

Part 3 Financial Eligibility

39 What is financial eligibility?

You must be financially eligible to get food stamps. To be financially eligible, your *countable* income and assets must be within food stamp program limits. For some households, there is no asset limit. If you are within food stamp program financial limits, the amount of your food stamp allotment is figured by subtracting 30 percent of your countable income—after allowable deductions—from the maximum food stamp level for your household size. These rules are discussed in more detail in this Part.

Advocacy Reminder:

- ✓ You can get a good idea whether you are eligible for food stamps by using Project Bread’s food stamp calculator, available at www.gettingfoodstamps.org. A different type of calculator that uses an Excel spreadsheet is available at www.masslegalservices.org/FScalculator. A simple Food Stamp Worksheet is included in this Guide in **Appendix A**.

These tools may be helpful but they do not address many eligibility issues so it is still important for advocates to know the rules.

40 What is the difference between income and assets?

In general, income is money that “comes in.” An asset is money or property that you already have.

Advocacy Reminder:

- ✓ DTA must treat money as either income or an asset. It cannot treat money both as income and an asset in the same month. Any earnings or benefits deposited to your bank account should not be counted as an asset in the month the income is received. Some money and property are not counted as income and also not counted as an asset.

41 Is there an asset limit, and which assets count?

There is *no* food stamp asset limit if your household includes any children under age 19 or is comprised solely of a pregnant woman— provided your household income is below 200 percent of the federal poverty level. 106 C.M.R. § 365.180(A)(3). These households are “categorically eligible” and the asset rules are waived. This means that you do not need to list your assets on the food stamp application or provide proof of them to your DTA food stamp worker.

There is also no food stamp asset limit for any household in which all members receive SSI, EAEDC, or TAFDC cash assistance. 106 C.M.R. §§ 365.180(A)-(C). These households are also “categorically eligible” and do not need to report their assets for food stamps.

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All other households are financially eligible only if the household's countable assets are below:

- \$3,000 if a household member is disabled or elderly (age 60 or older);
- \$2,000 for all other households.

See 106 C.M.R. § 363.110.

Only the equity value of property counts. The equity value is the amount of money you would get if you sold the property and paid back any loans, liens or encumbrances on the property.

Noncountable assets

The following items are examples of things that do *not* count as assets:

- The home you live in and undivided land it sits on.
- Household goods, appliances and personal belongings.
- Property you cannot sell or do not have ready access to.
- A burial plot, prepaid funeral arrangements up to \$1,500, cash surrender value of life insurance, and most pensions (but IRAs and Keogh Plans are countable).
- All vehicles, including cars, trucks, boats, tractors (see **Question 42**).
- The state and federal Earned Income Tax Credit (EIC, EITC) are non-countable for the month received and the month following receipt.
- Property you need for employment or for self-employment such as tools, equipment, livestock, buildings, land you use for farming, a house you rent to tenants for a fair rent.
- Federal student loans and grants.

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- Other loans and grants that cannot be used for current living costs.
- Damage awards and workers' compensation that reimburses for specified items other than lost wages.
- Inaccessible assets such as irrevocable trust funds and monies unavailable because they are held as a security deposit.
- Assets of an SSI recipient.
- Assets of persons who live with you who are not part of your household (unless the person is supposed to be in your household but was sanctioned for fraud, failure to comply with work rules, etc).

The above are just examples. Check the regulations for a complete list, at 106 C.M.R. § 363.140. There are also special rules for jointly held assets, including assets jointly held by persons residing in shelters for battered women. 106 C.M.R. § 363.120.

Example 1: Frank and Sarah Foe have three minor children. Sarah is recently unemployed and they have \$7,000 in savings. Because Frank and Sarah have children under age 19, they are not subject to the food stamp asset limit.

Example 2: John and Judy Smith are a married couple, ages 70 and 62, respectively. John receives SSI income and has some savings. Judy works part-time and owns a car. Judy has a personal bank account of \$4,000 but no other savings. None of John's assets count. Judy's car does not count but her \$4,000 bank account does count. Once her assets drop below \$3,000, they are eligible for food stamps.

Note: Federal and state tax refunds rebates and credits (but not earned income credits) and other lump sums of money such as lottery winnings, insurance settlements, and back benefits from other programs count as assets even though they do not count as income. 106 C.M.R.

§§ 363.130(E), 363.230(I). See **Question 44**. Earned income tax credits do not count as assets in the month received and the month following receipt. 106 C.M.R. §363.140(G).

If a food stamp recipient receives a lottery payment or settlement which puts the household over the asset limit, the recipient must be allowed to update his asset statement with DTA. This means that, if, for example, the individual receives a \$3,000 lottery payment, and then uses \$2,000 of it to pay a rental arrearage, then only \$1,000 is countable and the household remains below the food stamp asset limit. See DTA Transitions, October, 2006 (p. 4).

42 What if you have a car?

Vehicles are not a countable asset for food stamps. This includes licensed and unlicensed vehicles such as cars, trucks, vans, motorcycles, and boats. 106 C.M.R. § 363.140(C).

43 What happens if you sell or give away assets?

For households who must meet the asset limits, there are special rules that affect your eligibility if you sell or give away assets before you apply for food stamps. These are called “transfer of assets” rules. 106 C.M.R. § 363.150. These rules apply only to households who are subject to the asset limits, and do not apply if your household is categorically eligible because it includes a child under age 19, consists solely of a pregnant woman, or the transfer was made by an SSI or TAFDC recipient. 106 C.M.R. § 365.180(E).

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Under the “transfer of asset” rules, you may be ineligible for food stamps if you sold or gave something away for less than fair market value in the three months before the date of your application. DTA must prove that you knew about the food stamp program and that you sold or gave away the assets in order to become eligible for food stamps. 106 C.M.R. § 363.150(C).

