

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-01-50
FINANCIAL ELIGIBILITY REQUIREMENTS
FAMILIES FIRST PROGRAM**

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1240-01-50-.01 FINANCIAL ELIGIBILITY REQUIREMENTS. This chapter provides the policies for consideration of resources and income for all assistance groups (including legally responsible grantee relatives) applying for Families First. If any nonfinancial criterion is not met, the application may be denied without a determination of financial eligibility.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.02 RESOURCE ELIGIBILITY STANDARDS. Eligibility shall exist if the value of nonexempt resources, both liquid and non-liquid assets for the AG, do not exceed \$2,000. Resources in excess of this limit result in ineligibility.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; 45 C.F.R. § 233.20; and § 1115 of the Social Security Act. **Administrative History:** Original rule files December 2, 1996; effective February 15, 1997.

1240-01-50-.03 APPLICATION OF RESOURCE LIMITS. The AG shall report all resources at the time of application. The AG's resources at the time the application is filed and at each redetermination of eligibility shall be used to determined if the AG's resources meet the eligibility standard.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.04 VERIFICATION OF RESOURCES. The value of resources will be verified prior to approval and at each redetermination of eligibility.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.05 EXEMPT RESOURCES. In determining the resources of an AG, only the following shall be exempt:

- (1) Home And Lot.

(Rule 1240-01-50-.05, continued)

- (a) The home owned or being purchased and occupied by the Families First assistance group and the property surrounding the home which is not separated from the home by intervening property owned by others is exempt. Public rights of way (such as roads and/or other public easements) which run through the property surrounding the home do not affect its classification as homestead property. Temporary absences from the home do not affect the classification and/or exemption of the home if the assistance group has not acquired another home and intends to return to the exempted home at a specified time. Proceeds from the sale of homestead property or from a recovery due to a casualty/disaster loss of same, will remain exempt for three months following receipt of the proceeds if the AG expresses an intent to reinvest in the same homestead or in a substitute homestead.
- (2) Other Property.
- (a) Basic Maintenance Items. Excluded are basic maintenance items essential to daily living such as clothing, furniture, appliances, and other similar essential household goods and equipment of limited value.
 - (b) Certain Real Property. Real property which is not exempted as a homestead pursuant to 1240-01-50-.05(1) is exempt as a resource if the recipient is making a good faith effort to sell and signs an agreement to repay the Families First grant received during the period of exemption. Exemption of the property, not to exceed nine (9) months, causes an overpayment except when the net proceeds plus other resources at the beginning of the exclusion period are within the resource limit.

Repayment of the grant is made from the sale proceeds not to exceed the total of the net proceeds. Any proceeds remaining after repayment of the grant is considered a resource.

If assistance is terminated for any reason prior to the end of the 9-month exemption period, the assistance group has an overpayment subject to the usual collection procedures.
 - (c) Burial Plots. One burial plot for each family member may be excluded from consideration as a resources.
- (3) Exempt Vehicles.
- (a) One operable family motor vehicle used to provide transportation of persons or goods in which the equity value is \$4,600 or less.
 - 1. Equity is determined by deducting the amount of encumbrances from the fair market value. Fair market value is the value listed in the N.A.D.A. Used Car Guide.
 - 2. If a vehicle is not listed in the N.A.D.A. Guide, or its value is claimed to be different from the value listed, its value may be taken as that stated by one reputable automobile dealer.
 - (b) Equity value over \$4,600 of one vehicle, and equity value of all other vehicles owned by an AG member will be counted as a resource to the AG and will be applied to the \$2,000 resource limit set forth in 1240-01-50-.02.

(Rule 1240-01-50-.05, continued)

- (4) Burial Policies. Burial policies (not prepaid burial agreements) shall be considered exempt for resource purposes.
- (5) Pension Funds. The cash value of pension plans or funds shall be exempt.
- (6) Inaccessible Resources. The cash value of resources which are not currently accessible to the assistance group or which cannot reasonably be brought to a condition of current availability are exempt. Nonavailability of such resources must be determined prior to approval and at each redetermination of eligibility. Also, resources whose cash value is not accessible to the AG are exempt, such as, but not limited to: security deposits on rental property or utilities; property in probate; real property which the AG is making a good faith effort to sell at a reasonable price and which has not been sold; and jointly owned resources determined to be inaccessible.
 - (a) Irrevocable Trust Funds
 1. When a person applying for or receiving Families First has a trust which is claimed as inaccessible, she/he (or in the case of a child, his/her parent or other relative caring for him/her) will have 60 days from the date of application/redetermination, or from the time the trust is reported/discovered to attempt to have this resource made currently available. The following are exceptions:
 - (i) If the trust is established by a will, the terms of the trust will be followed as written; or
 - (ii) If a trust is producing regular income which is available to the beneficiary, the body of the trust will not be considered a currently available resource, but the income will be counted in the determination of eligibility/amount of payment.
 - (iii) If a trust has been set up for a minor (usually until age 18) and the amount of the trust account is \$5,000 or less, the caretaker will not be required to attempt to make the trust accessible. In most instances, the legal fees involved in such an attempt would erode the value of the trust to the extent that it would not be cost effective to bring it to a state of availability.
 2. If the caretaker is willing to seek to have the trust made currently available, he/she may be included in the assistance unit. If such a person does not initiate action to make the trust available within 60 days, the caretaker will be removed from the assistance group.
 3. If the caretaker has initiated the necessary action, assistance may be continued pending further orders of the court. The court's decision, as written in a new or amended order, will be binding. If all or part of the funds in trust are made available at any time, they must be taken into account when received.
 - (b) Prepaid Burial Agreements or Burial Trusts. Exclude one burial agreement with equity value of \$1,500 or less (whether revocable or irrevocable) per family member as a resource.
 - (c) Equipment. Equipment used in a self-employed enterprise to produce income is considered an inaccessible resource.

(Rule 1240-01-50-.05, continued)

- (7) Resources Excluded By Law. The following types of payments are excluded by law from consideration as income or as resources in the determination of eligibility and level of benefit:
- (a) Relocation Assistance Payments. Relocation payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are excluded.
 - (b) Alaska Native Claims Payments and Sac and Fox Indian Claim Payments received under the Alaska Native Claims Settlement Act, PL 92-203, § 21(a) and the Sac and Fox Indian Claims Agreement, PL 94-189 are excluded.
 - (c) Payments for Certain Indian Tribes. Payments derived from certain submarginal lands of the United States which are held in trust for certain Indian Tribes are excluded.
 - (d) Job Training and Partnership Act. Payments received pursuant to the Job Training and Partnership Act (JTPA).
 - (e) Payments from Disposition of Funds of Ottawa Indians. Payments made to the Grande River of Ottawa Indians under PL 94-540 are excluded.
 - (f) Student Grants and Loans. Education grants and loans to Families First AG members (or stepparents or parents of a minor in the home) are excluded.
 - (g) Energy Assistance Payments. Any payments or allowance made by any federal, state or local organization for the purpose of energy assistance are not counted.
 - (h) Domestic Volunteer Service Act. Payments received by volunteers for services performed in programs stipulated in the Domestic Volunteer Service Act of 1973 as amended are excluded.
 - (i) Payments from Crisis Intervention Program. One-time payments to assist with utility costs from the Crisis Intervention Program are excluded.
 - (j) Benefits from Food Programs. The following benefits from food programs are excluded:
 - 1. WIC;
 - 2. Value of Food Stamps;
 - 3. Value of school lunches or other school food programs.
 - (k) Allowances paid under PL 104-204 to children of Vietnam veterans who are born with spina bifida are excluded.
- (8) Resources Of Non-AG Members. Resources of non-AG members, other than those who are disqualified because of an intentional program violation or a Families First Employment and Training Program sanction, are excluded.
- (9) Other Exempt Resources.
- (a) Earmarked Resources. Any governmental payments which are designated for the restoration of the home which has been damaged in a disaster if the household is subject to a legal sanction if the funds are not used as intended are exempt.

