



June 28, 2022

Cash Assistance Manual Transmittal Letter No. 183

TO: All Cash Assistance Manual Holders
FROM: Matt Damschroder, Director
SUBJECT: Five Year Rule Review: Ohio Works First: Assistance Group Determination; Ohio Works First: Income and Eligibility; Ohio Works First and Prevention, Retention and Contingency: Assistance Group Ineligibility Due to Receipt of Fraudulent Assistance.

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.

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 08/01/22.

Chapter 2000

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

This rule describes the process for determining assistance group composition for Ohio Works First (OWF). OFA amended this rule. Changes to the rule include:

- The title to paragraph (A) has been amended to “Which section of the Revised Code applies to the assistance group determination?”;
- Language in paragraph (A)(1) was removed and replaced with “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”;
- Paragraph (A)(3) was stricken as language under paragraph (A)(2) references that the county agencies will follow requirements contained in this rule and not in accordance with section 5107.36 of the Revised Code; and
- Minor language changes were made to improve clarity.

5101:1-23-20 "Ohio Works First: Income and Eligibility."

The rule describes the policy for determining the gross earned income, gross unearned income, income availability and eligibility calculation process for the Ohio Works First program. OFA amended this rule. Changes to the rule include:

- Minor language changes were made to improve clarity.

5101:1-23-75 "Ohio Works First and Prevention, Retention and Contingency: Assistance Group Ineligibility Due to Receipt of Fraudulent Assistance."

The rule describes the definitions of "fraudulent assistance" and intentional violations," explains how violations are handled in situations of assistance group movement and explains how repayments are made. OFA amended this rule. Changes to the rule include:

- Removing form revision dates in paragraph (C) as a result of Senate Bill 221 of the 132nd General Assembly that amended incorporation by reference requirements contained in section 121.71 to 121.75 of the Ohio Revised Code.

5101:1-23-10

Ohio works first: assistance group determination.

(A) ~~Conflict with Revised Code~~ Which section of the Revised Code applies to assistance group determination?

~~(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)(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. 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)(2) The county department of job and family services will 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. 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 ~~with~~with 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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CERTIFIED ELECTRONICALLY

Certification

06/27/2022

Date

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5101:1-23-20

Ohio works first: income and eligibility.

Except for the provisions that are listed in rules 5101:1-23-20.1 and 5101:1-23-20.2 of the Administrative Code, all payments received by assistance group members, and in some instances non-assistance group members, are considered income for purposes of determining eligibility for the Ohio works first (OWF) program. Income is categorized as earned or unearned.

(A) What is gross earned income?

(1) "Gross earned income" means the total amount of gross wages before taxes or deductions received in a month by all of the employed individuals in the assistance group.

(2) Gross earned income includes:

(a) All wages, back pay, bonuses and awards paid by the employer, commissions, severance pay, payments from job corps, work training programs, on-the-job training programs, sick leave paid as wages, annual leave, holiday and vacation pay.

(b) Wages legally obligated to members of the assistance group but are diverted to a third party, as described in rule 5101:4-4-13 of the Administrative Code.

(c) Earnings of an individual residing with the assistance group who is a required assistance group member but who is ineligible to be included in the assistance group as described in rule 5101:1-23-10 of the Administrative Code.

(d) Earnings of the spouse of a married pregnant woman with no other OWF eligible children.

(i) The spouse's income is added to the pregnant woman's income.

(ii) The assistance group's total income, less appropriate disregards, is compared to the payment standard for two.

(iii) When the total income is less than the payment standard for two, the pregnant woman's eligibility for cash assistance is determined in accordance with paragraph (I) of this rule, using only her income.

(iv) Once the child is born, the spouse shall be added to the assistance group in accordance with the provisions described in rule

5101:1-23-10 of the Administrative Code and his income shall be used in determining continued eligibility.

(e) State temporary disability insurance and temporary workers' compensation payments are considered gross earnings when such payments meet all of the following conditions:

(i) The payment is employer-funded; and,

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

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

(B) What are gross self-employment earnings?

(1) "Gross self-employment earnings" means the total profit from a business enterprise after the deduction of either fifty per cent of the gross receipts or the actual verified expenses (i.e., the business expenses directly related to producing the goods or services) from the gross receipts.

(2) Gross monthly self-employment earnings are based on an estimate of the individual's annual earnings.

(C) What is gross unearned income?

(1) "Gross unearned income" is income that is not gross earned income from employment or self-employment.