If DTA can prove you made an unauthorized transfer, your household may be ineligible for food stamps from one month to 12 months, depending on the value of the transferred asset that exceeds the asset limits. 106 C.M.R. § 363.150(D).

These “transfer of asset” rules do *not* apply if:

- you did not sell or give away the asset to become eligible for food stamps (for example, your sister needed money for rent), *or*
- the thing you sold or gave away did not count as an asset or would not have put you over the asset limit, *or*
- you sold or gave away the asset to someone in your own household, *or*
- you got fair market value (for example, you gave a camper worth \$5,000 to your children and they took over loan payments of \$5,000), *or*
- you sold or gave away the asset more than three months before you applied for food stamps.

See 106 C.M.R. § 363.150(B).

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What income is not counted?

DTA looks at total monthly income to decide if you are eligible for food stamps and how much you will get—but not all income counts. DTA is supposed to calculate your income based on what you anticipate receiving in the future.

The following items are examples of income that does *not* count:

- VISTA, Youthbuild, and AmeriCorps allowances, earnings or payments.
- Reimbursements—money you get to pay you back for expenses (such as training-related expenses).
- Anything you do not get as cash, such as free housing or food, or money that is paid directly to a landlord or store by a relative, friend or agency that has no legal obligation to do so.
- Cash contributions given to you that provide for part of your housing, food or other needs that are paid by a person or agency that has no legal obligation to do so.
- Money earned by a student under age 18 attending high school or elementary school at least half-time, if the student lives with a parent or stepparent or is under the parental control of an adult.
- Up to \$30 per household member in a three-month period that is not regular (such as money from odd jobs).
- Up to \$300 in a three-month period from private charities.
- Federal educational assistance grants, loans, and work study.

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- Other grants and scholarships that are earmarked for education costs and cannot be used for current living expenses.
- Loans from private individuals and financial institutions, including loans on the equity of a home (reverse mortgages).
- The first \$130 per month in training stipends.
- One-time payments, such as tax refunds, state and federal earned income tax credits (EITC), insurance settlements, and back benefits from other programs.
- Additional pay received by the household for a family member who is in the United States Armed forces and deployed in a combat zone.
- Legally obligated child support payments that you pay for a child who is living outside the home and not part of your food stamp household (these payments are not counted for the gross income test nor calculating the benefit level).

This is not a complete list. Check the regulations for a complete list. 106 C.M.R. §§ 363.220(C), 363.230.

Advocacy Reminders:

- ✓ You do not need to verify income that is considered non-countable or excluded unless the information you provide is inconsistent or questionable. 106 C.M.R. §§ 361.610(A), 363.210(D).
- ✓ Federal and state tax refunds (but not earned income credits) and other lump sums of money such as lottery winnings, insurance settlements, and back benefits from other programs count as assets even though they do not count as income. 106 C.M.R. §§ 363.130(E), 363.230(I).
- ✓ Some employers don't pay for benefits such as medical coverage or child care assistance directly. Instead, they give employees "credits" that can be used to pay for these types of benefits. Although these

“credits” may appear on pay stubs as income, they are treated as noncountable income so long as you do not have the option of taking the credits as cash. See DTA Transitions, January 2006, p. 7 and February 2006, p. 3.

- ✓ Unlike TAFDC and EAEDC, the food stamp program does not count lump sum payments as income. Some lump sum payments count as assets in the month received and are considered countable assets in later months if you still have the money. 106 C.M.R. § 363.230(I); DTA Transitions, Jan. 2004, p. 2. See **Questions 41**.

45 What is earned income?

The food stamp rules treat income as either earned or unearned. 106 C.M.R. § 363.220. Most earned income is counted for food stamps. Unlike unearned income, you are allowed a 20 percent earned income deduction from your gross earnings. See **Question 51**.

Earned income includes:

- Gross earnings from wages and salaries, including earnings diverted or garnished by an employer for a specific expense—unless the money is paid directly to your landlord for rent on top of your regular wages. 106 C.M.R. § 363.22(C). DTA first calculates the monthly amount before taxes, FICA or other mandatory payroll deductions. Legally obligated child support payments are deductible. See **Question 51**. Gross earnings do not include employee “credits” for employee benefits such as health insurance that cannot be taken as cash by the employee. See **Question 44**.
- Income from boarders less the cost of doing business, provided the boarder is not part of the food stamp household. See 106 C.M.R. § 365.200 on how to calculate the income received from boarders.

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- Income from rental property less business expenses, provided a household member manages the property for at least 20 hours per week 106 C.M.R. § 365.930(A). If managed for less than 20 hours per week, it is considered unearned income. See **Question 46**.
- Self-employment income minus the costs of producing the income—such as wages paid to employees, your inventory, raw materials used to make a product, mortgage interest and principal (see **Question 46** regarding the deductibility of principal) paid on income-producing property, taxes, advertisement costs, repairs, legal fees, business supplies, etc. 106 C.M.R. § 365.940. However, not all business expenses, such as net losses or income taxes, are allowed. See 106 C.M.R. § 365.950. Self-employment is usually averaged over a 12-month period unless the income is intended for a shorter period (e.g., summer income), or you tell your worker you wish to have it cover a shorter period of time. 106 C.M.R. §§ 364.340(B), 365.960.

Example: June sells cosmetics from her home. She buys the product from the manufacturer and then sells it to her customers. She can deduct the amount that she paid for the cosmetics and her costs of reaching customers (phone, mailing costs, internet website) from any income that she earns from selling the cosmetics.

Advocacy Reminders:

- ✓ If you are self-employed or have an income source that is difficult to verify, DTA must assist you with getting verification. If usual verification is not available, you can verify your income “based on the best information available,” such as a self-declaration of your income. 106 C.M.R. § 363.210(G).
- ✓ If you are a school employee who receives your salary over a ten month period, DTA will average your income over a 12 month period if you work under a renewable annual contract. See DTA Transitions, May 2002, p. 2.

