an eligible student under this provision if the student has parental control of the child and does not live with his or her *spouse*.
8. Receiving a Tribal *TANF* cash payment, *W-2* cash payment, or working in a W-2 Trial Job. Assigned to or placed in an institution of higher learning by Workforce Innovation and Opportunity Act (WIOA) .
9. Enrolled in a W-2 employment position or other TANF-funded program under Title IV of the Social Security Act.
10. Physically or mentally unfit for gainful employment. Verify the claim if it's questionable, such as through receipt of temporary or permanent disability benefits, or a statement from a physician, or certified psychologist.
11. Participating in an on-the-job training program. This exemption applies only during the period of time the person is being trained by the employer.
12. Is assigned to or placed in an institution of higher education through or in compliance with the requirements of *FSET*, a program under the Job Training Partnership Act of 1974, or a program under section 236 of the trade Act of 1974.
13. Is enrolled in an educational program that is designed to be completed in two years or less and obtaining certification or a diploma from the program will lead to employment that is in demand.

Example 1: During an interview for FoodShare, Jack, reports that he is a full-time student at Northern Technical College for phlebotomy and plans to graduate in the next year. Since phlebotomists are in occupational demand, Jack is confident he will be able to obtain a job in his field upon graduation. Based on common knowledge that there is a shortage of trained medical professionals, the IM worker agrees. Jack is single and does not meet any of the other exemptions. If all other FoodShare eligibility requirements are met, Jack would be an eligible student because he is enrolled in a two-year program that will lead to employment that is in demand.

Example 2: When Carla applies for FoodShare, she reports that she is enrolled half-time at Madison Area Technical College and is taking cooking with herbs, pottery and jewelry making. Carla indicates that she does not know if she will attend next semester because she is unsure about her career goals. No other student exemptions are met. Carla would not be an eligible student, because the direction of Carla's potential career is unclear. Carla is encouraged to apply again if she

disenrolls from school or pursues courses that will lead to an in-demand job.

Example 3: When Bill applies for FoodShare, he reports that he is enrolled in a four-year nursing program, but only has two years left in the program. Bill would not be an eligible student because the program was designed by the college to be completed in four years.

Note: A student who lives in campus housing and purchases a meal plan that provides more than half of their meals is not eligible for FoodShare, even if the student does not eat meals from the meal plan. If the meal plan is available, but the student does not purchase it, then they may be eligible for FoodShare.

Note: IRS tax dependency status does not impact FoodShare eligibility determinations. A student may be claimed as a tax dependent by his or her parents and still qualify for FoodShare if he or she meets all other non-financial and financial eligibility criteria.

A student is enrolled as of the first day of the school term through normal scheduled class periods, vacation, and recess unless he or she:

1. Graduates.
2. Is suspended, expelled, or drops out.
3. Doesn't intend to register for the next school term (excluding summer school).

FoodShare Employment and Training

Students enrolled in higher education at the time of FoodShare application and then found eligible for FoodShare may request to be referred to FSET to participate in activities other than education. Activities may include job search, work experience, or self-employment. FSET cannot provide reimbursement for expenses related to education for students who self-initiate enrollment in higher education.

Work Registration

A FoodShare-eligible student who meets the criteria in this section is exempt from the FoodShare work registration requirements.

ABAWDs

If an **ABAWD** is determined to be a FoodShare-eligible student based on the criteria in this section, the ABAWD is an exempt ABAWD.

3.20.1 DRUG FELONS

7 CFR 273.11(m)

For FoodShare eligibility purposes, a drug felon is a person (*adult* or a *minor*) who is convicted of a felony in a state or federal court involving the possession, use or distribution of a *controlled substance* within the last five years. An individual with a court finding of “Guilty but not guilty due to mental disease/defect,” or a similar ruling that results in the individual having been found to be mentally incompetent, is not to be considered a drug felony conviction. Convicted drug felons must have a negative drug test result (pass) to become eligible for FoodShare. The drug test should include the drug for which the applicant or member received the felony conviction. Drug felons who test positive (fail) for controlled substances will be sanctioned.

The cost of drug testing must be paid for by the local agency and the drug test must be state certified. If the drug felon passes the drug test, do not test again at each renewal. The local agency may use the results of a drug test conducted by another state certified entity if the test was taken within the last 30 days. Examples of other state certified entities include, but are not limited to, probation officers, employers, FEPs, etc. If a previous drug test result is offered but is older than 30 days, require a new drug test.

A FoodShare applicant or member must state whether he or she or any member of his or her food unit has been convicted in any state or federal court of a felony for possession, use, or distribution of a controlled substance. The applicant/member's signature on the Application Summary is sufficient to satisfy this requirement.

See [Process Help 2.6](#) for information on requesting drug test verification.

4.3.3 FARMING AND OTHER SELF EMPLOYMENT INCOME

4.3.3.8 SELF-EMPLOYMENT EXPENSES

Expenses Exceeding Income

When a food unit has more than one self-employment operation, the losses of one can offset the profits of another. Do not use losses from self-employment to offset other earned or unearned income.

Exception: Offset farm income losses with any other countable income only if the farmer received or anticipates receiving annual gross proceeds of \$1,000 or more from the farm operation.

Shelter Expense

When a self-employed food unit claims the total shelter costs as a business expense, do not allow any shelter deduction. If the food unit claims a percentage of the shelter costs as a business expense, the remaining percentage is a shelter deduction.

If the percentage used for the business expense was not self-declared, use IRS form 8829 or the "Expenses for business use of your home" line from IRS form 1040 Schedule C to determine the amount of the home that was claimed as a business expense. Any remaining amount that was not counted as a business expense should be allowed as a shelter expense.

Example 9: Fred, a self-employed farmer, uses 50% of his homeowners insurance and property taxes as a business deduction. His yearly homeowners insurance and property taxes are \$1,200. Use the remaining \$600 as a shelter deduction. Prorate the \$600 over 12 months.

Farm and Self-Employment Expenses - Utilities

A self-employed food unit is allowed the standard utility allowance (SUA), if eligible for it, regardless of the percentage of utility expense claimed on the taxes for business use of the home.

Self-employed Child Care Provider

A child care provider can deduct the cost of meals provided to the enrolled children from the income earned by the child care business. They may report the actual cost of the meals or they may use the federal standard deductions. Tier 1 applies to food units with income at or below 185% of the FPL income guidelines. Tier 2 applies to all other households.

