200.09 SOURCES AND TREATMENT OF EARNED INCOME

The following sections list different sources of earned income and how they are treated in the eligibility process.

200.09.01 SICK PAY

Sick pay is a payment made to or on behalf of an employee by an employer or a private third party (such as a union or insurance company) for sickness or accident disability. Sick pay is either wages or unearned income.

NOTE: Payments under a Workers' Compensation law are neither wages nor sick pay.
Annual and sick leave payments are considered a continuation of salary.

Treatment

The following chart shows how to treat sick pay:

When sick pay is received	Attributable to the Employee's Own Contribution?	Type of Income
Within 6 months after stopping work	No	Wages
	Yes	Unearned
More than 6 months after stopping work	NA	Unearned

When sick pay is alleged within 6 full calendar months after stopping work, it must be determined whether or not the employee contributed by payroll deduction toward a sick pay plan. Any portion of sick pay received by an employee within 6 full calendar months after stopping work, which according to the employer, is attributable to the employee's own contribution is not wages.

To determine the 6-month period after stopping work:

Begin with the first day of non-work.
Include the remainder of the calendar month in which work stops.
Include the next 6 full calendar months.

Example: If an individual stops work on May 5, the 6-month periods ends November 30th.

Verify the last day (or month) worked with the employer or knowledgeable third party. Verify sick pay which is wages using the wage verification procedure.

200.09.02 WAGES

Wages are what an individual receives (before deductions) for working as someone else's employee. Under certain conditions, services performed as an employee are deemed self-employment rather than wages, e.g., ministers, real estate agents, share farmers, insurance salesmen, etc.

Wages are counted at the earliest date of the following:

When they are received, or
When they are credited to the individual's account, or
When they are set aside for the individual's use.

Wages may take the form of:

TYPE	DEFINITION
Salaries	Payments (fixed or hourly rate) received for work performed for an employer
Commissions	Fees paid to an employee for performing a service (such as a percentage of sales)
Bonuses	Amounts paid by employers as extra pay for past employment (for example, outstanding work, length of service, holidays)
Severance Pay	Payment made by an employer to an employee whose employment is terminated independently of his wishes
Military Basic Pay	Service member's wage, which is based solely on the member's pay grade and length of service
Special Payments received because of employment	Items such as vacation pay, advance/deferred wages, etc.

Absent evidence to the contrary, if FICA taxes have been deducted from an item assume it meets the definition of wages.

200.09.03 CAFETERIA PLANS

A cafeteria plan is a written benefit plan offered by an employer in which:

All participants are employees and

Participants choose cafeteria-style from a menu of two or more cash or qualified benefits.

A qualified benefit is not considered part of an employee's gross income. Qualified benefits include, but are not limited to:

Accident and health plans, including medical plans, vision plans, dental plans, accident and disability insurance;

Group term life insurance plans up to $50,000;

Dependent care assistance plans;

Certain stock bonus plans under Section 401(k)(2) of the IRC, but not 401(k)(1) plans.

NOTE: Cash is not a qualified benefit.

Salary Reduction Agreement

A salary-reduction agreement is an agreement between the employer and employee whereby the employee, in exchange for the right to participate in a cafeteria plan, accepts a lower salary or foregoes a salary increase. Most pay slips do not reflect that a salary-reduction agreement exists. However, the amount of a salary-reduction agreement is not part of gross income and is not subject to Social Security, Medicare or other income taxes. Amounts used to purchase qualified benefits with a salary-reduction agreement are not the employee's wages and are not considered income for Medicaid purposes.

Employer Contributions

Many cafeteria plans are funded by salary-reduction agreements; however, employers may also contribute to fund basic benefit levels under a cafeteria plan. Amounts an employer contributes to fund basic benefit levels under a cafeteria plan, with or without a salary reduction agreement, are not the employee's wages and are not considered income for Medicaid purposes.

CAFETERIA PLANS (Continued)

Payroll Deductions

Payroll deductions used to purchase cafeteria-plan benefits are the employee's wages and are earned income. For example, employees who want more than basic benefits contributed by the employer may pay additional costs through payroll deductions. The amounts of those voluntary payroll deductions are the employee's wages and are considered earned income for Medicaid purposes. Unless an exception applies, FICA will be deducted from these payroll deductions.

NOTE: Be aware that paystubs that appear to show voluntary payroll deductions may actually show how funds from a salary-reduction agreement are allotted among qualified benefits.

Cash Received Under a Cafeteria Plan

Cash received under a cafeteria plan in lieu of benefits is wages. However, cash received as reimbursement for qualified-benefit expenses, such a child care, is not income.