(Rule 1240-01-50-.05, continued)

- (b) Prorated Income. Resources, such as those of students or self-employed persons, which have been prorated and counted as income, are exempt.
 - (c) Indian Lands. Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs are exempt.
 - (d) Livestock and poultry consumed as home produce.
 - (e) Up to \$5,000 in profits from a business enterprise may be placed in escrow in a Low Income Entrepreneurial Escrow Account with a micro-lending intermediary program and shall be excluded as a resource; interest earned by such funds shall also be excluded.
 - (f) Proceeds from the sale of exempt property if received as a lump sum will be exempt for a period of up to three (3) months following the sale if intended to be used to replace the exempt resource.
 - (g) Up to \$5,000 in an Individual Development Account for career development goals for a Families First recipient who is a part of an Individual Development Account Pilot Project.
- (10) Handling Of Excluded Funds.
- (a) Excluded liquid assets that are kept in a separate account and that are not commingled in an account with non-excluded funds, shall retain their resource exclusion for an unlimited period of time.
 - (b) Resources which have been excluded as prorated income that are commingled in an account with non-excluded funds shall retain their exclusion for the period of time over which they have been prorated as income (i.e., they will not be counted as both income and resources during the same period of time).
 - (c) All other excluded monies which are commingled with non-excluded funds shall retain their exemption for six months from the date they are commingled. After six months all funds in the commingled account other than those in (a) above are counted as a resource.

Authority: T.C.A. §§ 4-5-201, et seq., 71-1-105, 71-3-154(a)(2), and 71-3-155(d); Public Acts of 1996, Chapter 950; 38 U.S.C. § 1805(d); 42 U.S.C. § 1315(a); 45 C.F.R. § 233.20; 45 C.F.R. § 233.20(a)(3)-(7) and (11); PL 104-204 § 421(b); and § 1115 of the Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002.

1240-01-50-.06 COUNTABLE RESOURCES. The fair market value of liquid resources and the fair market value less encumbrances (equity) of non-liquid resources are used to determine the total countable resources available to the AG.

- (1) The Following Are Counted As Liquid Resources:
 - (a) Cash on hand.
 - (b) A checking or savings account in a bank or other savings institution including credit union. (In a checking account, only that amount which exceeds known monthly income is counted as a resource.)

(Rule 1240-01-50-.06, continued)

- (c) Savings certificates.
 - (d) Stocks and bonds.
 - (e) Burial Agreements. Count the equity value in excess of \$1,500 of one burial agreement per assistance unit member if the burial agreement is revocable and accessible.
 - (f) Proceeds from the sale of exempt property, which was received as a lump sum and intended to be used to replace the exempt resource, if retained longer than three (3) months.
 - (g) Proceeds from estate settlement, if received as a lump sum.
 - (h) Individual Retirement Accounts (IRAs and Keogh Plans). The cash value, minus any penalty for early withdrawal, of IRAs and funds in Keogh plans shall be considered accessible resources, unless the AG can establish otherwise.
 - (i) Other Non-Recurring Lump Sum/Retroactive Payments. Lump sum liquid resources such as the following are considered a resource in the month received, unless specifically excluded from consideration as a resource by other federal laws and regulations;
 - 1. Retroactive Payments such as RSDI, Veterans Benefits, Unemployment Compensation and Workers Compensation;
 - 2. Windfalls, cash gifts, prizes and awards;
 - 3. Income tax refunds;
 - 4. Tax rebates and credits;
 - 5. Refunds of security deposits on rental property or utilities;
 - 6. Vacation pay withdrawn in a lump sum payment by an employee who has been laid off. If the employee chooses not to withdraw his/her vacation pay and leaves the vacation time with the employer in case he/she is called back to work, the value of the vacation pay is counted as a resource.
 - (j) Resources of Non-AG Members. Resources of individuals disqualified because of an intentional program violation or a Families First Employment and Training program sanction count in their entirety to the remaining AG members.
- (2) Countable Non-Liquid Resources.
- (a) Unless otherwise exempt, the equity in all non-liquid resources shall be counted as a resource. Examples are as follows:
 - 1. Non-exempt licensed and unlicensed vehicles;
 - 2. Non-exempt buildings;
 - 3. Non-exempt land;
 - 4. Recreational properties;

(Rule 1240-01-50-.06, continued)

5. Property such as boats, vacation homes and mobile homes, or other property not specifically excluded;
6. Non-exempt personal property; and
7. Insurance policies:
 - (i) The total cash value of all policies is considered in relation to the personal property reserve.
 - (ii) The owner of insurance is considered to be the insured person named in the policy, unless otherwise specified by the insurance company.
- (b) Resources of individuals disqualified because of an intentional program violation or a Families First Employment and Training program sanction count in their entirety to the remaining AG members.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; 45 C.F.R. § 233.20; and § 1115 of the Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.07 SPECIAL RESOURCE SITUATIONS.

- (1) Jointly Owned Resources. An individual's pro rata share of jointly owned resources will be considered as available unless such resources are inaccessible.
 - (a) When the individual can demonstrate that he/she has access to less than a pro rata share, only the portion to which he/she has access will be counted toward the assistance group's resource level.
 - (b) Resources are considered inaccessible to the assistance group if they cannot be practically subdivided and access to their value is dependent on the agreement of the joint owner who refuses to comply.
 - (c) When determining the AG's resource level, ineligible aliens residing with the household shall be considered household members. The resources of an ineligible alien will be counted only when the ineligible alien is the parent or spouse of an AG member.
 - (d) Real property that the AG cannot sell because it only has a life estate, use rights, lifetime occupancy, or dower rights, shall also be considered inaccessible to the AG.
 - (e) Victims Compensation Awards.
 1. Victims Compensation Awards paid in behalf of minors will be treated as irrevocable trusts if:
 - (i) The minor's parent, other caretaker relative or guardian entered into an agreement with the State Claims Commission as to the uses to be made of the funds and signed such an agreement; and
 - (ii) The funds are deposited in accordance with the agreement; and
 - (iii) The funds remain on deposit or are used only according to the terms of the agreement. Any funds withdrawn and used for goods/services not specified in the agreement will be treated as income in the month received.

(Rule 1240-01-50-.07, continued)

2. Victims Compensation Awards paid to adults (age 18 or older) in their own behalf will continue to be treated as non-recurring lump sums.

(2) Resources Of Legally Responsible Relatives.

- (a) The availability of a resource often depends on the individual's legal right to share property which may be in the possession of another person. Therefore, the following rules apply to the treatment of resources of legally responsible relatives of an A/R who live in the home with him/her.