- ✓ Short-term disability payments are treated as earned income as long as you are still considered an employee, you intend to return to work, *and* the monies paid are out of company funds (not an insurance company). See DTA Transitions, September 1998, p. 2. As earned income, the payments qualify for the 20 percent earnings deduction.

46 What is unearned income?

The food stamp program counts most unearned income in calculating your food stamps. 106 C.M.R. § 363.220(B). Unearned income includes:

- Cash assistance from TAFDC, EAEDC (Emergency Aid for Elders, Disabled and Children), Social Security and SSI benefits, Unemployment Insurance, Workers Compensation, state and federal Veteran's benefits, and other pension benefits. 106 C.M.R. §§ 363.220(B)(1), (B)(2). These benefits count as unearned income even if they are diverted to a landlord or other third party for vendor payments. 106 C.M.R. §§ 363.22(C)(2), (C)(3). Even though some of these income sources, like Unemployment Insurance, Workers Comp and Social Security, are based on your past earnings record, they are treated as unearned income because you are not working when you receive them.
- Income from trusts, alimony and child support payments paid directly to you. Child support payments made to TAFDC recipients that are supposed to be assigned to DOR are not countable even if received by the TAFDC household. 106 C.M.R. §§ 363.220(B)(3), (C)(6).
- Interest payments, dividends, or other direct money payments. 106 C.M.R. § 363.220(B)(4).
- State and private post-secondary educational loans, grants, scholarships that can be used for current living expenses (federal

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educational grants and loans and work study are non-countable). 106 C.M.R. § 363.230(D). See **Question 44**.

- Cash assistance income deducted from the grant of a TAFDC, EAEDC or SSI household member who has been sanctioned or has an overpayment because of an *intentional failure to comply with requirements* of these programs. See **Question 48**.
- Income of an individual who sponsored a non-citizen, in certain circumstances. See **Questions 25-27**.
- Rental income you receive less business expenses (such as the principal and interest paid on a mortgage and insurance). 106 C.M.R. § 363.220(B)(5). If you own your home and rent out a room, you can deduct a pro rata share of the mortgage and carrying charges from the rental income. If you prove you are managing the property at least 20 hours per week, the rental payment is considered earned income and you are entitled to an earned income deduction. Current DTA regulations, 106 C.M.R. § 365.950(A) state that the principal paid on a real estate mortgage is not an allowable business expense. This regulation conflicts with the federal food stamps regulations, 7 C.F.R. § 273.11(b)(1). Business expenses include the mortgage, principal, taxes, insurance and other carrying charges.

Example: Jane Smith rents out two apartments in her triple decker. She receives \$500 a month per apartment. She pays \$1,200 a month in mortgage and interest payments, on the mortgage, plus \$90 a month in other expenses. The rental income that is countable is \$170 ($\$500 \times 2 = \1000 in total rental income; $\frac{2}{3}(\$1,200 + \$90) = \$830$ in deductible expenses; $\$1000 - \$830 = \$170$ in countable income).

Advocacy Reminders:

- ✓ Social Security or other income you receive for a child who is not part of your food stamp household because the child is a resident of an institution is not countable as long as it is used for the care and

maintenance of the institutionalized child. See DTA Transitions, June 2000, p. 4.

- ✓ Even though the first \$50 of child support received by a TAFDC household is noncountable for TAFDC purposes, this payment *is* considered countable unearned income for food stamps. 106 C.M.R. § 363.220(B)(3).

47 How does DTA calculate your income for each month?

Your food stamp benefit is based on how much income you and the worker are “reasonably certain” you will receive for the period you are on food stamps (your certification period). 106 C.M.R. § 364.310. DTA will ask you for proof of your income from the previous four weeks—or longer, if four weeks does not give a good picture of your future income. Income from a terminated source (a lost job, cash benefits that have stopped) should not be counted unless you will receive some of this income after you apply. Income from a new job should not be counted until you are certain when you will get paid and how much. 106 C.M.R. § 364.320.

DTA calculates your monthly income by multiplying the average weekly amount by 4.333 (or 2.167 for bi-weekly amounts). 106 C.M.R. § 364.340.

Example: Judy Jenks received gross pay of \$152, \$125, \$145 and \$150 for the past four weeks. The average of these weeks is \$143 per week. DTA then multiplies this average amount of \$143 by 4.333 to get a monthly gross income of \$619.62.

48 Does the food stamp program count money you do not get?

Yes. The food stamp program sometimes counts money you do not get as income when it is—

- Money taken out of your TAFDC or EAEDC because of an *intentional failure* on your part to comply with the rules of the cash assistance program, such as—
 - money taken out for failure to comply with the TAFDC work rules or teen parent school attendance rules, 106 C.M.R. § 363.220(C)(5), see **Question 59**, or
 - money taken out to repay DTA for an overpayment caused by fraud or willful withholding of information (such as failure to report a job you got when the earnings would have counted) if you were found guilty of an intentional program violation by a court or by a DTA hearing officer or you waived your right to a hearing. 106 C.M.R. § 363.220(C)(4).
- Money taken out of your SSI benefits to recover an overpayment that DTA confirms was caused by fraud or willful withholding of information. 106 C.M.R. §§ 363.220(C)(4).
- Money owed to you (wages, support or alimony, public assistance) that you do not get because you asked someone to pay your bills instead. For example, if you ask your boss to pay your rent instead of giving you a paycheck, the money would still count. But if your boss pays you your regular paycheck and then, in addition, pays your rent, the rent payment does not count. 106 C.M.R. § 363.22(C)(3).
- Part of your TAFDC or EAEDC grant that is sent to your landlord or utility company (sometimes called vendor or protective payments). 106 C.M.R. § 363.22(C)(2), (C)(3).

- Income of the sponsor of some non-citizens, known as “sponsor deeming.” See **Question 25**. 106 C.M.R. §§ 363.220(B)(8), 362.260, 362.270.