(2) It is the total amount of unearned income that is received in the month by all members of the assistance group, and of a parent ineligible to be included in the assistance group, as described in rule 5101:1-23-10 of the Administrative Code.

(3) Gross unearned income includes but is not limited to payments from the following:

(a) Annuities;

(b) Pensions;

(c) Retirement funds;

(d) Veterans benefits;

- (e) Workers' compensation;
- (f) Unemployment compensation;
- (g) Social security retirement, survivor's and disability insurance (RSDI) benefits;
- (h) Cash contributions from persons, organizations or assistance agencies;
- (i) Income allocated to the assistance group from a required individual who is ineligible to be included in the OWF assistance group as described in rule 5101:1-23-10 of the Administrative Code.
- (j) A non-recurring lump-sum payment that is not anticipated or expected to be received again. Receipt of a non-recurring lump-sum payment is only considered income in the month received;
- (k) Child support and alimony payments received by the assistance group.
 - (i) Child support is considered as countable income in all budget calculations until the assignment of support is effective as described in rule 5101:1-3-10 of the Administrative Code.
 - (ii) Direct payments of support received by an assistance group from the month of application through the month in which eligibility is determined and assistance is approved shall be budgeted as unearned income.
 - (iii) Once the assignment of support is effective, any child support received by the assistance group is not counted as income in the actual grant calculation.
 - (iv) When the county agency adds an individual to an existing assistance group, the child support assignment is effective the first day of the month following the month the individual is added to the assistance group. The child support assignment may be deemed retroactive to the date the individual is required to be included in the assistance group. However, the child support payments received by or for the added individual prior to the effective date of assignment shall be treated as unearned income.
 - (v) In some circumstances, the child support payments received by the child support enforcement agency (CSEA) cannot all be distributed for present, future and past months. This results in a refund of

child support payable directly to the assistance group. When child support money has been distributed by the CSEA and an amount is refunded to the assistance group, the amount may be considered a non-recurring lump sum as described in paragraph (C)(3)(j) of this rule.

(D) When is income available to the assistance group?

- (1) Income shall be received or reasonably anticipated to be received by the assistance group during the calendar month to be used in determining eligibility for OWF.
 - (a) Availability depends upon the date of receipt and the number of months the income is intended to cover.
 - (b) In certain instances, income may need to be apportioned to future months.
 - (c) An employee under an annual contract of employment shall have the income from such contract averaged over the number of months covered under the contract regardless of whether the employee chooses to receive the income in fewer months.
- (2) Income received by a member of the assistance group is considered available to all members of the assistance group. This includes the receipt of social security Title II benefits. When a Title II beneficiary is a minor, benefits are usually paid through a representative payee. When the beneficiary is a member of the assistance group, it is necessary to determine when the entire amount of the Title II benefit is counted as income to the assistance group.
 - (a) When the representative payee resides in the same household, the total amount of Title II benefits received for the beneficiary is counted in determining the assistance group's eligibility for OWF.
 - (b) When the representative payee does not reside in the same household as the beneficiary, only that portion made available to the beneficiary and/or caretaker is countable. Title II benefits retained by a representative payee who does not reside in the same household as the beneficiary are not considered potential income to the OWF assistance group.
- (3) When income is received jointly by a member of the assistance group and one or more persons not in the assistance group, the assistance group member's portion to be considered is the amount made available to the assistance group member unless evidence is produced to the contrary.

- (4) The income of a parent ineligible to be included in the assistance group, as described in rule 5101:1-23-10 of the Administrative Code, is considered in determining the assistance group's eligibility and payment, except for excluded income described in rule 5101:1-23-20.1 of the Administrative Code.
 - (5) The county agency shall explore with each assistance group the potential development of monthly income. The assistance group shall apply for any monthly benefits that it is entitled. A county agency shall not require the assistance group to apply for lump-sum withdrawals of retirement or pension funds that would negate the drawing of monthly benefits in the near future.
 - (6) The assistance group, including the person responsible for a child receiving OWF benefits, is responsible for giving information necessary for income determinations, and for taking all actions necessary to obtain unconditionally available income.
 - (a) Income shall be unconditionally available when the assistance group has only to claim or accept the income, or to establish eligibility for the income; e.g., relative's offer of a contribution, or RSDI benefits.
 - (b) Ineligibility to participate in OWF results when the assistance group refuses to accept unconditionally available income.
- (E) How is gross earned and unearned income calculated?
- (1) Each assistance group member's monthly gross income amount shall be rounded down to the nearest whole dollar by dropping all cents in gross weekly, biweekly, or semimonthly income prior to applying the conversion factors listed in paragraph (E)(3) of this rule.
 - (2) Income received in a frequency other than monthly shall be converted into a monthly amount. All cents shall be dropped after multiplying the individual's income by the appropriate conversion factor, and prior to applying applicable earned income disregards, as described in paragraph (H)(2) of this rule. Hourly rates that contain cents are not rounded, but are multiplied in the exact amount.
 - (3) Conversion shall be performed using the following factors:
 - (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 2.