1. Resources of a spouse.

- (i) Real and personal property belonging to the spouse of a relative other than a parent of the dependent child(ren) are not deemed to the assistance group. Real and personal property belonging exclusively to an SSI beneficiary is totally disregarded in determining the eligibility of his/her spouse and the AG in which his/her spouse is included. If property is jointly owned, that portion of the property which belongs to the SSI beneficiary is disregarded. If the proportionate share cannot be determined, the property is considered available in its entirety to each.
- (ii) In stepparent situations, real and personal property belonging exclusively to a stepparent is considered available to the assistance group only when the stepparent is included in the AG.

2. Minor Recipients.

- (i) When a minor in the AG lives with his/her parent(s), the resources of the parent(s) are not deemed to the AG which includes the minor unless the parent(s) are also included in that unit. Resources belonging to an SSI beneficiary parent of a child in the AG are disregarded.

The resources of a child are not considered available to his/her parents or siblings unless the child is included in the AG.

- (ii) When the A/R is a minor living with a relative other than a parent, the resources of the relative are not considered available to the A/R or the A/R's child unless the relative is included in the AG.

The resources of a stepparent are not considered available to a child unless the stepparent is included in the AG.

3. Other Relatives. The resources of relatives other than a parent are not considered available to the child(ren) in the AG unless the relative is included in the AG. If resources of a relative exceed defined limits, neither the grantee relative nor the grantee relative's spouse may be included in the AG.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.08 INCOME. The following sections describe the treatment of income and budgeting to determine eligibility and level of benefits.

(Rule 1240-01-50-.08, continued)

- (1) **General Policy.** All sources of income are to be explored and gross nonexempt income from all sources shall be verified prior to approval or continuation of benefits. The applicant/recipient has primary responsibility for providing acceptable verification of income; the worker will secure the verifications when the information is available to the agency through existing automated sources, or when it is more reasonable to the Department to secure the information.
- (2) **Requirement To Apply For Other Benefits.** As a condition of eligibility for Families First, a person who is reasonably certain to be entitled to any other cash benefit or tax credit (other than SSI) must apply for and accept such benefit or tax credit for himself/herself and/or any member of the AG. Failure to apply for or to accept the benefit renders the applicant/grantee relative ineligible to be included as a member of the AG. His/her needs may not be taken into consideration in the Families First budget, and his/her income must be considered available to the remaining AG.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.09 INCOME ELIGIBILITY STANDARDS.

- (1) Gross income as defined is tested against a Gross Income Standard (GIS) which is 185% of the Consolidated Need Standard for the appropriate number of people. If the gross income is greater than this standard by any amount, the family/individual is not eligible for Families First. If gross income is equal to or less than the GIS for the appropriate number of people, then net income is computed and this amount is used to determine eligibility and amount of payment. If there is a deficit of \$1.00 or more between the need standard and net income, eligibility on this basis exists. Payment is the lesser of the deficit or a standard payment amount (maximum payment) for the family size, except that no payment can be made in a monthly amount less than \$10.00.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.10 DEFINITION OF INCOME. Assistance Group income shall mean all monies from whatever source, earned or unearned, except the exclusions listed in 1240-01-50-.11.

- (1) **Earned Income.** Earned income is income which is derived from the work efforts of an individual as wages, salaries, commissions, or as profits from self-employment enterprise, including farming, carried on either alone or jointly. It includes bonuses, vacation pay, pay received while on maternity leave and sick pay when mandatory deductions are made. Garnished or diverted wages, etc. are also considered in determining gross earned income. The following types of income are considered earned income:
 - (a) Wages, salaries, commissions;
 - (b) Profit from self-employment enterprise such as:
 1. Farming;
 2. Small business enterprises;
 3. Roomers/boarders;

(Rule 1240-01-50-.10, continued)

4. Rental receipts. Receipts from rental property owned/being purchased by an individual when he/she is actively engaged in the production of the income are earned income.
 5. Total gains of any capital goods or equipment related to the business, excluding the costs of doing business.
- (c) Training and rehabilitation allowances. Any wages paid for on-the-job training or public service employment are earned income, except JTPA earnings of child applicants/recipients. Training allowances and incentive payments in Families First Employment and Training and JTPA projects are excluded as income.
 - (d) Severance pay;
 - (e) Vacation, sick, longevity and bonus pay, when mandatory deductions are made;
 - (f) Allowances and other benefits under the National and Community Service Trust Act of 1993.
- (2) Unearned Income. Unearned income is any income which does not meet the definition of earned income. No earned income exclusions or deductions may be applied to unearned income. Unearned income includes, but is not limited to:
- (a) Unemployment compensation.
 - (b) Workman's (workers) compensation.
 - (c) Vacation, sick, longevity and bonus pay when mandatory deductions are not made.
 - (d) Interest, dividends, royalties and all other direct money payments which can be construed to be a gain or benefit.
 - (e) Assistance payments or other need based payments not otherwise excluded.
 - (f) Pensions and benefits such as annuities, retirement, veterans, disability, Social Security, military or Job Corps allotments.
 - (g) Child support and alimony.
 - (h) Regular cash contributions.
 - (i) Money withdrawn from the body of a trust or interest/dividends paid to an A/R.
 - (j) Non-IV-E foster care board payments made on behalf of a minor mother who receives Families First for her own child. If the child of the minor parent is also in foster care on non-IV-E funds, his/her board payment must also be counted as unearned income.
 - (k) Rehabilitation payments made under Services to the Blind or Vocational Rehabilitation or other such programs are unearned income. Costs directly associated with a rehabilitation program and borne by a participant are deducted from the gross payment and the remainder is income.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.11 PAYMENTS/BENEFITS EXCLUDED IN ELIGIBILITY DETERMINATION. Certain payments and benefits are excluded under federal law/regulation from consideration as income in determining eligibility for Families First.

- (1) Relocation Assistance Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- (2) Any funds distributed per capita to or held in trust for members of any Indian tribe under PL 92-254, PL 93-134 or PL 94-540.
- (3) Payments received under the Alaska Native Claims Settlement Act (PL 92-203, § 21(a)) payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalara Reservation (PL 95-443); payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indians Claims Settlement Act of 1980 (PL 96-429, § 5); payments of relocation assistance to members of the Navajo and Hopi Tribes (PL 93-531).
- (4) Receipts distributed to members of certain Indian tribes referred to in § 6, PL 94-114.
- (5) Benefits received from the Nutrition Programs for the Elderly (Title VII) under the Older Americans Act of 1965.
- (6) The value of supplemental food assistance received under the Child Nutrition Act of 1966 (WIC), as amended, and the special food service program for children under the National School Lunch Act, as amended.
- (7) Payments for supportive services and reimbursements of out-of-pocket expenses made to individual volunteers serving as health aids, senior companions, RSVP foster grandparents and any other programs under Title II pursuant to § 418 of PL 93-113.
- (8) VISTA payments, when the total amount of payments, adjusted for hours served, is determined by the Chief Executive Officer of the Corporation for National and Community Service to be less than the minimum wage.
- (9) Job Training Partnership Act (JTPA) Payments for Dependent Children, as follows:
 - (a) Exclude JTPA earned income (wages and compensation in lieu of wages) for a dependent child applicant or recipient for up to six months per calendar year in the Gross Income Standard (GIS) test and in computing the grant.
 - (b) Exclude all unearned JTPA needs based and supportive service payments.
- (10) JTPA Payment for Other than Dependent Children, as follows:
 - (a) Exclude unearned payment in determining eligibility and amount of assistance if paid for one of the following reasons:
 1. Supportive services such as transportation, child care, medical and other services needed to enable the individual to work.
 2. Assistance payments for needs other than those covered by the Families First grant amount, or for unmet need.
- (11) Experimental Housing Allowance Program payments made under annual contribution contracts entered into prior to January 1, 1975 under § 23 of the US Housing Act of 1937, as amended.