Example: ABC, Inc., contributes $50 per week to fund basic benefits under a cafeteria plan. Mr. White selects insurance that costs $35 per week and opts for a weekly cash payment of $15 in lieu of additional coverage. The $15 cash payment is part of Mr. White's countable wages.

Determining Countable Income under a Cafeteria Plan

When a cafeteria plan is involved, countable wages for Medicaid purposes can be less than the gross amount on the check stub. It can be difficult to tell whether paystubs represent payroll deductions, which are part of gross wages, or cafeteria-plan itemizations, which are not. One indicator is when the deduction for Social Security and Medicare taxes is less than the tax rate times the gross wages shown on the checkstub. A cafeteria plan is also indicated when the pay stubs uses terms such as:

FLEX;
CHOICES;
Sec. 125;
Cafe Plan.

CAFETERIA PLANS (Continued)

To determine countable wages when there is Cafeteria Plan participation, take the following steps:

If the paystub shows FICA wages or equivalent, use the FICA wage amount as countable wages, otherwise:

Multiply the gross amount shown on the checkstub by 7.65% or .0765 (or by 5.65% or .0565 for paystubs issued in 2011 and 2012 only) and compare to the FICA tax withheld (if itemized, include the Medicare tax with FICA).

____________	x	____________	=	____________
Gross wages from checkstub		SS/Medicare Tax Rate		Expected Tax

If the actual amount withheld is within cents of the expected tax amount, consider them the same and use the gross wages shown on the checkstub.

If FICA and Medicare tax withheld is less than the expected amount, use the following formula to compute countable wages:

____________	x	____________	=	____________
Social Security/Medicare Tax from Pay Stub		Multiplier*		Countable Wages

*Multiplier = 13.071 for paychecks issued in 2010 and 17.699 for paychecks issued in 2011 and 2012 only.

Example: A June 2010 monthly pay stub reflects gross wages of $999.94, a deduction for FICA/Medicare taxes of $68.85 (does not equal 7.65 percent of the gross wages) and a $160 voluntary deduction for health insurance. The employer confirms the company contributes $100 per month to fund basic benefit levels under a cafeteria plan that offers a variety of insurance coverages. The $100 that the employer contributes toward benefits under a cafeteria plan is not wages. Also, the employer confirms the employee voluntarily pays $60 for additional benefits.

The specialist could use the checkstub and contact with the employer to determine and document countable wages of $899.94 ($999.94 - $100 employer contribution) or use the formulas above:

$999.94	x	.0765	=	$76.50	(FICA actually withheld is less)
$68.85	x	13.071	=	$899.94	

200.09.04 WAGE ADVANCES AND DEFERRED WAGES

Wage advances are payments by an employer to an individual for work to be done in the future. An advance is wages in the month received.

Wages are considered "deferred" if they are received later than their normal payment date. Types of wage payments that may be deferred include vacation pay, dismissal and severance pay, back pay and bonuses.

Wages that are deferred due to circumstances beyond the control of the employee are considered earned income when actually received;

Wages that are deferred at the employee's request or by mutual agreement with the employer are considered earned income when they would have been received had they not been deferred.

200.09.05 VERFICATION OF WAGES

Verification of wage amounts and frequency of receipt is required whenever an individual alleges he received wages, sick pay or temporary disability payments. The burden of proof is on the client; however, the specialist must provide assistance if the client is unable to secure evidence of wages.

The most common methods of verifying wages include:

Pay stubs which show the individual's name or SSN, gross wages and period covered by the earnings. Use other evidence to resolve discrepancies if pay stubs appear altered or are questionable, if all pay stubs are not available or pay stubs do not contain necessary information.

Wage verification from an approved wage verification company like the Work Number, which also can be used to verify termination of wages.

Written (DOM-355, Request for Verification of Wages) or verbal statement of wages from the employer documented in the case record. This method also can be used to verify termination.

W2s, if no other verification is available and the client alleges earnings will be about the same. Use of W2s should be restricted to situations where employment is sporadic or there are multiple or a long succession of employers.

200.09.06 CONVERTING WEEKLY/BIWEEKLY WAGES

When wages are paid on a weekly or biweekly basis, convert wages to monthly amounts:

Establish the day of the week wages are received;

Compute the number of paydays in each month;

If the gross wage amount is the same each payday, multiply it by the number of paydays in each month;

If the gross wage amount is different each payday, add the individual amounts for each payday in each month.