Advocacy Reminders:

- ✓ The food stamp program should not count money that is taken out of your EAEDC or TAFDC grant for an overpayment unless you were found guilty of an intentional program violation by a court of law or by a DTA hearing officer or you waived your right to a hearing. If the hearing decides that you owe the money but the overpayment was not intentional, the money that is taken out should not be counted.
- ✓ When an SSI recipient’s SSI benefits are being recouped, the Social Security Administration’s automated system (called SDX) shows the full amount and the amount after recoupment, but does not show if the recoupment is because of an intentional violation. DTA therefore should use the SSI income *after* recoupment to calculate food stamps. See DTA, Transitions, June 1999, p. 4.
- ✓ Money you do not receive because it is being recouped from a non-means tested program benefits such as Unemployment Compensation or Social Security Disability is never countable for food stamps, even if the money is recouped because of an intentional program violation.
- ✓ The food stamp program does not count money paid to a third party that is not legally owed to you. For example, if an uncle or an organization pays your landlord part of your rent, the payment is not countable. 106 C.M.R. § 363.230(B). But you can only claim a shelter deduction for the amount you pay the landlord. See DTA Transitions, May 2004, p. 2.
- ✓ The food stamp program does not count money that is paid to others on your behalf as a result of a court order or other legally binding agreement directing that this money be paid to the third party instead of you. 106 C.M.R. § 363.230(B)(4)(b) For example, if the court orders an absent parent to pay \$400 per month to the household, and an

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additional \$200 per month to a bank towards repayment of a household's loan, only the \$400 is counted as income.

- ✓ Unlike TAFDC and EAEDC, the food stamp program does not count lump sum payments as income. Some lump sum payments count as assets in the month received and are considered countable assets in later months if you still have the money. 106 C.M.R. § 363.230(I); DTA Transitions, Jan. 2004, p. 2. See **Questions 41, 44**.

49

How does the food stamp program count the income and assets of someone who lives with you but is not part of your household?

In general, none of the income of non-household members counts, even if they live with you. 106 C.M.R. § 363.230(L). So, if you live with friends and you purchase and prepare your meals separately, these friends are not household members and their income and assets do not count. There are some exceptions where the non-household member is supposed to be in your food stamp household but is ineligible or disqualified for some reason.

The food stamp program fully counts all of the income and assets of a person who is otherwise required to be in the household (e.g., a spouse, parent, etc.) but is disqualified from the food stamp household because of one of the following:

- An intentional program violation or fraud, see **Question 82**.
- A disqualifying criminal record, see **Question 33**.
- A failure to comply with a work requirement, see **Questions 34-37**.

- A voluntary quit from employment, see **Question 38**.
- Undocumented or undetermined non-citizen status, see **Question 20**.
- Failing or refusing to provide his or her SSN.

106 C.M.R. § 361.230(D).

The disqualified person's income is counted in figuring whether the household meets the gross income eligibility test and in figuring the amount of benefits. However, the disqualified person is not counted in figuring household size. 106 C.M.R. § 365.520(A)(4). The earned income, child support, dependent care and other income deductions do apply.

Example: Mark Ferris, his wife and two children re-applied for food stamps recently, but Mr. Ferris was disqualified from food stamps for six months for an intentional program violation (collecting food stamps under two cases). Mr. Ferris is working 20 hours a week. He understands that he is not eligible for food stamps for himself until the period of disqualification expires. All of his income, together with any other income in the household is compared with the gross income eligibility limit for three people (his wife and two children). His income after deductions together with the other income after deductions is counted against the food stamp benefit level for a household of three.

Advocacy Reminders:

- ✓ Live-in attendants and ineligible students are not part of the food stamp household and their income and assets are not countable, unless they are required to be part of the household due to age or marital status. 106 C.M.R. § 361.230(B) and (C).
- ✓ For a discussion of boarders and roomers, see **Question 30**.

50 Are there income tests you must pass before you can get food stamps?

Some food stamp applicants must pass a “gross income standard” and others must pass a “net income standard” as well. This means you are not eligible for food stamps unless you pass the income standards that apply to you. Gross income includes all income that is not specifically treated as noncountable. See **Question 44**. In addition, legally obligated child support that you pay to someone outside your food stamp household is excluded from gross income. 106 C.M.R. § 363.230(O), see DTA Transitions, April 2003, pp. 3, 8. Net income is income after all deductions. 106 C.M.R. § 364.500.

There are four different situations in which the gross and net income standards are used:

1. Households with pregnant women or children under 19

If your household includes a child under age 19, or consists solely of a pregnant woman, you are considered “categorically eligible” for food stamps provided your household income is below 200 percent of the federal poverty level. 106 C.M.R. §§ 364.370, 364.976, 365.180. See **Appendix B, Chart 2**. This means that the household must have gross income below this level. If you pass this test, the regular gross and net income tests are waived.

If your household consists solely of TAFDC recipients, you do not need to pass any gross or net income test for food stamps. Your household is “categorically eligible” and the gross and net income tests do not apply. 106 C.M.R. §§ 364.370, 365.180.

Example: Susan Tendras is a single mom with three children. She earns \$2,800 per month and has no unearned income. Because her income is below 200 percent of the poverty level (\$3,442 for a family

of four), she may be eligible for food stamps, depending on her income after allowable deductions. She is not automatically eligible for food stamps, but she is not automatically excluded either.

2. Households with elder or disabled members

If your household consists solely of SSI or EAEDC recipients, you do not need to pass any gross or net income test for food stamps. Your household is “categorically eligible” and the gross and net income tests do not apply. 106 C.M.R. §§ 364.370, 365.180. If your household includes an elder (age 60 or older) or disabled member (where the entire household is not receiving SSI or EAEDC), you do not need to pass the gross income test. But your household income must be less than the net income standard unless your household meets the criteria for households with children or a pregnant woman, described above. 106 C.M.R. §§ 364.550, 364.970. See **Appendix B, Chart 4**. Net income is calculated after allowing all deductions. 106 C.M.R. §§ 364.500, 364.550.