(Rule 1240-01-50-.11, continued)

- (12) Nazi Persecution Payments.
- (13) Educational grants, loans, scholarships, stipends and/or college work study payments made to or in behalf of a Families First AG member (or a stepparent in the home or parent in the home of a minor Families First parent) in determining eligibility and amount of payment.
- (14) Child Support Bonus Payment. Exclude the first \$50 per month received by the family on a currently obligated child support collection.
- (15) Energy Assistance Payments made by any Federal, State, Local agency or charitable organization to meet energy assistance needs.
- (16) Agent Orange Settlement Payments.
- (17) Earned Income Tax Credits (EITC).
- (18) Certain benefits and payments are not defined as income for Families First eligibility purposes:
 - (a) Cash items.
 - 1. Business costs of producing self-employment income such as but not limited to:
 - (i) Wages, salaries, benefits paid to/for employees;
 - (ii) Inventories and supplies;
 - (iii) Seeds, fertilizer, pesticides, herbicides, etc.;
 - (iv) Utilities at place of business.
 - 2. Clothing allowance for disabled veterans intended for additional clothing needs resulting from the use of prosthetic or orthopedic devices.
 - 3. Educational grants, loans, scholarships, stipends, and/or work study payment made to or in behalf of a Families First AG member, or stepparent in the home or parent of a minor parent in the home.
 - 4. Foster Care board payments made to foster parents for the care of a foster child by a child placing agency. A service fee paid to foster parents, is however, income. This is an amount paid to the foster parents for providing care and is in addition to the board payment.
 - 5. Legally obligated payments otherwise payable to an AG which are diverted by the provider to a third party, unless this arrangement is made at the request of an AG member.
 - 6. Loans which represent an obligation and not a benefit such as chattel mortgages and personal notes. Such loans may be provided by an individual or by a commercial lending institution.
 - 7. Monies received and used for the care and maintenance of a non-assistance group member who is not the parent, spouse, or stepparent of a dependent child living in the home.

(Rule 1240-01-50-.11, continued)

- (i) Payments for multiple beneficiaries are to be prorated evenly among the intended beneficiaries to determine individual shares. If intended beneficiaries include both AG and non-AG members, the individual shares of the AG members (their responsible relatives) will be considered income to the AG/relative.
 - 8. Income belonging to non-AG members, unless they are parents, spouses, or stepparents of AG members in the home.
 - 9. Reimbursements for out-of-pocket expenses incurred (or to be incurred) by volunteers and/or employees in the performance of their duties.
 - 10. Retroactive Families First and SSI payments.
 - 11. Payments that are made either directly to Families First recipients or to a third party for rent or utilities under Section 8 of the US Housing Act.
 - 12. Payments for utilities made to or on behalf of Families First recipients through any federal, state, or local energy assistance plan.
 - 13. Support payments (child and related spousal support) received by an AG but transferred to the IV-D agency as assigned support.
 - 14. That portion of payments made by Vocational Rehabilitation which represents a direct cost to an individual for participation in that program.
 - 15. Casual and inconsequential income (monetary gifts/contributions) not exceeding \$30 per quarter received by each Families First recipient.
 - 16. Recoupments withheld by the provider to repay a prior overpayment.
 - (b) Non-Cash Items. Any gain or benefit not in the form of money payable directly to an AG such as non-monetary or in-kind benefits.
- (19) Allowances paid under PL 104-204 to children of Vietnam veterans who are born with spina bifida.

Authority: T.C.A. §§ 4-5-201, et seq., 71-1-105, and 71-3-154(a)(5); Public Acts of 1996, Chapter 950; 38 U.S.C. § 1805(d); 42 U.S.C. § 1315(a); 45 C.F.R. § 233.20; and PL 104-204 § 421(b). **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002.

1240-01-50-.12 INCOME INCLUDED IN THE ELIGIBILITY DETERMINATION. Except for the payments/benefits specifically excluded above, all other payments received by AG members (including a parent, spouse or stepparent living in the home) are treated as income in the determination of eligibility and level of benefits in the Families First program.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.13 DETERMINATION OF AVAILABLE INCOME. The amount of income available to meet maintenance needs is to be determined in establishing eligibility for Families First benefits in accordance with definitions given previously and in accordance with the instructions given in chapters 1240-01-50-

(Rule 1240-01-50-.13, continued)

.13(1) through 1240-01-50-.20. Currently available income as defined (except that specifically excluded, disregarded, or deducted), is considered in the determination of eligibility and amount of payment.

- (1) Projecting Income. A prospective method of determining eligibility and payment in the Families First program is used.
 - (a) At the time of case action a decision is made concerning the amount of income to be considered available for a future period. The worker anticipates monthly income the AG will have in the coming month and uses this figure to calculate the amount of benefits.
 - (b) Anticipating Income. At the time of application/redetermination an AG may expect changes in circumstances to occur in the future; in particular, changes relating to the receipt of income.
 1. Only currently available income will be used to project the amount of ongoing available income unless the amount and date of receipt of expected income is known with reasonable certainty or unless some change has occurred. If the exact amount/month of receipt of the income is not known, only that portion of it which can reasonably be anticipated shall be considered as income.
 - (c) When any change in AG circumstances is expected, including a change in income, the AG will be required to report the change within 10 days of the change.
 1. Counting Anticipated Income in Month Received. Income anticipated with reasonable certainty during the period under consideration shall be counted as income only in the month(s) it is expected to be received, unless the income is averaged or prorated.
 2. Income in Past 60 Days. Income received during the past 60 days shall be used as an indicator of anticipated income. However, past income shall not be used for any month in which a change in income has occurred or can be anticipated.
 - (i) If income fluctuates to the extent that a 60-day period alone cannot provide an accurate indication of anticipated income, the worker and the AG may use a longer period of time if it will provide an accurate indication of anticipated fluctuations in future income.
 - (ii) Similarly, if the family's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the time of year, rather than the last 60 days, as one indicator for the time of year.
 - (iii) In no event shall the worker automatically attribute to the AG the amounts of any past income. Past income shall not be used as an indicator of anticipated income when changes in income have occurred or are anticipated to occur.
 3. Recurring Monthly Benefits. Recipients of state or federal benefits such as SSI or Social Security benefits shall not have their monthly income from such sources varied merely because mailing cycles may cause two payments to be received in one calendar month and none in the next month.
 4. Withheld Wages. Wages held at the request of the employee shall be considered income to the AG in the month the wages would otherwise have been paid by the employer. Wages held by the employer as a general practice, even if in violation of the law, are not counted as income to the AG unless an AG anticipates that it

(Rule 1240-01-50-.13, continued)

will ask for and receive an advance, or an AG anticipates that it will receive income from previously withheld wages not previously counted as income. Advances on wages shall only count as income if reasonably anticipated.

