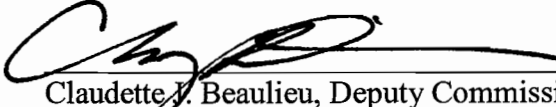




STATE OF CONNECTICUT
 DEPARTMENT OF SOCIAL SERVICES
UNIFORM POLICY MANUAL


 Claudette J. Beaulieu, Deputy Commissioner

October 1, 2009
 Effective Date

POLICY TRANSMITTAL NO.: UP – 10 – 02

SUBJECT: Revisions to Treatment of Income and Resources from Sponsors of Non-Citizens

This transmittal provides revised Uniform Policy Manual (UPM) policy updates in accordance with changes enacted by the Immigration and Nationality Act (Public Law 104-193) regarding the treatment of income and resources from Sponsors of Non-Citizen.

These pages include technical clarification to the language regarding the treatment of income from sponsors of non-citizens. The language has been updated to define how the family size of the sponsor is determined and is used to calculate the Supplemental Nutrition Assistance Program (SNAP) Gross Income Amount. This SNAP Gross Income is used to reduce the sponsor's income prior to deeming the income of the sponsor to the non-citizen.

These changes are effective October 1, 2009.

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Treatment of Income

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Chapter:

Deemed Income

Program:

**MA
SNAP**

Subject:

Sponsors of Non-citizens

5020.60 Sponsors of Non-Citizens Who Entered the U.S. on or after August 22, 1996 and Executed the Revised Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A)

A. Circumstances Under Which Income is Deemed

1. The Department deems the income of a non-citizen's sponsor and the sponsor's spouse, if the spouse signed the Revised Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) to the non-citizen under the following circumstances:
 - a. the sponsor and the sponsor's spouse are not members of the same assistance unit as the non-citizen; and
 - b. the non-citizen must have a sponsor under USCIS rules; and
 - c. the sponsor and the sponsor's spouse have executed an Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) pursuant to 8 U.S.C. § 1183a (a) (section of the Personal Responsibility and Work Opportunity Act of 1996, amending Title II of the Immigration and Nationality Act by adding section 213(a) on behalf of the non-citizen; and
 - d. the sponsor is an individual rather than an institution; and
 - e. none of the exceptions set forth in Paragraph C of this section are applicable.
2. The Department deems income in accordance with Paragraph A.1 of this section, whether or not the sponsor lives with the non-citizen.
3. The Department deems income in accordance with Paragraph A.1 until one of the following events occurs:
 - a. the non-citizen becomes a citizen of the United States; or
 - b. the non-citizen works 40 qualifying quarters, as defined under Title II of the Social Security Act; or
 - c. the non-citizen is credited for having worked 40 qualifying quarters if, beginning January 1, 1997, the qualifying quarters were worked when the non-citizen did not receive any federal means-tested public benefit, and either

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5020.60 A. Circumstances Under Which Income is Deemed (continued)

- (1) the qualifying quarters were worked by a parent of such non-citizen while the non-citizen was under 18 years of age; or
- (2) the qualifying quarters were worked by a spouse of such non-citizen during the couple's marriage and the non-citizen remains married to such spouse or such spouse is deceased; or
- (3) the non-citizen or the sponsor dies.

B. Computation of the Amount of Deemed Income

The amount of income deemed from a sponsor and the sponsor's spouse is calculated in the following manner:

1. income which is excluded from consideration for assistance unit members is excluded from the sponsor's income;
2. self-employment earnings are adjusted by subtracting the applicable self-employment expenses;
3. the gross monthly earned income amount is reduced by 20% to allow for personal work expenses;
4. the remaining earnings plus gross unearned income is totaled and reduced by the Supplemental Nutrition Assistance Program Gross Income Limit as determined by the family size of the sponsor and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes;
5. this amount is prorated for the non-citizen if the sponsor is also sponsoring other non-citizens; and
6. this amount is deemed to the assistance unit as unearned income to determine the non-citizen's eligibility.
7. In addition to the amount deemed, any amount in excess of the deemed amount which is paid by the sponsor to each non-citizen is also counted as unearned income.

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D. Computation of the Amount of Deemed Income (continued)

4. the remaining earnings plus gross unearned income is totaled and reduced by the Supplemental Nutrition Assistance Program Gross Income Limit as determined by the family size of the sponsor and any other person who is claimed or could be claimed by the sponsor or sponsor's spouse as a dependent for federal income tax purposes;
5. this amount is prorated for the non-citizen if the sponsor is also sponsoring other non-citizens; and
6. this amount is deemed to the assistance unit as unearned income to determine the non-citizen's eligibility.
7. In addition to the amount deemed, any amount in excess of the deemed amount which is paid by the sponsor to each non-citizen is also counted as unearned income.