Rates effective from July 1, 2017-June 30, 2018:

Federal Standard Deductions

Meals	Tier 1	Tier 2
Breakfast	\$1.31	\$0.48
Lunch or Supper	\$2.46	\$1.48
Supplement (snacks)	\$0.73	\$0.20

4.3.4 UNEARNED INCOME

4.3.4.2 COUNTED UNEARNED INCOME

1. Tribal TANF payments.
2. Interest, dividend, and royalty payments if available to a food unit member. Dividends that the food unit has the option of either receiving as income or reinvesting in a trust or other investment are to be considered income in the month they become available to the food unit, unless exempt under [4.3.4.3](#). Disregarded Unearned Income.
3. Annually paid annuities and lottery winnings. Average these payments over 12-months. Do not count the entire amount in the month received.
4. Individual Retirement Account (IRA) payments. Budget IRA ~~withdrawal~~ withdrawal payments based on frequency received (annually, quarterly, monthly).
5. Net SSI payments.
6. Gross Social Security payments less any repayments withheld due to previous overpayments of Social Security benefits. Include any Child Support payments withheld from Social Security payments. This will ensure that Child Support payments are correctly included in the total gross unearned income and correctly budgeted as a Child Support payment deduction.
7. Unemployment Insurance (Unemployment Compensation) payments, except for the \$25 supplemental weekly Unemployment Compensation payment (stimulus payment) authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) for FoodShare. Disregard the stimulus payments effective 11-06-09.
8. Worker's Compensation benefits.
9. VA disability and pension benefits, COLA and other adjustments made to the payments. The adjustments that are excluded are "Aid and Attendant Allowances" referenced in [4.3.4.3](#) Disregarded Unearned Income below.
10. Private disability payments.
11. Caretaker Supplement (CTS) payments.
12. Child Support and maintenance payments made directly to the food unit, or passed through to the food unit by a child support agency, whether court-ordered or voluntary. However, child support paid to a custodial parent who resides with the non-custodial parent and the child(ren) for whom the child support is paid is not counted as income. Disregard child support payments received directly from an absent parent by a food unit if the money is turned over to the child support agency. Disregard child support payments retained by a child support agency.
13. Child Support and Family Support must be prorated among the members covered by the court order. If a Family Support order includes the custodial parent, the income proration would also include that parent. Child support is prorated for only the children covered by the court order. Maintenance is budgeted for the person actually receiving it. The most up-to-date information about Child Support and Maintenance is auto populated on the CARES Worker Web Child Support screen.

14. W-2 payments received under W-2T, CSJ full and prorated placements, CMF+, ARP, or as the custodial parent of an infant (CMC). See 8.1.6 System Generated Payments.

Note: See 7.1.1.7 Deny Benefit Increases Due to Penalties in Other Programs.

15. Kinship Care payments are unearned income for the child receiving the payment.

16. Subsidized guardianship payments.

17. Any money received for sick or severance pay from an insurance policy, an income continuance policy, or disability payments from an employer that are not paid as accrued sick, vacation, or personal time. Gross income from these sources is budgeted. Whether or not the income is taxed or untaxed does not determine if the pay is counted as unearned or earned income.
18. Reimbursements for normal household living expenses such as rent, mortgage, personal clothing, and food eaten at home. These are counted because they are a gain or benefit. Include stipends that are part of a financial aid package and are intended as a reimbursement for living expenses.
19. Count a subsidized adoption payment or adoption assistance payment as unearned income.
20. Tribal distribution payments. Income from tribal distributions should be prorated over the period it is intended to cover if it is predictable and regularly received. If the FoodShare assistance group becomes ineligible and then reapplies before receiving their next installment, continue to use the same prorated amount as before.

Example 1: Dawn receives \$500 quarterly from the Potawatomi Tribe. The frequency of the payment is regular and the amount is predictable. To calculate the monthly amount to be budgeted prospectively, prorate the amount over the time period intended:

$\$500/3 = \166.67 per month to be prospectively budgeted.

21. Money withdrawn or dividends that are received or could be received from an otherwise exempt trust fund.
22. Monetary gifts over \$30 a calendar quarter. Calendar quarter: three consecutive months beginning with January, April, July, or October.
23. Income from a land contract. Count any portion of monthly payments received that are considered interest from a land contract as unearned income. Do not count the principal as income, because it is the conversion of one asset form to another. If received less often than monthly, prorate it over the period between payments. Do not count this income until a member actually receives it.
24. Any money received from an installment contract must be:

- a. Counted as income in the month received, or
 - b. Averaged over the number of months between payments. For example, average a quarterly payment received in January over January, February, and March. The food unit must choose one of the above methods. Document the choice in the case record.
25. If someone receives rental income and the property is managed more than 20 hours per week, see Self-Employment [4.3.3.4](#).

If someone manages the property for less than 20 hours a week, treat the income as unearned and budget as listed below. Include gross receipts minus allowable business expenses as earned income. Tax Forms 1040 Schedule C or 1040 Schedule E are used to determine rental income. If using tax form Schedule E, use recorded rental income plus the principal paid, to estimate future income. If the applicant or member has not completed a Schedule C or Schedule E tax form, use the following method to calculate earned income.

- a. When the owner is not an occupant, "net rent" is the total rent payment(s) received minus the total mortgage payment (principal and interest) and other verified operational costs such as (but not limited to) hazard insurance, mortgage insurance, and taxes.
- b. When income is received from a multi-unit property and the owner lives in one of the units, compute "net rent" as follows:
 - Step 1:** Add the total mortgage payment (principal and interest) and other verified operational costs such as (but not limited to) hazard insurance, mortgage insurance, and taxes common to the entire operation.
 - Step 2:** Multiply the number of rental units by the total in Step 1.
 - Step 3:** Divide the result in Step 2 by the total number of units, to get the proportionate share.
 - Step 4:** Add the proportionate share in Step 3 to any operating costs paid that are unique to the rental unit. This equals total expenses.
 - Step 5:** Subtract total expenses in Step 4 from gross rent payments to get net rent.

CARES will budget self-employment income from rental property as earned income if the property is self-managed 80 or more hours per month. If the monthly hours entered are less than 80, the income will be treated as unearned income even if the self-managed switch is "Y".

Verify unearned rental income using available documentation. It is not necessary to collect Self-Employment Income Report Forms (SEIRF) for unearned income.