- (2) Converting Income To Monthly Amounts. Since need determination and calculation of benefit amount are made on a monthly basis, income and expenses available to an AG must be stated in monthly amounts. The following methods will be used to convert income to monthly amounts.
 - (a) Hourly or Piece Work Wages. Estimate the amount of income to be expected as the result of a week's work based on hours/days produced. Use the weekly earnings figure to determine monthly income.
 - (b) Weekly Income. Multiply weekly income by 4.3 to determine monthly income.
 - (c) Bi-Weekly Income. Multiply amount received each two weeks by 2.15 to determine monthly income.
 - (d) Semi-Monthly Income. Add the two amounts received to determine monthly income.
 - (e) Monthly Income. When a wage earner is employed and paid on a monthly basis accept his/her verified monthly wage/salary as monthly income.
 - (f) Annual Income. Income which is received annually, or which is an integral part of annual income will be totaled and prorated over 12 months. Such income is usually earned income derived from a farming or other self-employment enterprise. Income which by contract or otherwise could be generally considered as annual income, but which is received in a shorter period of time will be considered as income in the months during which it is received. An estimated average income from migrant labor, seasonal farm work, and other seasonal employment will be considered during the months such income is received.
- (3) Rounding/Truncating. If the difference between need and income is not a whole dollar amount, when the deficit is less than the maximum grant for that family size, round to the next lower dollar to determine the Families First grant amount.
- (4) Income At Application.
 - (a) Income in Application Month. The eligibility and level of benefits for AGs submitting an initial application will be based on circumstances for the entire calendar month in which the AG filed its application. The income received during the application month (i.e., that already received by the day of application plus that which is anticipated with reasonable certainty to be received in that month) is used to determine initial eligibility and the benefit amount for that one (1) month.
 - (b) Effects of Changes During the Application Processing Period. An AG may be eligible in the application month based on circumstances existing in that month, but ineligible in the subsequent month because of changes which occur. The AG is entitled to benefits for the application month even when the processing of the application results in benefits being issued/paid in the subsequent month. An AG may be ineligible in the application month based on circumstances existing in that month, but eligible in the subsequent month because of changes which occur. The application must be denied so that the AG will receive proper notice within application processing time limits. A new application must be filed so that eligibility can be determined for the period following the period the AG was ineligible.

(Rule 1240-01-50-.13, continued)

- (5) Anticipated Changes And Benefit Amounts. Adjustments in the Families First grant are made on the basis of reported or discovered changes. The grant amount for the month of application will differ from the grant amount in subsequent months. If a change in income is reported and the change is ongoing, the new amount is to be used to project future ongoing income. If income fluctuates, an estimated average monthly income will be established and this amount will be considered in the determination of eligibility and the amount of payment.
- (6) Income At Redetermination. Eligibility and amount of payment at the time of redetermination will be based on circumstances which prevail at that time. Currently available income will be used to project the average amount of income to be available in the coming months.
- (7) Consideration Of Income Belonging To Particular Individuals. The income of all persons who share a living arrangement must be explored, but all individuals' incomes may or may not be considered in the determination of eligibility and amount of payment as described below:
 - (a) The countable gross income, earned and unearned, of all assistance group members and their responsible relatives in the home plus the deemed income of a stepparent living in the home and of a parent of a minor parent living in the home must be considered as available. The gross amount is tested against the Gross Income Standard (185% of the appropriate consolidated need standard for the family size). If the gross amount is less than the GIS, the countable net income for the AG is compared to the CNS for the family to determine eligibility and amount of payment. No income of parents and spouses is diverted to their ineligible dependents living in the home except in the deeming budgets of stepparents and parents of minor parents living in the home.
 - (b) Legal Spouses. The income belonging to one or both members of a legally married couple is considered available to each other as long as they are living together, except the income of a spouse who is an SSI recipient is disregarded in determining the other spouse's eligibility. If a couple presents themselves as married they are to be considered as married. If they later claim to not be legally married, the burden of proof of their unmarried status will be upon the couple.
 1. Exception. When a Families First custodial parent marries during receipt of assistance, exception at 1240-01-47-.23(5)(d) applies.
 - (c) Parents. Parents living in the home with the dependent child(ren) must be included in the AG and/or their total income counted as available in its entirety unless the parent is an SSI recipient. However, in the case of an ineligible alien parent living in the home with his/her dependent child, income is deemed to the eligible dependent child using the stepparent deeming formula in (d)1.- 6. below.
 1. Exception. When a Families First custodial parent marries during receipt of assistance, exception at 1240-01-47-.23(5)(d) applies.
 - (d) Stepparents/Parents of Minor Parents. Income shall be deemed available to AG members from a stepparent living in the home with a stepchild for whom assistance is requested, and from a parent living in the home with a minor parent who has requested assistance in his/her own right for a child in his/her care.
 1. The amount of income to be deemed is determined as follows:
 - (i) Determine gross monthly income as defined for Families First;

(Rule 1240-01-50-.13, continued)

- (ii) Deduct the flat work expense amount of \$150 from earned income only;
 - (iii) Deduct the appropriate Consolidated Need Standard (CNS) for the stepparent or parent and his legal dependents (for IRS tax purposes) living in the home who are not included in the AG. (If the stepparent's or parent's income is not taxable, use those individuals he/she could claim under IRS rules.);
 - (iv) Deduct amounts actually paid to individuals not living in the home who are (or could be) claimed by the stepparent or parent as dependents for income tax purposes; and
 - (v) Deduct amounts actually paid for alimony or child support to individuals not living in the home other than those covered in step 4. above;
 - (vi) The remainder is income deemed to the stepchildren or minor children (or child of an illegal alien) as appropriate.
2. Exception. When a Families First custodial parent marries during receipt of assistance, exception at 1240-01-47-.23(5)(d) applies.
- (e) Income of Children. Income that a technically ineligible child (i.e., a child who does not meet the age, deprivation, relationship, citizenship requirements) has in his/her own right, including "earmarked" income such as Social Security benefits, or which is specifically designated for a particular child, such as child support, is not considered available to the AG. The child's own income is, however, considered available to his/her own children in the home.
 - (f) Applicant/Grantee Relatives Other than Parents. The income of a relative other than the parent(s) of children for whom Families First is requested or received is counted in determining eligibility and amount of payment for the children only when the relative is included in the AG. When the grantee relative is included in the AG, all of the income of that relative's spouse living in the home must be considered available to the AG.
- (8) Individuals Whose Income Is Not To Be Considered.
- (a) SSI recipients.
 - (b) Ineligible relatives other than parents/stepparents as long as they are not included in the AG.
 - (c) Unrelated household members.
 - (d) Individuals living outside the home.
- (9) Deductions From Gross Income. The only deductions from gross income which are permitted in determining net income are:
- (a) The earned income disregards, where applicable;
 - (b) Income which has been excluded from consideration will not be taken into account in determining need and amount of assistance for any other individual.

