



March 23, 2021

Cash Assistance Manual Transmittal Letter No. 163

TO: All Cash Assistance Manual Holders
FROM: Matt Damschroder, Interim Director
SUBJECT: Ohio Works First: Federal Work Participation Rates, Assistance Group Definitions, and Excluded Income.

In accordance with section 106.03 of the Ohio Revised Code (ORC), each state agency is required to review each of its rules in the Ohio Administrative Code a minimum of once every five years. The intent of the review is to ensure that Administrative Code rules are clearly written and that program requirements are accurate, up-to-date and clearly expressed. To the extent possible, unnecessary paperwork will be eliminated, local agencies will be given increased flexibility, and any adverse impact on businesses will be eliminated or reduced. As a result of the review, the agency may amend the rule; rescind the rule; or continue the rule without amendment.

Additionally, Ohio Administrative Code rules 5101:1-3-01, 5101:1-23-10, and 5101:1-23-20.1 have been amended due to Section 5101.884 of Amended Substitute Senate Bill 310 of the 133rd General Assembly who authorized the creation of the Kinship Support program (KSP), which will provide financial payments to kinship caregivers who receive placement of a child by a public children services agency (PCSA) and do not have a foster home certification. The KSP program requirements have been promulgated under rule 5101: 2-42-18.2 of the Ohio Administrative Code. For the purposes of Ohio Works First (OWF), KSP payments will be treated in the same manner in which foster care payments are treated for assistance groups including those individuals for whom these payments are received. Children, including minor parents, for whom KSP payments are made are not permitted to receive both KSP and OWF.

The Office of Family Assistance (OFA) has completed a review of the following rules and the rules have been subject to a review by the Joint Committee on Agency Rule Review (JCARR). The rules will become effective on 04/01/2021.

Chapter 2000

5101:1-3-01 "Ohio Works First: Federal Work Participation Rates."

The rule describes the federal work participation requirements and activities for work eligible individuals. OFA amended this rule. Changes to the rule include:

- Paragraph (C)(1) was updated to include that a two-parent assistance group is deemed to include a child when the only minor child is in receipt of KSP;

- Paragraph (D)(5) was updated to include that an all-family assistance group includes two-parent assistance groups when the only minor child is in receipt of KSP; and
- Minor language changes to improve clarity.

5101:1-23-10 "Ohio Works First: Assistance Group Determination."

The rule describes the process for determining assistance group composition for Ohio Works First (OWF). OFA amended this rule. Change to the rule includes:

- Paragraph (F)(9) was added to state parents or children for whom KSP payments are made are excluded from the OWF assistance group.

5101:1-23-20.1 "Ohio Works First: Excluded Income."

The rule describes the process for determining excluded income for OWF. OFA amended this rule. Changes to the rule include:

- The term "food assistance" was replaced with "supplemental nutrition assistance program (SNAP)";
- Updated date references to align with federal rule;
- Added 45 C.F.R. 233.53 to paragraph (B)(13) to align with federal rule;
- Removed Aroostook Band of Micmac's in paragraph (B)(14) as this has been omitted from federal rule;
- Paragraph (B)(19) was added to state KSP payments are excluded as income for OWF; and
- Minor language changes to improve clarity.

5101:1-3-01

Ohio works first: federal work participation rates.

(A) Which section of the Revised Code applies to federal work participation rates?

- (1) Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law, and the state plan.
- (2) The county agency will administer the work activity programs in accordance with the requirements contained in this rule and not in accordance with sections 5107.40, 5107.42 and 5107.44 of the Revised Code.

(B) What are the federal work participation rates?

