Ohio Administrative Code

Rule 5101:2-16-03 Income eligibility requirements for publicly funded child care benefits.

Effective: February 27, 2022

(A) What income is used to determine caretaker eligibility for publicly funded child care benefits?

The county agency shall use gross earned income and gross unearned income to determine child care income eligibility and family copayment. Gross income is the income amount before taxes and other deductions are removed.

(B) What is considered gross earned income?

"Gross earned income" means the total amount of gross earnings received in a month by all of the employed individuals in the family including wages legally obligated to all members of the family but which are diverted to a third party.

(C) What is counted as gross earned income for services performed as an employee?

(1) "Gross earnings for services performed as an employee" means any of the following:

(a) Wages, salary, back pay, bonuses and awards paid by an employer.

(b) Commissions.

(c) Payments from job corps.

(d) Earnings from work training programs and/or on-the-job training programs.

(e) Sick leave paid as wages.

(f) Annual leave.

(g) Holiday and vacation pay.

(2) State temporary disability insurance is considered gross earnings when such payments meet all of the following conditions:

(a) The payment is employer-funded.

(b) The payment is made to an individual who remains employed during recuperation from a temporary illness or injury pending return to the job.

(c) The payment is specifically characterized under state law as temporary wage replacement.

(D) What is counted as gross earned income for individuals who are self-employed?

(1) "Gross self-employment earnings" means the total profit from a business enterprise. The total profit from the self-employment business enterprise is determined by one of the following:

(a) Adding all gross self-employment income, then deducting the self-employment expenses from the total gross income, or

(b) Using a standard fifty per cent deduction from the total gross self-employment income.

(2) Income from a rental property minus the cost of doing business when an individual is actively engaged in management of the property for at least an average of twenty hours per week.

(3) Payments from a roomer or boarder, except a boarder for whom foster care, guardianship, or kinship support payments are received.

(4) Self-employment expenses are those expenses directly related to producing the goods and services. The following expenses are not allowable deductions:

(a) Net losses from a previous period.

(b) Federal, state and local income tax.

(c) Money set aside for retirement.

(d) Work related personal expenses, such as transportation to and from work.

(e) Entertainment expenses.

(f) Depreciation.

(5) Individuals who are self-employed and have no countable income shall provide written verification documenting how they are meeting basic living expenses, including, but not limited to, food, housing, utilities and transportation. This documentation shall be used in determining authorized hours in paragraph (E) of this rule. Failure to provide sufficient documentation shall result in the denial or termination of child care benefits.

(E) How are work hours determined for individuals who are self-employed?

(1) For approved self-employment activities, the work hours used to determine the publicly funded child care category of authorization shall be for no more hours than it would take an individual to earn the same amount of money working at the federal minimum wage. This shall be calculated as follows:

(a) Divide the gross self-employment earnings determined in paragraph (D) of this rule by 4.3 weeks.

(b) Divide the number determined in paragraph (E)(1)(a) of this rule by the federal hourly minimum wage.

(c) Round the number determined in paragraph (E)(1)(b) of this rule up to the nearest whole number.

(2) The number determined in paragraph (E)(1) of this rule is the maximum weekly hours which can be applied to the child care authorization for the self-employment approved activity.

(F) What income is not counted as gross earned income?

(1) The gross earnings of a minor child in the family who is a full-time student as defined by the school, unless the minor is a parent.

(2) Alimony or child support payments paid by a family member. The amount paid, up to the amount ordered, is excluded.

(3) The verified amount which is being garnished from the income.

(4) Earnings received under the Domestic Volunteer Service Act of 1973 for participation in the "Americorp Vista" program.

(5) Federal work study income as referenced in rule 5101:4-4-13 of the Administrative Code.

(6) All income, including in kind benefits, excluded under the supplemental nutrition assistance program (SNAP) regulations, as set forth in rule 5101:4-4-13 of the Administrative Code.

(7) Any other income amounts that federal statutes or regulations require be excluded.

(8) Any income earned by a person receiving supplemental security income (SSI).

(G) What about individuals who are unemployed or on unpaid leave from employment?

(1) Individuals who are unemployed or on unpaid leave from employment shall provide written verification documenting how they are meeting basic living expenses including, but not limited to, food, housing, utilities and transportation.

(2) Failure to provide sufficient documentation shall result in the denial or termination of child care benefits.

(H) What income is considered gross unearned income?

(1) "Gross unearned income" means the total amount of unearned income that is received in the month by all members of the family.

(2) Unearned income is income that is not gross earned income or is not gross earned income from self-employment, as defined in this rule.

(3) Unearned income includes but is not limited to the following:

(a) Cash contributions received by the family from absent caretakers, persons, organizations or assistance agencies.

(b) Social security administration disability, retirement or survivor's benefits.

(c) Railroad disability, retirement or survivor's benefits.

(d) Child support and/or alimony payments made to a family member by an individual not living with the family.

(e) Temporary worker's compensation payments.

(f) Termination/severance pay received as average pay, and not as a non-recurring lump sum.

(g) Rental income for properties that are not self-managed.

(h) Rental income for properties when the individual manages the properties for less than an average of twenty hours per week.