200.09.07 ESTIMATING FUTURE WAGES

In estimating future wages, consider any recent past work history, unless inappropriate to the current situation, e.g., work stopped due to retirement or disability. Try to establish a logical wage pattern by reviewing the rate of pay, hours worked per week, and number of pay periods in each month with the recipient. In deriving an estimate, be alert to individuals who perform seasonal work such as school bus drivers.

If an estimate cannot be established, contact the employer for information. Use this information along with worker judgment to arrive at an estimate. Do not average. Document the case to support the estimate.

200.09.08 NET EARNINGS FROM SELF EMPLOYMENT (NESE)

NESE is the gross income from any trade or business, less allowable deductions for that trade or business. NESE also includes any profit or loss in a partnership. NESE is determined on an annual basis. The chart below indicates the steps and procedures to determine NESE.

STEPS	PROCEDURE
Determine monthly NESE	Divide the entire taxable year's NESE equally among the number of months in the taxable year, even if the business: Is seasonal starts during the year Ceases operation before the end of the taxable year; or Ceases operation before initial application.
Offset net losses	Any **verified** net losses from self-employment are divided in the same way as net earnings. Then each month's net loss is deducted from any other earned income of the individual or spouse in that month. Apply this procedure whether a couple filed jointly or separately and regardless of which member of the couples below incurred the loss: An eligible couple An eligible individual with an ineligible spouse Two parents
Apply the 7.65% deduction	This deduction recognizes part of the Social Security taxes paid as a business expense. If Social Security taxes are not paid (i.e., when NESE is less than $400, there is a net loss or when no tax return is filed),the deduction does not apply. When Social Security taxes were paid on NESE, multiply net profit by .9235 to determine countable NESE.

NET EARNINGS FROM SELF EMPLOYMENT **(Continued)**

STEPS	PROCEDURE
Include the distributive share for partnerships	Any distributive share (whether distributed or not) of income or loss from a trade or business carried on by a partnership is included in NESE.
Allow Work Expenses	If an individual is self-employed (whether or not he is also a wage earner), reduce his earned income by any allowable work expenses that have not already been used to compute NESE.
Withdrawals for personal use	When a person alleges (or it is discovered) that cash or in-kind items are withdrawn from a business for personal use: Ask the person whether the withdrawals were properly accounted for, e.g., were either deducted on the person's federal income tax return in determining cost of goods sold or the cost of expenses incurred, or deducted on his business records. Accept the person's allegation of whether the withdrawals were properly accounted for. If the withdrawals were properly accounted for, do not count them again as income. If the withdrawals were not properly accounted for, and The person can estimate the value of the withdrawals, deduct that amount from the cost of goods sold or costs of expenses incurred on the profit and loss statement to arrive at proper NESE. The person cannot or will not provide the profit and loss statement, but alleges an amount of NESE, add the value of the withdrawals to the person's allegation of NESE.

200.09.08A VERIFICATION OF NESE

Verify NESE whenever an individual is self-employed or has been self-employed during the current taxable year by obtaining the most recent federal income tax return filed with IRS. If the business is new, use the individual's business records or the best estimate available.

The following schedules from the federal income tax return can be used to determine NESE:

Schedule	Section or Line
Schedule SE	**Net Earnings:** Section A, Line 4 or Section B, Line 4.C NOTE: If line 4 or 4.C shows a positive amount of less than $400, then line 3 is used, even if the amount of line 3 is greater than $400. For example, line 3 shows $410 and line 4/4.C shows $378. Line 3 should be used because no tax was due.
	Net Loss: Section A ,Line 3 or Section B, Line 4.C
Schedule C	Line entitled "Net Profit or Loss"
Schedule C-EZ	Line entitled "Net Profit"
Schedule F	Line entitled "Net Profit or Loss"

200.09.08B ESTIMATING NESE FOR THE CURRENT TAXABLE YEAR

Use the first of the following methods in the sequence below, which is applicable:

SITUATION	METHOD
When an individual: Has been conducting the same trade or business for several years; Has had NESE which has been fairly constant from year-to-year; and Anticipates no changes or gives no satisfactory explanation of why current NESE would be substantially lower than past NESE	**Current Year's Estimate Based on Prior Year's Profit** Use the NESE from the prior year as an estimate for the current taxable year.