Example: Sarah Baker is disabled and receives \$717 in SSI; her husband earns \$1200 per month gross income. They have one child. They live in public housing and have limited shelter expenses. After the earnings deduction, standard deduction and other deductions, the Bakers have net income of \$1,543. They are *not eligible* for food stamps because their net income exceeds the maximum limit of \$1,431 for three people.

3. Households with a member who is both elderly and disabled and is seeking separate household status

In special situations, an individual who is both elderly (60 or older) and disabled but lives with others can get her or his own food stamps even if she cannot purchase or prepare food separately. See **Question 18**. To be eligible for this special status, the gross income of the rest of the household excluding the elderly disabled person (and his or her spouse, children age 21 or younger, and certain minors) must be less than 165 percent of the poverty level. 106 C.M.R. §§ 361.200(B),

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364.975. See **Appendix B, Chart 5**. The elderly disabled person, along with his or her spouse, children under 21, and minors under his or her parental control, are then treated as their own food stamp household and may be eligible for food stamps if the net income standard is met. The other people in the home may be eligible as a separate food stamp household if they pass the income tests that apply to them.

4. All other households

If your household consists solely of able-bodied individuals ages 19 to 60 who are not pregnant and do not have children, then you must meet two income tests. First, your gross income must be below the gross income standard, set at 130 percent of the federal poverty level. 106 C.M.R. § 364.950. See **Appendix B, Chart 3**. If your gross income exceeds the amount for your household size, you are not eligible for food stamps.

Next, your income after deductions must be below the net income standard. See **Appendix B, Chart 4**. 106 C.M.R. § 364.970. Most households that pass the gross income test usually pass the net income test after deductions.

Note: The gross income test standard increases in October of each year, even though the federal poverty levels for most other programs increase annually in February or March. This is a federal food stamp rule and is based on when the federal fiscal year starts. The 200% of poverty standard, however, increases in the spring.

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What deductions are allowed against your income?

Five deductions are available to all household types. 106 C.M.R.

§ 364.400. Households with an elder or disabled member may get an additional medical deduction and higher shelter deductions. See **Question 52**.

Deductions allowed for all household types:

- **20 percent of gross earned income**, 106 C.M.R. § 364.400(B).
- **A standard deduction** of \$134 for households of one to three people, \$143 for households of four, \$167 for households of five, and \$191 for households of six or more, 106 C.M.R. § 364.400(A).
- **A dependent care deduction** if you are working, looking for work or in school or training, up to \$200 per month paid for each child under age 2, and up to \$175 per month paid for each child age two or older or for the custodial care of a disabled or elderly adult. 106 C.M.R. § 364.400(D). See **Question 53**.
- **Child support paid to children outside the home** (including payments for health insurance, child support arrearages, payments made to third parties for rent or mortgage) if you are legally obligated to pay the support for a child of yours who does not live with you, 106 C.M.R. § 364.400 (E).
- **A shelter deduction**, capped at \$431 for households that do not have an elderly or disabled member. 106 C.M.R. § 364.400(G). The shelter deduction is the amount by which your shelter expenses exceed one-half of your “preliminary net income,” which is the result after subtracting the other deductions. See **Questions 54 and 55** on how to calculate the shelter deduction. If you are homeless, you get a homeless shelter deduction of \$143 a month *instead* of the shelter deduction, 106 C.M.R. § 360.400(F). See **Question 56**.

The result is your monthly net income. Your food stamps are based on this amount.

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Example: Betsy Banner earns \$1,000 month in gross wages. She has one child, age three, for whom she pays \$250 per month for child care, so she gets a child care deduction of \$175 (the maximum allowed). Betsy gets the maximum shelter deduction of \$431 based on her income, rent and utilities. See **Questions 54 and 55**. Calculate Betsy's net income as follows.

\$1,000	gross earned income
- 200	20% earnings deduction
- 134	standard deduction
- 175	child care deduction
<u>\$ 491</u>	preliminary net income
- 431	shelter deduction
<u>\$ 60</u>	MONTHLY NET INCOME

52 What special medical and shelter expenses can you deduct if you have an elderly or disabled person in your household?

There are special rules for calculating the deductions for households with an elderly (age 60 or over) or disabled person. See **Question 19** for a definition of who is considered disabled. In addition to the regular deductions, your household is allowed a special medical expense deduction and the shelter deduction is not capped.

The medical deduction: You are allowed to deduct all unreimbursed medical and custodial expenses over \$35 per month that are incurred by the elderly or disabled person. See 106 C.M.R. § 364.400(C). This includes:

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- your co-pays or premiums for Medicare, Medicare Part D, Medex or other health insurance, and your deductible for Medicare Part D,
- any custodial or attendant care services you need (even if that person is a relative),
- dental care,
- health treatments by a licensed practitioner including chiropractic, acupuncture, physical or other therapy,
- prescription drugs, including postage costs,
- over-the-counter drugs prescribed by any licensed health care provider (for example, aspirin, laxatives, insulin, herbal and homeopathic remedies),
- eyeglasses, contact lenses, hearing aids, dentures, communication equipment for the hearing or visually impaired,
- health related supplies prescribed by a health care provider including adult diapers, creams and ointments, commodes and walkers,
- private transportation costs (at the federal mileage rate, currently \$.481/2 a mile), costs of taxis or vans, or public transportation costs you incur to get to medical appointments, see DTA Transitions, June 2005, p. 6, *and*
- any other unreimbursed medical expenses. 106 C.M.R. § 364.400(C).

Medical expenses that are or will be reimbursed by a third party cannot be claimed as a deduction.

See 106 C.M.R. § 364.410(B)(3). See also **Appendix C** for a Medical Expense screening form.