4.3.4.3 DISREGARDED UNEARNED INCOME

Disregard means do not count. When you are calculating the total amount of unearned income a person has received, you should exempt or exclude any of the following kinds of unearned income:

Housing and related income:

1. Disregard rent paid by the Department of Housing and Urban Development (HUD) and Farmer's Home Administration (FMHA) directly to a landlord as income. Do not include these payments as a deduction. Only include as a rent expense what the food unit owes to the landlord after the HUD or FMHA payments.
2. Disregard rent paid by HUD to residents in the experimental housing program in Green Bay.
3. Disregard HUD or FMHA utility reimbursement payments made directly to a food unit or utility provider as income.
4. Disregard HUD utility reimbursement payments diverted by a Native American housing authority directly to the utility provider without permission, consent, or agreement of the food unit.
5. Under the Family Investment Centers program, HUD provides grant money to public housing agencies and Indian housing authorities. In turn, they provide access to education and job opportunities to public housing residents. Disregard as income services provided to these residents. Services include:
 - a. Child care~~;~~
 - b. Employment and training counseling~~;~~
 - c. Literacy training~~;~~
 - d. Computer skills training~~;~~
 - e. Assistance in attaining certificates of high school equivalency~~;~~~~and~~
 - f. Other similar services~~.~~
6. Disregard free rent, no income is counted and no rent deduction is allowed.
7. A tenant may be billed utility expenses for common electrical devices, for the benefit of any number of tenants, but wired through his or her meter. A notice from the landlord identifies that cost and the tenant's reimbursement. Disregard the reimbursement.
8. Income received as a result of participation in the Fresh Start Program.

Employment Training and Education:

1. Educational aid for students is not counted as income.
2. Disregard educational expense reimbursements.
3. Disregard income produced by an educational trust.
4. Disregard W-2 TSP (stipends for non-custodial parents) received for W-2 education and training activities.

Loans:

Disregard as income any loan to the food unit. This includes loans from private individuals and commercial institutions. A legally executed document is not required to verify that income is a loan. A statement signed by both parties is enough to verify the income is a loan, if it contains: the amount of the loan; that the payment is a loan, and that repayment is required.

Medical and Dependent Care:

1. Disregard reimbursements for medical or dependent care. Some examples of medical or dependent care reimbursements that should be disregarded are:
 - a. Reimbursements from the Medical Assistance (MA), also known as Medicaid or Title 19 Community Integration Program (CIP).
 - b. Reimbursements from the Alzheimer's Family Caregiver Support Program (AFCSP) and National Family Caregiver Support Program (NFCSP).
2. Disregard dependent care payments as income for a food unit member's care when a county agency:
 - a. Pays a dependent care provider directly,
 - b. Reimburses the food unit after the food unit has incurred or paid a dependent care expense.
2. Disregard payments from the Wisconsin Family Support Program, which assists families by covering medical, dependent and other allowable expenses for in-home support for children with severe disabilities. Payments may be issued in several ways, including by voucher or direct payment to the vendor, or direct payment to the family as a reimbursement for allowable expenses. Do not confuse this program with "family support", a court-ordered obligation that combines child support and maintenance.

SSA programs:

1. Disregard reimbursements for services provided by the [Social Services Block Grant Program](#).
2. Disregard retroactive SSI payments which are paid in installments.
 - a. Retroactive SSI benefits which total 12 months or more of the Federal Benefit Rate (monthly SSI amount) will be paid in three or fewer installments at six month intervals. Each installment payment should be counted as an asset. Retroactive SSI benefits which equal or exceed 12 months of benefits, but which are owed to the following categories of recipients, will continue to be received in one lump sum:
 - i. A person who has a medical impairment which is expected to cause death within 12 months.
 - ii. A person who is ineligible for benefits and is likely to remain ineligible for the next 12 months.
3. Disregard income of an SSI recipient necessary to fulfill a Plan to Achieve Self-Support (PASS) regardless of the source. This income may be spent in accordance with an approved PASS or deposited into a PASS account. The SSA must approve the individual's PASS in writing, identifying the amount of income that must be set aside each month to fulfill the PASS. It is the member's responsibility to report and verify that such income is necessary to fulfill its PASS in order for the income to be disregarded.
4. A *qualified organization* may collect a fee for acting as the representative payee for an SSI or OASDI recipient. Disregard the amount withheld from the SSI or OASDI payment as income to the recipient. Reduce the SSI or OASDI amount by the amount withheld instead.

SSI-E

Disregard SSI-E income for FoodShare. It is not necessary to determine if a SSI-E payment is being used for its intended purpose in order to disregard the income.

Energy Assistance Program

Disregard all payments provided by the Low Income Home Energy Assistance Program (LIHEAP) or Wisconsin Home Energy Assistance Program (WHEAP).

Community Options Program

Disregard Community Options Program (COP) reimbursement for long-term care services. If a food unit member is receiving COP payments for providing services, count the money as earned income.

Tribal / Native American Payments

Disregard payments to individual tribal members of the following tribes and/or from the following federal settlements:

1. Seminole Indians of Florida (PL 84-736).
2. Pueblos of Zia and Jemez of New Mexico (PL 84-926).
3. Red Lake Band of Chippewa Indians (PL 85-794).
4. Alaska Native Claims Settlement Act (PL 92-203).
5. Stockbridge Munsee Indian Community of Wisconsin (PL 92-480).
6. Burns Indian Community of Oregon (PL 92-488).
7. Pueblo of Santa Ana (PL 95-498).
8. Pueblo of Zia of New Mexico (PL 95-499).
9. Bois Forte Band of the Chippewa Tribe or the Grand Portage Band of Lake Superior Chippewa Indians under 25 USC 1407 (PL 93-134, 97-458, 106-568, 113-290).
10. Navajo and Hopi Tribe relocation payments (PL 93-531).
11. Cherokee Nation of Oklahoma (PL 94-114).
12. Cheyenne River Sioux, Crow Creek Sioux, Lower Brule Sioux, Oglala Sioux, and Rosebud Sioux Tribes of South Dakota (PL 94-114).
13. Devils Lake Sioux and Standing Rock Sioux Tribes of North Dakota (PL 94-114).
14. Shoshone-Bannock Tribes of Idaho (PL 94-114).
15. Sac and Fox Indian claims agreement (PL 94-189).
16. Grand River Band of Ottawa Indians (PL 94-540).
17. Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (PL 95-433).
18. Indian Child Welfare Act of 1978 (PL 95-608).
19. Delaware Tribe of Indians and the Delaware Tribe of Western Oklahoma (PL 96-318).
20. Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians under the Maine Indian Claims Settlement Act of 1980 (PL 96-420).
21. Wyandot Tribe of Indians of Oklahoma (97-371).
22. Absentee Shawnee Tribe of Oklahoma, Eastern Shawnee Tribe of Oklahoma, and Cherokee Band of Shawnee descendants (PL 97-372).
23. Miami Tribe of Oklahoma and Miami Indians of Indiana (PL 97-376).