E. Exceptions to Deeming

The Department does not deem income of the non-citizen's sponsor and the sponsor's spouse to the non-citizen under the following circumstances:

1. Indigence

- a. The non-citizen may be considered indigent and exempt from the deeming requirement if the following criteria are met:
 - (1) the non-citizen does not have enough money to buy food and maintain a place to live without assistance from the Department based on:

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8560.15 E. Exceptions to Deeming (continued)

- (a) the total of the non-citizen's income and income-in-kind is less than the Supplemental Nutrition Assistance Program Gross Income Limit for his or her household size; or
 - (b) the non-citizen is living in an institution or in rated housing; and
 - (c) the non-citizen is applying for or receiving benefits under any Medicaid Home and Community Based waiver program; and
- (2) the non-citizen's sponsor is not providing both free room and free board to the non-citizen; and
- (3) the non-citizen lives apart from the sponsor, except as outlined in section 8560.15 E.1.a.(1)(c).
- b. If a non-citizen meets the criteria in Paragraph E.1.a, the non-citizen shall indicate, in writing, whether he or she wants the Department to apply the indigence exception to the non-citizen's application for benefits.
- (1) If the non-citizen does not want the Department to apply the indigence exception, the income of the sponsor shall be deemed to the non-citizen.

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E. Exceptions to Deeming (continued)

- (2) If the non-citizen wants the Department to apply the indigence exception, the Department shall not deem the sponsor's income to the non-citizen. The Department shall notify the United States Attorney General of the name and address of the non-citizen and the name and address of the sponsor.

2. Battery or Extreme Cruelty

- a. If the non-citizen, the non-citizen's child or the parent of the non-citizen child has been battered or subjected to extreme cruelty in the United States, the non-citizen is exempt from the deeming requirement, if the following conditions are met:
 - (1) the Department determines that the battery or extreme cruelty has a substantial connection to the need for assistance from the Department; and
 - (2) the individual responsible for the battery or extreme cruelty was residing in the same household or assistance unit as the individual subjected to the battery or extreme cruelty, at the time that the battery or extreme cruelty occurred and these individuals no longer reside together; and
 - (3) the non-citizen has been battered or subjected to extreme cruelty by his or her spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the non-citizen and the spouse or parent consented to or acquiesced in such battery or extreme cruelty; or

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E. Exceptions to Deeming (continued)

- (4) the non-citizen's child has been battered or subjected to extreme cruelty by the non-citizen's spouse or parent (without the non-citizen's active participation) or by a member of the non-citizen spouse's or parent's family residing in the same household as the non-citizen when the spouse or parent consented to or acquiesced in the battery or extreme cruelty and the non-citizen did not actively participate in the battery or extreme cruelty; or
 - (5) the non-citizen is a child whose parent, who resides in the same household as the non-citizen child, has been battered or subjected to extreme cruelty by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented to or acquiesced in such battery or extreme cruelty.
- b. After the initial 12-month period, the exception to deeming shall be extended if the non-citizen establishes to the Department that:
- (1) the battery or extreme cruelty referenced in Paragraph E.2.a has been recognized in an order of a judge or in a prior determination by the USCIS; and
 - (2) such battery or extreme cruelty has a substantial connection to the need for which the non-citizen has applied.
- c. A substantial connection, as referenced in Paragraphs E.2.a.(1) and E.2.b.(2), is met, if the non-citizen needs benefits for any of the following reasons:

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E. Exceptions to Deeming (continued)

- (1) to become self-sufficient; or
- (2) to escape and ensure safety from the abuser; or
- (3) due to separation and loss of financial support from the abuser; or
- (4) due to the non-citizen's job loss; or
- (5) benefits are needed due to becoming disabled due to abuse and needing medical attention or mental health counseling; or
- (6) to alleviate nutritional risk or need resulting from abuse or following the separation; or
- (7) to replace medical coverage that existed when living with the abuser; or
- (8) the applicant's ability to care for his or her children has been negatively affected; or
- (9) for medical care during a pregnancy that resulted from the abuser's sexual assault or abuse or medical care for any resulting children; or
- (10) other circumstances exist, due to the battery or extreme cruelty, that result in the continued need for departmental assistance.

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8560.15 E. Exceptions to Deeming (continued)

3. Good Cause

The Department recognizes that, due to extenuating circumstances, there may be good cause for the non-citizen to be unable to provide accurate and complete information to the Department concerning the sponsor's assets. For the purpose of this section, except in situations where the non-citizen and the sponsor live together, if the non-citizen establishes that any one of the following circumstances exists, the Department will not deem the income of the sponsor to the non-citizen.

- a. despite good-faith efforts by the non-citizen to obtain accurate and complete information from the sponsor, the sponsor refuses or repeatedly fails to provide information to the non-citizen concerning the sponsor's income; or
- b. the non-citizen has a physical or mental illness or disability that limits his or her ability to provide accurate and complete information to the Department; or
- c. the current whereabouts of the sponsor is unknown; or
- d. there are exceptional circumstances that prevent the non-citizen from obtaining information from the sponsor, as approved by the Commissioner or the Commissioner's designee.