Authority: T.C.A. §§ 4-5-201, et seq., 71-1-105, 71-3-154, and 71-3-155; Public Acts of 1996, Chapter 950; 42 U.S.C. § 1315(a); 45 C.F.R. § 233.20; 45 C.F.R. § 233.20(a)(1)-(7) and (11); and § 1115 of the

(Rule 1240-01-50-.13, continued)

*Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed July 5, 2002; effective September 18, 2002.*

1240-01-50-.14 TREATMENT OF UNEARNED INCOME. Unearned income is money which is received for reasons other than the current work efforts of an individual. No earned income exclusions or work expense deductions may be applied to unearned income as defined.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.15 TREATMENT OF EARNED INCOME.

- (1) Earned income is defined as that total income which an AG earns by its own work efforts; either salary, wages or commissions paid to the AG as an employee, or profits from self-employment in an enterprise (including farming) which it may carry on independently or jointly with another person or persons. It includes earnings over a period of time from which settlement is made at one given time. It includes paid annual leave, vacation time, sick leave, pay while on maternity leave, and bonuses when they are subject to Income Tax and FICA.
- (2) All gross earned income, received or anticipated for members of the assistance group is considered available in relation to the gross income standard (GIS), with the following exceptions:
 - (a) Only the deemed income of a stepparent or of a parent of a minor parent receiving Families First in his or her own right is considered available (when the stepparent or parent of a minor parent is in the home);
 - (b) Job Training Partnership Act earnings of a child recipient or other type earnings of a full-time student during the six month exclusion period are not considered available;
 - (c) EITC payments are excluded, whether received as a monthly amount or as an annual amount.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.16 DETERMINATION OF NET INCOME.

- (1) Net income is that which is available to determine need and/or amount of assistance after application of all appropriate exclusions and disregards.
 - (a) Excluded income is not counted in determining financial eligibility based on the Gross Income Standard (GIS) test or in computing the grant amount.
 - (b) Disregarded income is that portion of earned income which is subtracted from gross earnings (or net gross earnings from self-employment) in arriving at net countable income. Disregarded income includes:
 1. The earnings of a child recipient who is a full-time student or part-time student working less than full-time, if the GIS test is met. The child's earnings are combined with the rest of the AG's gross countable income to determine whether the total family income exceeds the GIS;
 2. A flat work expense of \$150, and child/dependent care.

(Rule 1240-01-50-.16, continued)

- (c) Net Income is determined, as follows; the requirements of each step must be met before progressing to the next step:
1. Determine the total gross income (or net gross income from self-employment) for all members of the AG and any sanctioned and/or disqualified individuals;
 2. Exclude excludable income;
 3. Compare the total countable gross income (earned and unearned) to the GIS for the AG size. If gross income exceeds the GIS, the AG is ineligible; if gross income is less than or equal to the GIS; continue.
 4. Disregard earnings of a child recipient with student status (full-time student or part-time student not working full-time) who is no longer eligible for the six month earned income exclusion.
 5. Apply earned income disregards to the earnings of each individual with earnings in the following order:
 - (i) Earned income disregard of \$150;
 - (ii) Child/Dependent Care deduction as paid up to \$175 per child/dependent age 2 or over; as paid up to \$200 per child under age 2, per month.
 - (I) A deduction for payments for dependent care cannot be made when care is provided by:
 - I. The parent, stepparent, or guardian of a child;
 - II. A person who is a member of the AG of which the dependent is a member; or
 - III. The spouse of the dependent.
- (2) Earned Income Penalties. If one of the following penalty situations occur during an individual's receipt of Families First, do not allow the earned income disregards (\$150 disregard and child/dependent care):
- (a) For any individual who is not a caretaker or the parent of a dependent child, the penalty will be applied if he/she, without good cause, reduced earnings or terminated or refused employment. Good cause includes, but is not limited to unsafe or unhealthy working conditions, pay at less than the Federal minimum wage, lack of adequate child care, or lack of transportation;
 - (b) For any individual who fails, without good cause, to make a timely report of income causing an overpayment. Good cause circumstances include, but are not limited to severe illness, accident, hospitalization or natural disaster which prevents the client from reporting timely.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; 45 C.F.R. § 233.20; and § 1115 of the Social Security Act. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.17 CALCULATING NET INCOME AND BENEFIT LEVELS.

- (1) The Department has developed a consolidated standard (CNS) of need based on the size of the assistance group for subsistence items including the following, less any discounts for other sources of assistance:
 - (a) Safe, healthful housing;
 - (b) A low-cost adequate food budget as recommended by the USDA Thrifty Food Plan;
 - (c) An allowance for essential medical care;
 - (d) Minimum clothing for health and decency; and
 - (e) Other necessary items including, but not limited to, transportation, personal care and educational expenses.
- (2) The Families First payment does not meet 100% of need as defined by the consolidated need standard. The maximum payment per family size is set, dependent on available state and federal funds. Income available to the AG (after all appropriate disregards and deductions have been applied) is subtracted from the consolidated need standard. Payment is the lesser of the resulting deficit or the maximum payment per family size.
- (3) If an assistance group's available income equals or exceeds the CNS for the appropriate family size, the AG is not eligible for a Families First grant. If there is a deficit of one dollar (\$1.00) to nine dollars, ninety-nine cents (\$9.99), no payment can be made, but the AG is deemed to be an eligible Families First assistance group for other purposes, as long as all other points of eligibility continue to be met. If the deficit is ten dollars (\$10.00) or more and other eligibility requirements are met, payment will be made.
- (4) Payments.
 - (a) Families First payments are issued on a monthly basis and are paid for the current month.
 - (b) Initial payments are made beginning with the date of application if all other eligibility factors are met at that time, or at the first of the month in which eligibility is achieved, whichever is later.
 - (c) The amount of the payment will be:
 1. The deficit, after countable income has been subtracted from the CNS, but not less than \$10.00 per month; or
 2. A maximum payment amount for each family size, which is based on available state and federal funds.

Authority: T.C.A. §§ 4-5-201, et seq., 4-5-202, 4-5-209, 71-1-105, 71-3-152, 71-3-153, 71-3-154, 71-3-155, and 71-3-158(d)(2)(D); Public Acts of 1996, Chapter 950; Public Acts of 2007, Chapter 31; 42 U.S.C. §§ 601, et seq.; 42 U.S.C. § 608(a)(6); 45 C.F.R. § 233.20; Deficit Reduction Act 2005 (PL 109-171 §§ 7101 and 7102, February 8, 2006); and 71 Federal Register 37454 (June 29, 2006). **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed October 1, 2007; effective December 15, 2007.

1240-01-50-.18 TREATMENT OF INCOME FROM SELF-EMPLOYMENT.

