

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HUMAN SERVICES  
APPEALS OFFICE  
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Docket # 14-2059  
Hearing Date 12/08/14

Date: December 9, 2014

**ADMINISTRATIVE HEARING DECISION**

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

**THE DHS POLICY MANUAL: FOOD STAMPS**  
SECTION: 1038.25 GROSS AND NET INCOME AND ELIGIBILITY STANDARDS

The facts of your case, the Agency policy, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant) and Agency representatives: Aline Guertin, Valter Resendes and the Corrective Action Unit.

Present at the hearing were: You, and Agency representative: Aline Guertin.

**ISSUE:** Were the appellant's Snap benefits reduced per Agency Policy in October of 2014?

DHS POLICIES: Please see the attached **Appendix** for pertinent excerpts from the Department of Human Services Policy Manual.

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

**DISCUSSION OF THE EVIDENCE:**

## **DISCUSSION OF THE EVIDENCE:**

### **The Agency representative testified:**

- The Agency received a SNAP re-certification form with Adoption Subsidy income and Social Security income for the appellant.
- The appellant did present proof of housing expenses and the rent was lower.
- She received the standard deduction.
- The Agency used the appellant's unearned income of \$1461.00 which is Social Security and Adoption Subsidy.
- She received credit for home expenses.
- She is receiving the correct amount for a family of two.

### **The Appellant testified:**

- She did not understand why her Snap benefit amount changed.
- She feels she does not have enough benefits for a 15 year old boy.
- With all the other expenses she has, she does not think she is receiving enough benefits.
- She did not know Adoption Subsidy was counted as income.

## **FINDINGS OF FACT:**

- The appellant is active on the Snap program.
- She does receive Social Security and Adoption Subsidy.
- The countable gross monthly income was \$1461.00.
- The appellant's benefits were reduced to \$56.00.
- The appellant was sent written notice of this on October 20, 2014.
- The appellant filed an Appeal received by the Agency on October 28, 2014.
- The hearing was held on December 8, 2014.

## CONCLUSION:

The issue to be decided is whether the appellant received the proper amount of Snap benefits in October 2014.

A review of Agency Food Stamp Policy reveals that gross and net income standards for the household size are used to determine eligibility for an applicant household. Households that do not contain an elderly or disabled member must meet both the gross income eligibility standards and the net income eligibility standards for the Supplemental Nutrition Assistance Program. The definition of elderly for Food Stamp purposes is 60 years old.

In this case there is someone in the household who is disabled. The Agency used the appellant's unearned income, and then applied deductions to determine net income.

When the appellant did her re-certification October 2014 she provided proof of income and proof of expenses.

The Agency testified that they calculated her benefits by using her unearned income of \$1461.00 and then gave her the standard deduction, the excess shelter deduction and looked at her medical expenses leaving her countable income of \$1003.00 for a family of two which makes her SNAP benefits \$56.00 a month.

The appellant did state that the Agency used her correct unearned income; however does not believe they should count Adoption Subsidy.

The federal poverty guidelines are used by the SNAP program to determine benefit amounts per family size.

The appellant testified that she thought that the amount she receives is too little because it causes her to run out of food money.

Further review of Policy indicates that the Agency should include as income foster care and/or guardianship payments for children or adults who are considered members of the SNAP household. (1008.15.10.70)

After careful review of Agency Policy and the evidence and testimony given, this Appeals Officer finds that the appellant's Snap benefits were calculated per Agency Policy for a household of two; therefore her request for relief is denied.



Geralyn B. Stanford  
Appeals Office

## APPENDIX

## **1008.15 TYPES OF COUNTABLE INCOME**

REV:10/1987

Except for the exclusions listed in 1008.10, all payments received by household members are income for food stamp purposes.

Income is categorized as either earned or unearned.

### a. (7 CFR 273.9) **Unearned Income**

REV:01/2009

The following types of income are considered unearned: (This list is not inclusive.)

- Assistance Payments
- Pensions, Social Security
- Support and Alimony
- Educational Loans and Grants
- Managed Income
- Garnishments
- Grants, Interest Payments
- Income from Excluded Household Members
- Certain Rental Income
- Certain "Vendor" Payments
- Trust Withdrawals
- Deemed Income from an Alien's Sponsor
- Income of Individuals Disqualified for an IPV
- Foster Care Payments

### **1008.15.10.05 (7 CFR 273.9) Assistance Payments**

REV:11/2000

Assistance payments from Federal or federally aided public assistance programs, such as Supplemental Security Income (SSI), RI Works Program (RIW), General Public Assistance (GPA) or other assistance programs based on need, are considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt under the provisions of 1008.10.10.