24. Clallam Tribe of Indians, including Port Gamble Indian Community, Lower Elwha Tribal Community, and Jamestown Band of Clallam Indians, of Washington (PL 97-402).
25. Turtle Mountain Band of Chippewas of Arizona (PL 97-403).
26. Blackfeet, Gros Ventre Tribes, and Assiniboine Tribes of Montana (PL 97-408).
27. Papago Tribe of Arizona (PL 97-408).
28. Red Lake Band of Chippewas (PL 98-123).
29. Assiniboine Tribes of Fort Belknap Indian Community and Fort Peck Indian Reservation of Montana (PL 98-124).
30. Chippewas of Lake Superior including the Bad River Band, Lac du Flambeau Reservation, Lac Courte Oreilles Band, Sokaogon Chippewa Community, Red Cliff Reservation, and St. Croix Reservation of Wisconsin; disregard any per capita payment issued under this judgement in its entirety (PL 99-146).
31. Keweenaw Bay Indian Community of Michigan (PL 99-146).
32. Fond du Lac, Grand Portage, Nett Lake, and White Earth Reservations of Minnesota (PL 99-146).
33. White Earth Band of Chippewas in Minnesota (PL 99-264).
34. Saginaw Chippewa Indian Tribe of Michigan (PL 99-346).
35. Chippewas of the Mississippi including Mille Lac, White Earth, and Leech Lake of Minnesota (PL 99-377).
36. Band of Potawatomi, including Hannahville Indian Community and Forest County Potawatomi, of Wisconsin; if issued as a per capita payment, disregard the first \$2,000 of each payment made from this judgement (PL 100-581).
37. Puyallup Tribes under the Puyallup Tribe of Indians Settlement Act of 1989 (PL 101-41).
38. Seneca Nation of New York under the Seneca Nation Settlement Act of 1990 (PL 101-503).
39. Catawba Indian Tribe of South Carolina (PL 103-116).
40. Confederated Tribes of the Colville Reservation (PL 103-436).

Exclude as income any lump sum or periodic payments received under the Cobell v. Salazar Class Action Trust Case during the one-year period beginning on the date of receipt (PL 111-291).

Disregard up to \$2,000 per calendar year held by an individual Native American which is derived from restricted land or land held in trust by the Department of Interior, Bureau of Indian Affairs (PL 103-66, 92-203, and 100-241).

Disregard the first \$2,000 of individual shares for the following:

1. Confederated Tribes of the Warm Springs Reservation (PL 97-436).
2. Old Age Assistance Claims Settlement Act (PL 98-500).
3. Seminole Nation of Oklahoma (PL 101-277).
4. Seminole Tribe, Miccosukee Tribe of Indians, and the independent Seminole Indians of Florida (PL 101-277).

5. Rincon Band of Mission Indians (Docket 80-A).
6. Walker Paiute Tribe (Docket 87-A).
7. Ak-Chin, Salt River Pima-Maricopa, and Gila River Pima-Maricopa Indian Communities (Docket 228).
8. Maricopa Ak-Chin Indian Community (Docket 235).
9. Peoria Tribe of Oklahoma (Dockets 313, 314-A, and 314-B).
10. Yankton Sioux Tribe (Dockets 342-70 and 343-70).
11. Wichita and Affiliated Tribe (Keechi, Waco & Tawakonie) of Oklahoma (Dockets 371 and 372).

Child Nutrition Act of 1966 and the National School Lunch Act

Disregard the value of assistance received from programs under the Child Nutrition Act of 1966 and the National School Lunch Act. These are:

- a. Special Milk Program.
- b. School Breakfast Program.
- c. Special Supplemental Food Program for Women, Infants and Children (WIC).
- d. School Lunch Program.
- e. Summer Food Service Program for Children.
- f. Commodity Supplemental Food Program.
- g. Child and Adult Care Food Program.

Disaster and Emergency Assistance Payments

1. Disregard major disaster and emergency assistance payments made by federal, state, county, and local agencies, and other disaster assistance organizations, including National Flood Insurance Program (NFIP).
2. Disregard Emergency Assistance or emergency General Assistance when either is given to a migrant or seasonal farm worker food unit if:
 - a. The payment is provided to a third party (vendored) on behalf of the migrant or seasonal farm worker; and,
 - b. The food unit was in the job stream when (for example, working) it was provided.
3. Disregard disaster unemployment benefits to any individual who is unemployed as a result of a major disaster. Individuals cannot be eligible for any other unemployment compensation and also receive disaster unemployment benefits. Payments are limited to 26 weeks.

Veterans Benefits

Exclude VA aid and attendance and homebound allowances if:

1. The payment is for a past or future expense.
2. The payment is not in excess of the actual expense.
3. The payment is not for a normal household living expense.
4. The payment is used for the intended purpose.

Disregard aid and attendance and housebound allowances received by veterans, spouses of disabled veterans, and surviving spouses.

GI Bill

All military personnel fund the GI Bill through mandatory payroll deductions in their first year of service. Disregard these deductions when counting income.

Example 2: During Joe's first year of military service, his gross pay is \$1,000 per month. One hundred dollars is deducted from his paycheck each month for the GI Bill. The IM worker disregards the \$100 deduction and budgets his pay as \$900 per month.

Combat Pay

IM workers are required to determine if a military allotment made available to a food unit by an absent member deployed to a combat zone should be excluded when determining eligibility. Disregard any amount of combat zone pay that goes to the food unit that is in excess of the military person's pre-deployment pay. The exclusion lasts while the military person is deployed to the combat area.

If the amount of military pay from the deployed absent family member is equal to or less than the amount the food unit was receiving prior to deployment, all of the allotment would be counted as income to the food unit. Any portion of the military pay that exceeds the amount the food unit was receiving prior to deployment to a designated combat zone should be excluded when determining the food unit's income for FoodShare purposes.

Procedure

Follow these steps in determining how to budget combat zone pay:

1. Ask if the service member is deployed to a combat zone.
2. If the answer is no, verify military pay using a bank record or Leave and Earnings Statements (LES) and clearly document in case comments how income to the food unit was determined and verified.
3. If the answer is yes, verify the service member's pay before deployment to a combat zone and the amount they receive due to being assigned to a combat zone. Leave and Earnings Statements (LES) or bank records can be used to verify this amount.
4. Any portion that is more than the amount the food unit was receiving immediately before deployment to a combat zone is exempt as combat pay.
5. Clearly document in case comments the combat pay source of verification and method used to determine amount to be disregarded and budgeted.