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A higher shelter deduction: For most households, the maximum shelter deduction is capped at \$431 a month. For households that include an elderly or disabled person, there is *no* cap on the shelter deduction. This means that your household can deduct the *full amount* of your shelter costs above one-half of your preliminary net income. 106 C.M.R. § 364.400(G). See **Questions 54 and 55** on how to calculate the shelter deduction.

Advocacy Reminders:

- ✓ The medical expense deduction is the most under-claimed deduction in the food stamp program. DTA workers are supposed to explore medical expenses with elder or disabled members clients and assist with getting verifications. Be sure your clients tell DTA about all their medical-related expenses, including over-the-counter medications, travel to medical appointments, and any custodial care. See DTA Transitions, April 2007, p. 11.
- ✓ DTA should make “a reasonable prediction” of the amount you “expect to be billed” during the certification period based on your medical condition and past expenses. You do not need to verify your bills each month, and you do not have to have paid your bills to claim the deduction. Just show proof you received a bill. However, you cannot claim a bill that an insurance company or other third party is going to pay. 106 C.M.R. §§ 364.410(B)(3), 364.420, 364.430.
- ✓ If you are billed for a large, one-time medical expense during your certification period, you have the option of claiming the expense as a one-time deduction or having it averaged over the remaining months in your certification period. 106 C.M.R. § 364.440(C). The most advantageous option depends on the circumstances. For example, if you have a one-time medical expense of \$360 and you are at the start of a 12-month certification period, the amount averaged over 12 months would be \$30 and since the rules only allow medical expenses over \$35 per month, you would not receive a medical deduction. You would be better off claiming it as a one-time deduction. If there were five months left in your 12-month certification period, you could average the \$360 over the five months and claim a medical deduction

of \$72/month (only the amount over \$35 is deductible) or you could claim it as a one-time expense.

- ✓ If you are an SSI recipient getting Bay State CAP food stamps, you can elect to get regular food stamps at any time if you could get more than the Bay State Cap benefit amount by claiming medical expenses, high shelter costs, dependent care expenses, or a deduction for child support. See **Question 4**.

53 What is the child care/dependent care deduction?

Families with minor children, or a disabled adult member, may claim dependent care expenses incurred while working or going to education or training programs. 106 C.M.R. § 364.400(D). The maximum amount that can be claimed each month is \$175 for a child age 2 or older or an adult, and \$200 for a child under age 3.

Child care costs include the out-of-pocket expenses paid to a child care provider, friend or relative who cares for your child, the co-pays you incur for subsidized child care as well as transportation costs to bring your child to and from child care. Child care costs also include any summer camps, YMCA, Boys and Girls Club fees, or after and before school programs you pay for, even if your kids are in school during the day. Transportation costs are allowed to be claimed at 48 cents a mile if you use private transportation to transport your children. As long as the child is under age 18, you can claim the costs for his or her supervision out of school or work.

You can self-declare child care expenses. You do not need a statement from the child care provider unless the information you provide to DTA is determined to be questionable. See DTA Field Operations Memo 2007-19 (March 15, 2007). **Appendix C** includes a sample form you can use.

If you pay for care for a disabled adult, you can claim the expenses under this dependent care deduction or you can claim them as medical expenses for a disabled adult if he or she meets the disability criteria. 106 C.M.R. § 364.400(C)(12). See **Question 52**.

54 What is the standard utility allowance (SUA) and what is H-EAT?

The standard utility allowance (SUA) is a fixed dollar amount DTA uses to figure your shelter deduction if you have heating or air conditioning or other utility costs. 106 C.M.R. §§ 364.400(G)(2), 364.945.

There are three different SUA amounts:

- **Heating (or air conditioning) SUA—\$534**, for households that incur heating or air conditioning costs separately from their rent. This includes public or subsidized housing tenants if your housing authority bills you for heat or for use of your air conditioner. You also get this SUA if you receive or expect to receive Fuel Assistance (also called Low Income Home Energy Assistance Act or LIHEAP payments) even if your heat is included with your rent. You also get this SUA if you have received the new Fuel Assistance benefit called H-EAT (Heating and Eating). See below. If you incur any heating costs in the winter or air conditioning costs in the summer or get any LIHEAP or H-EAT benefits, you get this SUA all year round, including months when you don't have to pay for heat or air conditioning. See DTA Transitions, August 2005, p. 2-3, DTA Transitions, Dec. 2004, p. 2, DTA Transitions, August 2003, p. 2.
- **Non-heating SUA—\$334**, for households that incur utility expenses but not heating or air conditioning. Utility expenses can include electricity, cooking gas, garbage, water, or sewer fees.

- **Telephone-only SUA—\$39**, for households that incur telephone costs (cell phone or landline) but none of the other utilities listed above. DTA Transitions, January 2002, p. 2 confirms that you can get the telephone SUA for a cell phone. But DTA says you cannot get the SUA for a pre-paid phone calling card because there is no regular due date or bill for this service. See DTA Transitions, June 2003, p. 2.

You do not have to prove your actual costs to get the SUA. You get the full SUA even if you live with another household and pay only part of the utilities. But except for Fuel Assistance payments, you cannot claim the SUA for utility costs paid by a third party. 106 C.M.R. § 364.410(B)(2).

Starting in June, 2007, Massachusetts has established a program called H-EAT (Heating and Eating) which helps households get more in food stamp benefits and low income utility/phone discounts. Under this program, some households are sent a small (\$1.00) payment from the state's Fuel Assistance (Low Income Home Energy Assistance) program. The households are then eligible for the highest Standard Utility Allowance - the Heating SUA. This relieves the household of having to verify heating or air conditioning costs. The household is also enrolled in the utility discount programs and can ask their phone companies for a phone discount. As a result of H-EAT, food stamps are calculated with the higher SUA, resulting in less countable income and more food stamps. The households targeted to receive this payment are households which are not already getting the highest SUA, are not already receiving the maximum shelter deduction (see **Question 55**) and are not homeless. A household that receives H-EAT may also be eligible for regular Fuel Assistance benefits (including if they pay more than 30% of their income for rent) by applying at their low Fuel Assistance agency. The H-EAT payments are made periodically based on a computer review of the food stamps caseload. An individual household does not have a way to initiate receipt of H-EAT. See DTA Field Operations Memo 2007-31 (June 28, 2007).