Assistance payments from programs which require as a condition of eligibility the actual performance of work without compensation other than the assistance payments themselves are considered unearned income.

### **1008.15.10.10 (7 CFR 273.9) Pensions, Social Security**

REV:02/1989

Include as income annuities, pensions, retirement, Veteran's or disability benefits, Worker's or Unemployment Compensation, Social Security benefits, including the SMI amount, or strike benefits.

**1008.15.10.15** (7 CFR 273.9) **Support and Alimony**

REV:11/2000

Any support or alimony payments made directly to the household from non-household members is counted as income. Money deducted or diverted from a court-ordered support or alimony agreement to a third party to pay the household's expenses are also included as income to the household. However, payments specified by the court order or other legally binding agreement to go directly to the third party rather than the household are excluded as vendor payments.

Support payments not required by a court order or other legally binding agreement (including payments in excess of the amount specified in a court order or written agreement) that are paid to a third party rather than the household even if the household agrees to the arrangement are also excluded as a vendor payment.

Any Child Support Bonus paid to RIW recipients through the Office of Child Support Services (OCSS) must be counted as unearned income for food assistance purposes.

**1008.15.10.20** (7 CFR 273.9) **Educational Loans and Grants**

REV:02/1989

Include as income educational loans on which payment is deferred, scholarships, fellowships, educational grants, veteran's educational benefits and the like in excess of amounts excluded under the provisions in Sections 1008.10.20, 1008.10.25, and 1008.10.30.

Also, educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits and the like which are provided to a third party on behalf of a household for living expenses, such as rent or mortgage, clothing, or food eaten at home must be treated as money payable directly to the household (unearned income) and are not excludable as a vendor payment.

**1008.15.10.25** (7 CFR 273.9) **Managed Income**

REV:01/2001

Any or part of a public assistance grant that is diverted to a third party or to a protective payee for purposes such as but not limited to, managing a household's expenses, is considered income to the household and not excluded as a vendor payment except as provided in 1008.10.10. Assistance financed by State or local funds (GPA) which is

as part of such payment, is

considered emergency or special assistance and is excluded if provided to a third party on behalf of the household.

**1008.15.10.30** (7 CFR 273.9) **Garnishments**

REV:02/1989

Include as income wages earned by a household member that are garnished or diverted by an employer, and paid to a third party for a household's expenses, such as rent, are considered income.

However, if the employer pays a household's rent directly to the landlord, in addition to paying the household its regular wages, this rent payment is excluded as a vendor payment. In addition, if the employer provides housing to an employee, the value of the housing is not counted as income.

**1008.15.10.35** (7 CFR 273.9) **Grants, Interest Payments**

REV:02/1989

Include as income payments from government-sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

**1008.15.10.40** (7 CFR 273.9) **Income from Excluded Household Members**

REV:02/1989

The earned and/or unearned income of an individual excluded from the household for failure to comply with the requirement to provide a Social Security Number, or of an individual determined to be an ineligible alien, must be counted as income, less the pro rata share for the individual. (Refer to Section 1016.20.)

**1008.15.10.45** (7 CFR 273.9) **Certain Rental Income**

REV:02/1989

Include as income the gross income, minus the cost of doing business, derived from rental property if a household member is not actively engaged in management of the property at least twenty (20) hours a week.

**1008.15.10.50** (7 CFR 273.9) **Certain "Vendor" Payments**

Include as income monies which are legally obligated and otherwise payable to the household, but which are diverted by the provider of the payment to a third party for household expenses, are counted as income and not excluded as a vendor payment. The distinction is whether the person or organization making the payment on behalf of a household is using funds that are otherwise payable to the household. Such funds include wages earned by a household member and owed to the household, a public assistance grant to which a household is legally entitled, and support or alimony payments in amounts which legally must be paid to a household member. If an employer, agency, or former spouse who owes these funds to a household diverts them instead to a third party to pay for a household expense, these payments are still counted as income to the household. However, if an employer, agency, former spouse or other person makes payments for household expenses to a third party from funds that are not owed to the household, these payments are excluded as vendor payments. (Refer to 1008.10.10.)

