

# Oklahoma Employment Security Commission



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## Oklahoma Employment and Training Issuance # 24-2009 Final State Policy

**TO:** WIA Board Staff  
WIA Youth Service Providers

**FROM:** Richard J. Gilbertson, Director  
Workforce Integrated Programs Division

**DATE:** December 8, 2009

**SUBJECT:** Determining Family Size & Income Eligibility for WIA Adult and Youth Programs

**REFERENCES:** Workforce Investment Act (WIA), Section 101(25)

**PURPOSE:** On December 8, 2009, OETI 24-2009 Determining Family Size & Income Eligibility for WIA Adult and Youth Programs, Interim Final, was sent out to Local Workforce Investment Boards and published on the Oklahoma Employment Security Commission's website, and a 30-day comment period commenced. The purpose of this issuance is to provide notice of changes made to the policy in response to questions and suggestions received during that comment period.

The following changes pertaining to the following terms/definitions have been made:

- *Family*, specifically the portion pertaining to clarifications to the definition of family – **dependent children**; p. 2

### **Determining Family Size & Income Eligibility for WIA Adult and Youth Programs**

**Family:** (WIA § 101(15)) The term "family" means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- (A) A husband, wife, and dependent children.
- (B) A parent or guardian and dependent children.
- (C) A husband and wife.

Any individual not meeting the above definition of family is considered to be a family of one.

**Exception:** If the family of a disabled youth does not meet the income eligibility criteria, the disabled youth may be considered a low-income individual if the youth’s own income:

- (a) Meets the income criteria established in WIA section 101(25)(B); or
- (b) Meets the income eligibility criteria for cash payments under any Federal, State or local public assistance program. (WIA sec. 101(25)(F))

The State is providing the following clarifications to the definition of family:

- **“Guardian”** refers to an individual related by blood, marriage, or decree of court and/or living in a single residence where the parents are not present in the residence.
  - The phrase **“living in a single residence”** includes temporary, voluntary residence elsewhere such as attending school or college, or visiting relatives but where permanent residence is the same as parent or guardian. It does not include involuntary temporary residence elsewhere, such as incarceration or placement into foster care as result of a court order.
  - For Categories A and B, **“dependent children”** shall include those children living in a single residence with parent(s) or guardian(s) and who **DO NOT** meet the definition of “independent child” based on the Free Application for Federal Student Aid (FAFSA) guidelines.

*Independent Child* – shall include those children living in a single residence with parent(s) or guardian(s) and who fall into one (or more) of the following categories:

- Is 24 years of age or older by December 31 of the current year;
- Is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;
- Is a veteran of the Armed Forces of the United States;
- Is a graduate or professional student (in college, beyond a bachelor’s degree);
- Is a married individual;
- Has legal dependents other than a spouse;
- Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances; **or**
- Is currently living with parents BUT provides more than 50% of his/her own support.

**Note: If the applicant claims to be an independent child, then he/she must fully complete the appropriate box on Attachment C, WIA Youth Support Form, found in WIA Youth Program Eligibility and Data Validation Policy and attach documentation when indicated on the form. Acceptable source documents to verify an applicant’s independent status may be found in Attachment A under “Family Size.”**

**Family Size:** The number of dependent children plus the number of parents or guardians who reside together. Use definitions in Family to arrive at the correct number. For guidance on documenting family size see Attachment A of the *WIA Youth Program Eligibility and Data Validation Policy*.

**Note: An “individual with a disability” must, for purposes of income eligibility determination, be considered to be an unrelated individual who is a family unit of one consistent with the definition of Low Income Individual at Section 101(25)(f) of the Act.**

**Family Income:** All income received by all members of the family during the six-month period prior to application/registration, annualized by multiplying the six-month income by two (6-month income x 2). This amount should be compared to the 70% LLSIL or HHS poverty determination, whichever is greater. The composition of the family is determined as of the date of the application/registration. Therefore, the income of prior family members who may have comprised part of the family during the past six months, but are no longer members of the household (i.e., a divorced, separated or deceased spouse, or other family member) would not be counted for income determination purposes. Only the income of members of the current family should be counted and applied against the current family size.

### **Inclusions for Family Income**

- **Gross wages and salaries before deductions:** Total money earnings received from work performed as an employee. If a family’s only source of income was from wages and salary payments, family income would be equal to gross wages and salary received.
- **Income from non-farm self-employment:** Net income (gross income minus operating expenses) from a business or other non-farm enterprise in which a person is engaged on his/her own account. If the business or enterprise has suffered a loss, this loss will be allowed to offset wage earnings.
- **Income from farm self-employment:** Net income from farm self-employment (income from a farm which operates as an owner, renter, or sharecropper, after deductions for farm operating expenses). If the farm has suffered a loss, this loss will be allowed to offset wage earnings. Money received under the Agricultural Crop Stabilization Program is considered income.
- **Social Security Disability Insurance (SSDI):** pays benefits to individuals that have worked in the past, paid Social Security taxes, and are currently unable to work for a year or more because of a disability. SSDI is considered income replacement. SSDI is different from Supplemental Security Income (SSI). SSI is an income supplement program funded by general tax revenues and pays benefits based on financial need (not Social Security taxes). SSI is designed to help aged, blind, and disabled people who have little or no income and provides cash to meet basic needs for food, clothing, and shelter.
- **Money received from such sources:**
  - Governmental and non-governmental pensions; (including military retirement pay)
  - Regular payments from railroad retirement benefits, strike benefits from union funds, worker’s compensation , and training stipends;
  - Alimony;
  - Merit based scholarships, fellowships, and assistantships i.e. the recipient may be determined by students’ athletic, academic, artistic or other abilities;
  - Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings;

- Terminal leave pay, severance pay, or a cash out of accrued vacation leave;
- Disaster Relief Employment Wages; and
- On-the-Job Training (OJT) wages.