Advocacy Reminder:

- ✓ If a shelter or other expense is paid for fully by someone outside the household, it cannot be claimed as a deduction. 106 C.M.R. § 364.410(B)(1). However, as long as you incur some of the shelter costs, you are eligible for a deduction. For example, if you pay even \$10 per month of your heating or air conditioning costs, you are eligible for the full SUA in addition to your rent or mortgage costs.

55 What is the shelter deduction and how do you calculate it?

The food stamp program allows you to deduct shelter expenses that exceed half of your net income. This is called the “shelter deduction.” 106 C.M.R. § 364.400(G). This means that if your allowable shelter expenses are \$350 per month, but your net income after other deductions is \$900 per month, you will get no shelter deduction because half of your net income (\$450) is more than your allowable shelter expenses.

The shelter deduction is currently capped at \$431 per month unless the household includes an elder or disabled member. Then there is no limit to the deduction. See **Questions 19, 52**.

Shelter expenses include

- mortgage, rent or other carrying charges for your housing or mobile home, including payments on the principal, property taxes and insurance, trailer payments and parking fees, shelter expenses for a home not occupied by you if you are planning to return to it and are not otherwise renting it, and charges for repair of a home damaged by natural disaster, provided you will not be reimbursed for these repairs, 106 C.M.R. § 364.400(G)(1), *plus*

- the appropriate standard utility allowance (SUA) for your household. See **Question 54**.

There are four steps to calculate your shelter deduction:

- **Step 1:** Calculate your preliminary net income, which is your gross monthly income after subtracting your earned income deduction, the standard deduction, your dependent care costs, child support payments, and the medical cost deduction if you have an elderly or disabled household member. See **Questions 51-53**.
- **Step 2:** Calculate your allowable shelter costs by adding your non-utility shelter costs (rent, mortgage, etc.) to your standard utility allowance (SUA). See **Question 54**.
- **Step 3:** Divide your preliminary net income in half.
- **Step 4:** Subtract the result in Step 3 (half of your preliminary net income) from the result in Step 2 (your shelter costs). The result is your excess shelter cost. If the answer is zero or less, you do not get a shelter deduction. 106 C.M.R. § 364.400(G). If the answer is more than \$431, you can deduct only \$431 unless the household includes an elderly or disabled person. 106 C.M.R. § 364.500(K).

In other words, allowable Shelter Costs (Step 2) minus Half of Preliminary Net Income (Step 3) equals Shelter Deduction (up to the cap if applicable).

Example: Carl Chase earns \$1,200 per month. He lives with his wife Cindy and their child, for a household of 3 persons. He pays \$100 per month in child support for a child who does not live with him. The family pays \$500 per month in rent plus heat and utilities. There is no other income in the household and no other deductible expenses.

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\$ 1,200	Gross earned income (including child support paid to a child outside the HH)
- 240	20% earnings deduction
- 134	Standard deduction
<u>- 100</u>	Child support deduction
\$ 726	Preliminary net income
	Shelter deduction calculation
\$500	Rent
<u>+534</u>	SUA
\$1034	Shelter expenses
<u>- 363</u>	One-half prelim. net income
\$671	Shelter expenses
<u>- 431</u>	Maximum shelter deduction
295	NET INCOME for the Chases

Note: The food stamp shelter deduction is complicated because Congress wanted to target food stamp benefits towards households that have the highest shelter costs in relation to their incomes and therefore have the hardest time paying for food. After Section 8 and public housing, it is the biggest source of federal assistance to low-income households based on their housing needs.

Advocacy Reminders:

- ✓ Payments for condominium fees are allowable shelter costs. See DTA Transitions, January 2000, p. 5.
- ✓ Rent or utilities paid in advance may be deducted in the month when they would have been due. USDA Food Stamp Program Regional 04-05 (Northeast Region).

- ✓ Mortgage payments made when you are not living in the home are also allowed as a deduction if you are temporarily absent (e.g for employment, training, illness or an emergency) as long as you are not renting your home to someone else and you plan to return. See DTA Transitions, August 2007, p. 5.

56 What is the homeless shelter/utility deduction and who gets it?

Food stamp households who live in homeless shelters, temporarily in the home of another, or on the street are entitled to a standard homeless deduction of \$143 per month in recognition of expenses for laundry, phone calls, locker fees, and other items. 106 C.M.R. § 364.400(F). This deduction is taken from net income, just like the standard deduction, and is not considered a shelter expense. The \$143 amount is allowed even if your actual shelter or utility expenses are very small.

You do not need to document your expenses. See DTA Field Operations Memo 2001-18 (March 30, 2001). It is important that your DTA worker code your case as “homeless” so you get this deduction. See 106 C.M.R. § 360.030(D) for the definition of homeless.

Example: Paul Smith is a homeless individual who receives \$400 per month in veterans benefits. Sometimes he stays at a shelter for adult individuals, and sometimes he is on the street. Paul gets the \$134 standard deduction and the \$143 homeless deduction. His net monthly income is \$133 per month.

Advocacy Reminders:

- ✓ If you are homeless and temporarily staying someplace where you pay for rent or utilities, you can get either the \$143 homeless shelter deduction or the excess shelter deduction (based on your rent plus the

applicable Standard Utility Allowance), whichever is higher. DTA Transitions, December 2003, p. 2. See **Questions 54-55**.

- ✓ A DTA hearing officer has ruled that residents of domestic violence shelters qualify for the \$143 a month homeless shelter deduction.

57 What proofs do you need to claim deductions?

You need proofs for three of the deductions from income.

