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## **Non-SSI Income Sources - Introduction**

An individual's monthly income is one of the factors which determine his/her eligibility for AG and the amount of AG benefits he/she will receive. Income eligibility is determined by totaling an individual's income, subtracting permitted exclusions and comparing the result to the appropriate AG rate for the area in which the ALF/AFCH is located. Income eligibility and the grant payment amount are determined in the same step. See Grant Computation Chapter J.

This chapter addresses the types of earned income and unearned income that a **non-SSI** individual may receive and how each of those types are evaluated and counted in determining the individual's AG eligibility. This chapter is organized to present general information regarding income first and detailed instructions on specific income types second. **General** information is presented in **Sections 1 through 9** and specific income types are presented in **alphabetical order** in **Sections 10 through 70**. Exclusions that apply to specific income types are addressed in the sections that apply to the specific income type. General exclusions that apply to multiple types of earned or unearned income are addressed in Chapter H.

**Note:** This chapter **DOES NOT** apply when evaluating an SSI recipient's income eligibility or payment. See Chapter D.

**Note:** If an identified source of income is not addressed in this chapter, contact the AG consultant for guidance. The consultant will review the SSI manual and provide clarification.

<http://policy.ssa.gov/poms.nsf/subchapterlist!openview&restricttcategory=05008>

### **1. What Is Income**

Income is **any item** an individual receives in **cash or in real or personal property** that can be used to meet his or her need for food or shelter. This includes the receipt of any item which can be applied, either directly or by sale or conversion, to meet basic needs of food or shelter.

Income may be received in either of two forms:

- **Cash**—Currency, checks, money orders, or electronic funds transfers (EFT), such as:
  - Social security checks
  - Unemployment compensation checks
  - Payroll checks or currency

- **Property (Other In-Kind Income)**

Non-cash items such as:

- Real property
- Personal property

## **2. Relationship of Income to Resources**

An item received in the current month is income for the current month only. If held by the individual until the following month, that item is subject to resource counting rules.

### **Example**

Mr. Jones receives a dividend check for \$300 at the end of May. He spends \$150 immediately and deposits the remaining \$150 in his savings account. His income for May is \$300. The June 1 evaluation of Mr. Jones' resources includes (for the first time) the \$150 he saved.

### **2.1. Conversion Or Sale Of A Resource**

#### **Not Income**

When a resource is sold, exchanged, or replaced, one resource has been exchanged for another. The item received is evaluated as a resource.

Receipts from the sale, exchange, or replacement of a resource are **not income** but are resources that have changed their form. This includes any cash, real property or personal property that is provided to replace or repair a resource that has been lost, damaged, or stolen.

#### **Example**

Jerry Wallace sells his 1974 Plymouth Satellite for \$300. The money he receives is not income but a resource which has been converted from one form (a car) to another form (cash).

#### **2.1.1. Verification**

Verification of the conversion and the new resource is required for resource evaluation. See the chapter that addresses the new resource type.

### 3. **What Is Not Income**

Some items received by an individual are **not income** because they do not meet the definition of income. An item received is not income if it cannot be used or sold to obtain food or shelter. The following items are **not income**.

Bills Paid By a Third Party – Exception: Some payments made to an ALF/AFCH, see section 14 of this Chapter.

Conversion or Sale of a Resource

Credit Life or Credit Disability Insurance Payments

Food or Shelter

Income Tax Refunds

Medical and Social Services Related Cash

Personal Services

Proceeds of a Loan

Rebates and Refunds

Replacement of Income Already Received

Return of Erroneous Payments

Weatherization Assistance

Each of these types is addressed in a section within this chapter.

### 4. **Types of Income**

Income is either **earned or unearned**, and different rules apply to each.

#### 4.1. **Earned Income**

Earned income consists of the following types of payments:

- **Wages**

- Wages are what an individual receives (before any deductions) for working as someone else's employee.
- **Net Earnings From Self-Employment**
- **Payments For Services Performed In A Sheltered Workshop Or Work Activities Center**
- **Royalties** earned by an individual in connection with any publication of his/her work and
- **Honoraria** received for services rendered.

#### 4.2. **Unearned Income**

Unearned income is all income that is not earned income. Some types of unearned income are:

- Annuities, Pensions, And Other Periodic Payments
- Alimony And Support Payments
- Dividends, Interest, And Royalties (Except For Royalties Mentioned Above)
- Rents
- Benefits Received As The Result Of Another's Death
- Prizes And Awards
- Real And Personal Property

#### 4.3. **Stable Vs. Fluctuating Income**

Stable income is income that does not vary in amount from month to month. Fluctuating income is income that varies in amounts or frequency of receipt from month to month. This distinction impacts how often income is verified and reconciled and the methods used for anticipating future income.

- Unearned income may be stable or fluctuating. It is stable if the amount and frequency of receipt is the same each month.
- Earned income is always evaluated as fluctuating income.

## **5. Value Of Income**

### **5.1. Cash**

The value of cash income is generally the amount of the currency or the face value of checks, money orders or electronic fund transfers (EFT) the individual receives.

### **5.2. Real Or Personal Property**

Any item of real or personal property an individual receives which he can sell or convert is called "other in-kind income." The value of other in-kind income is generally equal to its current market value. See the resource chapter that addresses the type of property received to determine the current market value of the item.

## **6. When Income Is Counted**

Income is counted at the **earliest** of the following points:

- When it is received; or,
- When it is credited to an individual's account; or
- When it is set aside for his or her use.

Determine countable income monthly and count it in the month it is received.

### **6.1. Mailing Time/ Date Of Receipt**

When a payment is mailed, assume that the payment is received 5 days after the mailing date unless the individual alleges a different date, in which case accept any credible allegation.

#### **6.1.1. Exceptions**

Occasionally, a regular periodic payment (e.g., wages, title II, or VA benefits) is received in a month other than the month of normal receipt. As long as there is no intent to interrupt the regular payment schedule, consider the funds to be income in the normal month of receipt.

The most common situations where this applies appear below.

#### **6.1.1.1. Advance Dated Checks**

When a payer advance dates a check because the regular payment date falls on a weekend or holiday, there is no intent to change the normal delivery date or to disrupt the existing relationship between check receipt and AG benefits.

Whenever such an advance dated check is received, consider it income to the recipient in the month of normal receipt.

#### **6.1.1.2. Electronic Funds Transfer (EFT)**

When an individual's money goes to a bank by direct deposit, the funds may be posted to the account before or after the month they are payable.

Whenever this occurs, treat the electronically transferred funds as income in the month of normal receipt.

#### **6.1.1.3. Documentation**

When income is counted in a month other than the month that evidence in the file shows the income was actually received, document the file with the reason.

**Example:** A company sends out its retirement pension checks so that they arrive on the first day of each month. However, because January 1, 2016 is a holiday, the checks are delivered on December 30, 2015. The AG claimant brings in his pension check as evidence of his income, and explains that he also received a pension check on December 1.

The worker determines that the amount of the December 30 check is income in the normal month of receipt (January 2016) and documents that the check is counted as income for January rather than December because the normal delivery date was a holiday.

## 7. **Countable Income (CI)**

Countable income is the total amount of earned and unearned income remaining after:

- Eliminating all amounts that are **not income**; and
- Applying all appropriate **exclusions** to the individual's gross income.

### 7.1. **Determining Countable Income**

Use this procedure to determine the individual's total countable income.

<b>STEPS</b>	<b>Determining Countable Income ACTIONS</b>
<b>Step 1</b>	<p><b>Does the individual have unearned income?</b></p> <p><b>Yes</b> – Go to Step 2</p> <p><b>No</b> – Go to Step 9</p>
	<p><b>Calculate The Countable Unearned Income.</b></p> <p><b>The Unearned Income Exclusions Must be Applied In The Following Order</b></p>
<b>Step 2</b>	<p>Exclude unearned income items that are defined as <b>Not Income</b>. These are identified in the section that addresses the specific income.</p>
<b>Step 3</b>	<p>Apply the exclusions that are specific to each income type. These are identified in the section that addresses the specific income.</p> <p>(Example – Exclude the portion of educational grants that are used for educational expenses.)</p>

<b>STEPS</b>	<b>Determining Countable Income</b> <b>ACTIONS</b>
<b>Step 4</b>	<p>Apply the <b>Infrequent Or Irregular Exclusion</b>. (A max of \$60 of unearned income may be excluded in a quarter)</p> <p>Do not apply the infrequent or irregular exclusion to an amount remaining after another exclusion has been applied to a particular type of income (e.g., the remaining amount of educational grants after the educational expenses have been excluded).</p>
<b>Step 5</b>	Deduct the <b>Expenses Of Obtaining Unearned Income</b> from the related income
<b>Step 6</b>	Total the unearned income.
<b>Step 7</b>	Apply the <b>\$20 General Income Exclusion</b> .
<b>Step 8</b>	<p>The result is the <b>countable unearned income</b>.</p> <p>Does the individual have earned income?</p> <p><b>Yes</b> – Go to Step 9</p> <p><b>No</b> – Go to Step 19</p>
	<p><b>Calculate The Countable Earned Income.</b></p> <p><b>The Earned Income Exclusions Must be Applied In The Following Order</b></p>
<b>Step 9</b>	Apply the exclusions that are specific to the type of income being received. These exclusions are in the section that addresses each income type.
<b>Step 10</b>	<p>Apply the <b>Infrequent Or Irregular Exclusion</b>.</p> <p>(A max of \$30 earned income may be excluded in a quarter)</p>

<b>STEPS</b>	<b>Determining Countable Income ACTIONS</b>
<b>Step 11</b>	Total the earned income.
<b>Step 12</b>	Deduct any portion of the <b>\$20 Monthly General Income Exclusion</b> which was not used to exclude unearned income in the same month
<b>Step 13</b>	Deduct <b>\$65 of Earned Income</b> in a month
<b>Step 14</b>	Deduct the <b>Impairment-Related Work Expenses (IRWE) Of Disabled Individuals</b>
<b>Step 15</b>	Deduct <b>One-half</b> of remaining earned income in a month
<b>Step 16</b>	Deduct the <b>Blind Individuals (BWE) Work Expenses</b>
<b>Step 17</b>	The result is the <b>total earned income.</b>
<b>Step 18</b>	Total the countable earned and unearned income.
	<b>The Combined Income Exclusions Must be Applied In The Following Order</b>
<b>Step 19</b>	Deduct the <b>Community Expenses Exclusion</b>
<b>Step 20</b>	<p>Does the individual have a spouse and a minor child or a minor child at home?</p> <p><b>Yes</b> - Deduct the <b>Spouse and Child/Child At Home Exclusion.</b> Go to Step 22.</p> <p><b>No</b> – If the individual has a spouse but no child at home go to Step 21. If the individual does not have either a spouse or child at home, go to Step 22.</p>

<b>STEPS</b>	<b>Determining Countable Income ACTIONS</b>
<b>Step 21</b>	Deduct the <b>Spouse At Home Exclusion</b>
<b>Step 22</b>	Deduct the <b>Guardianship Fee Exclusion</b>
<b>Step 23</b>	<b>Total the countable earned and unearned income.</b>  <b>The result is the total countable income to be used in determining AG eligibility and the payment amount.</b>

## **8. Income Verification**

Income must be verified at initial application, when changes occur, at redetermination, and periodically throughout the life of the case.

### **8.1. Applicant's/Recipient's Responsibility**

Applicants and recipients (or their representative payees) are responsible for providing the worker with proof of income and for reporting any changes in income. The worker will help individuals to obtain any needed documents they do not have. However, if neither the individual nor the worker can obtain the verifications, the application will be denied/closed.

#### ***8.1.1. Exception - Alleged Excess Income***

If the applicant declares total income in excess of the ALF/AFCH Limit (the ALF/AFCH rate plus the personal needs allowance), use the declaration to complete an income computation allowing all appropriate disregards. If income ineligibility exists, no further verification is needed. Deny the case due to excess income. If the computation shows that income eligibility may possibly exist, request all needed verifications, and process as normal.

## **8.2. Verification Periods**

The individual must verify the actual amount of income he/she received within the verification period. The verification period is determined by the stability of the amount of income received.

### **8.2.1. Stable Income**

To meet the definition of stable income, the source and amount received must be the same each month.

The verification period for stable income is the month prior to the month of application/redetermination or the month the income is reported.

### **8.2.2. Fluctuating Income**

To meet the definition of fluctuating income, the source or amount received must vary from month to month.

The verification period for fluctuating income will be the three months prior to the month of application/redetermination/change and every three months throughout the period the fluctuating income is received.

The total monthly countable income received in the verification period is averaged and used to project future months' income.

If the income received in the three month verification period is not representative of the income expected to be received, the worker will work with the client to determine the period that will give the best reflection. That period will be the verification period.

Documentation in the case record must include how the verification period was determined.

**Note: All earned income is considered fluctuating income.**

## **8.3. Verification Sources**

See the instructions for the particular type of income involved for additional verification requirements and appropriate verification sources.

## 9. **Projection Of Income**

Ongoing AG payments are issued at the first of the month to cover the individual's needs for the issuance month. This early issuance cycle requires that the payment be based on projected income. Income received in a prior period is used to predict what the individual will receive in the future. The prior period is the verification period.

Income is projected for future months beginning with the month of application or the month the income is reported. If a change occurs and is verified during the projection period, the projected income must be recomputed.

This information is applicable to both earned and unearned income.

**Note:** All payments that are issued based on projected income must be reconciled periodically. Reconciliation of prior payments is using the actual income received to recalculate the payment amount for each month for which a projected amount of income was used and correcting any over or underpayments that occurred. Reconciliation guidelines are in Chapter J – Grant Computation and Issuance.

### 9.1. **Stable Income**

The total monthly countable income received in the verification period will be used as the amount projected to be received for each month until the next redetermination or until a change is reported. If a change occurs and is verified during the projection period, the projected income must be recomputed.

**Note:** The actual income is **not** converted to a monthly figure based on 4.3 weeks.

### 9.2. **Fluctuating Income**

Actual income received in the verification period is used to project future fluctuating income by averaging the income received and converting it to a monthly figure. That figure is the monthly countable income and will be used as the amount projected to be received for each of the next four months. If a change occurs and is verified during the projection period, the projected income must be recomputed.

#### 9.2.1. **Averaging Income**

- Determine the frequency of payments.
- Total the verified income and divide it by the number of payment periods in the verification period.

- The result is the average income per payment period.
- Convert the average payment period amount to a monthly average by multiplying it by the conversion factor that corresponds to the frequency of the payment period (weekly, bi-weekly, etc). The average monthly payment is the amount that will be used as the projected income.

#### **9.2.1.1. Conversion Factors**

For projection purposes, an average month is 4.3 weeks.  
To convert to monthly income:

- Multiply weekly income by 4.3; or
- Multiply biweekly income by 2.15, or
- Multiply semi-monthly income by 2.

## **10. ABLE Account Disbursements**

### **Not Income/Disregard**

Achieving a Better Life Experience (ABLE) accounts are for eligible individuals living with disabilities. The accounts are administered by Virginia529. Any money in the account is excluded up to \$500,000 as a state exemption and is not a countable resource in determining eligibility for AG applications, reapplications, and/or renewals.

Disbursements for qualified disability expenses of the beneficiary from these accounts are disregarded. The amount disbursed will not be considered as countable income to the beneficiary.

### **10.1. Exclusion**

Up to \$500,000 of an ABLE account balance is excluded as a resource. Disbursements or withdrawals from this account for qualified expenses related to maintaining the health, independence, and quality of life of the beneficiary are also excluded as a resource and income.

### **10.2. Verifications**

*Beneficiaries of the ABLE account are not issued paper statements unless a special request is submitted to Virginia 529 with the agreement to pay a fee for*

*mailing. Beneficiaries are able to view their account online. Acceptable verification will be documents printed by the beneficiary from a computer that shows the following:*

- PNC Bank as the financial institution
- Identifiable markers stating “ABLE” account
- Name of the beneficiary/account holder
- Balance in the account
- Date of the account balance

Note: Should the worker consider the document submitted to be questionable, additional verifications may be requested to prove the account is eligible for exclusion.

## 11. **Alimony And Spousal Support**

### **Unearned Income**

Alimony or spousal support (sometimes called “maintenance”) is an allowance for support made by a court from the funds of one spouse to the other spouse in connection with a suit for separation or divorce or support may be made voluntarily.

Alimony and spousal support payments are cash or certain in-kind contributions to meet some or all of a person’s needs for food, clothing, or shelter.

#### **11.1. Income Treatment**

Alimony and spousal support payments made in cash or real or personal property are **unearned income** to the individual and are subject to the unearned and general income exclusions.