**1008.15.10.55** (7 CFR 273.9) **Trust Withdrawals**

REV:02/1989

Include as income monies that are withdrawn or dividends that are or could be received by a household from trust funds considered to be excludable resources, in accordance with 1006.15.35. Such trust withdrawals must be considered income in the month received, unless otherwise exempt under the provisions of 1008.10. Dividends that the household has the option of either receiving as income or reinvesting in the trust are considered as income in the month they become available to the household, unless otherwise exempt.

**1008.15.10.60** (7 CFR 273.9) **Deemed Income from an Immigrant's 's Sponsor**

REV:07/2009

The income and resources of a legal permanent resident's sponsor (and the sponsor's spouse) who has signed a legally binding affidavit of support on or after December 17, 1997 are required to be counted as belonging to the immigrant (or deemed), regardless of actual availability, when determining the sponsored immigrant's eligibility and benefit amount for SNAP benefits unless the immigrant is exempted from sponsorship deeming. Section 1014.55.15.05 outlines exemptions from sponsor deeming. If the immigrant is categorically eligible due to receipt of a TANF-funded service/publication, the resources of the immigrant's sponsor (and the sponsor's spouse) are not counted when determining eligibility for SNAP benefits.

See Sections 1014.55.10 and 1014.55.15 for instructions for calculating the amounts of income and resources to be deemed.

If the sponsor signs an affidavit of support for more than one immigrant, the sponsor's income is pro-rated among the sponsored immigrants.

Actual money paid to the immigrant by the sponsor or the sponsor's spouse is not considered income to the alien unless the amount paid exceeds the amount attributed

(deemed). In such case, the amount paid that actually exceeded the amount deemed would be considered income to the alien in addition to the amount deemed to the alien.

**1008.15.10.65** (7 CFR 273.9) ***Income of Individuals Disqualified for IPV***

REV:02/1989

The earned and/or unearned income of an individual disqualified from the household for an intentional program violation must continue to be attributed in its entirety to the remaining household members. (Refer to Section 1016.20.05.)

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**1008.15.10.70** (7 CFR 273.9) ***Foster Care - Guardianship Payments***

Include as income foster care and/or guardianship payments for children or adults who are considered members of the SNAP household (see Section 1002.30 for provisions regarding including boarders in the household providing the board).

**1008.05** **INCOME**

REV:07/2009

The Food Stamp Act requires that participation be "limited to those households whose income and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet." The standards are established by law and apply to all households applying for Program benefits.

Household income means all income from whatever source excluding only the items specified in 1008.10. The income considered is that received over the period of certification. As this is generally a future period, the income considered is usually that anticipated by the household. Section 1010 discusses how to determine Supplemental Nutrition Assistance Program (SNAP, previously called the Food Stamp Program) income.

Households that contain an elderly or disabled member must meet the net income eligibility standards for the Supplemental Nutrition Assistance Program.

Households that do not contain an elderly or disabled member must meet both the gross income eligibility standards and the net income eligibility standards for the Supplemental Nutrition Assistance Program.

Households that are categorically eligible because they are recipients of RIW cash assistance and/or SSI do not have to meet either the gross or net income eligibility standards. The gross and net income eligibility standards are based on the Federal income poverty levels established as provided in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902 (2)).

SNAP-only categorically eligible households that are recipients of a TANF-funded Service (the RI Department of Human Services TANF Information Publication) must meet the income standards in Section 1038.25.

The gross income eligibility standards for the Supplemental Nutrition Assistance Program for the contiguous 48 states, the District of Columbia, the Virgin Islands and Guam is 185 percent of the Federal income poverty levels for the 48 states and the District of Columbia.

The income eligibility limits are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 states and the District of Columbia.

The annual income poverty guidelines are divided by 12 to determine the monthly gross income standards, rounding the results upward as necessary. For households greater than eight (8) persons, the increment in the Federal income poverty guidelines is multiplied by appropriate federal poverty level percentage, divided by 12, and the results rounded upward, if necessary.