- (4) When the employed individual works the same number of hours per pay period, the gross monthly income shall be computed by either using the gross earnings listed on the individual's pay stubs or by multiplying the number of hours per pay period by the hourly rate of pay.
- (5) When the employed individual has fluctuating hours, the pays shall be averaged before converting to a gross monthly amount.
 - (a) When there are more than four weeks of pay stubs 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 average, the county agency may use all available income-related information for the immediately preceding three-month period. This includes situations when the individual disagrees with the use of income from the past four-week period as representative of future income. Some pay stubs reflect year-to-date earnings and this is an acceptable method of determining average income for longer than the four-week period.
 - (b) When there are fewer than four weeks of pay stubs available, the county agency may use all available income-related information to arrive at a representative figure. This includes situations when the employed assistance group member disagrees with the use of earnings from the past four-week period as indicative of future earnings.
- (6) When the employment is new and there are no pay stubs available yet and the employer does not provide a statement of pay rate and expected number of hours to be worked, the county agency may project an estimated amount for a pay period based on projected wages and hours as reported by the individual.

(F) How is self-employment income calculated?

Self-employment income is calculated by deducting the verified business expenses or a standard deduction of fifty per cent from the gross self-employment receipts. Gross receipts is the total profit of a business enterprise.

(1) Gross receipts

- (a) In situations in which an individual has self-employment income, the county agency shall determine the gross receipts for the month based on an estimate of the individual's gross annual earnings by reviewing copies of his or her tax return from the previous year, as well as the current business records. The income listed on the previous year's tax return

shall be used to estimate the expected earnings for the current and future months, unless the individual contests this determination of expected income. The individual's gross monthly earnings should be determined to be one-twelfth of the gross earnings as shown on the tax return for the preceding year. This method of estimating the self-employed individual's income should be applicable in situations in which the individual has been self-employed for some time, the gross earnings from self-employment have remained fairly constant (as evidenced by tax returns from previous years) and there is no anticipated change in circumstances.

- (i) When the individual contests the estimate of the income from self-employment based solely on information on the previous year's tax return, the individual shall provide a projected estimate of the gross earnings for the current taxable year, based upon the current business records to support the contention. When the individual can estimate the gross earnings for the current taxable year, the county agency shall accept the individual's best estimate and allocate one-twelfth of the gross annual income equally into each month of the taxable year.
 - (ii) When the individual contests the county agency estimate of income from self-employment based solely 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 to support the contention, the county agency shall project his earnings based on the gross earnings listed on the previous year's tax return.
- (b) When 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 earning 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.
- (i) When the individual contests the determination, provides a reasonable explanation as to why the county agency projection is not satisfactory and a written estimate of his projected annual gross earnings from self-employment, the county agency shall use the individual's written estimate to base the eligibility determination.
 - (ii) When the individual does not provide a written estimate of projected annual gross earnings, the county agency shall project the estimate based on current records.

- (c) In some situations the previous year's tax return is not representative of the expected earnings for the current year. There are some situations in which it will be difficult to project future earnings from the individual's self-employment and the previous year's tax return or current business records may not be considered to be accurate indicators of the individual's expected earnings for a variety of reasons.
- (d) In the absence of both the previous year's tax return and current business records, the county agency shall require the individual to provide a written best estimate of his projected annual income. The county agency shall then determine that one-twelfth of the projected annual gross earnings shall be distributed into all months of the taxable year.
- (e) The computed converted monthly figure shall remain unchanged until a change in income occurs as described in paragraph (H) of rule 5101:1-2-20 of the Administrative Code, or until the next reapplication. A reported change in income requires a recomputation of the budget.

(2) Expenses

The assistance group may choose one of the following two methods:

- (a) Fifty per cent standard deduction from the gross self-employment receipts;
or
- (b) Actual deductions from the self-employment receipts as described in ~~paragraph (C)~~ of rule 5101:4-6-11 of the Administrative Code.

(G) How is microenterprise development income counted?