(i) Unemployment benefit payments.

(j) Basic assistance payments from Ohio works first (OWF).

(I) What income is not counted as gross unearned income?

(1) SSI payments.

(2) Federal, state or local foster care maintenance payments.

(3) Federal, state or local adoption assistance payments.

(4) Kinship permanency incentive payments made in accordance with the requirements of rule 5101:2-40-04 of the Administrative Code, and kinship support payments made in accordance with the requirements of rule 5101:2-42-18.2 of the Administrative Code.

(5) Payments made with county funds to increase the amount of cash assistance an assistance group receives in accordance with section 5107.03 of the Revised Code.

(6) Child support payments paid by a family member for a child outside the family. The amount paid, up to the amount ordered, is excluded.

(7) Alimony paid pursuant to a court order.

(8) Contributions for shared living arrangements.

(a) These include cash payments received by a family from an individual who is not a family member but who resides in the household and shares responsibility for the household expenses through an informal arrangement.

(b) The cash payment given to the family is not available to the family because the payment represents the non-family member's share of the household expenses.

(9) Bona fide loans from any source, including rural housing loans made by the federal housing administration.

(10) Experimental housing allowance program payments made under annual contributions on contracts entered into prior to January 1975, under section 23 of the U.S. Housing Act of 1937.

(11) HUD community development block grant funds paid under Title I of the Housing and Community Development Act of 1974 (Public Law 93-383).

(12) Home energy assistance support and maintenance paid in cash or in-kind, Public Laws 97-377 (December 21, 1982), 97-424 (January 6, 1983), and 98-21 (April 20, 1983).

(13) Income tax refunds received by any of the family members.

(14) The verified amount which is being garnished from the income.

(15) Earned income tax credit payments when received as part of an income tax refund.

(16) The value of surplus commodities donated by the department of agriculture.

(17) Benefits received under Title VII, nutrition program for the elderly, Older Americans Act of 1965, Public Law 89-73 as amended through Public Law 114-144 (April 19, 2016).

(18) Retroactive payments made as a result of a state hearing.

(19) Escrow accounts established or credited as the direct result of the assistance group's involvement in family self-sufficiency on or after May 15, 1992.

(20) Ohio works first cash payment for support services, pursuant to section 5107.66 of the Revised Code.

(21) Prevention, retention and contingency (PRC) payments.

(22) The value of SNAP allotments.

(23) Money received in the form of a nonrecurring lump sum payment, including, but not limited to:

(a) Retroactive lump sum social security, SSI, or pension benefits.

(b) Retroactive lump sum insurance settlements.

(c) Retroactive lump sum payment of child support arrearage.

(d) Refunds of security deposits on rental properties or utilities.

(e) Publicly funded child care overpayment reimbursements.

(f) PRC payments not defined as cash assistance.

(g) Termination/severance payments.

(24) Income excluded under the SNAP regulations, as set forth in rule 5101:4-4-13 of the Administrative Code, unless the income is included under the provisions of this rule.

(25) Any other income amounts that federal statutes or regulations require be excluded.

(J) How is the family's gross monthly income calculated?

(1) When determining eligibility and copayment for child care benefits, the county agency shall calculate the family's gross monthly income.

(2) Earned and unearned income that is received on a monthly basis shall be rounded down by dropping all cents.

(3) Earned and unearned income that is received weekly, bi-weekly or semi-monthly shall have all cents dropped before and after being converted into a monthly amount. Amounts shall be converted as follows:

(a) Income received on a weekly basis is multiplied by 4.3.

(b) Income received biweekly (every two weeks), is multiplied by 2.15.

(c) Income received semimonthly (twice a month) is multiplied by two.

(4) Hourly rates which include cents are not rounded but are converted into monthly figures using the exact amounts.

(K) What if an individual has fluctuating income?

If an individual has fluctuating income, the income shall first be averaged to arrive at a figure to be converted into a monthly amount, according to the following procedures:

(1) If the employed individual works the same number of hours per pay period, that number of hours shall be used in computing the individual's gross monthly income.

(a) The gross monthly income shall be computed by one of the following:

(i) Using the gross earnings listed on the individual's pay stubs; or

(ii) Multiplying the number of hours per pay period by the hourly rate of pay.

(b) The figure determined in paragraph (K)(1)(a) of this rule is used to convert the income into a monthly amount.

(2) If the employed individual has fluctuating hours of employment, the income shall be averaged.

(a) Cents shall be dropped prior to calculating the average income amount.

(b) The average income amount is used in converting the income into a monthly figure.

(c) When possible, the county agency shall average the income received in the preceding four weeks.

(3) When the income from the prior four week period is not representative of current or future income, the county agency shall project income based on a best estimate. The best estimate shall consider the following variables which may affect the determination:

(a) More than four weeks of pay stubs, if they are available and the individual states that an average of a longer period of time is more representative because the income received in the most recent four weeks was less or greater than the average. The county agency shall use all available income related information for the immediately preceding three month period.

(b) The individual's projection of future earnings, when the individual disagrees with the use of income for the past four weeks period as representative of future income. The county agency shall determine a representative figure using all available income related information, including the individual's projection of future income.