Note: Deployment to a combat zone can be established through a variety of methods including:

1. The deployed person's military pay record, the Leave and Earnings statement (LES).

2. Orders issued to the military person in which the place of deployment is public record.
3. Contacting the Call Center which has a listing of designated combat zones, as well as a listing of pay items which may or may not be the result of deployment to a designated combat zone

Example 3: John, his wife Bonnie and their daughter have an open FoodShare case. John is in the military stationed overseas, his monthly income is \$1,000. John sends his wife \$1,000 every month.

When John is deployed to a combat zone his pay is increased to \$1,300 a month, which is deposited into a joint account. Because the \$300 is combat pay, it is exempt income and not counted in the determination. The pre-combat pay of \$1,000 is budgeted as unearned income for FoodShare .

Example 4: Dori is in the military and receives \$1,000 per month in wages. Dori's husband Louie and their son Joe have an open FoodShare case. Dori has her military pay directly deposited into a bank account in her name only; Louie has no access to the funds or to the account. Do not count any of Dori's income in the eligibility determination for Louie and Joe.

Example 5: Ben is in the military. His paycheck is \$1,000 a month. He has \$500 directly deposited into his account and \$500 directly deposited into a joint account with his wife, Andrea. The \$500 directly deposited into the joint account is budgeted as unearned income in Andrea's FoodShare determination. Since Andrea does not have access to Ben's account, only the amount deposited in their joint account is counted.

Example 6: Tim is in the military making \$1,200 a month. An allotment check of \$1,000 is paid directly to his wife Karla, and \$200 to himself. \$1,000 is budgeted as Karla's unearned income for her FoodShare determination.

Dottie Moore

Disregard as income any penalty payment paid as a result of the Dottie Moore lawsuit by *DHS* (formerly DHSS) to any Aid to Families with Dependent Children (AFDC) applicant or member. These \$50 to \$200 penalty payments have been ordered by the U.S. District Court for the Eastern District of Wisconsin in Civil Action No. 80-C-118.

Income Tax Refunds, Credits, and Rebates

Disregard income tax refunds, credits, and rebates as income.

Victims of Nazi Persecution

Disregard as income payments under PL 103-286 to victims of Nazi persecution.

Payments to Crime Victims

Disregard any payments received from a state established fund to aid victims of a crime.

Agent Orange Settlement Fund

Disregard payments received from the Agent Orange Settlement Fund or any other fund established in settling "In Re Agent Orange Product Liability Settlement Fund litigation M.D.L. No. 381 (E.D.N.Y.)." Continue to disregard the payments for as long as they are identified separately. Apply this disregard retroactively to 1-1-89.

Wartime Relocation of Civilians

Disregard payments under PL 100-383 to U.S. citizens of Japanese ancestry and permanent resident Japanese immigrants or their survivors and Aleut residents of the Pribilof Islands and the Aleutian Islands West of Unimak Island.

Radiation Exposure Act

Disregard payments from any program under the Radiation Exposure Compensation Act (PL 101-426) paid to compensate injury or death resulting from exposure to radiation from nuclear testing (\$50,000) and uranium mining (\$100,000). Apply this disregard retroactively to 10-15-1990. When the affected person is deceased, payments are made to the surviving *spouse*, children, parents, or grandparents of the deceased. The federal DOJ makes the payments. Continue to disregard the payments for as long as they are identified separately. Apply this disregard retroactively to 10-15-90.

Children of Vietnam Veterans Who Are Born With Spina Bifida

Disregard payments received under the provision of the Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida (PL 104-204). These payments are made to any child of a Vietnam veteran for any disability he or she experiences resulting from the spina bifida. Apply this disregard retroactively to 9-26-96. Continue this disregard as long as payments are identified separately.

Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970

Disregard reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (PL 91-646, Section 216).

Capital Gains

Disregard capital gains from the sale of a personal asset as income. Profits gained from the sale of an asset continue to be counted as an asset. (See [4.3.3.3](#) for policy related to self-employment).

Reverse Mortgage

Disregard reverse mortgage payments made to homeowners. Reverse mortgage payments are loans against the borrower's home and are considered an asset these payments are not considered income.

Payments to Filipino World War II Veterans

Disregard payments from the Filipino Veterans Equity Compensation Fund. The American Recovery and Reinvestment Act (ARRA) of 2009 created the fund for certain veterans and the spouses of veterans who served in the military of the Government of the Commonwealth of the Philippines during World War II. The compensation fund offers one time payments may be up to \$15,000 to eligible persons.

Unemployment Insurance (Unemployment Compensation, or *UC*) Stimulus Payment

Effective 11-06-09

The \$25 supplemental weekly Unemployment Compensation (UC) payment (stimulus payment) authorized by the American Recovery and Reinvestment Act of 2009 (ARRA) for FoodShare.

5.1.1 TRANSITIONAL FOODSHARE BENEFITS (TFS)

5.1.1.1 TFS INTRODUCTION

7 CFR 273.26

Transitional FoodShare (TFS) benefits automatically extend FoodShare benefit eligibility for five months to FoodShare assistance groups whose Wisconsin Works (*W-2*) or Tribal *TANF* (TT) cash assistance ends as long as:

1. The member was part of an active FoodShare case in the benefit month and the month the last *W-2* or TT payment was issued, and
2. The member was receiving a *W-2* or Tribal TANF payment. This does not include *W-2* Trial Job Placements or Transitional Jobs case managed by a *W-2* agency.

FoodShare assistance groups are not eligible for TFS after Wisconsin Works (*W-2*) or Tribal TANF (TT) cash assistance ends when:

1. The *W-2* or TT payment is sanctioned to zero for nonparticipation, or
2. All FoodShare assistance groups members lose FoodShare eligibility due to:
 - a. An intentional program violation;
 - b. Failure to comply with a work requirement (see [3.16](#) Work Requirements);
 - c. Ineligible student status;
 - d. Ineligible immigrant status;
 - e. Failure to provide information necessary for determining eligibility or failure to complete a renewal;
 - f. Assets of an [EBD](#) non-categorically eligible FoodShare member were divested for the purpose of qualifying or attempting to qualify for the program;
 - g. Dual FoodShare participation;
 - h. Status as a fleeing felon.

Note: There is no limit to the number of times someone can be eligible for TFS; however the case/person needs to be receiving regular FoodShare prior to starting TFS.

Example 1: Linda is eligible for TFS from February through June. She is injured in a fall in May and is unable to work. In May, she re-applies for *W-2* and is placed in a *W-2T*. The TFS benefit period will continue through June. Because the five-month TFS benefit period ends in June, Linda completes a recertification review for regular FS benefits in June, and starts receiving them in July. Linda returns to her full time job in August. Her household will receive another five months of TFS benefits once her *W-2* payment ends.

