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DIVISION: Temporary Assistance

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TO: Commissioners, Food Stamp and TA Directors, WMS Coordinators

FROM: Russell Sykes/rs, Deputy Commissioner, Division of Temporary Assistance

SUBJECT: Food Stamp Exclusion of Child Support Payments From Income

EFFECTIVE DATE: February 14, 2005

CONTACT PERSON: Food Stamp Bureau at 1-800-343-8859, ext. 3-1469

The purpose of this GIS is to clarify food stamp policy regarding the exclusion of the amount of legally obligated (court ordered) child support payments made to non-household members. Under authority of federal statute [7 U.S.C. 2014(d)(6)] effective October 1, 2002, legally obligated child support payments are treated as an income exclusion rather than an income deduction for purposes of determining food stamp eligibility and benefit amount. Districts previously were notified of this change in policy in 02 ADM-7, Section IV, A, 2.

Food Stamp Implications

In response to questions from several districts, we are providing clarification of the policy as it applies in cases where the children for whom the support is being paid are members of the food stamp household of the child support payer, where the child support payments are being paid to a parent (beneficiary) who is not a member of the food stamp household. This is often the case in joint custody arrangements where children split time between the residences of both parents, but receive food stamp benefits as members of one parent's household. When the child support payer pays legally obligated child support to a non-household beneficiary, even if the children are members of the payer's food stamp household, the child support payments are excluded from the payer's household's food stamp income. The child support payer whose food stamp household includes the children is allowed this income exclusion whether or not the beneficiary of the support payments also receives food stamp benefits, as long as the beneficiary is not a member of the payer's food stamp household. Districts also are reminded that, in joint custody situations, only one of the parents or guardians can have the children included in their food stamp household for a given month.

Example : A father shares custody of his two daughters with his ex-wife. His monthly income is \$1750. He pays \$500 per month in child support payments to his ex-wife for their two daughters. The two daughters are not currently active on any food stamp case. He is applying for food stamps for himself and his two daughters. The worker inputs his gross monthly income of \$1750 in the ABEL FS budget, and inputs the \$500 child support in the child support exclusion field. ABEL excludes the \$500 per month in child support paid in the gross and net income calculations. His countable gross monthly income of \$1250 is below 130% of the poverty level for a household of three, therefore the household would pass the food stamp gross income test.

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The rationale behind excluding the amount paid in child support by this father, even though the two daughters for whom he is paying support are included in his food stamp household is because the legally obligated child support payments are going to his ex-wife in support of their two children during the time they are in her custody. The \$500 paid in legally obligated child support is not available to the father's household, and therefore should be excluded as income.

Temporary Assistance (TA) Implications

Applicants for and recipients of TA do not qualify for an income deduction or exclusion to gross income for legally obligated child support paid to a non-household beneficiary. When determining eligibility for TA for an applicant or recipient who pays legally obligated or voluntary child support payments, even through an income execution, the district applies the full amount of the applicant's or recipient's gross income when determining eligibility and benefit level, considering any appropriate earned income disregards or self-employment/child care provider exclusions.

Verified child support paid may be considered as a deduction from income only for a non-applying step-parent or grandparent when determining the amount of income to be deemed to the TA unit in accordance with 18 NYCRR 352.14(a)(3) and 352.30(c) and TASB section 13-L and 18-P.

When determining eligibility for emergency Safety Net Assistance, the district must determine if the household's gross income (without deductions or exclusions) is at or below 125% of the current federal poverty level, unless otherwise excluded by 18 NYCRR 352.5 (c-e). When determining eligibility for Emergency Assistance to Needy Families, the district must compare the amount of available gross income to 200% of the current federal poverty level.