The annual income poverty guidelines are divided by 12 to determine the monthly net income eligibility standards, rounding the results upward, as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is divided by 12, and the results rounded upward, if necessary. The income eligibility standards are listed in Section 1038.25.

## **1008.20 Deductions from Income**

REV:05/2005

The Food Stamp Program allows five (5) deductions from a household's gross income. These deductions are:

- \* the earned income deduction;
- \* the standard deduction;
- \* the excess medical expense deduction;
- \* the dependent care deduction; and
- \* the excess shelter deduction.

### **1008.20.05 Standard Deduction**

REV:01/1988

Effective October 1, 1987, and each October 1 thereafter, the standard deduction is adjusted to reflect changes in the CPI-U for items other than food for the twelve (12) months ending the previous June 30.

These adjustments are based on the previous unrounded numbers, and the result rounded down to the nearest lower dollar increment.

The current standard deduction is located in Section 1038.05 for each household regardless of its income.

### **1008.20.15 Excess Medical Deduction**

REV:10/2012

An excess medical deduction is that portion of total medical expenses in excess of \$35 per month, excluding special diets, incurred by all household members who are elderly or disabled (including disabled veterans or surviving disabled spouses/children of veterans.) The thirty five dollar (\$35) disregard applies to the entire household and not individual members.

A spouse or other person receiving benefits as a dependent of the SSI or disability and blindness recipient is not eligible to receive this deduction, but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. Allowable medical costs are:

- \* Medical and dental care, including psychotherapy and rehabilitation services, provided by a licensed practitioner authorized by state law or other qualified health professional.

- \* Hospitalization, outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state.
- \* Prescription drugs when prescribed by a licensed practitioner authorized under state law, and other over-the-counter medication (including insulin), when approved by a licensed practitioner or other qualified health professional (exception: medicinal marijuana is not

an allowable medical cost for purposes of determining SNAP eligibility and/or benefit level); in addition, costs of medical supplies, sick room equipment (including rental) or other prescribed equipment are deductible.

- \* Health and hospitalization insurance policy premiums. The costs of health and accident policies, such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies, such as those which continue mortgage or loan payments while the beneficiary is disabled, are not deductible.
- \* Medicare premiums, and any cost-sharing or spend-down expenses incurred by Medical Assistance recipients.
- \* Repayments made on a loan when the loan is used to pay a one-time only medical expense. Loan expenses, such as interest, are not allowable as part of the medical expense. If a second mortgage is obtained for medical expenses, repayment is treated as a shelter expense and not as a medical expense.
- \* Dentures, hearing aids, and prosthetics.
- \* Securing and maintaining a seeing eye or hearing dog, including the cost of dog food and veterinarian bills.
- \* Eye glasses prescribed by a physician skilled in eye disease, or by an optometrist.
- \* Reasonable cost of transportation and lodging to obtain medical treatment or services.
- \* Maintaining an attendant homemaker, home health aide, or child care services necessary due to age, infirmity, or illness. In addition, an amount equal to the one-person coupon allotment is deducted if the household furnishes the majority of the attendant's meals. The allotment is that which is in effect at the time of initial certification. The allotment amount is updated at the next scheduled recertification. If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the cost is treated as a medical

1008.20.25 Shelter Expense Deduction

REV:04/2005 Monthly shelter costs in excess of fifty percent (50%) of the household's income after all the above deductions have been allowed. The shelter deduction must not exceed the maximum provided in Section 1038.15 unless the household contains a member who is elderly or disabled as defined in Section 1010.30.05 (includes a disabled veteran or a surviving disabled spouse/child(ren) of a veteran). Such households receive an excess shelter deduction for the monthly cost that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions. The maximum shelter cost deduction is subject to change annually.

Shelter costs include only the following:

\* A standard shelter expense estimate for all homeless households where all members are homeless and are not receiving free shelter throughout the calendar month.

All homeless households which incur or reasonably expect to incur shelter costs in a month shall be eligible for the estimate unless higher costs are verified, at which point the household may use actual shelter costs rather than the estimate. Homeless households which incur no shelter costs shall not be eligible for the standard estimate. The homeless household shelter estimate is located in Section 1038.17.

\* Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments. Payments on second mortgages and home equity loans are allowable shelter costs. Payments on personal loans that are not secured by a lien on the property are not allowable costs even if the bank is listed as a beneficiary on the homeowner's insurance policy. If a household owns a home and lot and later purchases a connecting piece of property, the mortgage payments on the new property can only be allowed as shelter costs if the new property was financed by a second mortgage or other loan secured by the home and lot.

\* Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

\* Charges for heating, cooling, and cooking fuel; electricity; water and sewer; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits are not included as shelter costs. Note that the Standard Utility Allowance must be utilized instead of actual charges if the household incurs charges for heating and/or cooling expenses; see Section 1008.20.25.05.

\* The above shelter costs for the home if not actually occupied by the household because of employment away from home, illness, or abandonment of the home due to natural disaster or casualty loss. For the costs of a vacated home to be included in shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs during the absence of the household; and the home must not be leased or rented in the household's absence. Households claiming utility costs for unoccupied homes must verify the actual expenses; the standard utility allowance must be used if the household incurs heating and/or cooling expenses.

\* Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs do not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source. The cost of repairs as a result of wear and tear, incidental repairs,

1008.20.25 Shelter Expense Deduction

REV:04/2005 Monthly shelter costs in excess of fifty percent (50%) of the household's income after all the above deductions have been allowed. The shelter deduction must not exceed the maximum provided in Section 1038.15 unless the household contains a member who is elderly or disabled as defined in Section 1010.30.05 (includes a disabled veteran or a surviving disabled spouse/child(ren) of a veteran). Such households receive an excess shelter deduction for the monthly cost that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions. The maximum shelter cost deduction is subject to change annually.

Shelter costs include only the following:

\* A standard shelter expense estimate for all homeless households where all members are homeless and are not receiving free shelter throughout the calendar month.

All homeless households which incur or reasonably expect to incur shelter costs in a month shall be eligible for the estimate unless higher costs are verified, at which point the household may use actual shelter costs rather than the estimate. Homeless households which incur no shelter costs shall not be eligible for the standard estimate. The homeless household shelter estimate is located in Section 1038.17.

\* Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments. Payments on second mortgages and home equity loans are allowable shelter costs. Payments on personal loans that are not secured by a lien on the property are not allowable costs even if the bank is listed as a beneficiary on the homeowner's insurance policy. If a household owns a home and lot and later purchases a connecting piece of property, the mortgage payments on the new property can only be allowed as shelter costs if the new property was financed by a second mortgage or other loan secured by the home and lot.

\* Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

\* Charges for heating, cooling, and cooking fuel; electricity; water and sewer; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits are not included as shelter costs. Note that the Standard Utility Allowance must be utilized instead of actual charges if the household incurs charges for heating and/or cooling expenses; see Section 1008.20.25.05.

\* The above shelter costs for the home if not actually occupied by the household because of employment away from home, illness, or abandonment of the home due to natural disaster or casualty loss. For the costs of a vacated home to be included in shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs during the absence of the household; and the home must not be leased or rented in the household's absence. Households claiming utility costs for unoccupied homes must verify the actual expenses; the standard utility allowance must be used if the household incurs heating and/or cooling expenses.

\* Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs do not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source. The cost of repairs as a result of wear and tear, incidental repairs,

and improvements are not allowed for homeowners, renters who work-off their rent, or other renters.

\* For condominium owners, the entire condominium fee is allowable as a shelter cost.

\* Adjustment of Shelter Deduction Effective October 1, 1988, and each October 1 thereafter, the maximum limit for the excess shelter expense deduction is adjusted to reflect changes in the shelter, fuel and utilities components of the housing costs in CPI-U for the twelve (12) months ending the preceding June 30.

These adjustments are based on the previous unrounded numbers, and the result rounded down to the nearest lower dollar increment.

## **1010.20 DETERMINING DEDUCTIONS**

REV:05/2005.

Deductible expenses include only certain medical, dependent care, and shelter costs as described in 1008.20.15, 1008.20.20, and 1008.20.25. Education expenses, the cost of doing business for the self-employed, and legally obligated child support paid to a person not in the household are not deductions but are instead income exclusions, and are handled in accordance with Section 1014.20.15 (student households), Section 1016.15.20 (self-employed households), and Section 1008.20.22 (child support payments).