### **Exclusions for Family Income**

- **Unemployment Compensation;**
- **Child support payments;**
- **Old age and survivors' insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402);**
- **Income earned while the veteran was in Active Military Duty, and certain other Veteran's Benefits:** i.e., compensation for service-connected disability and service-connected death, vocational rehabilitation, and education assistance;
  - Military Pay or Allowances: Are there special rules that apply to veterans when income is a factor in eligibility determinations? (Sec. 667.255) Yes, under 38 U.S.C. 4213, when past income is an eligibility determinant for Federal employment or training programs, any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded. This applies when determining if a person is a "low-income individual" for eligibility purposes (for example, in the WIA youth, Job Corps or NFJP programs) and applies if income is used as a factor in applying the priority provision under 20 CFR 663.600 when WIA adult funds are limited. Questions regarding the application of 38 U.S.C. 4213 should be directed to the Veterans Employment and Training Service.
  - US Code: Title 38, Section 4213. Eligibility requirements for veterans under Federal employment and training programs: Any (1) amounts received as pay or allowances by any person while serving on active duty, (2) period of time during which such person served on such active duty, and (3) amounts received under chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran, any amounts received by an eligible person under chapters 13 and 35 of such title, and any amounts received by an eligible person under chapter 106 of title 10, shall be disregarded in determining eligibility under any public service employment program, any emergency employment program, any job training program assisted under the Economic Opportunity Act of 1964, any employment or training program carried out under the Job Training Partnership Act or **Title I of the Workforce Investment Act of 1998**, or any other employment or training (or related) program financed in whole or in part with Federal funds.
  - Title 38:
    - Chapter 11 - Compensation for Service-Connected Disability or Death
    - Chapter 13 - Dependency and Indemnity Compensation for Service-Connected Deaths
    - Chapter 30 - All-Volunteer Force Educational Assistance Program

- Chapter 31 - Training and Rehabilitation for Veterans with Service-Connected Disabilities
  - Chapter 35 - Survivors' and Dependents' Educational Assistance
  - Chapter 36 – Administration of Educational Benefits
- US Code: Title 10, Chapter 106 – Educational Assistance for Members of the Selected Reserve
- **Federal non-cash benefits such as:** Medicare, Medicaid, food stamps, school lunches, and housing assistance;
- **Assets drawn down as withdrawals from a bank;**
- **Public Assistance payments:** Payments received under Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), General Assistance (GA), Refugee Cash Assistance (RCA);
- **One time cash payment, which includes:** tax refunds; loans, which are debt and not income; one-time insurance payments or compensation for injury; gifts and lump sum inheritances;
- **Job Corps payments;**
- **Cash value of employer-paid or union-paid portion of health insurance or other employee fringe benefit;**
- **Cash value of food or housing received in lieu of wages;**
- **Payments received under the Trade Readjustment Act of 1974;**
- **Needs-based scholarship assistance;**
- **Financial assistance under Title IV of the Higher Education Act:** i.e. PELL Grants, BEOG Grants, Federal Supplemental Educational Opportunity Grants and Federal Work Study, PLUS, Stafford, and Perkins loans like any other kind of loan are debt and not income;
- **Stipends received in the following programs:** VISTA, Peace Corps, Foster Grandparents Program, Retired Senior Volunteer Program; Youth Works/Americorps Program;
- **Foster child care payments; and**
- **All WIA payments except OJT.**

**Note: When a federal statute specifically provides that income or payments received under such statute shall be excluded in determining eligibility for the level of benefits received under any other federal statute, such income or payments shall be excluded in WIA eligibility determination.**

**Low Income Individual:** The term “low-income individual” means an individual who:

- (A) Receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;
- (B) Received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of:

1. The poverty line, for an equivalent period; or
  2. 70 percent of the lower living standard income level, for an equivalent period.
- (C) Is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);
- (D) Qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. § 11302);
- (E) Is a foster child on behalf of whom State or local government payments are made; or

In cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in (A) or (B), but who is a member of a family whose income does not meet such requirements.

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**ACTION:** This OETI will become a part of your permanent records and must be made available to appropriate personnel.

**RESCISSIONS:** This document replaces OETI 15-2009 dated June 15, 2009.

**INQUIRIES:** If you have any questions about this issuance, please contact Kim Braddy at [kim.braddy@oesc.state.ok.us](mailto:kim.braddy@oesc.state.ok.us), (405) 557-5394 or Tami Decker at [tdecker@oesc.state.ok.us](mailto:tdecker@oesc.state.ok.us), (405) 962-7595.