- (1) Each federal fiscal year each county agency must achieve the minimum federal work participation rates pursuant to 45 C.F.R. 261.21 (2/2008) and 45 C.F.R. 261.23 (2/2008). The minimum federal work participation rates are ninety per cent for two-parent assistance groups and fifty per cent for all-family assistance groups.
- (2) For purposes of calculating federal work participation rates, the definitions described in this rule are applicable. In order to meet the definitions of two-parent assistance groups or all-family assistance groups as described in paragraphs (C) and (D) of this rule, the work-eligible individuals shall be included in the assistance group. Learning, earning and parenting (LEAP) participation by a minor head of household, as defined in section 5107.02 of the Revised Code and rule 5101:1-1-01 of the Administrative Code, is included in the two-parent or the all-family assistance group definitions for federal work participation calculation purposes.

(C) What is a two-parent assistance group?

(1) Definition

A two-parent assistance group includes at least one minor child and two natural or adoptive parents of the same minor child who are work-eligible individuals and living in the home. This includes a two-parent assistance group that is deemed to include a minor child when the only minor child is in receipt of supplemental security income (SSI) benefits, or is a child for whom federal, state, or local adoption assistance ~~or~~ foster care maintenance payments, or kinship support payments as described in rule 5101:2-42-18.2 of the Administrative Code are made.

(2) Exception

When an assistance group contains two work-eligible parents of the same minor child, and one of the parents is disabled, the assistance group shall be excluded from the two-parent work participation requirements. Disability of a parent shall be deemed to exist when at least one parent has a physical or mental illness or impairment. The disability shall be supported by competent medical documentation and must be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to work. The disability must be expected to last for a period of at least thirty days. A finding of eligibility for retirement, survivor's, and disability insurance (RSDI) or SSI benefits based on disability or blindness is acceptable proof of a disability for OWF purposes.

(D) What are all-family assistance groups?

All-family assistance groups include two-parent assistance groups as defined in paragraph (C) of this rule, and assistance groups described in paragraphs (D)(1) to (D)(6) of this rule.

- (1) An assistance group containing a minor child and a work-eligible individual.
- (2) An assistance group containing a minor child and a specified relative in need as described in rule 5101:1-23-10 of the Administrative Code.
- (3) An assistance group as identified in paragraph (C)(2) of this rule shall be included in the all-family assistance group definitions.
- (4) An assistance group containing only a pregnant woman who is at least in her sixth month of pregnancy.
- (5) When the only minor child is in receipt of SSI benefits, or is a child for whom federal, state or local foster care maintenance ~~or~~, adoption assistance payments, or kinship support payments as described in rule 5101:2-42-18.2 of the Administrative Code are made, the assistance group is deemed to include that minor child for purposes of determining eligibility to participate in OWF.
- (6) An assistance group containing a minor child, a work-eligible individual and a parent who is a recipient of SSI benefits.

(E) What are child-only assistance groups?

Child-only assistance groups are excluded from the federal work participation rate calculation. A child-only assistance group is an assistance group containing a minor child residing with a parent, legal guardian, legal custodian, or other specified relative whose needs are not included in the assistance group and who does not meet the definition of a work-eligible individual pursuant to paragraph (B) of rule 5101:1-3-12

of the Administrative Code. This includes situations when the minor child resides with both parents, and both parents are recipients of SSI; and when the parent of the minor child is a child for whom federal, state or local foster care maintenance or adoption assistance payments are made.

(F) What are countable federal work activities?

Activities in paragraph (F)(1) of this rule are core activities and will meet all the hours of participation for the federal work participation rate. Non-core activities in paragraph (F)(2) of this rule will meet the hours of participation for the federal work participation rate only after the required hours of participation have been completed in a core activity.

(1) The following are the core work ~~activities~~activities:

- (a) Unsubsidized employment;
- (b) Subsidized private sector employment;
- (c) Subsidized public sector employment;
- (d) Work experience program (WEP);
- (e) On-the-job training (OJT);
- (f) Job search and job readiness assistance;
- (g) Community service;
- (h) Vocational educational training; and
- (i) Providing child care services to an individual who is participating in a community service program.

(2) The following are the non-core work activities:

- (a) Job skills training directly related to employment;
- (b) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency; and
- (c) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general ~~equivalence~~equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.

(G) What are the federal work participation requirements ?