#### **11.2. Verification**

Verify the amount and frequency of alimony or spousal support payments. Accept the individual’s allegation of relationship of the payer to the payee unless you doubt the allegation.

Verification may include:

- Court records;

- Records of the agency through which the payments are made;
- Official documents in the individual's possession (e.g., legal documents) that establish the amount and frequency of the support;
- A statement from the source of the payment containing the amount and frequency of the alimony or spousal support.

#### ***11.2.1. Verification Not Available***

If none of the above verifications is available, accept the individual's signed allegation over a penalty clause.

## **12. Annuity Payments**

### **Unearned Income**

An annuity is a sum paid yearly or at other specific times in return for the payment of a fixed sum. Annuities may be purchased by an individual or by an employer. An annuity is a contract reflecting payment to an insurance company, bank or other registered or licensed entity by which one receives fixed, non variable payments on an investment for a lifetime or a specified number of years.

#### **12.1. Income Treatment**

See Chapter I – 56, Retirement Funds to determine the countability of annuities.

## **13. Assistance Based On Need (ABON)**

### **Excluded Income**

ABON is assistance:

- Provided under a program which uses income as a factor of **eligibility**; and
- Funded **wholly** by a State (including the District of Columbia, Indian tribes and the Northern Mariana Islands), a political subdivision of a State, or a combination of such jurisdictions
  - Example - General Relief **Note:** If a program uses income to determine payment amount but not eligibility, it is not ABON (e.g., some crime victims' compensation programs).

#### **13.1. Income Treatment**

Assistance based on need is totally excluded from income.

### 13.2. Verification

- Use **documents** in the individual's possession or contact the administering agency to **determine** the program under which the assistance is provided.
- **Verify** with agency personnel and/or program descriptions that no Federal or private funds are involved and that the program uses income in arriving at eligibility determinations.

**Note:** If evidence establishes that the assistance is excludable under this provision, it is not necessary to verify the amount of assistance and when it was received.

## 14. Awards

### Unearned Income

An award is usually something received as the result of a decision by a court, board of arbitration, or the like.

#### 14.1. Income Treatment

An award received in cash or in real or personal property is unearned income and is subject to the unearned and general income exclusions.

#### 14.2. Verification

Use documents in the individual's possession or contact with the court, board, source, etc. to verify:

- The amount of the award;
- The payment date; and,
- The purpose(s) of the payment (e.g., part of the payment is reimbursement for medical expenses).

##### 14.2.1. *Value Of Award*

Accept an individual's signed estimate of the value of the award (or actual value if cash) unless you have reason to doubt the estimate. If you doubt the estimate, determine the item's current market value (CMV) with an independent source.

## 15. Payments Made by a Third Party

### Not Income/Unearned Income

A third-party payment is payment of an individual's bills (including supplementary medical insurance under title XVIII or other medical insurance premiums) by a third party with the third party's funds when the payment is made directly to the supplier.

A third-party payment also can be a voluntary payment for goods and services beyond those required by the Auxiliary Grant (AG) program for maintenance and care on behalf of an AG recipient in an assisted living facility (ALF) or adult foster care home (AFCH).

These payments shall be strictly voluntary on the part of the third party and shall not be a condition of admission, length of stay or care and services.

### Income Treatment

Payment of an individual's bills by a third party directly to the supplier or to the ALF/AFCH is **not** considered **income**.

ALFs and AFCHs may accept payments made by third parties for additional goods or services provided to an AG recipient, and the payment **must not** be included as income for the purpose of determining eligibility or calculating the amount of an AG, provided that all of the following conditions are met:

- 1) The payment must be made directly to the ALF or AFCH by the third party on behalf of a specific AG recipient in the ALF or AFCH; after the goods or services have been provided, and the goods or services provided has been documented and the amount of the payment.
- 2) The payment must be made voluntarily by the third party, and not in satisfaction of a condition of admission, stay or provision of proper care and services to the AG recipient, unless the AG recipient's physical needs exceed the services required to be provided by the ALF as a condition of participation in the AG program pursuant to subsection C as defined in §51.5-160 of the Code of Virginia.
- 3) The payment must be for goods and services provided to the AG recipient other than food, shelter, or specific goods or services required to be provided by the ALF or AFCH as a condition of participation in the AG program pursuant to § 51.5-160.

***Example***

Joshua Hall, an AG recipient, is unable to pay his phone bill, so his sister pays the phone company with her own money. The payment to the phone company is not income.

**Example**

Jennifer Henry, an AG recipient, is unable to pay for cable television at the ALF, so her brother pays the ALF voluntarily from his own money for Jennifer's cable television. The payment to the ALF is not income because it is a service rendered beyond what is required for maintenance and care by the AG program.

**15.1.1. Exception - Third-Party Payment To ALF/AFCH**

Any money paid to the ALF/AFCH home to cover goods and services prior to the services being rendered or if the service and/or goods are already covered by the maintenance and care agreement for the program will be counted as income and any carryover funds will be considered a resource. Therefore, the income is subject to the unearned and general income exclusions.

ALFs and AFCHs must provide each AG recipient with a written list of the goods and services covered by the AG pursuant to subsection C of § 51.5-160 of the Code of Virginia, including a clear statement that the facility may not charge an AG recipient, the recipient's family or other interested party additional amounts for goods or services included on such list.

***Example***

John Smith, an AG resident, resides in a private room in an ALF. His mother pays an additional \$200 per month for his room and board. His monthly ALF rate is \$1,336, which is over the established AG rate of \$1,136. Room and board are a set rate and covered as a service under the maintenance and care agreement for the AG program. This would not be an allowable third-party payment. The \$200 will be counted as income.

***Example***

Daisy Harris pays the ALF in May for a trip to Kings Dominion for her son that is scheduled for the month of July. She gives the ALF \$75 for the bus trip. The money paid is income for the month of May as the service has not yet been rendered. In the next month (June), it will be considered a resource. If, however, Mrs. Harris pays the ALF in July for a trip to Kings Dominion that will occur in

July, it would be an allowable third-party payment as it would not be an advance payment that would be considered income.

## **15.2. Verification**

### **15.2.1. Third Party Payment To ALF/AFCH**

Use documentation in the individual's possession or contact the source of the payment to verify the type, source, frequency, and amount of payment. Goods and services provided must not include food, shelter or services required by subsection C of § 51.5-160 of the Code of Virginia. See Chapter J- 3.1 of this manual for more information on covered services for ALF/AFCH.

ALFs and AFCHs must document all third-party payments received on behalf of an AG recipient, including the source and amount of the payment and the goods and services for which such payments are to be used. Documentation related to the third-party payments shall be provided to the Department of Social Services upon request.

### **15.2.2. Other Third-Party Payments**

Verification is not required, unless questionable. If questionable, use documentation in the individual's possession or contact the source of the payment to verify the type and source of payment.

## **16. Black Lung Benefits**

### **Unearned Income**

Black Lung (BL) benefits are paid to miners and their survivors under the provisions of the Federal Mine Safety and Health Act (FMSHA). Benefits under **Part B** of the FMSHA are paid by the **Social Security Administration** (SSA) and benefits under **Part C** of the FMSHA are paid by the **Department of Labor** (DOL).

### **16.1. Income Treatment**

BL benefit payments are unearned income and are subject to the unearned and general income exclusions.

#### **16.1.1. Countable BL Income**

The amount of the BL benefit to count as income is the amount paid after application of an offset (i.e., workers' compensation offset or work deductions) but before the collection of any obligations of the

individual (unless the overpayment related double counting exception applies. See Overpayments – Section 37 of this chapter).

## **16.2. Payment Dates**

In general, Part B benefits are paid on the third of the month while Part C benefits are paid on the fifteenth of the month.

## **16.3. Verification**

Verify the receipt of Part B or Part C BL benefits with the individual's own records (such as an award notice or check).

# **17. Cafeteria Benefit Plans**

## **Not Income/Earned Income**

A cafeteria plan is a written benefit plan offered by an employer in which participants can choose cafeteria-style, from a menu of two or more cash or qualified benefits.

## **Income Treatment**

### **17.1.1. Qualified Benefits**

A qualified benefit is **not income**. Qualified benefits include, but are not limited to:

- Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);
- Group term life insurance plans;
- Dependent care assistance plans; and
- Certain stock bonus plans under section 401(k)(2) of the IRC (but not 401(k)(1) plans).

#### **17.1.1.1. Verification**

Verification is not required.

### **17.1.2. Cash Received Under A Cafeteria Plan**

Cash received under a cafeteria plan **in lieu of benefits** is **wages** and is subject to the earned and general income exclusions. Evaluate as wages. See Chapter I – 75.

Cash received as **reimbursement** for qualified-benefit expenses, such as child care, is **not income**.

#### **17.1.2.1. Verification**

The cash paid will be reflected in the total gross income. See Wages Chapter I – 75 for verification methods.

## **18. Child Support Payments**

### **Unearned Income**

A child support payment is a payment from a parent to or for a child to meet the child's needs for food, clothing, and shelter. Child support can be in cash or in-kind. It can be voluntary or court-ordered.

#### **Minor Child**

A child is an individual's son or daughter who is neither married nor head of a household and:

- Under age 18; or
- Under age 22 and a student regularly attending school or college or training that is designed to prepare him/her for a paying job.

#### **18.1.1. Income Treatment**

Child support payments (including arrearage payments) made on behalf of a child (as defined above) are unearned income to the **child** and are subject to the unearned and general income exclusions. They are not income to the parent.

### **18.2. Adult Child**

An adult child is an individual's son or daughter who no longer meets the definition of a child.

#### **18.2.1. Current Adult Child Support**

Current child support is support paid for the adult child's current needs. It is unearned income and is subject to the unearned and general income exclusions.

#### **18.2.1.1. Income Treatment**

Child support payments (excluding arrearages) received for an adult child by a parent after an adult child stops meeting the definition of a child are **income to the adult child**. The support payments are income to the adult child **whether or not** the adult child lives with the parent or **receives** any of the child support payment from the parent.

#### **18.2.2. Adult Child Support Arrearages**

A child support arrearage payment is a payment that was due but not paid in a timely manner for the appropriate period. It is being paid to comply with an unfulfilled past obligation to support the child.

#### **18.2.2.1. Income Treatment**

When a parent receives a child support **arrearage** payment on behalf of an adult child:

- Any amount of that payment that the parent receives and does not give to the adult child is income to the **parent**. The portion of the arrearage payment retained by the parent is not income to the adult child, and would not affect the adult child's AG eligibility.
- Any amount of the payment that the parent gives to the adult child is income to the **adult child** in the month given, not income to the parent.
- When an adult child receives a child support arrearage payment directly from the absent parent, the arrearage payment is income to the **adult child**.

#### **Example:**

A non-custodial father pays child support on behalf of his 19 year old disabled son who lives in an ALF. The son is considered an adult child. The former custodial mother receives a \$100 child support payment. The \$100 child support payment consists of both a current payment of \$75

and \$25 to pay for an arrearage. The mother keeps the child support arrearage payment of \$25, and gives her son his current \$75 child support payment. The arrearage payment is unearned income to the mother. The current child support payment is unearned income to the adult child.

### **18.3. One Payment Is Made For Two or More Individuals**

Apply the following procedures when a single support payment (e.g., one check) is made for two or more persons.

- Review the legal document that describes the support payments. If the legal document states the amount of each person's share, divide the payment according to the terms of the document. If the legal document does not indicate the amount of each person's share, divide the payment equally.
- If no legal document exists, contact the source of the payment to establish intent and allocate the support payment according to that intent.
- If contact with the source is not successful, accept the individual's signed allegation about who the support is for and how the support should be allocated. If the individual cannot tell you how the support payment should be allocated, divide the payment equally among the intended recipients.

### **18.4. Verification**

Verify the amount and frequency of child support payments.

Evidence includes:

- Court records;
- Records of the agency through which the payments are made;
- Official documents in the individual's possession (e.g., legal documents) that establish the amount and frequency of the support;
- Report of contact with the source of the payment containing the amount and frequency of the support.

If none of the above evidence is available, accept the individual's signed allegation over a penalty clause.

## **19. Civil Service And Federal Employee Retirement Payments**

### **Unearned Income**

The Office of Personnel Management (OPM) makes U.S. Civil Service and Federal Employee Retirement System (FERS) payments because of disability, retirement, or death.

#### **19.1. Income Treatment**

In general, U.S. Civil Service and FERS payments are **unearned income** to the entitled retiree or individual survivor and are subject to the unearned and general income exclusions.

**Note:** These payments are unearned income to the individual who is entitled to the payment, even when additional monies for other family members are included in the payment.

##### **19.1.1. Certain Disability Benefits**

Certain disability benefits paid within the first 6 months after an employee last worked are **earned income**. See Sick Pay Chapter I – 60 for an explanation of benefits falling under this exception.

##### **19.1.2. Countable Civil Service and FERS Income**

The amount of the Civil Service and FERS payments to count as income is the amount before the collection of any obligations of the individual (unless the overpayment related double counting exception applies. See Overpayments Chapter I – 47)

#### **19.2. Verification**

To verify the **gross** amount of the OPM payment, use notices or other documents in the individual's possession (other than a check). Do not use a check alone to verify the amount of the OPM payment because a check is not reliable evidence of the gross amount.

If the individual has no acceptable documents, instruct him/her to write or telephone OPM. The individual must provide his/her name and annuity claim identification number (a seven-digit number with a “CSA” or “CSF” prefix). If the claim number is not available, provide the individual's date of birth and Social Security number.

The OPM telephone number is toll-free, (888) 767-6738. Send written inquiries to:

**Office of Personnel Management  
Retirement Operations Center  
P.O. Box 45  
Boyers, PA 16017**

**Email: [retire@opm.gov](mailto:retire@opm.gov)**

## **20. Credit Life Or Credit Disability Insurance Payments**

### **Not Income**

Credit life and credit disability insurance policies are issued to or on behalf of borrowers, to cover payments on loans, mortgages, etc. in the event of death or disability. These insurance payments are made directly to loan or mortgage companies, etc. and are not available to the individual.

#### **20.1. Income Treatment**

Payments made under a credit life or credit disability insurance policy on behalf of an individual are **not income**.

#### **20.2. Verification**

Verification is not required, unless questionable. If questionable, use documentation in the individual's possession or contact the source of the payment to verify the type and source of payment.

## **21. Death Benefits**

### **Unearned Income**

A death benefit is something received as the result of another's death. The AG application and redetermination forms do not ask specifically about death benefits. Be alert for situations where further questioning about death benefits is advisable.

Examples of death benefits include:

- Proceeds of life insurance policies received due to the death of the insured;

- Life insurance proceeds received as a result of the death are not a converted resource
- Lump sum death benefits from SSA;
- RR burial benefits;
- VA burial benefits;
- Inheritances in cash or in kind;
- Cash or gifts of real or personal property given by relatives, friends, or a community group to “help out” with expenses related to the death.

**Note:** Recurring survivor benefits such as those received under Title II, private pension programs, etc., are not death benefits.

### **21.1. Income Treatment**

Death benefits provided to an individual are **unearned** income to such individual to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the individual. They are subject to the unearned and general income exclusions.

To determine the income derived from death benefits, subtract the total expenses from the total death benefits.

#### **21.1.1. Value**

Determine the value of the benefit based on the section that is specific to the type of item that was received.

#### **21.1.2. When To Count**

Count the income in the month the death benefit(s) is received. If death benefits are received in more than one month, assume that the funds first received are the first spent. For example, if the death benefits are \$1,000 received in January and \$1,000 in February and the allowable expenses are \$1,500, charge the remaining \$500 as income in February.

See Inheritances Chapter I - 36 to determine when inheritances are considered available.

## **21.2. Verification Of Death Benefits**

Use documentation in the individual's possession or contact the source of the payment to verify the type, source, and amount of payment.

## **21.3. Last Illness And Burial Expenses**

Last illness and burial expenses include related hospital and medical expenses; funeral, burial plot, and interment expenses; and other related expenses.

### ***21.3.1. Verification Of Expenses***

Verify all last illness and burial expenses. If verification (e.g., bills, receipts, contact with provider, etc.) cannot be obtained, accept the individual's signed allegation. If an expense has been incurred but not paid, assume the individual will pay the expense unless you have reason to question the situation. No follow-up is required if the assumption is applied.

Use your judgment to determine whether an expense is reasonably related to the last illness and burial. It is expected that related expenses may include such items as: new clothing to wear to the funeral; food for visiting relatives; taxi fare to and from the hospital and funeral home; etc.