(c) Year-to-date earnings, if listed on an individual's pay stub. Year-to-date earnings may be used to determine average income for periods longer than four weeks.

(d) All available income related information, which shall be used to determine a representative figure when there are fewer than four weeks of pay stubs available. This includes situations when the employed individual disagrees with the use of earnings from the past four week period as indicative of future earnings.

(e) Written documentation from the employer, which shall be required if there are no pay stubs available because the employment is new.

(L) What if an individual's income is sporadic?

(1) If income is sporadic, the income for a period of one year shall be used to determine an average adjusted monthly income. An example of sporadic income is commission-based income.

(2) When income is from work that normally involves seasonal periods of unemployment, the family's adjusted monthly income shall be determined from the adjusted annual income of the family divided by twelve months.

(M) How is self-employment income calculated?

For situations in which an individual has self-employment income, the county agency shall determine the gross earnings for the month based on an estimate of the individual's gross annual earnings.

(1) The self-employed individual shall provide copies of the tax return from the previous year as well as current business records in order to project annual gross income.

(a) The income shown on the previous year's tax return shall be used to estimate earnings for the current and future months.

(b) The gross monthly earnings shall be determined by dividing the previous year's tax return by the number of months the individual was self-employed the previous year.

(c) Estimation of self-employment income shall be used when the individual has been self-employed for some time, the gross earnings have remained fairly constant, and there is no anticipated change in the individual's circumstance.

(2) If the individual contests the estimate of income from self-employment based solely on information on the previous year's tax return, the individual shall provide a projected estimate of gross earnings for the current taxable year, based upon current business records.

(a) When the individual cannot estimate gross earnings for the current taxable year based on current business records, the county agency shall accept the individual's best estimate.

(b) Using the individual's best estimate of income for the current taxable year, the county agency shall allocate one-twelfth of the gross annual income equally into each month of the taxable year.

(3) If the individual contests the county agency estimate of the income from self-employment based solely on information on the previous year's tax return but does not provide a projected estimate of gross earnings for the taxable year based on current business records, the county agency shall project the earnings based on the gross earnings listed on the previous year's tax return.

(a) If the individual does not have a tax return from the previous year, the county agency shall project an estimate of the individual's annual gross earnings from self-employment based on the individual's current business records. The county agency shall determine that one-twelfth of the projected gross earnings from self-employment shall be allocated monthly.

(b) In the absence of both previous year's tax return and current business records, the county agency shall require the individual to provide a written best estimate of his or her projected annual income and expenses. The county agency shall then determine that one-twelfth of the projected annual gross earnings from self-employment shall be distributed into all months of the taxable year.

(N) What are acceptable forms of income verification?

All income shall be verified by the best available information from the following list:

(1) Documentary evidence is written confirmation of the applicant's income. The county agency should include copies of all documents used for verification in the case file. If copies of documents cannot be obtained, a description of the documentary evidence shall be included in the case file. Documentary evidence includes, but is not limited to, the following:

(a) Pay stubs.

(b) Income tax returns.

(c) The most recent W-2 form.

(d) Self-employment bookkeeping records.

(e) The most recent tax forms for self-employed individuals.

(f) Data from providers of pension benefits.

(g) Business records.

(h) Correspondence or data from the social security administration.

(i) Data from the Ohio bureau of worker's compensation.

(j) A signed statement from the employer that includes gross income and/or hourly wage and work hours.

(2) A collateral contact is an oral confirmation by someone that is not a member of the applicant's household, including employers, human resources personnel, social service agencies or migrant service agencies.

(a) A confirmation may be made in person or over the phone.

(b) The collateral contact may be anyone who can provide an accurate third-party verification. The person who will act as the collateral contact may be provided by the applicant or selected by the county.

(c) If income received is cash without a receipt, a contact with the employer is required.

(d) The county agency is not required to use a collateral contact provided by the applicant if there is reason to believe the contact will not be able to provide accurate third-party verification. In these cases, the county agency may request another collateral contact from the applicant or may select an alternate contact themselves.

(e) The county agency may contact individuals or agencies with receipt of a signed application as defined in rule 5101:2-16-02 of the Administrative Code, or other signed written consent by the caretaker, in order to obtain all pertinent information regarding family income.

(3) A statement from the applicant may be acceptable on a case-by-case basis when no other verification is available. When an applicant statement is used it shall be documented in the case record.

(O) Who is responsible for providing verifications of income?

The caretaker shall provide verification of the source and amount of any income received, unless such information is already available to the county agency.

(1) The county agency shall assist the caretaker in obtaining verification provided the caretaker has not refused to cooperate in the development of documentation for any source of income received. If it would be difficult or impossible for the caretaker to obtain verification in a timely manner, or if the county agency can obtain the verification faster, the county agency shall offer assistance in obtaining the verification.

(2) Failure to cooperate in the development of documentation for any source of income received is acceptable grounds for a delay in the processing of an application or a determination of eligibility.

(3) If failure to cooperate continues beyond thirty days from the date of application, the application shall be denied.

(4) Denial of an application does not prohibit the caretaker parent from reapplying for child care benefits.