For purposes of meeting the federal work participation rates:

- (1) The work-eligible individuals in two parent assistance groups containing at least two work-eligible individuals and not receiving federally funded child care shall participate at least an average total of thirty-five hours per week (one hundred fifty-two hours monthly), thirty hours of which shall be in a core activity.
- (2) The work-eligible individuals in two-parent assistance groups containing at least two work-eligible individuals and an adult in the family is not disabled or is not caring for a child with a disability and receiving federally funded child care shall participate at least an average total of fifty-five hours per week (two hundred thirty-eight hours monthly), fifty hours of which shall be in a core activity.
- (3) The work-eligible individuals in all family assistance groups shall participate at least an average total of thirty hours per week (one hundred thirty hours monthly), twenty hours of which shall be in a core activity.
- (4) A work-eligible individual who is the single custodial parent or specified relative of a child under six years of age meets the federal work participation rate by participating at least an average total of twenty hours per week in core activities (eighty-seven hours monthly).
- (5) In order to meet the federal work participation rate at least one of the parents in a two-parent assistance group shall participate sufficient hours to meet the all-family rate as described in paragraph (G)(3) of this rule.
- (6) Single custodial parent disregarded.

For any fiscal year, a county agency may, at its option, not require a work-eligible individual who is a single custodial parent caring for a child under the age of twelve months to engage in work activities, and may disregard such an individual in determining the participation rates as described in paragraph (B) of this rule. For purposes of the federal work participation rate, this disregard can only be applied to the work eligible individual for not more than a total of twelve months, even if the single custodial parent continues to care for a child under the age of twelve months.

(H) When are federal work participation hours deemed to have been met?

- (1) A recipient who is married or a head of household and has not attained twenty years of age is deemed to be participating the required number of hours for a month in a fiscal year when the recipient:
 - (a) Maintains satisfactory attendance at secondary school or the equivalent during the month; or
 - (b) Participates in education directly related to employment for an average of at least twenty hours per week during the month.
- (2) For a married recipient, such participation counts as the greater of twenty hours or the actual hours of participation.
- (3) When both parents in the family are under twenty years old, the federal work requirements specified in paragraph (G)(2) of this rule are met when both meet the conditions of paragraph (G)(7)(a)(i) or (G)(7)(a)(ii) of this rule.

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Certification

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09/01/2018, 01/10/2021

5101:1-23-10

Ohio works first: assistance group determination.**(A) Conflict with Revised Code**

- (1) Section (5) of Amended Substitute Senate Bill 238 of the 126th General Assembly (9/2006) sets forth the following provision: Not later than September 30, 2006, the director of job and family services shall adopt rules as necessary for the state to comply with 42 U.S.C. 607(i)(2) (8/1996). When necessary to bring the state into compliance with 42 U.S.C. 607(i) (2) (8/1996), the rules may deviate from Chapter 5107. of the Revised Code. Rules adopted under this section that govern financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. All other rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.
- (2) The county agency shall administer the penalty provisions under the Ohio works first (OWF) program in accordance with the requirements contained in this rule and not in accordance with section 5107.36 of the Revised Code.
- (3) All applicable requirements contained in the Revised Code section referenced in paragraph (A) (2) of this rule have been incorporated in this rule.

(B) Who shall be included in the assistance group determination?

The following individuals shall be included in the assistance group when residing in the same household, unless ineligible or excluded in accordance with paragraph (E) or (F) of this rule:

- (1) A minor child who is determined eligible for OWF;
- (2) All natural or adoptive parents of the minor child; and
- (3) All minor siblings living with the minor child.

(C) What are the required living arrangements for minor parents to receive OWF?