## **22. Disability Payments**

Disability benefits are payments made because of injury or other disability. Certain accident disability benefits paid within the first 6 months after the month an employee last worked are earned income. For a further explanation of sickness and accident disability payments see the section addressing the source of the payment. See:

Sick Pay – Chapter I – 60

SSA - Chapter I – 61

VA Compensation and Pensions – Chapter I – 70

Workman's Compensation – Chapter I – 76

Disability Insurance is addressed under Retirement Funds – Chapter I – 56

## **23. Disaster Assistance**

## **Unearned Income**

This section addresses presidential-declared disasters. There are no specific instructions or exclusions addressing other disasters.

### **23.1. Declaration**

At the request of a State governor, the President may declare a major disaster when the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and local governments, and Federal assistance is needed. Disasters include such things as hurricanes, tornadoes, floods, earthquakes, volcano eruptions, landslides, snowstorms, drought, etc.

### **23.2. Source**

Assistance provided to victims of a presidential-declared disaster includes assistance from:

- Federal programs and agencies;
- Joint Federal and State programs;
- State or local government programs;
- Private organizations (e.g., the Red Cross).

#### **23.2.1. Income Treatment**

All assistance provided based on a presidential-declared disaster is **exempt from income and resources**.

### **23.3. Verification**

Accept the individual's signed allegation of the source and type of the payment.

## **24. Dividends And Interest**

### **Unearned Income**

Dividends and interest are returns on capital investments such as stocks, bonds, or savings accounts.

**Note:** Account service fees or penalties for early withdrawal do not reduce the amount of interest or dividend income.

## **24.1. Income Treatment**

### **24.1.1. Interest Earned On Countable Resources**

Dividends or interest earned on countable resources are **not income**.

### **24.1.2. Interest Earned On Excluded Resources**

Consult the resource guidelines that address the type of resource on which the interest/dividend is earned to determine if the interest is or is not counted as income.

#### **24.1.2.1. Exclusions**

If it is countable as unearned income, it is subject to the general income disregards.

## **24.2. Verification**

Verify amount and frequency of interest or dividend income with a check or notice issued by the source or an amortization table.

When it has been determined the dividend or interest income is excluded from income counting, it is not necessary to verify the dividend or interest income.

**Note:** The interest or dividends may be countable resources if retained into the following month. If retained the interest or dividends would need to be verified for resource eligibility.

## **25. Duplicate Or Erroneous Payments**

### **Not Income**

A duplicate or erroneous payment is one made to an individual due to an error on the part of the source of the payment.

### **25.1. Income Treatment**

A payment is **not income** when the individual is aware that he/she is not due the money and returns the uncashed check or otherwise refunds all of the erroneously received money.

**25.1.1. Timely Return**

If the individual returns or refunds an erroneous payment in the month of receipt or the following month, accept the allegation that the money was returned and do not count the erroneous payment as income.

**25.1.2. Delayed Return**

If there is a delay in the return of an erroneous payment beyond the month following the month of receipt:

- Verify return of the payment;
- Document the reason for the delay (e.g., lengthy hospital stay) and any other relevant facts; and
- Record your determination in the file.

**Example**

In August, Bob Brown states that he received his regular January VA pension check of \$290. However, during the latter part of January, he received another \$290 VA check along with a letter explaining that his January check had been delayed due to a computer error. Mr. Brown explains that he knew the second check was a duplicate and says he had not been able to return it sooner due to illness. The worker verifies the return of the \$290 check in July as well as Mr. Brown's illness. The worker then makes a determination that the additional check is not income as Mr. Brown returned the check and had good cause for the delay in doing so.

**25.1.3. Not Returned**

If the duplicate or erroneous payment is not returned, the payment is counted as income in the month received.

**26. Gambling Winnings, Lottery Winnings and Other Prizes****Unearned Income**

**Gambling winnings, lottery winnings and prizes** are generally things won in a game of chance, lottery or contest.

## **26.1. Income Treatment**

Gambling winnings, lottery winnings and prizes are unearned income and are subject to the unearned and general income exclusions.

**Note:** Do not subtract gambling losses from gambling winnings in determining an individual's countable income.

### **26.1.1. Choice Between Cash and In-Kind Item**

If an individual is offered a choice between an in-kind item and cash, the cash offered is counted as unearned income. This is true even if the individual chooses the in-kind item and regardless of the value, if any, of the in-kind item.

### **26.1.2. Exclusions**

Possible exclusions that may be applied are the \$20 General Income Exclusion, the Infrequent or Irregular Exclusion, the Spouse At Home Exclusion, or the Minor Child At Home Exclusion.

## **26.2. Verification**

Use documentation in the individual's possession to verify the income. If the individual does not have sufficient documentation to verify the income, then do the following:

Obtain the individual's signed statement regarding:

- Date the item was received;
- Type of item received;
- Individual's estimate of the value of the item if not cash; and
- Source of the item.

### **26.2.1. Value**

Accept an individual's signed estimate of the value of the item (or actual value, if cash) unless you have reason to doubt the estimate. If you doubt the estimate, determine the item's current market value with an independent source.

## 27. **Gifts**

### **Unearned Income**

A gift is something a person receives which is not repayment for goods or services the person provided and is not given because of a legal obligation on the giver's part. To be a gift, something must be given **irrevocably** (i.e., the donor relinquishes all control).

“Donations” and “contributions” may meet the definition of a gift. A gift received as the result of a death is a **death benefit**, see Chapter I – 20.

### **27.1. Income Treatment**

A gift received in cash or in real or personal property is unearned income and is subject to the unearned and general income exclusions.

#### **27.1.1. Exception**

The value of any non-cash item is not income if the item would become a partially or totally excluded non-liquid resource if retained in the month after the month of receipt. See Chapter I – 50.1.1.

#### **Example - Gift of Jewelry**

If a gift of jewelry retained into the month after the month of receipt would be excluded from resources as part of an individual's personal effects, it would not count as income. See Chapter E – 37 for the exclusion for household goods and personal effects. If the jewelry would not be an excluded resource, it is counted as unearned income at its CMV.

### **27.2. Value Of Gift**

Accept an individual's signed estimate of the value of the gift (or actual value if cash) unless you have reason to doubt the estimate. If you doubt the estimate, determine the item's current market value (CMV) with an independent source.

The first \$60 received from gifts of cash in a calendar quarter might be excludable as infrequent or irregular income.

### **27.3. Exclusions**

#### **27.3.1. Gifts Used To Pay Tuition, Fees, Or Other Necessary Educational Expenses**

Gifts (or a portion of a gift) used to pay for tuition, fees, or other necessary educational expenses at any educational institution, including vocational and technical education, are excluded from income.

If gifts are used to pay for tuition, fees, or other necessary educational expenses at any educational institution, including vocational and technical education, follow instructions in Chapter I – 29 for income and Chapter E – 32 for resources guidelines and procedure.

### **27.3.2. Other Exclusions**

As unearned income, the remaining balance is subject to the general income disregards.

## **28. Gifts Of Domestic Travel Tickets**

### **Unearned Income/Not Income**

Domestic travel is travel in or between the 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

### **28.1. Income Treatment**

#### **28.1.1. Gift of Domestic Travel Ticket Not Converted To Cash**

The value of a ticket for domestic travel received by an individual, or his/her spouse, is not income if:

- The ticket is received as a gift; and
- The ticket is not converted to cash (e.g., cashed in, sold, etc.).

#### **28.1.2. Gift of Domestic Travel Ticket Converted to Cash**

A domestic ticket received as a gift is treated as unearned income in the month the ticket was converted to cash. It is subject to the unearned and general income exclusions.

### **28.2. Verification**

Obtain the individual's signed statement as to whether the ticket has been retained, used, or converted to cash. If the ticket has been converted to cash, specify in the

statement the amount of cash received. In the absence of evidence to the contrary, accept the statement as fact.

## **29. Gift of Non-Domestic Travel Ticket**

### **Unearned Income/Not Income**

Non-domestic travel is travel to any place other than those listed in Chapter I – 27.

#### **29.1. Income Treatment**

##### **29.1.1. Cannot Be Converted To Cash**

The gift of a **non-domestic** travel ticket that cannot be converted to cash (i.e., it is not refundable) is **not income**, even if the ticket was used for transportation.

##### **29.1.2. Can Be Converted To Cash**

Travel tickets that can be converted are income and are counted as unearned income at the current market value (CMV) in the month of receipt, whether or not the ticket was sold or used for transportation. The income is subject to the unearned and general income exclusions.

#### **29.2. Verification**

Obtain the individual's signed statement as to whether the ticket (whether used or not) was or could be converted to cash:

- If the answer is yes, count the CMV of the ticket as unearned income in the month received.
- If the answer is no, verify the allegation by examining the ticket or by contact with the travel carrier or travel agent. If the allegation is verified, don't count the CMV of the ticket as income; otherwise count it as income.

## **30. Grants, Scholarships, Fellowships, And Gifts**

### **Unearned Income**

Grants, scholarships, and fellowships are amounts paid by private nonprofit agencies, the U.S. Government, instrumentalities or agencies of the U.S., State and local governments, foreign governments, and private concerns to enable qualified individuals to further their education and training by scholastic or research work, etc.

### **30.1. Income Treatment**

The source of the grants, scholarships, and fellowships determine how the funds are evaluated. Title IV of Higher Education Act of 1965 (HEA) or Bureau of Indian Affairs (BIA) grants are **fully excluded regardless of use** and the portion of Other Grants, Scholarships, Fellowships, and Gifts used or intended to be **used to pay the cost of necessary educational expenses are excluded**. The portion of Other Grants, Scholarships, Fellowships, and Gifts **not used** or not intended to be used to pay the cost of necessary educational expenses is **unearned income**.

### **30.2. Assistance Under Title IV Of The Higher Education Act Of 1965 (HEA) Or Bureau Of Indian Affairs (BIA)**

All student financial assistance received under HEA or under BIA student assistance programs is excluded from income and resources, regardless of use.

Examples of HEA Title IV Programs:

- PELL grants
- State Student Incentives
- Academic Achievement Incentive Scholarships
- Byrd Scholars
- Federal Supplemental Educational Opportunities Grants (FSEOG)
- Federal Educational Loans (Federal PLUS Loans, Perkins Loans, Stafford Loans, Ford Loans, etc.)
- Upward Bound
- GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs)
- LEAP (Leveraging Educational Assistance Partnership)
- SLEAP (Special Leveraging Educational Assistance Partnership)
- Work-Study Programs.

#### **30.2.1. Interest And Dividends Earned On Title IV Of HEA Or BIA Educational Assistance**

Interest and dividends earned on unspent educational assistance under Title IV of HEA or under BIA are excluded from income.

### **30.3. Other Grants, Scholarships, Fellowships, And Gifts**

#### **30.3.1. Used For Paying Educational Expenses**

Any portion of a grant, scholarship, fellowship, or gift used for paying tuition, fees, or other necessary educational expenses at any educational institution, including vocational or technical education, is **excluded from income**. Any portion of such educational assistance that is **not used** to pay current tuition, fees or other necessary educational expenses but will be used for paying this type of educational expense at a future date is **excluded from income in the month of receipt**. This exclusion does not apply to any portion set aside or actually used for food, clothing, or shelter.

##### **30.3.1.1. Tuition, Fees, And Other Necessary Educational Expenses**

Educational expenses include laboratory fees, student activity fees, transportation, stationery supplies, books, technology fees, and impairment-related expenses necessary to attend school or perform schoolwork (e.g., special transportation to and from classes, special prosthetic devices necessary to operate school machines or equipment, etc.).

#### **30.3.2. Not Used Or Set Aside For Paying Educational Expenses**

Any portion of grants, scholarships, fellowships, or gifts that is not used or set aside for paying tuition, fees, or other necessary educational expenses is unearned income in the month received and a resource the month after the month of receipt, if retained. The portion countable as income is subject to the unearned and general income exclusions.

#### **30.3.3. Set Aside Funds Used For Another Purpose**

If any portion of grants, scholarships, fellowships, or gifts that is excluded from resource because it is set aside to pay for tuition, fees, or other necessary educational expenses is used for some other purpose, the funds are income at the earliest of the following points: in the month that it is spent, or the month the individual no longer intends

to use the funds to pay tuition, fees, or other necessary educational expenses.

#### 30.4. Interest And Dividends Earned On Educational Assistance

Interest and dividends earned on excluded grants, scholarships, fellowships, or gifts **are counted** as income. Interest and dividends earned on countable educational assistance are excluded from income.

#### 30.5. Determine Countable And Excludable Amounts Of Educational Assistance

STEPS	ACTIONS
<b>Step 1</b>	Verify that the assistance is a grant, scholarship, fellowship, or gift using documents in the individual's possession or contact with the institution or provider to verify the nature of the assistance (e.g., scholarship, grant, etc.). If not totally excluded under another provision, verify the amount, date(s) of payment, payee, source of payment/payer, etc.
<b>Step 2</b>	<ul style="list-style-type: none"> <li>• If Title IV of HEA or BIA is involved, exclude the assistance. STOP.</li> <li>• If Title IV of HEA or BIA is not involved, go to Step 3.</li> </ul>
<b>Step 3</b>	<p>Determine the amount of tuition, fees, and other necessary educational expenses.</p> <ul style="list-style-type: none"> <li>• Use receipts, bills with cancelled checks, contact with the provider, etc., to verify expenses paid. If an expense is verified as incurred but not paid, assume the individual will pay the expense unless you have reason to question the situation. No follow-up is required if the assumption is applied.</li> <li>• Use your judgment to determine whether payment of an expense was a necessary part of obtaining an education.</li> </ul>

STEPS	ACTIONS
	<ul style="list-style-type: none"> <li>• A signed allegation is acceptable evidence of expenses when it is unreasonable to obtain other evidence (e.g., daily bus-fare, small expendable items, etc.). Do not apply this tolerance to major expenses such as tuition, fees, and books.</li> </ul>
<b>Step 4</b>	<p>Deduct the amount of tuition, fees, and other necessary educational expenses from the gross amount of the assistance.</p> <ul style="list-style-type: none"> <li>• Exclude the remainder from income if the individual alleges that it will be used for tuition, fees, or other necessary educational expenses.</li> <li>• Count the remainder as unearned income.</li> <li>• Count any portion of previously excluded grants, scholarships, fellowships, or gifts as income the earliest of the either the month that it is spent for something other than tuition, fees, or other necessary educational expenses, or the month the individual no longer intends to use the funds to pay tuition, fees, or other necessary educational expenses.</li> </ul>

### Example 1

An AG beneficiary who attends an educational institution receives a \$1,000 scholarship and a \$1,000 grant in September 2015. The educational assistance is **not** under Title IV of HEA or BIA. The student uses \$1,500 to pay for tuition, fees, and other necessary educational expenses in September 2015. The student plans to use the remaining \$500 to help pay tuition, fees, and other educational expenses in February 2016.

The worker verifies the type and amount of assistance and expenses and excludes \$2,000 from income in September 2015 because this assistance is or will be used to pay tuition, fees or other necessary educational expenses. The unused \$500 is an excluded resource for October 2015 through June 2016, 9 months after the month of receipt. Any interest or dividends earned on the excluded resource are counted as income during the 9-month exclusion period.

**Example 2**

In January 2016, the AG beneficiary in example 1 decides to postpone attendance at an educational institution until September 2016. The AG beneficiary intends to use the \$500 in September 2016 to help pay for books and other necessary educational supplies.

The remaining \$500 remains excluded from income in September 2015 and from resources from October 2015 through June 2016 because the educational assistance will be used to pay for tuition, fees, or other necessary educational expenses. Since the 9-month exclusion period ends in June 2016, the worker determines the \$500 is a countable resource beginning July 2016, the month after the end of the 9-month period.

**Example 3**

In January 2016, the AG beneficiary in example 1 decides to postpone attendance at an educational institution until September 2016 and uses the \$200 to pay credit card bills and save \$300 in case of an emergency.

The \$500 is income in January 2016, the month the assistance is spent and is no longer to be used for paying tuition, fees, or other necessary educational expenses. Beginning February 2016, the remaining \$300 is a countable resource.

**31. Emergency Assistance (EA)****Unearned Income**

Emergency Assistance is the term for a program offered by Virginia that provides payments to families to meet emergency needs. The program is funded with Federal Temporary Assistance for Needy Families (TANF) money and is income based on need.

**31.1. Income Treatment**

EA payments are unearned income and are subject to the unearned and general income exclusions.

**31.1.1. Exclusions**

- The \$20 General Income Exclusion does not apply to this income because it is income based on need.

- Possible exclusions that may be applied are the Infrequent or Irregular Exclusion, the Spouse At Home Exclusion, or the Minor Child At Home Exclusion.