7.1.1 ALLOTMENTS

7.1.1.9 EXPUNGEMENT

If there has been no EBT card activity for at least 365 days, any monthly benefits that are older than 365 days will be expunged. The expungement occurs only for benefits that were issued more than 365 days in the past. Expungement may occur over multiple months if card inactivity continues (see [Process Help 80.7](#)).

| When all food unit members are deceased, EBT benefits will be expired.

7.3.1 BENEFIT OVERPAYMENT

7.3.1.1 OVERPAYMENT CLAIMS AGAINST FOOD UNITS

Establish a claim against any food unit that has received more FoodShare benefits than it was entitled to receive. Since the method used to determine the food unit's income for certification purposes was converted prospective budgeting, that is the method that is to be used for calculating overpayment claim amounts, not actual income received during the overpayment period. Prospective budgeting is calculated by converting a weekly, bi-weekly or semi-monthly payment into a monthly amount. This is the income an applicant or member is expected to receive during the current and future months. Income prospectively budgeted over the claim period should use converted monthly income and expenses (weekly times 4.3, biweekly times 2.15, and semimonthly times 2) when applicable. Do not use actual income to calculate the claim, even if all information is received for the entire overpayment claim period.

There are three types of overpayment claims: client error, non-client error, and Intentional Program Violation (*IPV*). Collect claims for all types of errors, regardless of the date of origin. Only collect the amount of the claim.

In claim calculations, *disregard* income that was not previously reported and was not required to be reported.

Historically, DHS has used the terms “overpayment” and “overissuance” interchangeably. As used in this handbook, these terms refer to the same concept.

7.3.1.8 NOTICE OF OVERISSUANCE (OVERPAYMENT)

7 CFR 273.18(d)

A Notice of FoodShare Overissuance, ~~(F-16028,)~~ a completed FoodShare Wisconsin Under/Overissuance Worksheet or FoodShare Wisconsin Overpayment Calculator worksheet, F-16030,) and a FoodShare Repayment Agreement, ~~(F-16029,)~~ must be sent to the member for all types of claims.

Mail all correspondence to the last known address reported to the agency, unless through investigation it is verified that the member no longer resides at that address. In this instance, agencies must demonstrate and document the due diligence process in obtaining the best known address for the member.

Attempt a personal contact with the food unit in the initial collection efforts. The agency may request the repayment be brought before the court or addressed in an agreement reached between the prosecutor and accused person.

All Repayment Agreements are due on the 25th of the month. In all cases, if the FoodShare assistance group is receiving FoodShare benefits, recoupment will take place. If the member signs and returns the repayment agreement, they are expected to

make a monthly repayment in addition to the recoupment from the FoodShare benefit allotment.

If FoodShare benefits are not being issued and the member does not sign and return the FoodShare Repayment Agreement, dunning notices will be issued through CARES. The local agency may also pursue other collection action. The State of Wisconsin Public Assistance Collection Unit may also pursue collection action.

If the FoodShare assistance group fails to make a scheduled payment or underpays, send a dunning notice stating that the group must contact the local agency to renegotiate the payment schedule.

The FoodShare assistance group must either:

1. Negotiate a new schedule, or
2. Pay the overdue amount and continue to pay based on the previous schedule.

7.3.1.9 OVERPAYMENT DUE TO CLIENT AND NON-CLIENT ERROR

A client error occurs when the food unit unintentionally:

- Failed to provide correct or complete information,
- Failed to report a change that was required to be reported, or
- Received FoodShare for which it was not entitled pending a fair hearing decision.

A non-client error occurs when the state or local agency:

- Takes an incorrect action on a FoodShare case,
- Does not take prompt action on a change the food unit reported,
- Fails to correct an action,
- Incorrectly enters information or fails to include information that results in expedited eligibility,
- Misapplies policy, or
- System programming error, such as failure to include W-2 or SSI benefit increase.

Do not establish a claim if:

- An overpayment occurs because the agency did not ensure that a food unit signed the application form.
- Appropriate notice of a renewal or SMRF requirement was not sent due to an incorrect certification period in CARES.
- Expedited issuance resulting from a non-client error: Expedited issuance is based on best available information at the time of the eligibility determination and the FoodShare would only pend for identity.

- Benefits are issued solely because the 10-day negative notice requirement cannot be or has not been met.

Example 3: Mary's W-2 payment ended and she became eligible for TFS. CARES incorrectly set a 12 month certification period instead of a five month certification period. Because Mary did not receive a timely notice that her TFS benefits were ending after the fifth month, she would not be responsible for paying back any benefits that were issued incorrectly after the fifth month.

Do not establish a claim if Social Security, **SSI**, or Wisconsin Unemployment updates from data exchange are incorrect. These updates cannot be recovered or found in error because the information comes from a trusted third party source.

Expedited Issuance

In general, expedited FoodShare is issued on the best information available and not recoverable. There are certain situations where expedited benefits can be recovered. In instances where an individual would not be eligible for expedited issuance and the agency either incorrectly entered information or failed to include known information (data exchange information, for example), resulting in expedited eligibility, the agency can recover. If the agency establishes an intentional program violation (IPV), the agency can recover benefits. For client errors, do not pursue recovery of expedited benefits since the issuance is based on best available information and the application can only pend for identity prior to the expedited determination.

7.3.2 CALCULATING OVERPAYMENT CLAIM AMOUNTS

7.3.2.1 CLIENT AND NON-CLIENT ERROR

When calculating the overpayment, consider the food unit's reporting requirements. Do not use income or expenses, or changes in income and expenses that were not reported and were not required to be reported. Calculating an overpayment claim means determining the correct amount of benefits for each month in which a household received an overpayment. The correct amount of benefits is the amount the household would have received had the information used in the eligibility determination been accurate at the time of the determination.

Use converted prospective income to determine ongoing benefit eligibility for the overpayment calculation. Do not use actual income to calculate the claim, even if all information is received for the entire overpayment claim period. Only use the income and expenses reported or required to be reported for each month of the overpayment period. In claim calculations, disregard income that was not previously reported and was not required to be reported.

When a food unit member should have been ineligible, their income and expenses should be deemed following the appropriate deeming standard. The ineligible individual should not be counted as part of the assistance group in calculating the overpayment claim. See 4.7.5 Prorated Deeming and 4.7.6 Gross Deeming.