A minor parent with a child may be eligible when they are residing in one of the following living arrangements:

- (1) A minor parent and his or her eligible dependent child(ren) living independently.
 - (a) The minor parent may be eligible only when the minor parent has been or is married; or

- (b) Residing in an approved adult-supervised living arrangement as described in section 5107.24 of the Revised Code.
 - (2) A minor parent and his or her eligible dependent child(ren) residing with the minor parent's parent(s).
 - (a) When the minor parent's parent(s) is either receiving or is requesting OWF, there shall be one OWF assistance group that consists of the eligible child(ren), minor parent and minor parent's parent(s) and dependent siblings of the minor parent.
 - (b) When the minor parent's parent(s) is self-sufficient or is not requesting assistance, the assistance group shall consist of the minor parent and his or her child(ren). The income of the minor parent's parent(s) is allocated when determining eligibility for the assistance group as described in rule 5101:1-23-20.2 of the Administrative Code.
- (D) When may a specified relative be included in an assistance group?
- (1) A specified relative may be included in the assistance group when he or she has no eligible children of his or her own, resides with a child(ren) who meets a degree of relationship as described in section 5107.02 of the Revised Code, and chooses to be included in the assistance group with the child(ren).
 - (a) When a specified relative chooses to be included in the assistance group with the child(ren), the specified relative's income is considered in determining the eligibility of the assistance group as described in rule 5101:1-23-20 of the Administrative Code.
 - (b) When the specified relative has a spouse, the spouse cannot be included in the assistance group. The income of the spouse shall be allocated to the assistance group consisting of the specified relative and child(ren) as described in rule 5101:1-23-20.2 of the Administrative Code.
 - (2) A specified relative who resides with both his or her biological or adoptive child(ren) and the child(ren) who meets a degree of relationship, as described in section 5107.02 of the Revised Code, shall only be included in the assistance group with his or her child(ren).
 - (a) OWF eligibility for the assistance group containing the other related child(ren) shall be determined separately and independently of the assistance group containing the specified relative and his or her biological or adoptive child(ren). Income of the specified relative shall not be

considered in determining eligibility of the assistance group with00 the related child(ren).

- (b) When the children who meet a degree of relationship are half-siblings to the specified relative's child(ren) there shall be two separate assistance groups: one containing the specified relative and his or her child(ren); and one containing the child(ren) who meets a degree of relationship.

(E) Who is ineligible to be included in the assistance group?

The individuals in this paragraph are ineligible to be included in the assistance group, but their income is used in determining the benefit amount as described in rules 5101:1-23-20 and 5101:1-23-20.2 of the Administrative Code. Individuals listed in this paragraph may be a required work eligible individual as defined in paragraph (B) of rule 5101:1-3-12 of the Administrative Code.

- (1) Aliens who fail to meet the citizenship requirement as described in rule 5101:1-2-30 of the Administrative Code.
- (2) Aliens ineligible due to sponsor income as described in rule 5101:1-2-35 of the Administrative Code.
- (3) Individuals disqualified from OWF due to an intentional program violation for as long as the disqualification period is applied as described in Chapter 5101:6-20 of the Administrative Code, when the disqualification period began prior to July 1, 1998. Individuals serving an intentional program violation that began prior to July 1, 1998, will continue to serve out the entire disqualification period, including individuals permanently disqualified.
- (4) Fugitive felons as described in section 5101.26 of the Revised Code.
- (5) Individuals who are violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under a federal or state law.
- (6) Individuals convicted in federal or state court for residency fraud as described in rule 5101:1-3-14 of the Administrative Code.
- (7) Individuals who fail to cooperate with an eligibility requirement for which there is no penalty, such as a failure to:
 - (a) Provide information about a family member required to be included in an assistance group;

- (b) Comply with an initial eligibility requirement, such as enumeration, or
 - (c) Comply with the living arrangement requirement.
- (8) A teen parent who is under the age of eighteen, and:
- (a) Has a child in his or her care at least twelve weeks of age;
 - (b) Has not successfully completed high school or the equivalent; and
 - (c) Is not participating in educational activities that are devoted to the receipt of a high school diploma or its equivalent, or an alternative educational training program defined by the county agency.

(F) Who is excluded from the assistance group?