- **Child support deduction:** You can prove your *legal obligation* to pay support with any document that verifies it, such as a court order, administrative order or legally enforceable separation agreement. You verify the *amount* you pay with documents such as canceled checks or wage withholding statements. 106 C.M.R. §§ 361.610(J), 364.400(E). If you pay child support directly to the Department of Revenue, DTA is responsible for getting the proofs. Remember, you can claim any payments for current child support, arrears, or health insurance, including payments to third parties (landlords, banks) for the child.
- **Shelter expenses:** DTA regularly asks for proof of shelter expenses even though the regulations do not require proof unless they are “questionable,” 106 C.M.R. §§ 361.610(K), 364.450(D). Proof can include a lease, mortgage statement, cancelled check showing a rental payment or statement from your landlord. If DTA asks for proof of your shelter expenses, your DTA worker *cannot* insist on your getting your landlord to sign a DTA form (such as DTA’s Landlord Verification form). You must be allowed to provide alternative proofs of your shelter expenses instead of this form. It is your choice. 106 C.M.R. § 361.640. See DTA Transitions, June 2005, p. 6. See **Questions 7-8**. MLRI has developed an alternate landlord verification and shared housing verification form you can use. See **Appendix C**.

- **Medical expenses:** You do need proof of the amount of medical expenses you claim (like a bill from a doctor, pharmacy, etc.). You do not have to prove that the expense is for an allowable medical need (for example, a doctor's letter of a prescribed over-the-counter drug, or that you need custodial care) unless the information is questionable. 106 C.M.R. § 364.450(C). You can also claim the costs of private transportation at \$.481/2 per mile which you should be able to self-declare. See **Question 52**. See **Appendix C** for a medical expense screening form.

You do not need proofs to claim the standard deduction, the earnings deduction, or the homeless shelter/utility deduction. You also do not need proofs to get the dependent care deduction unless "questionable." See **Question 53**.

Advocacy Reminders:

- ✓ Although the DTA regulations state that for many deductions you need to provide proof of the expense only when "questionable," in practice DTA requests verification of most deductions. DTA must help you get these proofs if you are having trouble, and cannot limit the proof to only one type of document. See **Question 8**.
- ✓ If you are unable or refuse to provide proof needed for a deduction, DTA cannot deny or terminate your food stamps for lack of proofs. Your DTA worker is required to calculate your food stamps on time without the benefit of the deduction. See DTA Transitions, June 2005, p. 6. If your DTA worker failed to give you a notice telling you what verifications you needed and time to get them (at least ten days) or failed to help you get the verifications, you may be able to get the lost benefits. 106 C.M.R. § 364.450(D). See also **Question 65**.

58 How much will you get in food stamps each month?

To get your food stamp benefit amount, multiply your net monthly income by 0.3 (30 percent). Round *up* this amount to the nearest dollar.

Take this amount and subtract it from the maximum food stamp level for a household of your size. 106 C.M.R. §§ 364.600, 364.980. See “Maximum Food Stamp Allotments,” **Appendix B, Chart 1**. The answer is how much in food stamps you will get each month.

Example: Carl Chase and his family in **Question 55** have \$299 in net income after all deductions (20 percent earnings, \$134 standard, \$100 child support, \$431 maximum shelter). Here’s how you calculate the amount of his family’s food stamp benefits.

\$299	Net Income for the Chases
<u>x .30</u>	(Multiply by 30%)
\$89.70	Countable Income
\$426	Maximum food stamps for 3 persons
<u>- 90</u>	Countable income (round up)
\$336	Monthly food stamp allotment for the Chase Family

Your first month of food stamps: For the first month you apply, you will get food stamps only for the days left in the food stamp month from the date you apply. This is called prorating of food stamps. 106 C.M.R. § 364.650. For example, if you apply halfway through your food stamp month, you will get only 50 percent of the benefit amount you will receive in future months. See **Question 61** for an explanation of “food stamp month.”

Note: If you are a household of one or two, *and* you are either (a) “categorically eligible” for food stamps *or* (b) your income is below the net income standard, you will get a minimum of \$10 a month in food stamps. Larger households who are “categorically eligible” or whose income is below the net income standards will be put in a “suspended” status, rather than denied, even if their food stamp allotment is \$0. 106 C.M.R. § 364.600(A).

59 What happens to your food stamps if your cash benefits are reduced because of a DTA sanction?

DTA counts as income money that is being taken out of your TAFDC, EAEDC, or other needs based benefits because you intentionally failed to comply with a program requirement even if you are not sanctioned under the food stamp program. 106 C.M.R. § 363.220(C)(5).

DTA will calculate your food stamp benefits as if your household is still getting the full amount of the cash benefit grant amount. Other changes, such as household size or shelter expenses, will continue to affect your food stamp amount.

This rule only applies if you were sanctioned because you did not comply with a program requirement such as failure to cooperate with child support requirements, work rules, school requirements, or immunization requirements. See BEACON User’s Guide, Chapter XIV-D-4 for a full list of situations where DTA attributes cash assistance not actually received by the household. This rule does not apply if you are sanctioned for failure to comply with an administrative requirement, such as cooperating with direct deposit requirements. DTA Field Operations Memo 2006-6 (Jan. 13, 2006).

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This rule does not apply if the entire cash grant case closes due to a sanction. For example, teen parents receiving TAFDC face a full family sanction if they do not comply with the school rules after 30 days. Other TAFDC households may face a full family sanction if the parent does not comply with the work rules after 30 days. In these situations, the food stamps should be calculated using the household's actual income. 106 C.M.R. § 363.220(C)(5).

Advocacy Reminder:

- ✓ Although not specified in the state regulations, federal regulations are clear that DTA cannot count benefits you do not receive because of a sanction unless you intentionally failed to comply with the requirements of the program that has reduced your benefits due to a sanction. 7 C.F.R. § 273.11(j).