### **31.2. Verification**

Verify the individual's portion of the emergency assistance by contact with the TANF eligibility worker.

## **32. Garnishment Or Other Withholding**

### **Earned/Unearned Income**

A **garnishment** or **seizure** is a withholding of an amount from earned or unearned income in order to satisfy a debt or legal obligation. Other amounts may be withheld for other reasons. Amounts withheld from income to satisfy a debt or legal obligation or to make certain other payments (such as payment of Medicare premiums) are income.

### **32.1. Kinds Of Withholdings**

Some items for which amounts may be withheld but considered received are:

- Federal, State, or local income taxes;
- Health or life insurance premiums;
- SMI premiums;
- Union dues;
- Penalty deductions for failure to report changes;
- Loan payments;
- Garnishments;
- Child support payments (court ordered or voluntary (see SI 01320.145 for an exception for deemors));
- Service fees charged on interest-bearing checking accounts;
- Inheritance taxes; and
- Guardianship fees if presence of a guardian is not a requirement for receiving the income.

### **32.2. Income Treatment**

Amounts withheld from earned income are countable as earned income. Amounts withheld from unearned income are countable as unearned income. Income includes amounts withheld from income whether the withholding is:

- Purely voluntary;
- To repay a debt; or
- To meet a legal obligation.

**Note:** This information does not apply to amounts withheld to pay the expenses of obtaining the income since such amounts are not income.

#### **32.2.1. Exclusions**

Apply the exclusions that are applicable to the type of income from which the income was withheld.

### **32.3. Verification**

Use the verification methods for the type of income from which the income was withheld.

## **33. Health Insurance Payments**

### **Unearned Income**

Cash from any health insurance policy which pays a flat rate benefit to the recipient without regard to the actual charges or expenses incurred is unearned income. Examples of these types of insurance policies are per diem hospitalization or disability insurance, or cancer or dismemberment policies.

**Note:** Reimbursements for medical costs are not income and do not need to be verified.

#### **33.1. Income Treatment**

Cash from a flat rate benefit insurance policy is unearned income and is subject to the unearned and general income exclusions.

#### **33.2. Verification**

Verify the source, amount and frequency of the benefits by documents in the individual's possession.

## **34. Honoraria**

### **Earned Income/Unearned Income**

An honorarium is an honorary or free gift, reward, or donation usually provided gratuitously for services rendered (e.g., guest speaker), for which no compensation can be collected by law. An honorarium may include a free gift of lodging, or payment of an individual's expenses.

#### **34.1. Income Treatment**

Payment received for a service rendered is earned income and is subject to the earned and general income exclusions. Any other payment received in excess of the individual's expenses is unearned income.

**Note:** Absent evidence to the contrary, assume that the amount of any honorarium received is in consideration of the actual services provided by the individual.

##### **34.1.1. Possible Exclusions**

###### **34.1.1.1. Earned Income**

Possible exclusions that may be applied to earned income are the Spouse at Home Exclusion, the Child at Home Exclusion, the \$20 General Income Exclusion, the Infrequent or Irregular Exclusion, the \$65 and ½ Exclusion, the Impairment Related Work Expenses (IRWE), and the Blind Individuals (BWE) Work Expenses

###### **34.1.1.2. Unearned Income**

Possible exclusions that may be applied to unearned income are the general income exclusions including the expenses of obtaining the income.

#### **34.2. Verification**

Verify these payments by examining documents in the individual's possession which reflect:

- The nature of the payment;
- The amount;

- The date(s) received; and
- The frequency of payment, if appropriate.

If the individual has no such evidence in his/her possession, contact the source of the payment.

## 35. **Income Based on Need (IBON)**

### **Unearned Income**

Income based on need (IBON) is assistance:

- Provided under a program which uses income as a factor of eligibility; and
- Funded wholly or partially by the **federal** government or a **nongovernmental** agency (e.g., Catholic Charities or the Salvation Army) for the purpose of meeting basic needs (i.e., the funds are provided specifically for a formalized program whose general purpose is similar to that of the AG program).

### **35.1. Income Treatment**

Income based on need is **counted** as income dollar for dollar, unless it is totally excluded by statute (e.g., food stamps).

#### **35.1.1. Exclusions**

- The \$20 general income exclusion does not apply to IBON.
- Possible exclusions that may be applied are the Infrequent or Irregular Exclusion, the Spouse At Home Exclusion, or the Minor Child At Home Exclusion.

### **35.2. Verification**

These instructions apply when there are no separate instructions pertaining specifically to the program in question.

- Verify with the administering agency personnel and/or program descriptions that the assistance meets the definition of income based on need.
- Verify the amount of the assistance for each month with the administering agency or through documents in the individual's possession.

## 36. Income Tax Refunds

### Not Income

Any amount refunded on income taxes already paid is **not income**. Income tax refunds are not income, even if the income from which the tax was withheld was received in a period prior to application for AG benefits.

#### 36.1. Verification

Verification is not required.

## 37. Inheritances

### Unearned Income

An **inheritance** is cash, a right, or non-cash items received as the result of someone's death. An inheritance is a **death benefit**.

Until an item or right has a value (i.e., can be used to meet the heir's need for food, clothing, or shelter), it is neither income nor a resource. The inheritance is income in the first month it has a value and can be used to meet the individual's needs.

#### 37.1. Inheritance Already A Resource

An inheritance is **not** income to an individual if the inheritance is something which was considered that individual's resource as a member of an eligible couple immediately before the death.

**Note:** The **proceeds** of a life insurance policy are **not** a resource before death. Even though a life insurance policy may have been a resource in the past (i.e., the cash surrender value was a resource), at the time of the insured's death that particular resource ceases to exist. The insurance **proceeds** received as a result of the death are not a converted resource but are income. The **proceeds** represent the death benefit payable not a return of the cash surrender value.

#### 37.2. Income Treatment

At the point it is determined the inheritance is income to the individual, use the Death Benefits guidelines in Chapter I – 20 to determine the amount of countable income.

### 37.2.1. Date of Receipt

In Virginia, it takes a minimum one year for an estate to be probated. This period is allowed for the filing of a will, claims by creditors, and claims to contest a will. If there is no will to be probated, there are estate administration requirements that have to be followed. These, too, may take a long period to complete. Because these timeframes prohibit the individual from using the inheritance to meet his/her needs, the inheritance is not income until **earliest** of:

- The date the individual alleges receiving the inheritance (using a signed statement from the individual or documents in the individual's possession); or
- The date the estate is closed (which may be determined by contacting the court or an attorney involved in the closing of the estate); or
- 12 months after the death.

### 37.2.2. Value

Determine the value of the inheritance based on guidelines specific to the type of item that was received.

### 37.3. Verification

Verify the amount or value of the inheritance using:

- **Documents** in the individual's possession;
- A **court order** closing the estate;
- A copy of the **will**; or
- An **estimate** from a knowledgeable source, if real property is involved.

## 38. In-Kind Support And Maintenance

### Not Income

Receipt of free food and shelter is in-kind support and maintenance. In-kind support and maintenance is not income.

## **39. Joint Bank Accounts - Income Derived from**

### **Unearned Income**

This section explains how to charge income in different situations involving the joint bank account of an AG recipient/applicant. See Chapter E – 24 for resource determinations involving bank accounts.

### **39.1. Income Treatment**

#### **39.1.1. Joint Bank Account Is Held By An AG Recipient And An Ineligible Individual**

- When a joint bank account is held by **an AG recipient and an ineligible individual**, income to the AG recipient includes:
  - The full amount of any interest posted to the account and
  - The full amount of any deposit made by a third party or by the ineligible bank account holder unless the AG recipient is acting as an agent.

##### **39.1.1.1. Rebuttal Situations**

- If an AG recipient successfully **rebutts ownership of a portion of funds in a joint account**, deposits made by the other account holder are not income to the AG recipient. Interest is charged to the AG recipient in proportion to the percentage of funds that are a resource to the recipient.
- If an AG recipient successfully **rebutts ownership of all the funds** held in a joint bank account, deposits by the other account holders or interest posted to the account are not income to the recipient. See Chapter I – 38.3. below.

#### **39.1.2. Joint Bank Account Is Held By Multiple AG Recipients**

When **two or more AG recipients are joint account holders**, deposits made by one individual are not income to the other. Allocate interest equally among the joint holders.

### **39.2. Exclusions**

Possible exclusions that may be applied are the unearned and general income exclusions.

### **39.3. Ownership Rebuttal**

If an individual wishes to rebut the applicable ownership assumption, obtain his/her statement regarding:

- Who owns the funds;
- Why there is a joint account; and
- Who has made deposits to and withdrawals from the account; and how withdrawals have been spent.

#### **39.3.1. Rebuttal Verification**

In addition, inform the individual that he/she must submit the following evidence within 10 days:

- A corroborating statement from each other account holder (if the only other account holder is incompetent or a minor, have the individual submit a corroborating statement from anyone aware of the circumstances surrounding establishment of the account);
- Account records showing deposits, withdrawals and interest in the months for which ownership is at issue;
- If the individual owns none of the funds, evidence showing that he/she can no longer withdraw funds from the account;
- If the individual owns only a portion of the funds, evidence showing removal from the account of such funds, or removal of the funds owned by the other account holder(s), and redesignation of the account.

#### **39.3.2. Rebuttal Results**

Any funds that the evidence establishes were owned by the other account holder(s), and that the individual can no longer withdraw from the account, were not and are not the individual's resources. That is, rebuttal is both retrospective and prospective.

### **39.4. Verification**

Obtain verification that shows

- The balance in the account as of the first moment of the month being evaluated
  - Verification of account balances can be obtained from:
    - Bank statements and passbooks
    - Internet printouts from the financial institution's web site
    - ATM transaction receipts and/or deposit/withdrawal slips
- The name and address of the financial institution;
- The account number(s); and
- The exact account designation (the names on the account)

## **40. Jury Fees**

### **Unearned Income**

Jury fees are fees paid to jurors for their period of services. Expense money given to jurors is not jury fees.

#### **40.1. Income Treatment**

Jury fees are unearned income and are subject to the unearned and general income exclusions. Monies received as payment for an essential expense incurred while serving as a juror is not income.

#### **40.2. Verification**

Use documents in the individual's possession to verify the amount of jury fees. If the individual does not have verification documents, verify jury fees by contacting the court clerk or jury commissioner.

## **41. Life Insurance – Accelerated Payments**

Accelerated life insurance payments are proceeds paid to a policyholder prior to death. Although accelerated payment plans vary from company to company, all of the plans involve early payout of some or all of the proceeds of the policy.

Some companies refer to these types of payments as “living needs” or “accelerated death” payments.

### **41.1. Resource Value**

Since accelerated payments can be used to meet food, or shelter needs, the payments are income in the month received and a resource if retained into the following month and not otherwise excludable.

## **42. Life Insurance Proceeds**

### **Unearned Income**

Life insurance proceeds received as a result of a death are death benefits and are unearned income. Use the section Death Benefits to evaluate the proceeds. See Chapter I – 20.

**Note:** The proceeds are not a converted resource. The proceeds are the payable death benefit, not a return of the cash surrender value. Even though a life insurance policy may have been a resource in the past (i.e., the cash surrender value was a resource), at the time of the insured's death that particular resource ceased to exist.

## **43. Loan Proceeds**

### **Unearned Income/Not Income**

A loan is a transaction whereby one party advances money to, or on behalf of another party, who promises to repay the lender in full, with or without interest. The loan agreement may be written or oral, and must be enforceable under Virginia law.

Proceeds of a loan are the moneys the borrower receives or are the principal payments received by the lender. A loan may be a bona fide loan or not bona fide. Whether the loan is bona fide or not determines if it is unearned income or is not income.

### **43.1. Bona Fide Agreement**

A bona fide agreement is an agreement that is legally valid and made in good faith.

A loan (oral or written) is bona fide if it meets all of the following requirements.

- **Enforceable Under State Law**

A bona fide loan is a contract that is enforceable under Virginia law.

- **Loan Agreement In Effect At Time Of Transaction**

The loan agreement must be established and in effect at the time that the cash proceeds are provided to the borrower. Money given to an individual with no obligation to repay cannot become a loan at a later date.

- **Acknowledgement Of An Obligation To Repay**

The obligation to repay must be acknowledged by both the lender and the borrower for a bona fide loan to exist. When money or property is given and accepted based on any understanding other than it is to be repaid by the receiver, there is no loan for AG purposes.

A statement by the individual that he or she feels personally responsible to pay back the friend or relative does not create a legal obligation to repay the individual who provided the cash. Similarly, a statement by the lender that the eligible individual is only required to repay the cash if he or she becomes financially able to do so does not create a legal obligation to repay.

- **Plan For Repayment**

The loan must include a plan or schedule for repayment, and the borrower's express intent to repay by pledging real or personal property or anticipated future income (such as AG benefits).

- **Repayment Plan Must Be Feasible**

The plan or schedule must be feasible. In determining the plan's feasibility, consider the amount of the loan, the individual's resources and income (including anticipated AG benefits), and the individual's living expenses.

## **43.2. Income Treatment**

### **43.2.1. Bona Fide Loan**

Proceeds of a **bona fide** loan are **not income** to the borrower because of the borrower's obligation to repay.

### **43.2.2. Loan Not Bona Fide**

If a loan is not bona fide, the proceeds are unearned income in the month received and are subject to the unearned and general income exclusions.

### **43.2.3. Interest On A Loan**

Interest received on money loaned is income whether the loan is bona fide or not and is subject to the general income disregards.

## **43.3. Buying on Credit**

Items bought on credit are not income because they are treated as though the individual were borrowing money to pay for the item.

## **43.4. Verification**

If there is a written agreement between the parties, obtain a copy of the agreement. If there is no written agreement, obtain signed statements from the borrower and the lender.

### **43.4.1. Forms**

To document informal loans, you may use two locally reproducible forms.

- The Statement of Funds You Provided to Another form is a questionnaire that the lender completes. Send the form and a cover letter that explains why the information is needed to the lender for completion.
- The Statement of Funds You Received form is a form that the borrower completes. Send a cover letter and the form to the borrower for completion.

Use the back of the forms if you need more room to record information.

## 44. Low Income Energy Assistance

### Unearned Income

Through a block grant, the Federal Government provides funds to States for energy assistance (including weatherization) to low income households. It is most often provided in a medium other than cash (e.g., voucher, two-party check, direct payment to vendor, etc.) but may be in cash.

#### 44.1. Income Treatment

Energy assistance is unearned income.

##### 44.1.1. Exclusion

Home energy or support and maintenance assistance is excluded from income if it is certified in writing by the appropriate agency to be both based on need and:

- Provided **in kind** by a private nonprofit agency; or
- Provided **in cash or in kind** by a supplier of home heating oil or gas, a rate-of-return entity providing home energy, or a municipal utility providing home energy.

#### 44.2. Verification

Use documents in the individual's possession, contact with the provider or agency involved, or LDSS knowledge to verify that assistance from a particular program is provided under the Federal Low-Income Home Energy Assistance Program. Once this is verified, no further documentation is necessary.

## 45. Medical and Social Services Related Cash

### Not Income

#### 45.1. Cash Received From A Governmental Program

Any cash (other than remuneration for sheltered employment and incentive payments) provided by a governmental medical or social services program is **not income**.

To be considered “governmental”, the program must be authorized by Federal, State or local law to make payments for medical or social service purposes.

Payment from a governmental program, which is disbursed by a nongovernmental agency, is considered a payment from a governmental program for purposes of this section.

#### **45.1.1. Verification**

Document the file that the source of the cash is a governmental medical or social services program. Obtain evidence from the individual that the source of the cash is a governmental medical or social services program (e.g., program identification card, notice, or award letter). If the individual has no evidence available, contact the agency.

### **45.2. Cash Received From A Non-Governmental Program**

Any cash from a nongovernmental medical or social services organization is **not income** when:

- The cash is for medical or social services already received by the individual and approved by the organization; or
- The cash is a payment restricted to the future purchase of a medical or social service.

#### **45.2.1. Verification**

Document the file that the source of cash is a nongovernmental medical or social services organization. If verification of the agencies non-profit status is needed, look at the fundamental purpose of the organization in its articles of incorporation or its certification as a nonprofit organization under section 501(c) of the Internal Revenue Code.