- (1) For purposes of this rule, a "microenterprise development participant" is an individual participating in a training and education activity designed to prepare the individual for self-employment opportunities.
- (2) Gross self-employment receipts are described in paragraph (F)(1) of this rule.
- (3) The following are allowable operating expenses for up to one year following the month that the participant's business starts or expands:
 - (a) The provisions regarding non-allowable deductions from self-employment income, described in rule 5101:4-6-11 of the Administrative Code, are waived. Allowable business expenses shall not exceed seven thousand-five hundred dollars.

- (b) The purchase of capital equipment or durable goods up to five thousand dollars.
 - (c) The interest and principal portion of a secured business loan not to exceed five thousand dollars.
 - (d) Payments made into an "unencumbered cash reserve account" in any month the total amount in the fund does not exceed three thousand dollars.
- (4) The gross self-employment earnings, after deduction of expenses, up to one hundred thirty-three per cent of the federal poverty guideline for the participant's OWF assistance group size is excluded as countable income. Gross self-employment earnings received in excess of this standard shall be included as gross earned income.

(H) How is initial eligibility determined?

- (1) When an assistance group applies for OWF and it has been more than four months since they last received OWF, the county agency shall determine whether the assistance group's gross income exceeds fifty per cent of the federal poverty guidelines as described in division (D)(1)(a) of section 5107.10 of the Revised Code. The county agency shall complete the following steps:
- (a) Total the monthly gross earned income from each employed family member.
 - (b) Deduct the actual verified dependent care costs of the assistance group for nonpublicly funded dependent care for a child or an incapacitated adult who is residing in the home. The amount that is deducted is the actual verified cost that is paid for each child or incapacitated adult.
 - (c) Add unearned income of assistance group members to the amount in paragraph (H)(1)(b) of this rule.
 - (d) The assistance group is ineligible to receive OWF when the gross income in paragraph (H)(1)(c) of this rule exceeds fifty per cent of the federal poverty guidelines.
- (2) When the assistance group's gross income does not exceed fifty per cent of the federal poverty guidelines, the county agency shall determine whether the assistance group's countable income is less than the payment standard described in paragraph (J) of this rule. For purposes of this paragraph, "countable income" shall be defined as:
- (a) The assistance group's gross earned income; minus,

- (b) The two hundred-fifty dollar and one-half of the remainder disregards described in division (D)(3) of section 5107.10 of the Revised Code, when applicable; minus,
 - (c) The actual verified dependent care costs of the assistance group for nonpublicly funded dependent care; plus,
 - (d) The assistance group's gross unearned income.
 - (e) The amount in paragraph (H)(2)(d) of this rule is compared to the OWF payment standard for the assistance group size.
 - (f) The assistance group is ineligible to participate in OWF when the assistance group's countable income equals or exceeds the payment standard.
- (3) When an assistance group applies for OWF and it has not been more than four months since they last received OWF, the county agency shall apply the benefit determination in paragraphs (H)(2)(a) to (H)(2)(f) of this rule.

(I) How are ongoing benefits determined?

- (1) To determine whether an assistance group receiving OWF continues to be eligible, the county agency shall determine whether the assistance group's countable income continues to be less than the payment standard. The determination of the assistance group's countable income is determined by applying the method described in paragraph (H)(2) of this rule.
- (2) The assistance group is ineligible to receive OWF when the assistance group's countable income equals or exceeds the payment standard.
- (3) The disregard described in division (D)(3) of section 5107.10 of the Revised Code shall not be applied to the assistance group's gross earned income for any month in which the assistance group failed without good cause to make a timely report of earnings as described in rule 5101:1-2-20 of the Administrative Code.

(J) What are the income standards used for OWF?

The following standards are used in determining eligibility for OWF:

- (1) The initial eligibility standard for OWF is fifty per cent of the federal poverty guidelines pursuant to section 5107.10 of the Revised Code. The gross income is compared to the initial eligibility standard pursuant to paragraph (H) of this rule to determine initial eligibility. In accordance with division (D)(2) of section 5107.10 of the Revised Code, the initial eligibility standard will be revised on

the first day of July of the year in which the United States department of health and human services issues annual revisions to the federal poverty guidelines.