ESTIMATING NESE FOR THE CURRENT TAXABLE YEAR (Continued)

SITUATION	METHOD
When an individual: Is engaged in the same business he had only in the **preceding** taxable year; and Anticipates no change or gives no satisfactory explanation of why current NESE would be substantially different from what it has been in the past **Exception:** Do not use this method for businesses which are seasonal or have unusual income peaks at certain times of the year, go to the next applicable procedure.	**Gross-Net Ratio:** Calculate from the individual's tax return or business records the ratio between net profit and gross receipt for the last year. **Example**: Net profit of $1200 for $6000 gross income or 20% Calculate from his records the actual gross receipts for the current taxable year and project it for the remainder of the year. **Example**: $4000 in current year's receipts for the first 6 months gives an assumed gross of $8000 for the entire year. Apply the previously calculated gross-net ratio to the current year's assumed gross to arrive at the estimate NESE. **Example**: 20% of $8000 results in an estimated net profit of $1600
When an individual is engaged in a new business **Exception:** Do not use this method for businesses which are seasonal or have unusual income peaks at certain times of the year, go to the next applicable procedure.	**Projecting Partial Year's Profit for Whole Year** Obtain the profit and loss statement or other business records for the taxable year to date Ascertain net profit to date and Project that net profit for the entire taxable year.

ESTIMATING NESE FOR THE CURRENT TAXABLE YEAR (Continued)

SITUATION	METHOD
When an individual: Is engaged in a new business and records are not yet available; or The business has been going on for some time, but no records were kept.	**Individual's Estimate:** Obtain a signed allegation of the individual's best estimate.
When an individual: Alleges his NESE for the current year will vary from NESE for past years; and Gives a satisfactory explanation for the variation (and provides relevant documentation if NESE is lower). **NOTE:** In some cases, such as a downturn in the economy, they may not be any documentation of the event. In such cases, the individual's written statement for the variation is sufficient documentation.	**Current Year's Estimate Varies from Past Records** Obtain a written statement from the individual explaining the basis for the NESE variation. If the individual's estimate of NESE for the current year is higher than that of the prior years, and the individual satisfactorily explains why, accept the individual's estimate of NESE. **Example:** Individual recently added new products to his mail order sales catalog and sales have dramatically increased. If the individual's estimate of NESE for the current year is lower than that of prior years and the individual's explanation explains why satisfactorily, request any relevant documentation for the file and accept the lower estimate. **Example:** The business suffered a heavy loss or damage due to fire, flood, burglary, serious illness or disability of the owner or other catastrophic event. Relevant documentation would be copies of newspaper accounts, police reports, etc.

200.09.09 PAYMENTS FOR SERVICES PERFORMED IN A SHELTERED WORKSHOP OR WORK ACTIVITIES CENTER

Payment for services performed in a sheltered workshop or work activities center are what an individual receives for participating in a program designed to help him become self-supporting. Payments for such services are a type of earned income and are counted when received or when set aside for the person's use.

A sheltered workshop is a nonprofit organization or institution whose purpose is:

To carry out a recognized program of rehabilitation for handicapped workers; and/or

To provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

A work activities center is:

A sheltered workshop, or

A physically separated department of a sheltered workshop having an identifiable program and separate supervision and records.

A work activities center is planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make their productivity capacity inconsequential.

Therapeutic activities are custodial activities such as activities where the focus is on teaching basic living skills and other purposeful activity so long as work production is not the main purpose.

200.09.10 ROYALTIES AND HONORARIA

Royalties include compensation paid to the owner for the use of property, usually copyrighted material (e.g., books, music, or art) or natural resources (like minerals, oil, gravel or timber). Royalty compensation may be expressed as a percentage of receipt from using the property or as an amount per unit produced.

To be considered royalties, payments for the use of natural resources also must be received:

Under a formal or informal agreement whereby the owner authorizes another person to manage and extract a product like timber or oil; and

In an amount that is dependent on the amount of the product actually extracted.

An outright sale of natural resources by the owner of the land or by the owner of rights to use the land constitutes conversion of a resource. Proceeds from the conversion of a resource are not income.

Royalties are earned income when they are:

Received as part of a trade or business; or

Received by a person in connection with any publication of his work such as publication of a manuscript, magazine article or artwork.

An honorarium is an honorary or free gift, reward or donation usually provided gratuitously for services rendered (like a guest speaker), for which no compensation can be collected by law. The amount also may include payment for items other than services rendered, e.g., lodging or travel expenses.

For income purposes, a payment received for a service as described above is earned income. Any other payment received in cash or in-kind connected with service is unearned income to the extent it exceeds the individual's expenses. Absent evidence to the contrary, assume the amount of any honorarium received **is** in consideration of the actual services provided by the individual and treat as earned income.