- (1) Determining Income From Self-Employment.
 - (a) Annual Income. Income which is received annually, and/or which is an integral part of annual income will be totaled and prorated over 12 months, even if the income is received only once or over a period of time shorter than twelve months. Such income is usually derived from farming but may also apply to other self-employment enterprises. Annual income will be prorated over 12 months even if a person has income from sources other than self-employment. Income received once annually will be prorated over 12 months beginning with the month the income is received. Income which represents annual income but which is received periodically during a year will be totaled and averaged over 12 months. This average figure will be used to project future income (if all other factors remain relatively constant). If a self-employed person is under contract, the 12-month period begins the first month the person receives payment under the contract.
 - (b) Income from Migrant Labor, Seasonal Work. An estimated average monthly income from migrant labor, seasonal farm work and other seasonal employment will be considered during the months it is received.
 - (c) Monthly Self-Employment Income. When self-employment income is received monthly, the average monthly income will be estimated based on past income and substantial changes in circumstances which have occurred, such as an increase or decrease in business.
 - (d) Self-Employment as Part of Total Income. Self-employment income which is obtained only for a specific period of time will be averaged over the months it is received.
 - (e) Income From a New Business. When a self-employment enterprise has been in operation less than a year, the Families First grant will be based on current income and a change will be made at the time the AG reports income on which a more reasonable projection can be made, or when a pattern of average income is discovered.
- (2) Special Income Consideration.
 - (a) Rental Property.
 1. Income derived from rental property is considered as earned income if the individual is actively engaged in producing such income. "Actively engaged" means the individual has some responsibility in earning the income. This responsibility may include managerial activities. However, if the individual has no specific responsibility in earning the income, such as where rental properties are in the hands of rental agencies and the check is forwarded to the individual or where an individual rents farm land to others and receives a money payment, the income would not be classified as earned income. The cost of doing business is an allowable deduction regardless of whether the income is earned or unearned.
 - (b) Capital Gains. The proceeds from the sale of capital goods or equipment are calculated in the same manner as a capital gain for Federal income tax purposes. Even if only 50% of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the worker shall count the full amount of the capital gain as income.
- (3) Costs Of Producing Income From Self-Employment.

(Rule 1240-01-50-.18, continued)

- (a) When a member of the AG is self-employed, he/she shall be required to keep a record of expenses incurred in the production of this income.
- (b) Expenses.
 1. Allowable costs of producing income from self-employment include, but are not limited to:
 - (i) Identifiable costs of labor (salaries, employers share of Social Security, insurance, etc.);
 - (ii) Stock, raw materials, seed and fertilizer, feed for livestock;
 - (iii) Rent and cost of building maintenance;
 - (iv) Business telephone costs;
 - (v) Costs of operating a motor vehicle when required in connection with the operation of the business;
 - (vi) Interest paid to purchase income producing property;
 - (vii) Insurance premiums and taxes paid on income producing property;
 - (viii) Costs of feed for work stock; and
 - (ix) Costs of meals and equipment for children for whom day care is provided in the self-employed person's home
 2. Unallowable Deductions. The following are not considered as costs of producing self-employment income and shall not be deducted from the AG's self-employment income;
 - (i) Payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods;
 - (ii) Net losses from previous periods;
 - (iii) Federal, state, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work). (These expenses are accounted for in the flat work expense deduction/disregard.);
 - (iv) Costs of producing home produce intended for family consumption;
 - (v) Family living expenses;
 - (vi) Depreciation.
- (4) Determining Monthly Income When Averaged. For the period of time over which self-employment is determined, add all gross self-employment income (including capital gains), exclude the costs of producing the self-employment income, and divide the self-employment income by the number of months over which the income will be averaged.

(Rule 1240-01-50-.18, continued)

- (5) Determining Monthly Income When Anticipated. For those AGs whose self-employment income is not averaged, but instead is calculated on an anticipated basis, add any capital gains the AG anticipates it will receive in the next 12 months (starting with the date the application is filed) and divide this amount by 12. Use this amount in successive months unless the anticipated amount of capital gains changes. Add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income and subtract the cost of producing the income. Except for depreciation, calculate the cost of producing the self-employment income by anticipating the monthly allowable costs of producing the self-employment income.
- (6) Assistance Groups With Boarders.
 - (a) AGs that take in boarders or that operate commercial boarding houses are considered self-employed. Identifiable expenses are allowed as a cost of doing business as in any self-employment enterprise.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.19 INCOME OF RESIDENT FARM LABORERS, MIGRANT ASSISTANCE GROUPS, SCHOOL EMPLOYEES AND OTHER CONTRACTUAL EMPLOYEES.

- (1) Resident Farm Laborers.
 - (a) Stable Income - Single Employer.
 1. Farm laborers whose primary source of income is from regular farm employment with the same employer are normally employed for the entire year and receive a regular monthly salary.
 2. The regular monthly income figure will be used to determine the amount of the Families First grant.
 - (b) Irregular Income - Single Employer.
 1. When an AG member is paid for work done only during the work season, but resides year round on the farm, he/she may receive advance or deferred payments (sometimes known as "furnish") during the non-work season. This irregular income shall be averaged over a 12 month period.
 - (c) Regular or Irregular Income - Multiple Employers. When a farm laborer works regularly for more than one employer, the total income from all employers must be counted.
- (2) Migrant Farm Laborers.
 - (a) Resources. It must be determined whether migrants have out-of-state resources or income from real property in their home area. A migrant family is permitted one home and lot as an exempt resource, as any other Families First AG. If an AG owns out-of-state real property it must be determined if it is being rented or is producing income. If it is producing income, such income must be added to all other AG income in determining need and amount of assistance.
 - (b) Employment and Training. Migrant workers must participate in the Families First Employment and Training program as any other applicant or recipient.

(Rule 1240-01-50-.19, continued)

- (c) Income of Children in Migrant AGs. Income of a child in a migrant AG is treated the same as that of any other child for whom Families First eligibility is being determined. If the amount of income belonging to a particular child cannot be determined, prorate equally the total income of all employed AG members and treat the child's prorata share as his/her own income.
- (3) School Employees. The average monthly income of school employees will be considered available during the months it is received.
- (4) Income Of Other Contractual Employees. The average monthly income of persons employed on a contractual basis (other than school employees) will be considered as income during the period covered by the contract.
- (5) Temporary Employment Of A Person Under Contract. Income from temporary employment will be budgeted as available only in the months received.
- (6) Unemployment Compensation. Unemployment compensation is counted as income only in the months it is received.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; Public Acts of 1996, Chapter 950; and 45 C.F.R. § 233.20. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997.

1240-01-50-.20 STANDARD OF NEED/INCOME.

- (1) Families First Cash Assistance Standards
 - (a) Consolidated Need Standard (CNS). The Department has developed a consolidated standard of need based on size of the assistance group (AG), which indicates the amount of income the assistance group would need to meet subsistence living costs according to allowances set by the state for items including food, clothing, shelter and utilities, transportation, medical care, personal incidentals, and school supplies. The CNS is used as the basis for determining the gross income standard (GIS), the standard payment amount (SPA), and the Differential Grant Payment Amount (DGPA).
 - (b) Gross Income Standard (GIS). This standard is set at One Hundred Eighty-Five Percent (185%) of the consolidated need standard. If the gross countable income of an assistance group exceeds this standard, the Assistance Group (AG) is not eligible for Families First.
 - (c) Standard Payment Amount (SPA). Tennessee does not meet One Hundred Percent (100%) of need as defined by the consolidated need standard. Rather, a maximum payment by family size, dependent on available State and Federal funds is paid, except in the instances specified in 1240-01-50-.20(1)(e).
 - (d) Differential Grant Payment Amount (DGPA). A Families First Assistance Group which meets any one of the criteria listed below will be eligible for a grant based on the Differential Grant Payment Amount (DGPA). The DGPA is a maximum payment by family size, dependent on funds available, except in the instances specified in subparagraph (e) below. AGs that are eligible to receive the DGPA are:
 - 1. AGs with no eligible adult in the AG. This exemption does not apply if the sole reason there is no adult in the AG is due to penalty or sanction or if the adult is an ineligible alien.
 - 2. AGs in which the caretaker is age sixty-five (65) or older.