### **45.3. Discharge Assistance Program (DAP)**

*DAP provides individualized community services and supports that enable individuals to transition from state hospitals to communities where they can recover in the least restrictive and most integrated settings possible.*

*DAP funds are state funds given to the Department of Behavioral Health and Developmental Services (DBHDS) to be administered by the local Community Service Board (CSB) or Behavioral Health Authority (BHA).*

*DAP funds are considered funds from a governmental program and not counted as income to the individual. Services and/or goods paid by DAP funds will not be counted as income. However, DAP funds used for room and board are counted as*

*income as the primary payment source while any AG payment will become secondary.*

#### **45.3.1. Verification**

*Request provider to send DAP agreement with CSB or BHA. Review contract to see how DAP funds are being allocated. If room and board are being contracted, count the income to reduce AG payment. (Note: If placed by State Hospital, payment will terminate as soon as AG is approved- no greater than three months). Payment for AG can be reevaluated once DAP funds has been terminated for room and board. If individual has ongoing DAP funds for goods and services then process application as regular AG payment.*

## **46. Military Pensions**

### **Unearned Income**

The Air Force, Army, Marine Corps, Navy, and Coast Guard pay military pensions to military retirees and survivors normally on the first day of the month.

#### **46.1. Categories Of Beneficiaries**

There are three categories of beneficiaries who may be entitled to military payments:

- **Retiree** - A person with 20 years of service who meets the requirements for entitlement;
- **Annuitant** - A survivor who is designated by the retiree to receive benefits upon the death of the retiree under the Retired Serviceman's Family Protection Plan (**RSFPP**), Survivor's Benefit Plan (**SBP**), or both;
- **Allottee** - Anyone other than an annuitant of the RSFPP or SBP who is designated to receive money out of the service member's or retiree's check. Entitlement as an allottee terminates upon the death of the retiree. However, an allottee can become an annuitant when the retiree dies.

#### **46.2. Types of Annuitants**

The RSFPP and SBP annuitant programs pay money to surviving spouse(s) and children.

The SBP program also pays:

- "Insurable interest" persons: i.e., someone other than a surviving spouse or child that a service member designated to receive survivor benefits based on monies withheld from his/her retirement payment under the provisions of the SBP program; and,
- Minimum Income Level Widows (MIW) who are certified by the VA as having low income and are referred by the Department of Defense (DOD).

### **46.3. Income Treatment**

Military pensions (before deductions) are unearned income and are subject to the unearned and general income exclusions.

#### **46.3.1. Exception**

Payments to Minimum Income Level Widows (MIW) are income based on need not subject to the \$20 general income exclusion.

### **46.4. Verification**

Obtain evidence from the individual's own records, if available. If the individual does not have sufficient evidence, he/she may contact the appropriate military finance center.

#### **46.4.1. Contacting the Military Finance Centers**

Send the request directly to the appropriate address listed below:

- **For Retirees Of The Army, Navy, Air Force And Marine Corps**

Defense Finance Accounting Service

U.S. Military Retired Pay P.O. Box 7130

London, KY 40742-7130

- **For Annuity holders, beneficiaries and survivors Of The Army, Navy, Air Force, And Marine Corps**

Defense Finance Accounting Service

U.S. Military Annuity Pay

P.O. Box 7131 London, KY 40742-7131

- **For Retirees/Annuity holders Of The Coast Guard**

United States Coast Guard Pay And Personnel Center RPD

444 SE Quincy Street  
Topeka, KS 66683-3591

#### **46.4.1.1. Information To Be Included**

- The service member's given name, middle initial and surname;
- The service member's service identification number (if available);
- The service member's SSN;
- The annuitant's or allottee's name; and
- The annuitant's or allottee's SSN.

Specify the period for which payment information is needed and identify the pay plan (e.g., RSFPP, SBP).

### **47. Other In-Kind Income**

#### **Unearned Income**

Any item of real or personal property an individual receives which he can sell or convert is called “other in-kind income.” See Real or Personal Property (Other In-Kind Income), Chapter I – 50.

### **48. Overpayments of Annuities, Retirement, And Disability Benefits**

#### **Unearned/Not Income**

An overpayment is the total amount an individual received for any period that exceeds the total amount that should have been paid to the individual for that period. An overpayment is defined by the entity paying the benefit. This section addresses how to evaluate income when an amount is being withheld from current benefits to repay a prior overpayment.

**Note:** This section applies only when a benefit such as those listed below is being reduced for an overpayment. It does not apply to any other benefit reductions or deductions. For example, if a Title II benefit is being reduced for any other

reason (i.e. worker's compensation or work deductions), this section does not apply.

#### **48.1. Types Of Income Affected**

The types of unearned income affected by this section are annuities, pensions, retirement, and disability benefits including:

- Title II Payments
- Civil Service Payments (Office of Personnel Management) (CSRS/FERS)
- Railroad Retirement Payments
- Unemployment Benefits Payments
- Worker's Compensation Payments
- Military Pensions
- VA Pension
- VA Compensation

#### **48.2. Income Treatment**

Unearned income includes any part of a benefit that has been withheld to recover a previous overpayment.

##### **48.2.1. Exception - Double Counting**

The amount withheld to reduce a previous overpayment is not included when determining the amount of unearned income if double counting would result.

Double counting (i.e. counting unearned income twice) would result if:

- The individual **received** both AG and the other benefit at the time the overpayment of the other benefit occurred; **and**
- The overpaid amount was included in figuring the AG payment.

**Note: Do not** apply the exception if:

- The individual was determined ineligible for AG based on countable income that included the overpayment amount; and

- No AG payment was received for the months the overpayment occurred.

<b>STEPS</b>	<b>DOUBLE COUNTING PROCEDURES ACTIONS</b>
<b>Step 1</b>	<p>Does the individual allege receiving an annuity, pension, retirement, or disability benefit such as those listed in 47.1?</p> <p><b>Yes</b>, go to step 2.</p> <p><b>No</b>, stop.</p>
<b>Step 2</b>	<p>Is any of the benefit being withheld to recover an overpayment?</p> <p><b>Yes</b>, go to step 3.</p> <p><b>No</b>, stop.</p>
<b>Step 3</b>	<p>Review the case history to determine AG benefit payment dates. Did the individual <b>receive</b> AG when the alleged overpayment occurred?</p> <p><b>Yes</b>, go to step 4.</p> <p><b>No</b>, include the amount being withheld to recover the overpayment when determining the amount of unearned income.</p>
<b>Step 4</b>	<p>Verify when the overpayment occurred, the rate of recovery and the period of time of recovery by using documents in the individual's possession or by contacting the appropriate office or agency. Go to step 5.</p>

<b>STEPS</b>	<b>DOUBLE COUNTING PROCEDURES ACTIONS</b>
<b>Step 5</b>	<p>Was the overpayment amount counted in determining the AG payment?</p> <p><b>Yes, exclude</b> the amount being withheld to recover the overpayment when determining the current amount of unearned income.</p> <p><b>No, include</b> the amount being withheld to recover the overpayment when determining the current amount of unearned income.</p>

### Examples

#### 1. Exception Applies

Joe Jones started receiving Title II benefits and AG benefits in 1/05. In 11/15, Mr. Jones received a notice explaining that he was overpaid \$150 in Title II benefits from 4/15 through 8/15, and \$30 would be withheld from his Title II benefit to recover the overpayment from 1/16 through 5/16.

Since the overpaid amount was already included in determining countable unearned income for the period 4/15 through 8/15, the \$30 a month being withheld is not included in determining the amount of unearned income when computing Mr. Jones' AG benefit amount for 1/16 through 5/16.

#### 2. Exception Does Not Apply

Alex Martin started receiving AG benefits and VA benefits in 5/15. His monthly VA benefit increased to \$360 in 8/15. The VA benefit increase when combined with other income caused Mr. Martin to become ineligible for AG benefits beginning in 9/15. He continued to be ineligible until 1/16 when the VA determined his

benefit should have been \$240 since 8/15. Therefore, Mr. Martin was overpaid a total of \$600 by VA from 8/15 through 12/15.

Mr. Martin once again started receiving AG benefits in 1/16. To recover the VA overpayment, his VA benefit is reduced by \$120 a month from 3/16 through 7/16. Since Mr. Martin did not receive AG benefits during the time he was overpaid, the \$120 a month withheld to recover the overpayment is included in determining the amount of Mr. Martin's current unearned income.

#### **48.2.2. Unable To Determine If Exception Applies**

If, after completing all development, you are unable to determine if the exception applies, do **not** include the amount being withheld to recover an overpayment when determining the amount of unearned income.

#### **48.2.3. Multiple Overpayments**

When two or more overpayments are being recovered at the same time, assume the overpayment recovery amount is first withheld to repay any overpayments not subject to the exception. Apply this assumption regardless of the chronological order in which the overpayments occurred.

For example, an individual receiving Title II was overpaid in 1999 and 2000. For purposes of collecting the overpayment, recovery is allocated in chronological order, i.e., the 1999 overpayment is satisfied first and then collection begins for the 2000 overpayment.

However, for the purposes of this section, if the Double Counting Exception applies only to the 1999 overpayment, assume the 2000 overpayment is satisfied first. Apply the exception to the 1999 overpayment but only after the 2000 overpayment collection has been satisfied.

#### **Example**

Mr. Smith was overpaid \$300 in VA benefits in 2014 and \$500 in 2015. VA began withholding \$100 a month in August 2015. The withholding will continue until the full \$800 is recovered, August 2015 through March 2016. Mr. Smith reapplied and was approved for AG in July 2015.

The worker determined that Mr. Smith did not receive AG during the 2015 overpayment period but did receive AG during the 2014 period and that the overpaid amount was used in determining his AG. Therefore, the double counting exception applies to the 2014 overpayment but does not apply to the 2015 overpayment. The worker must consider that the withheld amount is being used to pay the 2015 overpayment first as the double counting exception does not apply to it. This means the \$100 being withheld for the first five months, August through November 2015, will be counted as income in determining the AG payment. The \$100 withheld for December 2015 through March 2016 will not be counted as income.

## **49. Programs for Older Americans**

### **Earned/Unearned Income**

The Federal Government through the Administration on Aging is involved in a variety of programs for older Americans. The programs may be operated by State or local governments or community organizations. Some types of programs are:

- Health services;
- Nutrition services;
- Legal assistance; and
- Community service employment.

### **49.1. Income Treatment**

#### **49.1.1. Wage or Salary**

A wage or salary paid under chapter 35 of title 42 of the U.S. Code, Programs for Older Americans, is earned income subject to the general AG policies on earned income. See Chapter I – 75.

#### **49.1.2. Not a Wage or Salary**

Anything provided under chapter 35 of title 42 of the U.S. Code, Programs for Older Americans, other than a wage or salary is excluded from income.

**Example:**

Income from the Green Thumb Program is excluded unearned income.

**49.1.2.1. Verification****49.1.2.1.1. Program**

Use documents in the individual's possession, contact with the provider or a local council on aging, or a precedent to verify that the program is funded by the Federal Government under chapter 35 of “**The Older Americans Act**” and whether a wage or salary is paid.

**49.1.2.1.2. Not a Wage Or Salary-Accept Allegation**

Accept the individual's allegation of receipt of anything other than a wage or salary and exclude it without further development unless you have reason to question the allegation.

**50. Railroad Retirement (RR) Payments****Unearned Income**

There are three basic categories of payments made by the Railroad Retirement Board (RRB):

- Life and survivor annuities;
- Title II benefits certified by RRB; and
- Unemployment, sickness, and strike benefits.

**Note:** RR checks bear beneficiary symbols that identify the type of RR benefit involved.

**50.1. Identifying Receipt**

Be alert to the possibility of the receipt of, or potential entitlement to, RR benefits in every case where:

- The individual's social security number begins with a "7"; or
- The individual alleges or other evidence indicates railroad employment by the individual or his/her spouse.

## **50.2. Income Treatment**

Payments made by Railroad Retirement Board (RRB) are **unearned income** and are subject to the unearned and general income exclusions. The amount of the RR payment to count as income is the gross amount (unless the overpayment related double counting exception applies. See Chapter I – 47).

## **50.3. Life and Survivor Annuities**

- **Life annuities** for retirement and disability are paid under the Railroad Retirement (RR) Act to the railroad employee and his/her spouse. Children of a living annuitant are not entitled to benefits.

**Note:** An increase in a beneficiary's check because of a dependent child is unearned income to the designated RR beneficiary.

- **Survivor annuities** are payable to widows, widowers, children, and dependent parents of railroad employees. A small number of widows receive two annuities, a regular widow's check and a check payable to them as designated survivors of retired railroad employees who elected to receive reduced benefits during their lifetimes.
- **RR annuity payments** are similar to Title II benefits in that a check for one month is paid the next month. Also, cost-of-living adjustments (COLA) for RR annuities are effective the same month as Title II COLA's.

### **50.3.1. Verification**

Verify receipt of RR annuities by obtaining a copy of the individual's most recent award notice. If the notice is unavailable, record in the file the information from the individual's next check.

## **50.4. Social Security Benefits Certified By RRB**

SSA may authorize the payment of Title II benefits for RR employees through RRB. Although RRB has responsibility for certifying Title II benefits in these situations, they remain Title II benefits.

Individuals entitled to this type of benefit receive two award notices. The first notice, from SSA, informs the beneficiary that RRB has responsibility for making

Title II payments. The final notice, from RRB, specifies the amount of the first check.

RR annuity payments and Title II benefits certified by RRB may be paid as a single check.

#### **50.4.1. Verification**

Verify the benefits through documents in the individual's possession or by contact with the source. The notice issued by RRB which specifies the amount of the first check is one form of evidence.

### **50.5. Unemployment, Sickness, And Strike Benefits**

Unemployment, sickness, and strike benefits are computed on a daily basis with each check covering a period of up to 2 weeks. These claims are usually filed through the railroad employer or directly with RRB in Chicago.

#### **50.5.1. Verification**

Obtain evidence of unemployment, sickness, and strike benefits from the individual's own records, such as an award letter or actual check. If this evidence is unavailable, contact RRB headquarters in Chicago at:

Railroad Retirement Board  
844 North Rush Street  
Chicago, IL 60611

Local RRB offices do not maintain this information.

## **51. Real Or Personal Property (Other In Kind Income)**

### **Unearned Income**

Any item of real or personal property an individual receives which he can sell or convert is unearned income called "other in-kind income."

**Note:** If in-kind income is food, or shelter, it is called "in-kind support and maintenance" and is not counted as income.

#### **51.1. Income Treatment**

Receipt of real or personal property is **unearned income** and is subject to the unearned and general income exclusions.

**51.1.1. Exception - Items That Will Be An Excluded Resource**

The value of any non-cash item is not income if the item would become a partially or totally excluded **non-liquid** resource if retained into the month after the month of receipt.

**Example:** Receipt of a Specially Equipped Van

Eddie Glyndon is disabled and is confined to a wheelchair. A local church accepts donations from the community and purchases a van specially equipped with a wheelchair lift to transport Eddie. The church gives the van to Eddie. Since the van is his only vehicle and will become an excluded non-liquid resource in the month after he receives it, the value of the van is not income to Eddie.

**51.1.2. Value**

Other in-kind income is valued at its current market value. See the resource section that addresses the type of property received for the method to be used to establish and verify the current market value.

If the item received is not fully paid for and the individual is responsible for the balance, the paid-up value (i.e., the equity value) corresponding to the percentage of his/her ownership interest is other in-kind income. If the individual is not responsible for the balance, he/she receives other in-kind income equal to the amount of cash he/she could obtain upon sale of the item regardless of any indebtedness on the part of some other person.

**Example - In-Kind Item that is Not Income**

Mr. William Hurd's son purchased a furnace for his father's home when his old furnace stopped working. His son bought the furnace from the local utility company, and will pay for it in monthly installments on his utility bill. The utility company confirms that Mr. Hurd may not return the furnace for cash nor sell it since his son made the purchase, and it was purchased on credit. Therefore, the gift of the furnace is not income to Mr. Hurd.

## **52. Rebates and Refunds**

### **Not Income**

Rebates and refunds are the return of monies already paid, to the individual who paid it. Rebates and refunds may be received on items purchased and taxes paid.

#### **52.1. Income Treatment**

When an individual receives a rebate, refund, or other return of money he or she has already paid, the money returned is **not income**. The key idea in applying this guideline is that rebates and refunds are the **return of** an individual's own money.

#### **Example:**

Rose Woods, an elderly AG recipient, pays property taxes on the home she lives in. Because of her low income, the city government returns part of Mrs. Woods' property taxes in the form of a check. This return of money already paid by Mrs. Woods is not income.

#### **52.2. Verification**

Unless you have reason to question the situation, accept an individual's signed allegation that a rebate or refund of money is a return of money already paid and do not count it as income.

##### **52.2.1. Questionable Situation**

In questionable situations, make copies for the file of any documents in the individual's possession, and contact the source of the payment, etc., to verify that the payment is a return of money already paid.