Categorically eligible SSI recipients entitled to the excess medical deduction and the uncapped shelter expense must receive such deductions, if they incur such expenses, for the period for which they are authorized to receive SSI benefits or the date of the food stamp application whichever is later as discussed in the categorical eligibility provisions (Section 1016.40). Such individuals who are entitled to restored benefits in accordance with those provisions must have their benefits restored using these special deductions if they have such expenses.

## **1010.25 METHOD FOR FIGURING NET MONTHLY INCOME**

REV:10/2012

The following seven (7) steps lead to the determination of a household's SNAP monthly income. In this determination, the rounding technique described in Section 1010.25.10, must be applied.

### **1. Total Gross Income**

Add the total gross monthly earned income of all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment of a farmer are offset in accordance with Section 1016.15.35.

### **2. Net Monthly Income**

Calculate the earned income deduction as described in Section 1038.07 and subtract that amount from the total gross income; add that to the total monthly unearned income, minus income exclusions.

**3. Standard Deduction** Subtract the standard deduction found in Section 1038.05.

income after all the above deductions have been subtracted). The remaining amount, if any, is the excess shelter expense. If there is no excess shelter expense, the net monthly income has been determined. If there is an excess shelter expense, go to the next step.

#### 7. Applying Any Excess Shelter Expense

Subtract the excess shelter expense up to the maximum amount allowed (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other deductions. The maximum amount allowed for the shelter deduction, for those households subject to a shelter maximum, is found in Section 1038.15. For households not subject to a shelter maximum, subtract the full amount of shelter expenses exceeding fifty percent (50%) of net income. The result is the household's monthly net adjusted income.

### **1008.10.15 (7 CFR 273.10) Income Excluded by Law (Part 1)**

REV:10/2008

Do not count any income that is specifically excluded by any Federal, or local statute from consideration as income for the purpose of determining eligibility for the Supplemental Nutrition Assistance Program.

The following laws provide such exclusion:

\* P. L. 102-325, the Higher Education Amendments of 1992, contain two separate provisions that affect the treatment of payments made under the Higher

Education Act. In regard to Title IV -- Student Assistance, Part F, Section 479B provides that:

Student financial assistance received under Title IV, or under Bureau of Indian Affairs student assistance programs, shall not be counted in the determination of eligibility of any person for benefits

or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

These changes apply to determinations of need for award years beginning on or after July 1, 1993. For example, if a student was awarded a Title IV grant for a school period of June, July, and August of 1993, the provision (for the exclusion of the grant in its entirety) would not apply.

The period of the award is the determining factor, not when the money is paid.

Educational assistance authorized under Title IV includes the following:

- o Basic Educational Opportunity Grants (BEOG or Pell Grants);
- O Presidential Access Scholarships (Super Pell Grants);
  - O Federal Supplemental Educational Opportunity Grants (FSEOG);
- 2. State Student Incentive Grants (SSIG);
- 3. Robert C. Byrd Honors Scholarship Program;
- 4. Federal or State Work Study income wholly or partially funded by Title IV of the Higher Education Act (Note: Not all Federal work study funds come under Title IV of the Higher Education Act. Education assistance that is not funded under Title IV may still be excluded as income if it is used or will be used for paying tuition, fees, or other necessary education expenses at any educational institution);
  - O Federal Family Education Loan Program (Formerly GSL): O Supplemental Loans for students,
    - O PLUS loans for parents,
    - O Robert T. Stafford Student Loans;
  - O Federal Perkins Loan Program- Direct loans to students in institutions of higher education (Perkins Loans, formerly NDSL);
- b. TRIO Grants (Go to organizations or institutions for students from disadvantaged backgrounds);
- c. Robert C. Byrd Honors Scholarship Program; o

High School Equivalency Program; and

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- 3. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970.
- 4. Under P. L. 93-113, the Domestic Volunteer Services Act of 1973, Titles I and II, as amended, payments under Title I of that Act (including payments for such Title I programs as VISTA, University

volunteers must be excluded for those individuals receiving SNAP benefits or public assistance at the time they joined the Title I program, except that households which were receiving an income exclusion for a VISTA or other Title I

subsistence allowance at the time of conversion to the Food Stamp Act of 1977 must continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion.

Temporary interruptions in SNAP participation do

not alter the exclusion once an initial determination has been made. New applicants who were not receiving public assistance or SNAP benefits at the time they joined VISTA shall have these volunteer payments included as earned income.