The "Date of Discovery" is the date you become aware of the potential overpayment. This date is used to establish the look back period. The overpayment period begins with the date of discovery and extends back up to one year (12 months) for non-client errors and up to six years (72 months) for client errors. This look back period is the period of time during which the overpayment may have occurred.

From this point forward the term "Date of Discovery" will be synonymous with the "Date of Awareness." "Date of Discovery" will be used on all future correspondence. The intent of the policy is that both terms are part of a process to define the overpayment period. The overpayment period consists of the number of months during which there were overpayments within the look back period. The overpayment period begins with the first month had the change been reported timely and acted on timely. It would have been effective up to the month prior to when the case was corrected.

The date the claim is mailed or otherwise delivered to the food unit is considered the date of establishment of the claim for tracking purposes, including establishing delinquency for the purposes of tax intercept. If the claim was not established at a fair hearing, a notice of adverse action must be provided. The notice of adverse action can be included with the claim notice or mailed separately. Overpayment claim notices must be sent to the last-known address. If a fair hearing official determines that a claim does exist against the food unit, the food unit must be re-notified of the claim.

~~The worker must consider information received through SWICA as best available information if income cannot be verified otherwise.~~

Current verification requirements still apply. When all attempts to obtain the verification are unsuccessful the worker must use the best available information to determine the monthly income amount for purposes of the overpayment calculation. The food unit has primary responsibility for providing documentary evidence to support statements in the case record and to resolve any questionable information. The worker must assist the household in obtaining this verification provided the food unit is cooperating with the agency. When the food unit fails or refuses to provide income information needed to calculate the claim and no other information is available, the claim should be calculated as if the food unit was completely ineligible. This process is consistent with eligibility determinations at application, six month report and renewal, where if the applicant member fails to provide mandatory verifications, the food unit is ineligible to receive FoodShare benefits (See 1.2.6.1 Required Verification to Determine Eligibility). The overpayment is to be established using certification rules. If the relevant information is later provided by the food unit, the claim should be recalculated with the new information factored into calculating the monthly eligibility and benefit amount that should have been received? ~~is cooperating with the agency.~~

The food unit must be given a reasonable opportunity to provide verification of income, and the agency may contact the employer directly for verification. It is not necessary to contact the food unit prior to contacting the employer; both contacts can be completed at the same time. Members should be provided 30 days to provide verification, unless it is determined that additional time is necessary in order to collect and submit the verification requested. If more than 30 days are allowed for provision of verification by the member, document the number of days allowed and the reason. Employers should be provided 10 days to provide verification. When no other form of verification is available, then SWICA information is considered the best available information and should be used to calculate an overpayment.

Document clearly in case comments the unsuccessful requests for verification from the household and the employer, and the reason for using a SWICA match as the best available verification of monthly income. Also clearly document how the income amount was calculated from the SWICA match.

If while calculating an overpayment claim, it is found that there was an underissuance that was a result of agency error and the underissuance is within the last 12 months, the amount of the underissuance must be offset against the total claim amount (if a claim is established) or a supplemental issuance should occur if there is no overpayment claim established.

7 CFR 273.18(d)(1)

In order to meet the established timeliness requirements, overpayment claims must be completed before the last day of the quarter following the quarter in which the IM discovered an overpayment. This holds true for both client and non-client errors. Overpayment claims must be established and recovered even if they are not calculated

within this timeframe. Overpayment claims must be established and recovered even if they are calculated late; failing to complete a claim within the given timeframe does not void the overpayment.

Client Error

A client error occurs when the food unit unintentionally:

1. Failed to provide correct or complete information,
2. Failed to report a change that was required to be reported, or
3. Received FoodShare for which it was not entitled pending a fair hearing decision.

The look back period for client errors begins with the date of discovery (the day the IM worker discovered the potential that an overpayment may exist) and extends backward:

1. Six years, or
2. To the month the change would have been effective had the food unit timely reported it, whichever is most recent.

The overpayment period begins with the first month had the change been reported timely, and would have been effective up to the month prior to when the case was corrected.

It is essential that the date of discovery be documented in case comments. This date locks in the look back and overpayment period. This date will not change even if the overpayment is calculated untimely.

The month the change would have been effective cannot be more than two months after the change in circumstance actually occurred.

When determining if an overpayment occurred due to an unreported increase in total gross monthly income, compare the total actual unconverted income amount to the income reporting limit for the FoodShare assistance group size to determine if the income should have been reported.

In overpayment calculations, do not apply the 20% earned income disregard to earned income that was required to be reported but was not reported timely. Disregard income that was not previously reported and was not required to be reported due to reduced reporting requirements. If expenses were reported correctly at the time of the overpayment, use those same expenses when calculating the overpayment. If expenses were incorrectly reported, and subsequently verified (examples: the expense was considered questionable and the IM worker requested and received verifications, or the expense was verified through a QC review or a WHEAP data exchange, etc.) use the verified amount in the overpayment calculation. If the IM worker knows the expense is incorrect and verification was requested but was not received, do not allow the expense in the overpayment calculation.

Earned income needs to be verified when determining income to be used in an overpayment calculation.

For Earned Income:

1. Dated check stubs of income that should have been reported that caused the overpayment.
2. Earnings reports, a statement from the employer, or ECF forms, signed by the employer, with all needed information.

Note: IEVS may indicate that income was earned from an employer sometime during three months of the work quarter. Do not use IEVS in calculations and overpayments.

Non-Client Error

A non-client error occurs when the state or local agency:

1. Takes an incorrect action on a FoodShare case,
2. Does not take prompt action on a change the food unit reported,
3. Fails to correct an action,
4. Incorrectly enters information or fails to include information that results in expedited eligibility,
5. Misapplies policy, or
6. System programming error, such as failure to include W-2 or SSI benefit increase.

The look back period for non-client errors begins with the date of discovery (the day the IM discovered the potential that an overpayment may exist) and extends backward:

1. Twelve months, or
2. To the month the error was effective had the change been acted on timely, whichever is most recent.

The overpayment period begins with the first month the change would have been effective up to the month prior to when the case was corrected.

It is essential that the date of discovery be documented in case comments. This date locks in the look back and overpayment period. This date will not change even if calculated untimely.

Example 1: At Jeff's renewal on June 5, 2012, he reported income of \$800 per month. His IM worker miscalculated Jeff's income and budgeted \$400 per month instead of the \$800 per month that Jeff reported. When Jeff submits his SMRF on December 5, 2012, the IM worker discovers her error and corrects the case effective January 1, 2013. While reviewing Jeff's income, the IM worker discovers that Jeff started a second job on August 1, from which he earns \$600 per month.