## **53. Refugee And Cuban And Haitian Entrant Cash Assistance**

### **Unearned Income**

Refugee Cash Assistance and Cuban and Haitian Entrant Cash Assistance are federally funded programs which make ongoing needs-based payments to refugees during their first 18 months in the United States.

### **53.1. Income Treatment**

Refugee Cash Assistance, Cuban and Haitian Entrant Cash Assistance and federally reimbursed general assistance payments to refugees are federally funded **unearned income** based on need and are counted dollar for dollar as income.

A payment under one of these programs is always considered to be a cash payment.

#### **53.1.1. Exclusions**

- The \$20 general income exclusion does not apply to this income. It is income based on need.
- Possible exclusions that may be applied are the Infrequent or Irregular Exclusion, the Spouse At Home Exclusion, or the Minor Child At Home Exclusion.

#### **53.1.2. Payment To Family Unit Or Group**

If a payment is made under one of these programs to a family unit or a group of people, the amount of the grant attributable to one individual in the family is determined by the incremental method (i.e., the income is the difference between the amount paid and the amount which would have been paid had the individual not been included).

### **53.2. Verification**

Verify the amount of the assistance by contacting the individual's eligibility worker.

## **54. Rental Income**

### **Earned or Unearned Income**

**Rent** is a payment which an individual receives for the use of real or personal property, such as land, housing or machinery.

## 54.1. Income Treatment

Net rental income, gross income minus expenses, is unearned income unless the individual is someone who is in the business of renting properties. If the individual is someone who is in the business of renting properties, the income is earned income from self-employment. If it is determined the rental income is self-employment, use the section under Self-employment in Chapter I – 58 to evaluate it. This section applies to **unearned** rental income. Unearned rental income is subject to the unearned and general income exclusions.

### 54.1.1. Rental Deposits

Rental deposits are not income to the landlord while subject to return to the tenant. Rental deposits used to pay rental expenses become income to the landlord at the point of use.

### 54.1.2. Computation

Unearned net rental income is determined by subtracting the ordinary and necessary expenses of doing business from the gross rental income.

- **Determine** gross rent received and deductible expenses month - by - month.
- **Subtract** deductible expenses paid in a month from gross rent received in the same month.
- If deductible expenses exceed gross rent in a month, subtract the **excess expenses** from the next month's gross rent and continue doing this as necessary until the end of the tax year in which the expense is paid.
- If there are **still excess expenses**, subtract them from the gross rent received in the month prior to the month the expenses were paid and continue doing this as necessary to the beginning of the tax year involved.

**Note:** Do not carry excess expenses over to other tax years nor use them to offset other income.

### **54.1.3. Deductible Expenses**

Ordinary and necessary expenses are those necessary for the production or collection of rental income. Deductible expenses include:

- Interest on debts;
- State and local taxes on real and personal property and on motor fuel;
- General sales taxes;
- Expenses of managing or maintaining property;
- Interest and escrow portions of a mortgage payment (at the point the payment is made to the mortgage holder);
- Real estate insurance;
- Repairs (i.e., minor correction to an existing structure);
- Property taxes;
- Lawn care;
- Snow removal;
- Advertising for tenants; and
- Utilities.

#### **54.1.3.1. When to Deduct Expenses**

Deduct expenses when paid, not when incurred.

#### **54.1.3.2. Interest**

- Use an individual's amortization schedule to determine interest expenses.
- If a schedule is not available, divide the yearly interest by twelve to determine monthly interest.

#### 54.1.4. Nondeductible Expenses

Nondeductible expenses include:

- Principle portion of a mortgage payment;
- Capital expenditures (i.e., an expense for an addition or increase in the value of property which is subject to depreciation for income tax purposes); and
- Depreciation or depletion of property.

#### 54.1.5. Proration Of Expenses

When only a portion of a property is rented out, it is necessary to determine the portion of the expenses that apply to the rented property. This is done by prorating the expenses as follows.

**Note:** Any expenses strictly related to a particular rental unit are deducted in total from the rent for that unit. Such expenses are not prorated.

##### 54.1.5.1. Multiple Family Residence

In a multiple family residence:

- If the units in the building are of approximately **equal size**, prorate allowable expenses based on the number of units designated for rent compared to the total number of units.
- If the units are **not** of approximately **equal size**, prorate allowable expenses based on the number of rooms in the rental units compared to the total number of rooms in the building. (The rooms do not have to be occupied.)

##### 54.1.5.2. Rooms in Single Residence

For rooms in a single residence:

- Prorate allowable expenses based on the number of rooms designated for rent compared to the number of rooms in the house.
- Do not count bathrooms as rooms in the house.

- Count basements and attics only if they have been converted to living spaces (e.g., recreation rooms).

#### **Example - Proration of Room Rental Expenses**

Mr. Joshua Steele, an AG recipient, rents out a room in his house to a cousin. The house has six rooms excluding the bathroom. Since Mr. Steele's expenses (interest on a mortgage, utilities, etc.) are for the whole house, only one-sixth of the expenses is deducted from the gross rent.

#### **54.1.5.3. Land**

Prorate expenses based on the percentage of total acres that is for rent.

#### **54.1.6. Joint Owners**

Absent evidence to the contrary, apportion net rental income equally among owners. (A signed statement can be acceptable evidence if it reasonably explains why apportionment is not equal.)

If the gross rent is split between two joint owners before expenses are paid, deduct expenses paid by the SSI recipient from his/her portion of the gross rent.

#### **54.2. Verification**

- **Use documents** in the individual's possession (e.g., bills, receipts, etc.) to verify the gross rent and the dates received, and the expenses and the dates paid.
- **If no documents are available**, obtain a signed statement explaining why no documents are available and providing an allegation of the gross rent and expenses paid for the period involved. **Do not** contact the tenants to verify the allegation.
- If you are **uncertain** whether an expense is allowable (e.g., whether it is an incidental repair or a capital expenditure), contact the local Internal Revenue Service (IRS) or refer to IRS Publication 527. Document the file with the information obtained from IRS.

#### **54.3. Refunds on Paid Expenses**

If the AG recipient receives a refund for an expense already paid (e.g., a property tax refund), recalculate his/her net rental income for the period involved.

## **55. Repair/Replacement Payments for Lost, Damaged or Stolen Resources**

### **Income/Not Income**

Individuals may receive payments to repair or replace items damaged or lost as the result of a catastrophe. Funds received to repair or replace **non-excluded** resources or personal injury is unearned income in the month received and, if retained, a resource the month following the month of receipt. Funds received to repair or replace **excluded** resources are not income.

#### **55.1. Verification**

Obtain a copy of any evidence the individual has that shows the source, value, date(s), and intended purpose of the items received, including whether any cash received is for a purpose other than the replacement or repair of the lost, damaged, or stolen (and excluded) resource.

## **56. Replacement of Income Already Received**

### **Not Income**

If an individual's income is lost, stolen, or destroyed and the individual receives a replacement, the replacement is **not income**. Once a payment has been issued and treated as income in determining an individual's eligibility for AG, the reissuance of that same payment is **not income**.

#### **56.1. Verification**

Accept an allegation that the payment is a replacement and exclude the income without further development unless you have reason to question the allegation. If questionable, verify the type and source of the payment through documents in the individual's possession or by contact with the source of the payment.

## **57. Retirement Funds**

Retirement funds are annuities or work-related plans for providing income later in life or when employment ends (e.g., pension, disability, or retirement plans administered by an employer or union). Other examples are funds held in an individual retirement account (IRA) and plans for self-employed individuals, sometimes referred to as Keogh plans. Also, depending on the requirements established by the employer, some profit sharing plans may qualify as retirement funds.

This section applies to all items that meet the above definition of retirement funds. Retirement funds may be evaluated as a resource or as income.

### **57.1. Resource Or Income**

The treatment of retirement funds is based on the availability of the funds and if available, the payout options. The funds may not be available, may be paid out in periodic payments or may be available in a lump sum payment.

Unavailable funds are neither income nor a resource. If the funds are distributed in periodic payments, the payments are income in the month received. If the funds can be distributed as a lump sum, the value of the fund is a resource.

#### **57.1.1. Periodic Payments**

Periodic retirement benefits are payments made to an individual at some regular interval (e.g., monthly). If the individual receives periodic payments, the payments are evaluated as unearned income in the month received. The balance of the retirement funds is not a resource.

If the individual has a choice between periodic benefits and a lump sum, he/she must choose the periodic benefits.

##### **57.1.1.1. Requirement To Apply**

If an individual is eligible for periodic retirement benefits, he/she must apply for those benefits. If he/she fails to apply, he/she does not meet the non-financial requirement to apply for other benefits and will be ineligible for AG. (Application for Other Benefits, Chapter C - 10)

**Note:** The individual does not have to pursue withdrawal if the funds are only available in a lump sum payment.

### **57.1.2. Lump Sum Payments**

A lump sum payment is a payment that is issued once and includes the full amount of money that an individual can withdraw from the fund.

A retirement fund owned by an eligible individual is a resource if periodic payments have been denied and he/she has the option of withdrawing a lump sum. Withdrawal of the lump sum is not income but is a conversion of a resource.

### **57.2. Verification**

Verify the source of the benefits, the availability of funds, the payment options, the approval/denial of a request for periodic payments, and the amount of available funds.

## **58. Royalties**

### **Earned Income/Unearned Income**

**Royalties** include compensation paid to the owner for the use of property, usually copyrighted material (e.g., books, music, or art) or natural resources (e.g., minerals, oil, gravel or timber). Royalty compensation may be expressed as a percentage of receipts from using the property or as an amount per unit produced.

To be considered royalties, payments for the use of natural resources also must be received:

- Under a formal or informal agreement whereby the owner authorizes another individual to manage and extract a product (e.g., timber or oil), and
- In an amount that is dependent on the amount of the product actually extracted.

### **58.1. Income Treatment**

#### **58.1.1. When Royalties Are Earned Income**

Royalties are earned income when they are:

- Received as part of a trade or business; or
- Received by an individual in connection with any publication of his/ her work (e.g., publication of a manuscript, magazine article, or artwork)

Evaluate royalties that are earned income as wages. See Wages Chapter I – 75.

### **58.1.2. When Royalties Are Unearned Income**

Royalties that are not earned income are unearned income and are subject to the unearned and general income exclusions.

### **58.1.3. Gross vs. Net Income**

When documents concerning royalty payments provide both a gross and a net payment amount, you must determine which figure to use.

- When the difference between the gross and the net figures is due to income taxes withheld or windfall profit tax deductions, use the gross figure when determining income.
- When the difference between the gross and net figures represents a production or severance tax, use the net figure when determining income. The production or severance tax is a cost of producing the income and, therefore, is deducted from the gross income. (e.g., most oil royalties will be reduced by this tax.)

## **58.2. Verification**

- Verify that payments received meet the definition of royalty by obtaining a copy of the agreement between the parties involved. If the agreement is unclear, unavailable, or informal, contact the company or source of the payment.
- Verify the amounts and frequency of royalty payments by examining documents in the individual's possession. If documents are unclear or unavailable, contact the company or source of the royalty.

## 59. Self-Employment (NESE)

### Earned Income

Net earnings from self-employment (NESE) are the **gross income** from any trade or business **less allowable deductions** for that trade or business. NESE also includes any profit or loss in a partnership.

#### 59.1. Income Treatment

When a self-employment situation is identified, contact your AG consultant for instructions.

## 60. Sheltered Workshop Wages

### Earned Income

Payments for services performed in a sheltered workshop or work activities center are what an individual receives for participating in a program designed to help him/her become self-supporting. Payments for such services are a type of **earned income**.

An individual may receive cash or other items which are not remuneration for services and therefore are not earned income. Those items must be evaluated to determine if they are unearned income.

A sheltered workshop is a nonprofit organization or institution whose purpose is:

- To carry out a recognized program of rehabilitation for handicapped workers; and/or
- To provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

A work activities center is:

- A sheltered workshop, or
- A physically separated department of a sheltered workshop having an identifiable program, and separate supervision and records.

## **60.1. Income Treatment**

Evaluate the income as wages using procedures under Wages Chapter I – 75.

## **61. Sick Pay/Sick Leave**

### **Earned/Unearned Income**

When an individual is out of work due to illness or disability, he/she may receive compensation for his/her period of absence. Two methods may be used to compensate the individual. The individual may use his/her sick leave or annual leave to assure his/her income continues or he/she may receive sick pay. The type of compensation received and when it is received determines how the compensation is counted.

**Note:** This section does not apply to Worker's Compensation Benefits. See Chapter I – 76.

### **61.1. Annual and Sick Leave Payments**

Annual and sick leave payments are considered a continuation of salary. Annual and sick leave that is donated to an individual is treated the same as if it were the individual's own leave.

#### **61.1.1. Income Treatment**

The gross wages are counted as income to the individual. No additional income results from sick leave or donated leave. See Wages Chapter I – 75.

### **61.2. Sick Pay (Other Than Annual/Sick Leave)**

Sick pay is a payment made to or on behalf of an employee by an employer or a private third party (such as a union or an insurance company) for sickness or accident disability.

#### **61.2.1. Income Treatment**

Sick pay is either wages or unearned income.

The following chart shows how to treat sick pay.

WHEN RECEIVED	ATTRIBUTABLE TO EMPLOYEE'S OWN CONTRIBUTION?	TYPE OF INCOME
More than 6 full calendar months after stopping work	N/A	Unearned Income
Within 6 full calendar months after stopping work	No	Wages
Within 6 full calendar months after stopping work	Yes	Unearned Income

#### 61.2.1.1. Worker's Contribution

When sick pay is alleged within 6 full calendar months after stopping work, it must be determined whether or not the employee contributed by payroll deduction toward a sick pay plan by reviewing the pay slips or contact with the employer. Any sick payment, or portion thereof, received by an employee during the first 6 full calendar months after stopping work, which, according to the employer, are attributable to the employee's own contribution, is **not** wages.

**Example:** John is still within 6 months of stopping work and receives sick pay of \$400 per month. John's employer advises that 40% of sick pay is attributable to John's own contribution. John should be charged with \$240 earned income ( $\$400 \times 60\%$ ) and \$160 unearned income ( $\$400 \times 40\%$ ).

**61.2.1.1.1. Six Month Period**

To determine the 6-month period after stopping work:

- Begin with the first day of non-work.
- Include the remainder of the calendar month in which work stops.
- Include the next 6 full calendar months.

**Example:** If an individual stops work on May 5, the 6-month period begins on May 6 and runs through November 30.

**61.2.1.2. Possible Exclusions****61.2.1.2.1. Unearned Income**

Possible exclusions that may be applied to unearned income are the unearned and general income exclusions.

**61.2.1.2.2. Earned Income**

Possible exclusions that may be applied to earned income are the general and the earned income exclusions.

**61.2.2. Verification**

- **Earned Income**
  - Verify sick pay which is wages by using the wage verification procedure in Wages Chapter I – 75.
  - Verify the last day (or month) worked with the employer or knowledgeable third party.
- **Unearned Income**

Verify sick pay that is unearned income through documents in the individual's possession or by contact with the source.

## **62. Social Security Administration (SSA) Benefits**

### **Unearned Income**

Retirement, Survivors, and Disability Insurance (RSDI) monthly benefits are benefits paid under Title II of the Social Security Act.

#### **62.1. Income Treatment**

Generally, the gross amount of Title II benefits is **unearned income** and is subject to the unearned and general income exclusions. (See Death Benefits Chapter I – 20 for treatment of lump-sum death payments.)

##### **62.1.1. Worker's Compensation Offset**

If a monthly benefit payment has been reduced because of a worker's compensation offset, the **net** amount of the benefit received (plus any SMI premium withheld) is unearned income.

##### **62.1.2. Prior Overpayment**

If all or part of a Title II benefit is being withheld to recover an overpayment, the amount of Title II before deduction for the overpayment (the gross amount) is unearned income (unless the overpayment related double counting exception applies. See Chapter I – 47).

If the exception applies (i.e., the overpayment occurred when the individual was receiving AG and the overpaid amount was included in unearned income at that time), the amount deducted for an overpayment is **not included** in calculating countable Title II income.

##### **62.1.3. Supplementary Medical Insurance (SMI) Premiums**

The amount of premiums deducted from RSDI benefits for SMI under Medicare is unearned income. Refunded SMI premiums are **not** income. See Rebates and Refunds Chapter I – 51.

##### **62.1.4. Garnishment of Title II Benefits**

If a monthly Title II benefit payment has been reduced because of a garnishment, the **gross** amount of the benefit received is unearned income.