The following individuals and their income are not considered when determining the assistance group and benefit amount, except for individuals listed in paragraph (F) (5) of this rule:

- (1) As described in section 5107.11 of the Revised Code, legal guardians or custodians who do not meet the definition of specified relative, as described in section 5107.02 of the Revised Code, and individuals not related by blood or adoption, residing with an eligible child(ren). This also applies when a legal guardian or custodian and his or her child(ren) are eligible for OWF, and the adult is also the legal guardian or custodian of another child(ren) who, while not related to the adult, is a half-sibling to the adult's child(ren). In this situation, there shall be two assistance groups: one containing the adult and his or her child(ren); and one containing the child(ren) for whom the adult is the legal guardian or custodian.
- (2) The father of an unborn child, living with the pregnant mother, with no other eligible children. The father cannot be included in the assistance group until the child is born.
- (3) Parents or children receiving supplemental security income (SSI). A recipient of SSI shall have the choice of receiving OWF, when eligible, or continuing to receive SSI, but shall not receive both OWF and SSI at the same time.
- (4) Stepbrothers and stepsisters.
- (5) Stepparents, unless there is a common child. The income of a stepparent is allocated in determining the payment amount as described in rule 5101:1-23-20.2 of the Administrative Code.

- (6) Parents or children in receipt of federal, state or local foster care maintenance payments.
- (7) Parents or children in receipt of federal, state or local adoption assistance payments. The exclusion of the individual receiving the payments shall not result in lower benefits to the assistance group than the benefits that the family would receive when the individual and his or her income were included in the assistance group.
- (8) An adoptive or blood-related sibling to a child for whom assistance is requested and who is living in the home but does not meet the living arrangement requirement as defined in rule 5101:1-3-03 of the Administrative Code.
- (9) Parents or children for whom kinship support payments are made in accordance with rule 5101:2-42-18.2 of the Administrative Code.

(G) What are the steps in determining the assistance group?

- (1) Identify the minor child(ren), as defined in section 5107.02 of the Revised Code, for whom assistance is being requested. Include minor children who are temporarily absent from the home as described in rule 5101:1-3-04 of the Administrative Code.
- (2) Add siblings to the minor child living in the household and who also meet the definition of "minor child." "Sibling" means any and all blood-related or adoptive brothers and sisters who are not specifically excluded. Include siblings who meet the temporary absence provision as described in rule 5101:1-3-04 of the Administrative Code.
- (3) Add the natural or adoptive parents of the minor child(ren) living in the household who are not specifically excluded as described in paragraph (F) of this rule.
 - (a) When the child resides with a specified relative who is in need and requesting assistance instead of a parent, and the specified relative has no eligible biological or adoptive children, add that individual to the assistance group.
 - (b) Include a parent or specified relative in need who meets the temporary absence provision as described in rule 5101:1-3-04 of the Administrative Code.
 - (c) Include a parent or specified relative in need in the household with the minor child(ren) who is serving house arrest as defined in section 2929.01 of the Revised Code.

- (4) This is the assistance group. When a person(s) is required to be in more than one assistance group within the same household, then the assistance groups shall be combined, except as provided in paragraphs (D)(2) and (F)(1) of this rule.
- (5) Eligibility is determined for the assistance group as a whole. The income provisions as described in rules 5101:1-23-20, 5101:1-23-20.1, and 5101:1-23-20.2 of the Administrative Code shall be applied in determining eligibility and the benefit amount.

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5101:1-23-20.1 **Ohio works first: excluded income.**

(A) What is excluded from gross earned income?