Payments under Title II including the Retired Senior Volunteer Program (RSVP), Foster Grandparents, and Senior Companion Program are also excluded.

- iv. Income received by individuals age 55 and older, under the Senior Community Service Employment Program (SCSEP) authorized under the Title V of the Older Americans Act.

These funds are excluded by Public Law 100-175 as income for SNAP purposes.

- v. The Job Training Partnership Act (JTPA). Training allowances paid to individuals participating in programs under JTPA are excluded as income with the exception of earnings paid to an individual age 19 or over, participating in an on-the-job training program under the Workforce Investment Act. Earnings include monies paid under the Workforce Investment Act and monies paid by the employer.

P. L. 101-610, Section 117(d), 11/16/90, National and Community Service Act (NCSA) of 1990, provides that Section 142(b) of the JTPA applies to projects conducted under Title I of the National and Community Services Act of 1990 as if such projects were conducted under the JTPA. Title I includes three Acts: 1)

Serve-America: The Community Service, Schools and Service-Learning Act of 1990, 2) the American Conservation and Youth Service Corps Act of 1990, and 3) the National and Community Service Act. There are about 47 NCSA programs and they vary by State. Most of the payments are made as a weekly stipend or for educational assistance. The Higher-Education Service-Learning program

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and the AmeriCorps umbrella program some under this Title. The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program.

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payments received either as a lump sum payment or an advance payment included as part of the paycheck (or as a reduction in taxes that would otherwise have been paid at the end of the year);

- \* Payments made under P. L. 99-425, Section(e), the Low- Income Home Energy Assistance Act, 9/30/86; in determining any excess shelter deduction, the full amount of such payments shall be deemed to be expended by the recipient household for heating or cooling costs.
- \* Under provisions of P. L. 89-642, the value of assistance to children under the Child Nutrition Act;
- \* As provided in P. L. 100-435, under WIC demonstration projects, coupons which can be exchanged for food at farmers' markets;
- \* Under P. L. 100-485, the value of any child care payments made under Title IV-A , including transitional child care payments are excluded;
- \* "At-risk" block grant child care payments made under Section 5801 of P. L.101-508; no deduction may be allowed for any expense covered by such payments;
- \* Under P. L. 102-586, the value of any child care provided or any reimbursement for costs incurred under the Child Care and Development Block Grant is excluded from income from any other

federal or federally assisted program in which eligibility, or amount of benefits, is based on need.

- \* The mandatory salary reduction amount for military service personnel that is used to fund the G. I. Bill;
- \* Payments made under the provisions of Public Law 100-383, entitled "Wartime Relocation of Civilians", to certain United States citizens of Japanese ancestry, resident Japanese aliens and certain eligible Aleuts (natives of the Aleutian Islands.)
  
- \* All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation retroactive to January 1, 1989. The disabled veteran will receive yearly payments; survivors of the deceased disabled veterans will receive a lump-sum payment. These payments were disbursed by the Aetna Insurance Company. Note: Veterans' benefits were authorized under provisions of P. L. 102-4, Agent Orange Act of 1991, to some
  
- \* veterans with service connected disabilities resulting from exposure to Agent Orange

P. L. 101-239 also excluded payments made from the Agent Orange settlement fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D. L/No. 381 (E.D.N.Y.).

- \* Utility reimbursements made by HUD directly to the household or via a two-party check payable to both the household and the utility provider are excluded from income and are not allowable shelter costs.
- \* Under P. L.110-246, combat-related military pay is excluded from consideration as income when determining Food Stamp eligibility and benefit levels if the additional pay is the result of deployment to or service in a combat zone and was not received immediately prior to serving in a combat zone.
- \* Any monetary allowances paid by the Veterans Administration under P.L. 104-204, Section 1805(d), to a child of a Vietnam Veteran for any disability resulting from Spina Bifida suffered by such child.
- \* Any monetary allowances paid by the Veterans Administration under P.L. 106-419, Section 1815 (a), to any individual with one or more covered birth defects if he or she is a child of a female Vietnam veteran.
- \* Under P.L. 103-322, Section 230202, dated 9/13/94, amended Section of the Crime Act of 1984 (42 U.S.C. 10602), compensation paid by a eligible crime victim compensation program is excluded as income to the household

### **NOTICE OF APPELLATE RIGHTS**

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.