**62.2. Verification**

Use SVES to verify RSDI benefits.

**62.3. When To Count Retroactive RSDI Benefits**

Other than the following exceptions below, retroactive RSDI benefits, whether paid in one lump sum or by installment, are counted as unearned income in **the month payment is received.**

**Note:** Reissued conserved funds, whether paid in a lump sum or in installments, are not considered unearned income in the month of reissuance since such funds were previously considered in the month of original receipt.  
(Conserved funds are SSA payments for a prior period that were held by SSA.)

**63. Temporary Assistance For Needy Families (TANF)****Unearned Income**

TANF programs use income as a factor of eligibility, and are considered income based on need (IBON).

**63.1. Income Treatment**

The AG claimant's share of a TANF grant is counted dollar for dollar as income.

**63.1.1. Exclusions**

The \$20 General Income Exclusion does not apply to this income.  
TANF is subject to the other unearned and general income exclusions.

**63.2. Verification**

Verify the individual's portion of the TANF grant through ADAPT or by contact with the TANF eligibility worker.

## 64. Tips

### Earned/Unearned Income

Tips are a gift or a sum of money tendered for a service performed or anticipated. Cash tips may be received in two ways directly, from an individual or indirectly, i.e., a customer designates a tip amount on a credit card.

#### 64.1. Income Treatment

Cash tips received by an employee in the course of employment by any one employer are **wages** if the tips **total \$20 or more** in a calendar month. Tips **under \$20** per month are **unearned income** and are subject to the unearned and general income exclusions. Tips are deemed to have been paid at the time such income was received by the employee.

Tips that total \$20 or more in a calendar month are wages even if the employee receives no regular salary. See Wages Chapter I – 75.

#### 64.2. Verification

Accept the individual's written record of dates and amounts of tips received.

## 65. Trust Disbursements

### Unearned Income/Not Income

Disbursements from the trust principal to or for the AG individual must be evaluated to determine if they are income to the individual.

#### 65.1. Trust Principal Is Not a Resource

If the trust principal is not a resource, disbursements from the trust may be income to the AG recipient beneficiary, depending on the nature of the disbursements. Apply regular income rules to determine when income is available.

##### 65.1.1. Disbursements Which Are Income

Cash paid directly from the trust to the individual is unearned income.

### **65.1.2. Disbursements Which Are Not Income**

Disbursements from the trust by the trustee to a third party that result in the individual receiving goods and services are not income. For example, if trust funds are paid to a provider of medical services for care rendered to the individual, the disbursements are not income for AG purposes.

#### **Exception:**

If disbursements are paid to the ALF/AFCH provider, the amount paid is income to the individual.

### **65.2. Trust Principal Is a Resource**

If the trust principal is a resource to the individual, disbursements from the trust principal received by the individual are not income, but conversion of a resource.

## **66. Trust Earnings And Additions**

### **Unearned Income/Not Income**

This section addresses how to determine if income generated by a trust and additions to the trust principal are income to the AG individual.

Trust earnings or income are **amounts earned by the trust principal**. They may take such forms as interest, dividends, royalties, rents, etc. These amounts are unearned income to the person (if any) legally able to use them for personal support and maintenance.

### **66.1. Trust Principal Is Not a Resource**

#### **66.1.1. Trust Earnings**

Trust earnings are not income to the AG who is the trustee or grantor **unless** designated as belonging to the trustee or grantor under the terms of the trust; e.g., as fees payable to the trustee or interest payable to the grantor.

Trust earnings are not income to the AG applicant or recipient who is a trust beneficiary **unless** the trust directs, or the trustee makes, payment to the beneficiary.

#### **66.1.2. Additions to Principal**

Additions to trust principal made directly to the trust are not income to the grantor, trustee or beneficiary.

#### **66.1.2.1. Exceptions**

Certain payments are non-assignable by law and, therefore, are income to the individual entitled to receive the payment under regular income rules. They may not be paid directly into a trust, but individuals may attempt to structure trusts so that it appears that they are so paid. Non-assignable payments include:

- Railroad Retirement Board-administered pensions;
- Veterans pensions and assistance;
- Federal employee retirement payments (CSRS, FERS) administered by the Office of Personnel Management;
- Social Security title II and SSI payments; and
- Private pensions under the Employee Retirement Income Security Act (ERISA) (29 U.S.C.A. section 1056(d)).

#### **66.1.2.2. Assignment of Income**

A legally assignable payment that is assigned to a trust is income for AG purposes **unless** the assignment is irrevocable. If the assignment is revocable, the payment is income to the individual legally entitled to receive it.

### **66.2. Trust Principal Is a Resource**

#### **66.2.1. Trust Earnings**

Trust earnings are income to the individual for whom trust principal is a resource, unless the terms of the trust make the earnings the property of another.

### **66.2.2. Additions to Principal**

Additions to principal may be income or conversion of a resource, depending on the source of the funds. If funds from a third party are deposited into the trust, the funds are income to the individual. If funds are transferred from an account owned by the individual to the trust, the funds are not income, but conversion of a resource from one account to another.

## **67. VA Aid and Attendance and Housebound Allowances**

### **Not Income**

VA pays an allowance to veterans, spouses of disabled veterans, and surviving spouses who are in regular need of the aid and attendance of another person or who are housebound. **This allowance is combined with the individual's pension or compensation payment.**

### **67.1. Income Treatment**

VA aid and attendance and housebound allowances are **not income** for AG purposes subtract the attendance and housebound allowance from the compensation and pension.

### **67.2. Verification**

It is necessary to determine if the individual's payment includes an additional amount for aid and attendance. It is not necessary to verify the actual amount of them. It is necessary to verify the amount of compensation or pension that is received for her/him. See VA Compensation and Pension Payments Chapter I – 70.

## **68. VA Apportioned Benefits**

### **Unearned Income**

**Apportionment** is direct payment of the dependent's portion of VA benefits to a dependent spouse or child. The VA decides whether and how much to pay by apportionment on a case-by-case basis. Apportionment reduces the amount of the augmented benefit payable to the veteran or veteran's surviving spouse.

### **68.1. Income Treatment**

A portion of a VA benefit paid by apportionment to a dependent spouse or child is **unearned income** to the dependent spouse or child and is subject to the unearned and general income exclusions.

### **68.2. Child**

For purposes of this section, a **child** is a son or daughter (biological, adoptive, or by marriage) who is:

- Under age 18, **or**
- Age 18-22 (inclusive) and a student, **or**
- Age 18 or older, and disabled since before age 18.

### **68.3. Dependent**

For purposes of this section, a **dependent** is a veteran's child or spouse (other than a surviving spouse) who is or was dependent on the veteran for financial support, as determined by the VA.

### **68.4. Verification**

Use the following verification methods.

- A VA award letter or comparable document in the individual's possession;
- A benefit check in combination with a signed statement from the individual that provides the frequency of payment and affirms that VA makes no deductions (such as insurance premiums, loan payments, and overpayment deductions).

## **69. VA Augmented Benefits**

### **Unearned Income**

The Department of Veterans Affairs (VA) often considers the existence of dependents when determining a veteran's or a veteran's surviving spouse's eligibility for pension, compensation, and educational benefits. If dependents are involved, the amount of the benefit payable may be larger; it may be augmented.

An **augmented benefit** is an increase in benefit payment to a veteran or a veteran's surviving spouse or higher VA income eligibility limits, because of a dependent. (For AG purposes, the augmented benefit includes a beneficiary's portion and one or more dependents' portion). An augmented VA benefit usually is issued as a single payment to the veteran or the veteran's surviving spouse.

## **69.1. Income Treatment**

An absent dependent's portion of an augmented VA benefit, received by the designated beneficiary on or after November 17, 1994 is **not VA income** to either the dependent or the individual receiving it. This is true even if the designated beneficiary continues to receive the absent dependent's portion.

**Note:** If the absent dependent is the AG applicant/recipient, he/she will be required to file for apportionment of the augmented VA benefit. Apportionment would have the absent dependent's portion of the benefit issued directly to the dependent. See Chapter C – 10.

### **69.1.1. Portion Given To Absent Dependent**

A payment from a designated beneficiary to an absent dependent is not VA income to the absent dependent. It is **unearned income** in the form of a gift, a support payment, or other income.

#### **Example:**

Robert Jones, age 17, and his father Raymond Jones is an AG recipient. Raymond Jones' VA pension is \$450 per month, which includes a \$50 portion for Robert as his only dependent. Because Robert is an absent dependent, the \$50 Mr. Jones receives on behalf of Robert is not income to himself or Robert. The worker counts \$400 as VA pension income for Mr. Jones.

## **69.2. Verification**

It is necessary to determine if the individual's payment includes an additional amount for dependents but it is not necessary to verify the actual amount of them. It is necessary to verify the amount of compensation or pension that the individual receives for her/himself.

Use the following verification methods.

- A VA award letter or comparable document in the individual's possession;

- A benefit check in combination with a signed statement from the individual that provides the frequency of payment and affirms that VA makes no deductions (such as insurance premiums, loan payments, and overpayment deductions); or
- To verify certain current benefit information for veterans and surviving spouses, you may call the VA at 1-800-827-1000.

## **70. VA Clothing Allowance**

### **Not Income**

A lump sum clothing allowance is payable in August of each year to a veteran with a service-connected disability for which a prosthetic or orthopedic appliance (including a wheelchair) is used. The allowance is intended to help defray the increased cost of clothing due to wear and tear caused by the use of such appliances.

#### **70.1. Income Treatment**

A VA clothing allowance is **not income**.

#### **70.2. Verification**

Accept the individual's allegation concerning a VA clothing allowance. No further verification is required.

## **71. VA Compensation And Pension Payments**

### **Unearned Income**

#### **71.1. Compensation Payments**

Compensation payments are based on service-connected disability or death. With one exception noted below VA compensation payments are not based on need.

#### **71.2. Pensions Payments**

Pension payments are based on a combination of service and a non-service-connected disability or death. With two rare exceptions noted below, VA pension payments are based on need.

### 71.3. Inclusion Of Other Payments

The VA payment an individual receives will include the amount he/she is due as compensation or pension and may include other types of payments as well. **Only the amount of the actual compensation or pension is countable as income.**

The total amount received may include:

- Payment for the individual's unusual medical expenses
- A payment for the individual's dependent (An augmented payment)
- An aid and attendance or housebound allowance

Each of these types of payments is not income for AG and must be excluded when determining countable income.

#### 71.3.1. Verification Of Other Payments

It is necessary to determine if the individual's payment includes an additional amount for either of these other payments but it is not necessary to verify the actual amount of them. It is necessary to verify the amount of compensation or pension that is received.

### 71.4. Frequency Of Receipt

Payments are usually paid monthly; however, when the monthly payment due is less than \$19, VA will pay quarterly, biannually, or annually. VA may also make an extra payment if an underpayment is due.

### 71.5. Income Treatment

VA pensions and compensation payments are **unearned** income and are subject to the unearned and general income exclusions. It is necessary to know if the VA compensation or pension is needs based or not in order to determine if the \$20 General Exclusion can be applied.

#### 70.5.1 Needs-Based Payments

##### 71.5.1.1. Pension Payments

Assume that a VA pension is partly or entirely needs based unless there is evidence to the contrary. All VA pension payments except those based on a Medal of Honor status or those granted by a special act of congress are federally funded income based on need.

**71.5.1.2. Surviving Parent Compensation**

Payments to a surviving parent of a veteran are the only needs based compensation payments.

**71.5.1.3. \$20 General Exclusion**

These payments are federally funded income based on need. As such, these payments are unearned income to which the \$20 general income exclusion **does not** apply.

**71.5.2. Payments Not Based On Need****71.5.2.1. Compensation Payments**

Compensation payments to a veteran, spouse, child, or widow/widower are **unearned** income.

**71.5.2.2. Certain Pensions Payments**

Certain pensions paid to veterans or their dependents are not needs based. They are pensions paid on the basis of:

- A Medal of Honor; or
- A special act of Congress.

**71.5.2.3. \$20 General Exclusion**

These payments are not income based on need. As such, these payments are unearned income to which the \$20 general income exclusion **does** apply.

**71.6. Recoupment Of Severance Pay Deduction**

A "recoupment of severance pay" may be deducted from VA compensation payments. This recoupment is a benefit offset and is not an overpayment recovery. It is not income.

- To verify these deductions, use documents in the individual's possession (e.g., statement showing the deduction), or contact the VA for verification.

**71.7. Verification**

Use the following verification methods.

- A VA award letter or comparable document in the individual's possession.
- A benefit check in combination with a signed statement from the individual that provides the frequency of payment and affirms that VA makes no deductions (such as insurance premiums, loan payments, and overpayment deductions).
- To verify certain current benefit information for veterans and surviving spouses, you may call the VA at 1-800-827-1000.

**71.8. Procedure**

Follow the procedure in the table below for verifying and counting VA compensation and pensions.

<b>STEPS</b>	<b>VA COMPENSATION AND PENSION PROCEDURES ACTIONS</b>
<b>Step 1</b>	<p>Is the VA compensation or pension payment a needs based payment?</p> <ul style="list-style-type: none"> <li>• <b>Yes</b> - go to Step 2.</li> <li>• <b>No</b> - go to Step 6.</li> </ul>
<b>Step 2</b>	<p>The payment is needs based. Screen for unusual medical expenses.</p> <p>Did the individual or any member of his/her family report any income (other than AG) to VA?</p> <ul style="list-style-type: none"> <li>• <b>Yes or unknown</b> - continue in this step.</li> <li>• <b>No</b> - go to Step 3. No payment for unusual medical expenses are included</li> </ul>

<b>STEPS</b>	<b>VA COMPENSATION AND PENSION PROCEDURES</b> <b>ACTIONS</b>
	<p>Did VA ever notify the individual (or the VA claimant) that medical expenses were considered in the VA payment?</p> <ul style="list-style-type: none"> <li>• <b>Yes or unknown</b> - continue in this step.</li> <li>• <b>No</b> - go to Step 3. No payment for unusual medical expenses are included</li> </ul> <p>Has the individual (or the VA claimant) ever reported medical expenses to VA?</p> <ul style="list-style-type: none"> <li>• <b>Yes or unknown</b> - the payment may include payment for unusual medical expenses. Go to Step 3.</li> <li>• <b>No</b> - no payment for unusual medical expenses is included. Go to Step 3.</li> </ul>
<b>Step 3</b>	<p>Develop for augmentation if dependents may be involved.</p> <p>Does the VA benefit include money for any dependents?</p> <ul style="list-style-type: none"> <li>• <b>Yes or unknown</b> - continue in this step.</li> <li>• <b>No</b> - go to step 4.</li> </ul> <p>Does the veteran or veteran's surviving spouse have a living spouse or child (including an adult child disabled since childhood)?</p> <ul style="list-style-type: none"> <li>• <b>Yes</b> - the payment may include an augmented portion for a dependent. Go to step 4.</li> <li>• <b>No</b> - no augmented payment is included. Go to step 4.</li> </ul>

<b>STEPS</b>	<b>VA COMPENSATION AND PENSION PROCEDURES</b> <b>ACTIONS</b>
<b>Step 4</b>	<p>Screen for an aid and attendance or housebound allowance.</p> <p>Is the individual:</p> <ul style="list-style-type: none"> <li>• Alleging an aid and attendance or housebound allowance; or</li> <li>• Is housebound; or</li> <li>• Is blind; or</li> <li>• Is unable to dress or care for him/herself; or</li> <li>• Is single and severely and permanently disabled or otherwise appears to require the assistance of someone else on a day-to-day basis <ul style="list-style-type: none"> <li>○ <b>Yes</b> - continue in this step.</li> <li>○ <b>No</b> - no payment for aid and attendance or housebound allowance is included. Go to Step 5.</li> </ul> </li> </ul> <p>Ask the individual if he receives an aid and attendance or housebound allowance.</p> <ul style="list-style-type: none"> <li>○ <b>Yes</b> - the payment may include an aid and attendance or housebound allowance. Go to step 5.</li> <li>○ <b>No</b> - no payment for aid and attendance or housebound allowance is included. Go to Step 5.</li> </ul>

STEPS	VA COMPENSATION AND PENSION PROCEDURES ACTIONS
Step 5	<p>Are unusual medical expenses, augmentation, or an aid and attendance or housebound allowance at issue in the case?</p> <ul style="list-style-type: none"> <li>• <b>Yes</b> - these payments must be excluded as they are not income for AG purposes. <ul style="list-style-type: none"> <li>○ Request that VA verify the amount of the compensation/pension received exclusive of any payment for augmentation, unusual medical expenses, and aid and attendance or housebound allowances. Subtract the amount from the compensation and pension, as this is not countable for AG purposes.</li> </ul> </li> <li>• <b>No</b> - verify the gross amount and frequency of payment using (in order of priority): <ul style="list-style-type: none"> <li>○ A VA award letter or comparable document in the individual's possession;</li> <li>○ A benefit check in combination with a signed statement from the individual that provides the frequency of payment and affirms that VA makes no deductions (such as insurance premiums, loan payments, and overpayment deductions)</li> <li>○ <b>Note:</b> To verify certain <b>current</b> benefit information for veterans and surviving spouses, you may call the VA at 1-800-827-1000.</li> </ul> </li> </ul> <p>Count the verified compensation/pension payment as unearned income. The \$20 General Exclusion <b>does not</b> apply. STOP</p>

<b>STEPS</b>	<b>VA COMPENSATION AND PENSION PROCEDURES</b> <b>ACTIONS</b>
<b>Step 6</b>	<p>The payment is not needs based.</p> <p>Verify the gross amount and frequency of payment using (in order of priority):</p> <ul style="list-style-type: none"> <li>• A VA award letter or comparable document in the individual's possession;</li> <li>• A benefit check in combination with a signed statement from the individual that provides the frequency of payment and affirms that VA makes no deductions (such as insurance premiums, loan payments, and overpayment deductions)</li> </ul> <p><b>Note:</b> To verify certain <b>current</b> benefit information for veterans and surviving spouses, you may call the VA at 1-800-827-1000.</p> <p>Count the verified payment as unearned income. The \$20 General Exclusion <b>does apply</b>.</p>

## 72. VA Educational Benefits

### Unearned Income

VA provides educational assistance under a number of different programs including vocational rehabilitation. Veterans and dependents and survivors of veterans may be eligible for educational benefits.