- (1) All income excluded under the ~~food assistance~~ supplemental nutrition assistance program (SNAP) regulations, as described in rule 5101:4-4-13 of the Administrative Code.
- (2) The gross earnings of a minor child in the assistance group who is a full-time student as defined by the school, unless the minor is a parent. Minor child is defined in section 5107.02 of the Revised Code.
- (3) Child support payments paid by an assistance group member for a child outside the assistance group, up to the amount ordered.
- (4) The verified amount garnished from the income.
- (5) Exclusions from self-employment income as described in rules 5101:1-23-20, 5101:4-4-13 and 5101:4-6-11 of the Administrative Code. A deduction claimed as personal business and/or entertainment expense is not an allowable deduction from self-employment income.
- (6) Exclusions from a microenterprise development set forth in rule 5101:1-23-20 of the Administrative Code.
- (7) Earned income tax credit payments whether added to the individual's wages or as part of an income tax refund. The individual's wages must be subject to federal withholding or Federal Insurance Contributions Act (FICA) taxes, ~~68A Stat. 415 (1954), 26 U.S.C. 3128, (FICA) taxes~~ 26 U.S.C. 3102 (2010).
- (8) Income received due to temporary employment with the bureau of the census for a decennial census.
- (9) Any other income amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be excluded.

(B) What is excluded from gross unearned income?

- (1) All income excluded under the ~~food assistance~~ SNAP program regulations, as described in rule 5101:4-4-13 of the Administrative Code.
- (2) Income of a recipient of supplemental security income (SSI), including the SSI payment.

- (3) Income of a child for whom federal, state or local foster care maintenance payments are made, including the foster care payment.
- (4) Income of step siblings who are not included in the assistance group.
- (5) Payments made with county funds to increase the amount of cash assistance an assistance group receives in accordance with the provisions set forth in section 5107.04 of the Revised Code.
- (6) Child support payments paid by an assistance group member for a child outside the assistance group. The amount paid, up to the amount ordered, is excluded.
- (7) Contributions for shared living arrangements (i.e. cash payments received by an assistance group from an individual who is not an assistance group member but who resides in the household with the OWF assistance group and shares responsibility for the household expenses through an informal arrangement).
- (8) Benefits received under Title VII, nutrition program for the elderly, Older Americans Act of 1965, Pub. L. No. 89-73, (7/14/1965), title III, Section 339, as added, Pub. L. No. 106-501, title III, Section 313, (11/13/2000), 114 Stat. 2252, Pub. L. No. 116-131, Section 339 (2020).
- (9) Other payments made by a public or private agency for the purposes of supplementing standards, so long as there is no duplication of payment.
- (10) Retroactive payments made as a result of a state hearing.
- (11) Experimental housing assistance payments made under annual contributions on contracts entered into under Section 237(f)(2) of the United States Housing Act of 1937, (42 U.S.C. 1421b), as in effect before 1/1/1975.
- (12) Housing and urban development (HUD) community development block grant funds paid under Title I of the Housing and Community Development Act of 1974 Pub. L. No. 93-383, (8/22/1974), 42 U.S.C. 5303, as amended 10/28/92.
- (13) Home energy assistance support and maintenance paid in cash or in kind, Pub. L. No. 97-377 (12/21/1982), Pub. L. No. 97-424 (1/06/1983), and Pub. L. No. 98-21 (4/20/1983), 45 C.F.R. 233.53 (1991).
- ~~(14) Payments received under the provisions of the "Aroostook Band of Micmaacs," Pub. L. No. 102-171, 25 U.S.C 1721, (11/26/1991).~~
- ~~(15)~~(14) The verified amount which is garnished from the income.

- ~~(16)~~(15) Earned income tax credit payments.
- ~~(17)~~(16) Any other income amounts that federal statutes or regulations and sections 5101.17 and 5117.10 of the Revised Code require be excluded.
- ~~(18)~~(17) Kinship permanency incentive (KPI) payments made in accordance with the provisions set forth in rule 5101:2-40-04 of the Administrative Code.
- ~~(19)~~(18) The supplemental weekly unemployment compensation payments paid under the Worker, Homeownership, and Business Assistance Act of 2009, (Pub. L. No. 111- 92, 26 U.S.C. 3304, ~~(11/06/2009)~~(2018)).
- (19) Kinship support payments made in accordance with the provisions set forth in rule 5101:2-42-18.2 of the Administrative Code.

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