- (2) As described in rule 5101:1-23-20.2 of the Administrative Code, the allocation allowance standard is the amount used when a portion of the income of the individual, who is not a member of the assistance group, shall be considered in the calculation of income to be applied to the assistance group. This standard is one hundred per cent of the federal poverty guidelines in effect on July 1, 1997.
- (3) The OWF payment standard is the maximum amount of cash assistance an assistance group may receive. Income that is determined to be available to the assistance group as described in this rule is deducted from the OWF payment standard to determine the amount of the OWF cash payment.
 - (a) In accordance with section 5107.04 of the Revised Code, the OWF payment standard shall increase on the first day of each January by the cost-of-living adjustment (COLA) that is made in the preceding year.
 - (b) Changes to the OWF payment standards due to the cost-of-living adjustment are issued through an action change transmittal, that can be found in the cash assistance manual at the Ohio department of job and family services website at <http://jfs.ohio.gov/>.
- (4) The ninety per cent payment standard is the amount that an assistance group on grant reduction due to an erroneous payment retains from its combined income (without disregards), liquid assets, and assistance payment.
 - (a) The work activity expense allowance and the learning, earning and parenting (LEAP) bonus are added after the payment standard is reduced for grant reduction.
 - (b) When an erroneous payment is recovered by grant reduction, and the individual who caused the erroneous payment was disqualified due to an intentional program violation as described in Chapter 5101:6-20 of the Administrative Code, and who is still residing with the otherwise eligible assistance group, the remaining assistance group members shall retain (from combined income, liquid assets, and assistance payment) an amount equal to ninety per cent of the payment standard for the assistance group excluding the disqualified individual's needs.

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5101:1-23-75

Ohio works first and prevention, retention and contingency: assistance group ineligibility due to receipt of fraudulent assistance.**(A) What is fraudulent assistance?**

In accordance with section 5101.83 of the Revised Code, "fraudulent assistance" means assistance and services, including cash assistance provided under the Ohio works first (OWF) program established under Chapter 5107. of the Revised Code, or benefits and services provided under the prevention, retention and contingency (PRC) program established under Chapter 5108. of the Revised Code, to or on behalf of an assistance group that is provided as a result of fraud by a member of the assistance group, including an intentional violation of the program's requirements. Fraudulent assistance does not include assistance or services paid to or on behalf of an assistance group that is provided as a result of an error that is the fault of the county department of job and family services (CDJFS) or the Ohio department of job and family services (ODJFS).

(B) What is an intentional violation of the program's requirements?

- (1) An intentional violation is defined as an act by an individual, for the purpose of establishing or maintaining the family's eligibility for OWF or PRC or for increasing or preventing a reduction in the amount of assistance, which is intentionally: a false or misleading statement or misrepresentation, concealment, or withholding of facts; or any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- (2) An intentional violation of the OWF or PRC program requirements can be established in one of four circumstances:
 - (a) A court of appropriate jurisdiction has found that the individual has committed a criminal offense connected to a violation of the OWF and/or PRC program requirements.
 - (b) An administrative disqualification hearing decision finds that the individual has committed an intentional program violation, as described in rules 5101:6-20-16 and 5101:6-20-17 of the Administrative Code.
 - (c) The individual signs a waiver of the disqualification hearing described in rule 5101:6-20-30 of the Administrative Code.
 - (d) The individual signs a disqualification consent agreement as described in rule 5101:6-20-40 of the Administrative Code.

(C) What are the consequences of a determination of fraudulent assistance?

When a county agency director determines that an assistance group has received fraudulent assistance in accordance with the provisions described in paragraph (A) of this rule, the assistance group is ineligible to participate in the OWF program or the PRC program until a member of the assistance group repays the cost of the fraudulent assistance. Ineligibility as a result of one of the conditions described in paragraphs (B)(2)(a) to (B)(2)(d) of this rule begins not later than the first day of the second month following the issuance of the notice of disqualification for intentional program violation (i.e., the issuance of the JFS 04062, "Notice of Disqualification for Intentional Program Violation") (~~rev. 1/2015~~).

(D) How is receipt of fraudulent assistance handled when there is assistance group movement and children in the assistance group?

When the assistance group members are ineligible in accordance with the provisions described in paragraph (C) of this rule, the caretaker(s) and the child(ren) remain ineligible until the fraudulent payment is repaid. When the child(ren) subsequently cease to reside with the ineligible caretaker(s), the ineligibility period ceases for the child(ren).

(E) How is repayment of the fraudulent assistance handled?

When a member of the assistance group repays the cost of the fraudulent assistance, and the assistance group otherwise meets the eligibility requirements for the OWF or the PRC program, the assistance group shall not be denied the opportunity to participate in the program. The beginning date of aid for assistance group members ineligible due to this provision who reapply to participate in OWF can be as early as the date on which the cost of the fraudulent assistance is repaid in full, provided that an application for assistance is submitted and all other eligibility requirements are met as of that date.

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