#### 72.1. Income Treatment

VA educational benefits other than those listed below are unearned income and are subject to the unearned and general income exclusions.

#### 72.2. What Is Not Income

**72.2.1. Vocational Rehabilitation**

Payments made as part of a VA program of vocational rehabilitation are not income. This includes any augmentation for dependents.

**72.2.2. Withdrawal of Contributions**

Any portion of a VA educational benefit which is a withdrawal of the veteran's own contribution is conversion of a resource and is not income.

**72.2.3. Augmented Benefits**

Benefits issued under Chapter 31 (Training and Rehabilitation for Veterans with Service Connected Disabilities) or a VA program of vocational rehabilitation may be augmented. The augmented portion of the payment is not income to the individual.

**72.3. Contributory/Non-Contributory Programs**

Some VA educational benefits are based on contributions by the veteran and some are not. A “contributory” VA educational program is one in which the veteran contributed to the educational fund while in the service and VA matches the money when the veteran withdraws it to pursue an education. A “non-contributory” VA educational program is one in which the veteran did not contribute to the educational fund.

**72.3.1. “Contributory” Programs**

Only one of the VA educational benefits programs is contributory, Chapter 32 (Veterans Educational Assistance Program (VEAP). Payments from this program may include funds the individual contributed and VA funds. Any portion of a VA educational benefit which is a withdrawal of the veteran's own contribution is conversion of a resource and is not income. The remaining portion of the benefits is **unearned income** subject to the exclusion for educational expenses.

**72.3.1.1. Verification**

Verify this information with the VARO. Ask them to verify the dollar amount of the periodic payments and the amount of the payment that represents a return of the veteran's own contribution.

**72.3.2. “Non-Contributory” Programs**

The following VA educational programs are non-contributory. All benefits received under these programs are unearned income subject to the exclusion for educational expenses.

- Chapter 30 (Active Duty Educational Assistance Program (“new” GI Bill)) —
- Chapter 31 (Training and Rehabilitation for Veterans with Service Connected Disabilities)
- Chapter 35 (Survivors and Dependents Educational Assistance Program)
- Chapter 106 (Selected Reserve Program)

#### **72.4. Frequency Of Payment**

Payments are usually made monthly only for those months the veteran is in school. If school attendance is less than full time, the payments may be made less frequently.

#### **72.5. Exclusions**

Any portion of a grant, scholarship, or fellowship used for paying tuition, fees, or other necessary educational expenses is excluded from income.

Only that portion of an educational payment which is income to the individual obtaining the education is subject to the exclusion for educational expenses. The augmented portion which is income to the **dependent of the student** is not subject to this exclusion.

##### **72.5.1. Tuition, Fees, and Other Necessary Educational Expenses**

Educational expenses include laboratory fees, student activity fees, transportation, stationery supplies, books, technology fees, and impairment-related expenses necessary to attend school or perform schoolwork (e.g., special transportation to and from classes, special prosthetic devices necessary to operate school machines or equipment, etc.).

Deduct the amount of tuition, fees, and other necessary educational expenses from the gross amount of the assistance. Use any **reasonable method** for deducting educational expenses from income.

### **72.5.1.1. Verification of Expenses**

Determine the amount of tuition, fees, and other necessary educational expenses.

- Use receipts, bills with cancelled checks, contact with the provider, etc., to verify expenses paid. If an expense is verified as incurred but not paid, assume the individual will pay the expense unless you have reason to question the situation. No follow-up is required if the assumption is applied.
- Use your judgment to determine whether payment of an expense was a necessary part of obtaining an education.
- A signed allegation is acceptable evidence of expenses when it is unreasonable to obtain other evidence (e.g., daily bus-fare, small expendable items, etc.). Do not apply this tolerance to major expenses such as tuition, fees, and books.

### **72.5.2. Other Exclusions**

The unearned general income exclusions may be applied to VA educational assistance. They are applied to the balance remaining after the exclusion of necessary educational expenses.

## **73. VA Unusual Medical Expenses Payment**

### **Not Income**

VA considers unusual medical expenses when determining some needs-based pension and compensation payments. Expenses which exceed 5 percent of the maximum annual VA payment rate are considered unusual. The amount of the unusual medical expenses is deducted from countable income when computing the VA payment. As a result, the veteran, survivor, or dependent may receive a higher monthly VA payment, an extra payment, or an increase in an extra payment.

### **73.1. Income Treatment**

VA payments resulting from unusual medical expenses are **not income**.

### 73.2. Resources

Any unspent VA payments resulting from unusual medical expenses are resources if retained into the calendar month following the month of receipt.

### 73.3. Verification

It is necessary to determine if the individual's payment includes an additional amount for unusual medical expenses but it is not necessary to verify the actual amount of them. It is necessary to verify the amount of compensation or pension that is received.

## 74. Veterans' Children with Certain Birth Defects Payments

### Unearned Income

The Department of Veterans Affairs (VA) provides three types of benefits to natural children of veterans:

- Benefits for Vietnam veterans' children born with spina bifida,
- Benefits for Korea service veterans' children born with spina bifida, and
- Benefits for women Vietnam veterans' children born with certain birth defects.

Children do not receive benefits under more than one of these programs. VA determines eligibility for VA benefits.

### 74.1. Child

For purposes of this VA benefit, the **child status is not changed by age or marital status.**

### 74.2. Exclusion

These types of VA benefits are excluded from income and resources for AG purposes.

**Note:** Interest and dividends earned on unspent payments are also excluded from income.

### 74.3. Verification

Use documents such as letters or notices from VA to verify the type of payment.

- If documents from VA show the type of the payment, use the documents as proof of the type of payment.
- If documents from VA do not show the type of the payment or no documents are available to verify the type of payment, contact VA.

## **75. Victims' Compensation Payments**

### **Unearned Income**

Some states have established funds to compensate victims of crime. Payments issued from such a state-established fund are excluded unearned income.

#### **75.1. Exclusion**

Any payment received from a fund established by a State to aid victims of crime is excluded from income.

#### **75.2. Verification**

Verify that the compensation came from a state-established fund to aid victims of crime. This can be done by using documents in the individual's possession, contacting the provider or using a precedent. Once verified accept the individual's allegation of amounts and date of receipt and exclude the payment without further development.

## **76. Wages**

### **Earned Income**

Wages are what an individual receives (before deductions) for working as someone else's employee. Absent evidence to the contrary, if FICA taxes have been deducted from an item assume it meets the definition of wages.

**Note:** Under certain conditions, services performed as an employee are deemed to be self-employment rather than wages (e.g., ministers, real estate agents, newspaper vendors, statutory employees, etc.). See Self-Employment Chapter I – 58.

#### **76.1. Wages May Take The Form Of:**

- **Salaries** — These are payments (fixed or hourly rate) received for work performed for an employer.
- **Commissions** — These are fees paid to an employee for performing a service (e.g., a percentage of sales).

- **Bonuses** — These are amounts paid by employers as extra pay for past employment. (e.g., for outstanding work, length of service, holidays, etc.)
- **Severance pay** — This is payment made by an employer to an employee whose employment is terminated independently of his wishes or payment is made due to voluntary early retirement.
- **Special payments received because of employment** — These are items such as vacation pay, advanced/deferred wages, etc.
- **Sick pay** received within 6 months after stopping work, which is not attributable to the employee's contribution.
- **AmeriCorps and National Civilian Community Corps Payments**
- **Tips** – Tips are earned income when they equal or exceed \$20 per month.

## 76.2. Income Treatment

Wages are **earned income** and are subject to the earned and general income exclusions.

### 76.2.1. Wage-Related Payments

Employers make various payments on behalf of their employees that are **not** earnings.

The following payments by an employer are not income unless the funds for them are deducted from the employee's salary:

- Funds the **employer** uses to purchase qualified benefits under a cafeteria plan;
- Employer contributions to a health- insurance or retirement fund;
- The employer's share of FICA taxes or unemployment compensation taxes, in all cases;
- The employee's share of FICA taxes or unemployment compensation taxes paid by the employer on wages for domestic service in the private home of the employer or for agricultural labor only, to the extent that the employee does not reimburse the employer.

### 76.3. When To Count

Wages for each month count at the earliest of the following points:

- when they are received, or
- when they are credited to the individual's account, or
- when they are set aside for the individual's use (i.e., the employer sets aside the wages for payment at a future date as requested by the employee.

#### 76.3.1. Wage Advances And Deferred Wages

Advances are payments by an employer to an individual for work to be done in the future. Wages are considered “deferred” if they are received later than their normal payment date. Types of wage payments which may be deferred include vacation pay, dismissal and severance pay, back pay, bonuses, etc.

##### 76.3.1.1. Wage Advances

An advance is wages in the month received.

##### 76.3.1.1.1. Verification Of Advance

Assume that an advance on wages meets the definition of wages (as opposed to being a loan), absent evidence to the contrary. Count such advances on wages as income when received.

##### 76.3.1.2. Deferred Wages

- Wages that are deferred **due to circumstances beyond the control of the employee** are considered earned income when actually received.
- Wages that are deferred **at the employee's request or by mutual agreement with the employer** are considered earned income when they would have been received had they not been deferred.

#### 76.3.1.2.1. Verification of Deferment

If the individual alleges or other evidence shows that wages were deferred, request from the employer an explanation of the reason for the deferment. If the employer:

- **Provides an explanation**, document the file with the employer's explanation.
- **Is uncooperative but the individual satisfactorily explains**, document the file with the individual's signed statement.
- **Is uncooperative and the individual cannot satisfactorily explain**, document the file with a statement to that effect and assume that the wages were available to the employee when they would have been received had they not been deferred.

### 76.4. Verification

#### 76.4.1. Verification Not Required

Verification of wages is not required for an individual who:

- Alleges he has not worked or received earnings (e.g., wages/sick pay) in any month from three months prior to the month of application through the current month and you have no reason to question the allegation, or
- Alleges earnings (alone, or in combination with other income) that make him clearly ineligible for AG after consideration of all applicable exclusions, or
- Is being denied AG for reasons other than earnings.

#### 76.4.2. Verification Required

Verification of wage amounts, source, and frequency of receipt is required whenever an individual alleges (or you believe) he received wages, sick pay, or temporary disability payments unless verification is not required as noted above.

**76.4.3. Verification Periods - Applications and Redeterminations**

Verify income received in the three calendar months prior to the month of application/redetermination.

**76.4.4. Primary Verification of Wages**

The following proofs, in order of priority, are acceptable evidence of wages:

- **Pay slips** (original or issued by the employer) — must show the individual's name or SSN, gross wages, and period covered by the earnings.
  - Accept the individual's signed allegation of when earnings were received if it is not shown on the pay slip.
  - If not all pay slips are available, but the wages attributable to the missing pay slip(s) can be determined by other evidence (e.g., year-to-date totals), it is not necessary to obtain the missing pay slip(s).
  - Pay slips that do not contain all the required information may be used in conjunction with other evidence; however, any discrepancies must be resolved.
  - When original pay slips are requested but the individual provides photocopies or faxed pay slips instead, accept the photocopies as secondary evidence of wages.
- **Oral statement from employer**
  - The case documentation must reflect the date, method, and all relevant details of the contact.
- **Written statement from employer**
  - Pay slips individuals print from a company/government sponsored website may be accepted as primary evidence of wages provided they contain all required information. If the information supplied on the pay slips is questionable (e.g. appears altered or is difficult to read) obtain further evidence of wages from additional sources.

**76.4.5. Secondary Evidence of Wages**

Seek primary evidence before secondary evidence.

- **W-2's/Tax Forms**

Annual wage information obtained from W-2's or Federal/State tax forms is acceptable secondary evidence of wages, but may be used only after appropriate attempts to obtain primary evidence have been unsuccessful.

- If the evidence that can be obtained reflects only an **annual** or **quarterly** wage amount, ask the individual the period covered by the annual/quarterly wage amount, and divide the amount by the number of months for which work is alleged to get monthly wage amounts for those months.

- **Photocopies or Faxed Copies**

When original pay slips are requested but the individual provides photocopies or faxed pay slips instead, accept the photocopies as secondary evidence of wages.

**76.4.6. Verification Is Questionable**

If you have serious reason to question the credibility of pay slips or an oral or written statement from an employer, use other acceptable evidence of wages and document the file to reflect your decision.

**76.4.7. Verification Of Termination Of Wages**

Verify termination of wages whenever an individual alleges wages have terminated. The following proofs, in order of priority, are acceptable evidence of termination of wages:

- Written statement from employer.
- Oral statement from employer, documented on the evaluation of eligibility.

**76.4.8. No Acceptable Evidence of Wages Or Termination Of Wages**

If acceptable evidence (primary or secondary) is not available, the following signed allegations are used as verification of wages or termination of wages:

- **For evidence of wages**, the individual's signed allegation of amount and frequency of wages.
- **For evidence of termination of wages**, the individual's signed allegation of termination of wages (including termination date and date last paid).

#### **76.4.8.1. Documentation**

When a signed allegation is used as the sole evidence of wages or termination of wages, the case documentation must reflect what steps were taken to obtain acceptable evidence and why they were unsuccessful.

## **77. Worker's Compensation (WC)**

### **Unearned Income**

Worker's compensation (WC) payments are awarded to an injured employee or his /her survivor(s) under Federal and State WC laws, such as the Longshoremen and Harbor Workers' Compensation Act. The payments may be made by a Federal or State agency, an insurance company, or an employer.

#### **77.1. Income Treatment**

The WC payment less any expenses incurred in getting the payment is unearned income and is subject to the unearned and general income exclusions.

#### **77.2. Expenses of Obtaining WC**

##### **77.2.1. Amounts Designated for Expenses by Authorizing or Paying Agency**

Any portion of a WC award or payment **that the authorizing or paying agency designates** for medical expenses, legal or other expenses attributable to obtaining the WC award is not income. The expenses may be **past, current, or future**. The WC payments designated for such expenses may be received in a lump sum or as a continuing payment.

##### **77.2.2. Other Amounts Claimed for Expenses**

If an individual alleges having incurred expenses that exceed amounts designated for expenses above, or for which no amount was

designated, the normal rules pertaining to the expenses of obtaining income apply. See Chapter H – 7.

### **77.3. Verification**

Use an award notice to verify WC payments. If such a notice is not available, obtain information from the Federal or State agency, insurance company, or employer. (The address of the local Federal Employee's Compensation agency or the State Worker's Compensation Office should be in the local phone directory.)

#### **77.3.1. Verifying Amounts Designated as Expenses by Authorizing or Paying Agency**

If the WC award notice includes monies designated for expenses listed above, but does not specify the amount designated, contact the paying agency (i.e., the Federal or State agency, insurance company, or employer) to verify the amount of the WC award that is designated for such expenses.

#### **77.3.2. Verifying Other Amounts Claimed for Expenses**

Follow the instructions in Chapter H – 7 to verify expenses that exceed the designated amounts or for which no amounts are designated.