## Treatment of Unearned Income from Private Sources

**Subject:** Treatment of Unearned Income from Private Sources

**To:** Regional Directors / Food Stamp Program

Recent regulatory and waiver policy has been focused on allowing States to simplify the reporting of changes in earned income. There has been increasing interest in addressing reporting and budgeting of certain types of fluctuating unearned income as well.

We are announcing several waivers to allow State agencies to simplify the budgeting and reporting of unearned income. There are numerous kinds of unearned income that not only fluctuate, but are unanticipated, making budgeting and reporting of this income difficult. For example, a household may receive child support payments of $50 in January, $30 in March, and $100 in May. This income is generally paid by private individuals directly to the household and includes payments such as child support, alimony and gifts. It does not include unearned income from Federal, State, or local government agencies (such as TANF or SSI), private institutions (banks), or other corporations (former employers) as payments from these sources are generally anticipated by the recipient and or known to the State agency.

Through this memo, we are advising you of several waivers that are available that we believe might simplify how unearned income from private sources is budgeted and reported for food stamp purposes. In addition, we are clarifying existing policy concerning budgeting and reporting such income.

Waiver Option One - 7 CFR 273.12(a)(2)

State agencies may request a waiver of 7 CFR 273.12(a)(2), reporting changes. Households subject to retrospective (without monthly reporting) and prospective budgeting would not be required to report changes in unearned income from private sources during the certification period if the amount of this income was averaged over the certification period. For example, a household receives intermittent, fluctuating alimony payments for several months prior to application. A State agency would average this unearned income and use that amount to budget for the upcoming certification period (an appropriate time period for averaging this income may be as long as six months). Households would not be required to report deviations from this averaged amount during the certification period. A State agency would be required to act on reported changes only if it determined that the change is ongoing and would change the averaged amount. If an averaged amount was not taken into consideration at certification, and a household reports a new source of such income, the State agency would be required to act on this change.

Waiver Option Two: 7 CFR 273.21(f)(2)

State agencies may request a waiver of 7 CFR 273.21(f)(2). For households that are subject to monthly reporting and retrospective budgeting, State agencies could prospectively budget unearned income from private sources. Under normal circumstances, a household would be required to report changes in income that was prospectively budgeted in accordance with 7 CFR 273.12. However, if the State agency also had the waiver described in option one, the household would not have to report a change in unearned income from private sources during the certification period. Or, if a household could not reasonably anticipate receiving alimony during the certification period, then the State agency would not use alimony to budget for the upcoming certification period.

Waiver Option Three: 7 CFR 273.12(a)(1)

State agencies may apply for a waiver to allow households to report a change of $100 as opposed to a change in $25 in unearned income from private sources.

Policy Clarifications

- 7 CFR 273.10(c)(1) provides that, "If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency." For example, a household has received child support payments of differing amounts only twice in the past six months. The amount of this income, and when it will be received again, is uncertain. Therefore the State agency should not count child support when anticipating income for the certification period.

- 7 CFR 273.10(c)(2) provides, "Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged." For example, a household usually gets one child support payment a month. However, in the month of June, the household receives two, one for the previous month and one for the current month. The additional payment should be counted for the month it was expected to be received (May) and not when it was actually received (June). Likewise, if a payment is received early, such as if two payments are received in May for the months of May and June, then the additional payment should be counted for the month it was expected to be received (June), and not when it was actually received (May).

- 7 CFR 273.9(c)(8) provides that money received in the form of a non-recurring lump-sum payment, including retroactive lump sum payments, shall not be counted as income in the month it is received. For example, a household receives a lump sum payment for six months of back-owed child support. This payment should not be counted as income.

Please advise your State agencies of these policy clarifications regarding the treatment of unanticipated income, as well as to the availability of these waivers. Please work with them to submit requests.

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Signed 1-10-01