

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
Statutory Authority: 31 Delaware Code, Section 512 (31 Del.C. §512)

FINAL

ORDER

Refugee Cash Assistance
Self-Employment Income Standard Deduction

Nature of the Proceedings

Delaware Health and Social Services ("Department") / Division of Social Services / initiated proceedings to amend the Division of Social Services Manual (DSSM) as it relates to implementing a simplified way to calculate self-employment income for Refugee Cash Assistance. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the December 2005 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2005 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

Summary of Proposed Changes

Background

Determining self-employment income is complicated and error prone. Current food stamp rules do not allow certain business costs that the Internal Revenue Service (IRS) allows for tax purposes. Gathering the correct information from tax records can be cumbersome for staff. Verification of gross proceeds is fairly easy to obtain but verifying the costs of doing business is not.

Summary of Proposed Change

DSSM 8028.1, Sources of Income: The previous regulation that was adopted to implement the self-employment standard deduction (October 2005 issue of the Delaware Register) did not include Refugee Cash Assistance (RCA). This notice corrects the omission.

Summary of Comments Received with Agency Response

DSS has considered the one comment received and responds as follows:

As the spouse of a self-employed person, I think this proposal has not come soon enough. We have been kicked out of every assistance program that we've applied to because the gross check appears to workers as over the limit. The fact is providing proof of all business expenses is cumbersome and timely and frankly, workers either are not knowledgeable or patient enough to work through the maze of expenses. Please go forward with this regulation quickly, it's the hard working people who are trying to get ahead that are getting left behind!

Agency Response: DSS appreciates your comment. The agency's intent is to simplify the process for our self-employed customers and to make it easier for staff to accurately calculate the deductions.

Findings of Fact

The Department finds that the proposed changes as set forth in the December 2005 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) as it relates to implementing a simplified way to calculate self-employment income for Refugee Cash Assistance is adopted and shall be final effective February 10, 2006.

DSS FINAL ORDER REGULATION #05-70

REVISIONS:

8028.1 Sources of Earned Income

1. Wages - Gross earnings paid to the employee before deductions for taxes, FICA, insurance, etc. are counted. Sick pay or vacation pay is considered as a wage as long as it is paid as a wage. If sick pay is paid through an insurance company as disability pay, it is considered unearned income.

NOTE: Earnings paid to employees under contract are averaged over the number of months covered by the contract.

EXAMPLE: A teacher is under contract for a full calendar year, but may choose to collect his pay during the school year. His wages for public assistance purposes are budgeted over the full year.

2. Self employment - Gross earned income from self employment is determined by subtracting business expenses (supplies, equipment, etc.) from gross proceeds. The individual's personal expenses (lunch, transportation, income tax, etc.) are not deducted as business expenses but are deducted by using the standard allowance for work connected expenses (See DSSM 8028.2 and DSSM 8028.3).

~~Self employed persons must submit evidence of gross proceeds and business expenses or income tax statements to verify earnings.~~

~~3. Farming - Farming is defined as raising crops, livestock, or poultry for profit. Gross earned income from farming is determined by subtracting the farmer's operating expenses from sales. Produce grown for home consumption is not considered income.~~

~~4. Room and Board Income - [See DSSM 8030 for treatment of cash payments for shared living expenses.] Income from the operation of a rooming and/or boarding home is considered earned income. The following disregards are deducted from gross proceeds as operating expenses. These expenses are deducted before any earned income disregards are subtracted from income.~~

~~Roomers only - subtract \$10.00 per month per person. (A roomer is a person who rents living space in the home.)~~

~~Boarders only - subtract \$30.00 per month per person. (A boarder is a person who purchases meals provided in the home, but does not live there.)~~

~~Roomers and Boarders - subtract \$46.00 per month per person. (A roomer and boarder does both.)~~

~~EXAMPLE: An individual operates a rooming and boarding home. She has three (3) roomers who each pay \$60.00 per month and two (2) roomers and boarders who each pay \$100.00 per month.~~

~~\$180.00 - Payment from roomers \$60 x 3~~

~~30.00 - Disregards for roomers \$10 x 3~~

~~\$150.00~~

~~\$200.00 - Payment from roomers and boarders (\$100 x 2)~~

~~92.00~~

~~\$108.00 - Disregard for roomers and boarders (\$46 x 2)~~

~~\$150.00~~

~~+108.00~~

~~\$258.00 - Total gross income from roomers and boarders (Earned income disregards appropriate to the category of assistance are subtracted in the budgeting process. See DSSM 8028.2).~~

Self-Employment Standard Deduction for Producing Income

The cost for producing income is a standard deduction of the gross income. This standard deduction is a percentage of the gross income determined annually and listed in the Cost-of-Living Adjustment (COLA) notice each October.

The standard deduction is considered the cost to produce income. The gross income test is applied after the standard deduction. The earned income deductions are then applied to the net self-employment income and any other earned income in the household.

The standard deduction applies to all self-employed households with costs to produce income. To receive the standard deduction, the self-employed household must provide and verify they have business costs to produce income. The verifications can include, but are not limited to, tax records, ledgers, business records, receipts, check receipts, and business statements. The self-employed household does not have to verify all their business costs to receive the standard deduction.

Self-employed households not claiming or verifying any costs to produce income will not receive the standard deduction.

The self-employment standard deduction will be reviewed annually to determine if an adjustment in the percentage amount is needed

9 DE Reg. 1237 (02/01/06) (Final)