Do not deduct expenses of obtaining income from royalties/honoraria that are earned income. Such expenses are deductible from royalties/honoraria that are unearned income.

200.09.11 UNIFORMED SERVICES – PAY AND ALLOWANCES

Military personnel rarely apply for Medicaid; however, spouses and children may apply and the military pay and allowances would be subject to deeming.

Compensation to members of the Uniformed Services takes several forms, chiefly:

Basic or Base Pay;

Special and Incentive Pay; and

Cash Allowances.

Effective September 1, 2008, the Heroes Earnings Assistance and Relief Tax Act of 2008 (the HEART Act) changed how certain cash payments to members of the Uniformed Services are treated. Cash payments, other than for on-base or privatized military housing and hostile fire/imminent danger pay, paid for service as a member of the uniformed service are treated as earned income. A service member's Leave and Earnings Statement (LES) will identify the type of cash payment and the amount for each.

Basic Allowance for Housing (BAH)

Service members and their families living in on-base housing or privatized military housing may receive a BAH payment or the military may direct a BAH to a housing contractor by way of payroll deduction or allotment. In each case, the BAH is not cash income.

However, if service members and their families who live in private housing receive a BAH payment, it is earned income.

Basic Allowance for Subsistence (BAS)

A BAS payment for food is earned income. If a deduction is made from the BAS to pay for meals eaten on base (e.g., a meal card), the gross amount of BAS is still earned income.

Clothing Allowance

A cash payment to purchase clothing is earned income.

UNIFORMED SERVICES – PAY AND ALLOWANCES

Special and Incentive Pay

Special and incentive pay is compensation to specific groups of uniformed people for inconveniences or hazard or provides incentives for those with skills in high demand to join or remain in the service. Special pay includes enlistment and reenlistment bonuses, flight pay, sea pay and more than thirty additional types of pay. Special and incentive pay is earned income.

Hostile Fire/Imminent Danger Pay

Hostile fire pay and imminent danger pay (sometimes referred to as "combat pay") are types of special pay to a service member who is subject to hostile fire or explosion of hostile mines or on duty in an area in which he/she is in imminent danger of being exposed to hostile fire or explosion of hostile mines and while on duty in that area, other service members in the same area are subject to, killed, injured or wounded by hostile fire, explosion of a hostile mine or any other hostile action. Hostile fire and imminent danger pay is excluded income. If retained, unspent funds are a resource the following month if not otherwise excluded.

Advance Pay

Advance pay is a cash loan to be repaid in cash installments, usually by payroll deduction, rather than by future work. Advance pay is not income.

Additional Pay

Additional pay is an extra increment in pay, other than an increase in basic pay. Other than the on-base housing or privatized military housing allowance and hostile fire/imminent danger pay, additional pay is charged as earned income if the income was received after August 31, 2008, and the deemor was not serving in a combat zone when the additional pay was received. if additional pay is not treated as earned income, it is in-kind support and maintenance.

200.09.12 INCOME OF MEMBERS OF RELIGIOUS ORDERS

The existence of a vow of poverty is a factor in determining whether cash is considered wages or net earnings from self-employment. The existence of a vow of poverty is also a factor in determining if payments made by a member to the order can be considered contributions for food, clothing, or shelter. The treatment of income to members of religious orders (nuns, monks, priests, etc.) who take a vow of poverty is determined by the source and nature of such income.

Cash or in-kind remuneration for members of religious orders who take a vow of poverty is considered wages if:

An individual receives compensation from the order as an active, working member of that order, whether or not the religious order has elected Title II coverage. e.g., an individual works at a hospital owned by the order.

An active, working member of a religious order receives compensation for performing services from an agency of the church supervising the order or from an affiliated institution, whether or not the religious order has elected Title II coverage, e.g., an individual teaches at a school which is an affiliate of the order's supervising church.

A member of a religious order receives compensation from a third party for services performed as an employee, e.g., an individual works for a private firm as a computer programmer.

Remuneration for members of religious orders who take a vow of poverty is considered earnings from self-employment only when a member engages in self-employment activity unrelated to his membership in the order, e.g., an individual writes articles for nature magazines on a free-lance basis.

Any income provided by the order to a member who has taken a vow of poverty, which does not fall under one of the above provisions is unearned income to the member even if turned over to the order. Any income or resources turned over by the member to the order are considered to be in fulfillment of the vow of poverty and are not considered contributions for food, clothing, or shelter received from the order.

Unearned income received by a member from any source other than the order (such as a Title II or VA benefits) is income to the member even if the member turns it over to the order.