To calculate the overpayment, the IM worker budgets the correct income amount of \$800 from the job Jeff reported. The IM worker does not use the income in the

overpayment calculation from the second job, because this income was not required to be reported due to reduced reporting requirements. Jeff reports this change on his December 2012 SMRF and this income is budgeted effective January 1, 2013.

- The date of discovery is December 5th, 2012.
- The look back period is December 2011 through December 2012 (non-client error).
- Had the June 2012 change been acted on accurately the change would have been effective July 1, 2012, therefore the overpayment period is July 1, 2012 through December 31, 2012.

Example 2: Margaret submitted a complete SMRF on April 22. On the SMRF Margaret reports her income decreased from \$700 to \$500. On May 20, Margaret's worker discovers the error and corrects the case effective July 1. While determining if Margaret has an underpayment, the IM worker learns that Margaret began a second job on May 1, from which she earns \$120 per month. The additional income does not put Margaret's income over 130% of the FPL, so she is not required to report the change until her next renewal, due to reduced reporting requirements.

- The date of discovery is May 20.
- The look back period is the past 12 months (non-client error).
- Had the April 22 change been acted on timely the change would have been effective June 1. Therefore, the overpayment period is June 1 through June 31.

The IM worker does not use the income from Margaret's second job because it was not required to be reported.

Example 3: Matt submitted a complete SMRF on August 4, 2013. On August 8, 2013, Matt's IM worker discovers that Matt started a job on April 5, 2013, that should have been reported because the income from this job puts him over the 130% FPL threshold. The IM worker corrects the case and closes it effective August 31, 2013.

- The date of discovery is August 8, 2013.
- The look back period is August 2005 through August 2013 (client error).
- Had the April 5, 2013, change been reported timely, the case would have closed as of May 31, 2013. Therefore, the overpayment period is June 1, 2013 through August 31, 2013. Section 6.1.1.2 Change Reporting for All Other Food Units (Reduced Reporting) applies, and the change must be reported by the month following the month in which the total income exceeded 130% of the FPL.

7.3.2.6 ALLOTMENT REDUCTION

7 CFR 273.16(g)(1)

An overpayment due to any type of error will be recovered from a FoodShare assistance group participating in the program by reducing their allotment.

The type of error determines the amount that will be recovered each month.

1. Client/non-client error: CARES will reduce the allotment by the greater of 10% of the FoodShare assistance group's monthly allotment or \$10 each month. The \$15 minimum benefit level for one or two person groups applies before CARES reduces the allotment.
2. IPV: CARES will reduce the allotment by the greater of 20% of the group's monthly entitlement or \$20 each month. The entitlement is the amount of benefits the group would have received if not for the disqualification of a FoodShare group member. The \$15 minimum benefit level for one or two person groups applies before CARES reduces the allotment.

CARES will not allow you to reduce the recovery amount to less than \$10 for client/non-client and less than \$20 for an IPV.

CARES will not reduce the initial allotment when the food unit is first certified unless they agree to a reduction.

Food units must be allowed to voluntarily pay towards an overpayment claim(s) by reducing the issued benefits from the EBT account. Written permission must be obtained for this to occur which can be completed with Request To Reduce Quest Card Balance, F-19002. If oral permission is instead obtained for a one-time reduction, a receipt showing the reduction must be sent to the food unit within 10 days. Local agency retention rules do not apply to this form of collection.

7.3.2.9 ~~RESERVED~~ ~~TIMELY~~ ~~NEGATIVE~~ ~~NOTICE~~

~~FoodShare benefits issued solely because the 10-day negative notice requirement cannot be met are not an overpayment. Do not establish a claim or recover this type of issuance.~~

7.3.2.10 TAX INTERCEPT

7 CFR 273.18(g)(8)

The State of Wisconsin Public Assistance Collections Unit uses tax intercept from both state and federal tax refunds to recover overpayments claims from anyone who has become delinquent in repayment of a claim.

To use tax intercept, the overpayment must be considered delinquent. Delinquency prior to establishing a repayment agreement is defined as a failure to establish an agreement by its due date. Once the due date passes, the claim is considered

delinquent. Delinquency after a repayment agreement is established is defined as failing to make the monthly payment by the due date three times over the life of the debt. The collection system sends three dunning, or past due, notices for each of the three missed payments. The debt must meet all six of the criteria below:

	State Debt Criteria	Federal Debt Criteria
1	Valid and legally enforceable	Valid and legally enforceable
2	All error types	All error types
3	\$20	\$25
4	At least 30 days after the third notification of the tax intercept.	At least 120 days from notification of overpayment.
5	Free from any current appeals.	Free from any current appeals.
6	Incurred by someone who is not currently in bankruptcy.	Incurred by someone who is not currently in bankruptcy.

7.3.2.12 REPAYMENTS

7 CFR 273.18(e) (4) and (5)

A member who makes a repayment agreement may not be subject to tax intercept as long as he or she is meeting the conditions of the agreement. Failure to sign and return a repayment agreement may result in further delinquency collection action. If a member's repayment agreement becomes delinquent, which is defined as three missed payments over the life of the debt and has been sent three dunning, or past due, notices, he or she is subject to both tax intercept and monthly repayment.

The policies for monthly repayments are listed on the repayment agreements:

1. Overpayments less than \$500 should be paid by at least \$50 monthly installments.
2. Overpayments \$500 and above should be paid within a three-year period either by equal monthly installments, or by monthly installments of not less than \$20.

If more than one claim is established for a food unit, the additional claim(s) will not be considered delinquent so long as the other claim(s) are being currently paid through an installment agreement or allotment reduction and collection on the additional claim(s) are expected to begin once the prior claim is settled.

A claim is not subject to the requirements for delinquent debts if the collection failure reason is due to collection coordinated through the courts.

A claim awaiting a fair hearing decision must not be considered delinquent.

8.1.6 SYSTEM GENERATED PAYMENTS

CARETAKER SUPPLEMENT

- \$250 per month for the first eligible child
- \$150 per month for each subsequent eligible child

Wisconsin Works

First W-2 payment monthly amount needs to be manually budgeted, and count only for that month.

<u>W-2 Placement Type</u>	<u>Gross Monthly Payment</u>
<u>CSJ</u>	<u>\$653</u>
<u>1/3 CSJ</u>	<u>\$218</u>
<u>1/2 CSJ</u>	<u>\$327</u>
<u>2/3 CSJ</u>	<u>\$435</u>
<u>W-2 T</u>	<u>\$608</u>
<u>CMC</u>	<u>\$673</u>
<u>ARP</u>	<u>\$673</u>
<u>CMF+</u>	<u>\$50</u>