(Rule 1240-01-50-.20, continued)

3. AG in which the caretaker is age sixty (60) or older as of July 1, 2007.
 4. AGs in which the caretaker is disabled.
 5. AGs in which the caretaker must provide in-home care for a relative who lives in the home who is disabled and requires full-time care.
- (e) Family Benefit Cap
1. No additional benefits will be issued due to the birth of a child when the birth occurs more than ten (10) calendar months after the later of:
 - (i) The date of application for Families First, or
 - (ii) The date of implementation of the Families First program (September 1, 1996), as provided by T.C.A. § 71-3-151, unless:
 - (I) The child was conceived as the result of verified rape or incest;
 - (II) The child is the firstborn (including all children in the case of a multiple birth) of a minor included in the Families First grant who becomes a first-time minor parent;
 - (III) The child does not reside with his/her parent;
 - (IV) The child was conceived in a month the AG was not receiving Families First; or
 - (V) The child was already born prior to the later of the date of application for Families First or the date of implementation of Families First, and the child has entered or returned to the home.
 2. The additional child will be included in the need standard for the purpose of determining Families First eligibility. The income of the child, including child support, will be applied against the need standard in determining the Families First payment amount for the family. The child will be considered a Families First recipient for all other purposes.
 3. The family benefit cap will not apply to a subsequent period of eligibility for families who reapply for Families First subsequent to receipt of cash assistance as long as the reason for prior case closure was other than a failure to comply with work or child support enforcement requirements or other Personal Responsibility Plan provisions, and the parent/caretaker had cooperated with the Department as defined in departmental policies for the Families First program.
 - (i) Departmental policies and rules with which the parent/caretaker must cooperate include, but are not limited to:
 - (I) Child support cooperation requirements, such as identifying the absent parent, meeting with child support enforcement staff, submitting a child for blood testing, and testifying in court if necessary;

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- (II) Carrying out and fulfilling Personal Responsibility Plan provisions and requirements; or
- (III) Carrying out and fulfilling Work Plan provisions and requirements.

(f) An assistance payment is determined as follows:

1. If the assistance group's net income (after allowable exclusions and deductions) equals or exceeds their consolidated need, the assistance group is not eligible.
2. If the assistance group's net income is less than their consolidated need, the monthly grant amount is the smaller of a maximum payment amount by family size (SPA or DGPA, as appropriate) or the deficit if it is ten dollars (\$10) or more. If the deficit is one dollar (\$1) - nine dollars (\$9), the AG is eligible for Medicaid (TennCare) only, and is deemed to be a Families First recipient group.

In the case of an AG receiving Families First because one or both parents are unemployed, if the Principal Wage Earner (PWE) receives Unemployment Compensation (UC) the UC benefit is deducted from the grant amount determined after deducting all other countable income from the CNS, to determine the actual amount of Families First payment for the AG.

3. The minimum monthly grant which can be paid is ten dollars (\$10).

(g) Families First Need/Payment Standards

1. The following table shows the maximum income level and consolidated standard of need to be used in the Families First program to determine eligibility and amount of payment.

Number of Persons in Assistance Group	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	1806	2535	2866	3241	3487	3717	3924	4114	4255	4390
Consolidated Need Standard	976	1370	1549	1752	1885	2009	2121	2224	2300	2373

Number of Persons in Assistance Group	11	12	13	14	15	16	17	18	19	20
Gross Income Standard	4695	4836	4956	5067	5173	5278	5374	5469	5561	5650
Consolidated Need Standard	2538	2614	2679	2739	2796	2853	2905	2956	3006	3054

2. The Families First standard payment amount (maximum payment) for an assistance group of three (3) persons represents 25.0% of the consolidated need for an assistance group of that size. The Families First standard payment amount (maximum payment) for all assistance group sizes shall be determined as provided in T.C.A. § 71-3-105(f).

(Rule 1240-01-50-.20, continued)

3. The Families First maximum differential grant payment amount for an assistance group of three (3) persons represents 31.4% of the consolidated need for an assistance group of that size.
 - (i) The Families First maximum differential grant payment amount for assistance groups of one (1) through five (5) persons shall be one hundred dollars (\$100) greater than the maximum standard payment for each respective assistance group size.
 - (ii) The Families First maximum differential grant payment amount for assistance groups of six (6) or more persons shall be the same as the maximum standard payment for each respective assistance group size.
4. Work Incentive Program.
 - (i) Families First recipients will be eligible to receive Work Incentive Program payments when the recipient becomes financially ineligible due to an increase in earned income, provided the recipient continues to meet all other eligibility criteria.
 - (ii) Incentive participants will receive the Work Incentive Program payments for no more than six (6) months with the payment amount being determined by issuing the maximum grant allotment for all eligible household members at the time the recipient became financially ineligible due to the increase in earned income.

Authority: T.C.A. §§ 4-5-201, et seq.; 71-1-105; 71-3-101, et seq.; 71-3-104; and 71-3-105; 42 U.S.C. §§ 601, et seq.; 42 U.S.C. § 1315; 45 C.F.R. § 233.20; 45 C.F.R. § 261.2(b)-(n); 45 C.F.R. § 261.10; and 45 C.F.R. § 261.30-32. **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Amendment filed October 10, 1997; effective December 24, 1997. Amendment filed September 24, 1998; effective December 8, 1998. Amendment filed November 18, 1999; effective January 31, 2000. Amendment filed September 29, 2000; effective December 13, 2000. Amendment filed October 3, 2001; effective December 17, 2001. Amendment filed August 28, 2002; effective November 11, 2002. Amendment filed December 13, 2002; effective February 26, 2003. Amendment filed August 20, 2003; effective November 3, 2003. Repeal and new rule filed September 21, 2004; effective December 5, 2004. Public necessity rule filed July 1, 2005; effective through December 13, 2005. Repeal and new rule filed August 23, 2005; effective November 6, 2005. Public necessity rule filed July 3, 2006; effective through December 15, 2006. Amendment filed August 25, 2006; effective November 8, 2006. Public necessity rule filed July 2, 2007; expired December 14, 2007. Amendment filed August 20, 2007; effective November 3, 2007. Amendment filed October 1, 2007; effective December 15, 2007. Public necessity rule filed July 1, 2008; effective through December 13, 2008. Amendment filed September 10, 2008; effective November 24, 2008. Amendments filed August 31, 2018; effective November 29, 2018. Amendments filed April 1, 2021; to have become effective June 30, 2021. However, a 1-day stay of the effective date of the rule was filed June 7, 2021; new effective date July 1, 2021.

1240-01-50-.21 REPEALED.

Authority: T.C.A. §§ 4-5-201, et seq. and 71-1-105; 42 U.S.C. § 657; and PL 104-193 § 302(a). **Administrative History:** Original rule filed December 2, 1996; effective February 15, 1997. Repeal filed July 5, 2002; effective September 18, 2002.