F. Spouses of Non-Parent Caretaker Relatives

- 1. The Department uses this method to determine the amount of income deemed from spouses of non-parent caretaker relatives (NPCR) under the following circumstances:

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- a. the non-parent caretaker relative requests assistance on his or her own behalf; and
- b. the spouse lives with the assistance unit.
2. The amount of income deemed from the spouse is calculated as follows:
 - a. Income that would be excluded from consideration for an assistance unit member is excluded from the income of the spouse of the non-parent caretaker relative.
 - b. The earned income of the caretaker relative's spouse is reduced by the expenses of self-employment, if applicable (Cross reference: 8560.10).
 - c. \$90 is deducted from gross earned income for personal expenses.
 - d. The remaining earnings are added to the spouse's unearned income.
 - e. An amount is subtracted equivalent to the Standard of Need that corresponds to the following:
 - (1) spouse of non-parent caretaker relative; and
 - (2) all others living in the spouse's home who meet the following criteria:
 - (a) they do not have their needs considered in the determination of eligibility for TFA; and

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8560.15 | F. Spouses of Non-Parent Caretaker Relatives (continued)

(b) they have not been disqualified from receiving TFA; and

(c) they are or could be claimed by the spouse as legal tax dependent disregard.

f. The remaining total is further reduced by alimony and child support payments made by the spouse.

g. Any remaining income is deemed to determine eligibility and to calculate benefits of the assistance unit, if the non-parent caretaker relative is added to the assistance unit.

| G. Disqualified Parents of Dependent Children

1. The Department uses this method to determine the amount of income deemed from parents of a dependent child when the parent lives with the child but the parent is disqualified from receiving TFA benefits on his or her own behalf for any of the following reasons:

a. fraudulently collecting assistance from two or more states at the same time (Cross Reference: 8540.50); or

b. failing to disclose a Social Security number (Cross Reference: 8540.60); or

c. refusing to assign interest in a decedent estate or the proceeds of a cause of action (Cross Reference: 8585.10); or

d. refusing to pursue inaccessible assets (Cross Reference: 8550.15); or

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G. Disqualified Parents of Dependent Children (continued)

- e. delaying or failing to report a child's absence from the home (Cross Reference: 8540.30); or
 - f. committing an intentional recipient error in the TFA program (Cross Reference: 8580.70); or
 - g. being a convicted drug felon, a fleeing felon or a parole or probation violator (Cross Reference: 8540.20).
2. This method does not apply to parents who are ineligible due to not meeting the citizen requirements as described at 8540.40. Income from parents who are ineligible non-citizens are treated in accordance with method described in sub-section H, below.
3. The income of the disqualified parent is deemed to the assistance unit for purposes of determining eligibility and calculating benefits. This amount of income deemed to the assistance unit from these individuals is determined as follows:
- a. Income that would be excluded for unit members is also excluded from the disqualified person's income;
 - b. Unearned income is considered to be totally available without any disregards;
 - c. Earned income is considered available subject only to a deduction for any applicable self-employment expenses which are allowed in accordance with provisions of 8560.10.

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8560.15 | H. Spouses of Pregnant Women and Ineligible Non-Citizens

1. Spouses of Pregnant Women

- a. The Department uses this method to determine the amount of income to deem from a spouse living with a pregnant woman with no children receiving assistance when the spouse is the father of the unborn child, but evidence can be presented and a determination will be made if the applicant has successfully rebutted the presumption of legitimacy.
- b. This method is not used when the spouse is not the father of the unborn child. In that case, the method for deeming from a stepparent, as described in sub-section B of this section, is used.
- c. These spouses are members of the needs group for determining the assistance unit's eligibility

2. Parents Who are Ineligible Non-Citizens

This method is also used to determine the amount of income to deem from a parent of a dependent child when the parent is ineligible for assistance because he or she does not meet the citizenship requirements (Cross Reference: 8540.40).

3. Deeming Method

- a. The amount deemed in determining the assistance unit's eligibility is calculated as follows:
 - (1) income that would be excluded from consideration for assistance unit members is excluded from the spouse's income;

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8560.15 | H. Spouses of Pregnant Women and Ineligible Non-Citizens (continued)

- (2) earned income is reduced by:
 - (a) self-employment expenses, if any; and
 - (b) a deduction for personal employment expenses; and
 - (c) a deduction of day care expenses;
 - (3) the remaining earned income is added to all unearned income;
 - (4) the total of the combined earned and unearned income are deemed as being available to the assistance unit for the purpose of determining the unit's eligibility for assistance.
- b. The amount of income deemed in calculating benefits is determined in the following manner:
- (1) from the total of net earned and unearned income, an amount is subtracted equivalent to the Standard Of Need that corresponds to the following:
 - (a) the individual from whom the income is deemed; and
 - (b) all others living in the assistance unit's home who do not have their needs considered in the determination of eligibility for TFA; and have not been disqualified from receiving TFA; and are or could be claimed by the individual as legal tax dependents:

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- (2) the remaining total of the income is further reduced by actual payments for alimony and child support made by the individual.
- (3) the income which remains is deemed to calculate benefits for the assistance unit.