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**FOOD AND NUTRITION SERVICES CERTIFICATION**  
**ELIGIBILITY REQUIREMENTS**  
**Special Budgeting Procedures**

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**FNS 273 Special Budgeting Procedures**  
**Change #2-2012**  
**May 1, 2012**

**273.01 ALIEN SPONSORS**

- A. Calculation of income is dependent on when the sponsor signed or re-signed the affidavit of support. Count as unearned income the full amount of countable income for the sponsor and his spouse (if living together) if the affidavit was signed on or after December 19, 1997. Continue to count this income until:
1. The alien becomes a citizen; **or**
  2. The alien has worked or can be credited with 40 qualifying quarters of social security coverage. Beginning January 1, 1997, a quarter in which the wage earner received federal means-tested assistance (Work First Family Assistance [WFFA], Food and Nutrition Services benefits, Medicaid, North Carolina Health Choice, or Supplemental Security Income [SSI]) is not counted as a qualifying quarter; **or**
  3. The alien sponsor dies, whichever is earlier.
  4. If the sponsor has signed an affidavit for more than one alien, prorate the sponsor's income among the sponsored aliens.
- B. If the affidavit of support was signed or re-signed prior to December 19, 1997, **deem** the income of the sponsor and spouse for three years as follows.
1. Determine the total monthly countable earned income of the sponsor and spouse. Allow the earned income deduction of 20%. Add the calculated earned income to the total countable unearned income of the sponsor and spouse.
  2. Subtract the actual payment of alimony and child support paid to individuals not living with the sponsor and spouse. Subtract the Food and Nutrition Services income limit for the household size of the sponsor's family. Include in the sponsor's household size any dependent that he or his spouse claim or could claim for federal income tax purposes.
  3. The remaining income amount is deemed as unearned income to the sponsored alien's Food and Nutrition Services unit (FNS unit).
  4. If the sponsor has signed an affidavit for more than one alien, prorate the income from 3. above among the sponsored aliens.
  5. Review the income of the sponsor and spouse at each application, recertification, and reported change in situation.
- C. Battered Aliens
- If it is determined that the sponsored alien has been battered by a spouse, parent, or member of the spouse or parent's household, and the battering is the reason the alien is seeking assistance, do not count the sponsor's (or spouse's) income for 12 months. After the initial 12 months, deeming from the sponsor will be permanently eliminated provided the battery was recognized by a judge or administrative law judge in a court order or by a prior determination of Immigration and Naturalization Service (INS). Also, it is required that the battered individual no longer live in the same household as the batterer **and** the battered individual's FNS unit must continue to need assistance as a

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substantial result of the battery. The battered individual must provide verification of being battered and of having petitioned INS for permanent resident status. **These provisions do not apply if the battered individual lives with the batterer.**

**273.02 EDUCATIONAL ASSISTANCE**

- A. The only sources of countable educational assistance/scholarships are **assistance designed for normal living expenses, which are Room and Board. Count this assistance as unearned income.**
- B. Prorate scholarships in 273.02 A. over the period of time intended to cover. Budget the income either in the month it is received or in the month the FNS unit anticipates receiving the first installment payment or the full amount of income. Regardless of the date of receipt, prorate the income over the period it is intended to cover.
- C. **If the scholarship is prorated as income and the student drops out of school, continue to count the assistance as income for the period it was intended to cover.**

**273.03 SELF-EMPLOYMENT, LIMITED LIABILITY COMPANY (LLC) AND 'S' CORPORATIONS**

A FNS unit in which one or more members are engaged in an enterprise for gain, such as an independent contractor, franchise holder, owner/operator, or operator, have self-employment income. When an individual does not have an employee/employer relationship in his work and is responsible for paying his own social security taxes (FICA) and other taxes, he will be determined to be self-employed. If the business is incorporated as a LLC's or 'S' Corporation budget the income the same as self-employment income. If the business is incorporated as a 'C' Corporation do not use self-employment budgeting, count income received from the business as wages.

**EXAMPLE 1:** A carpenter is part of a crew that is assigned trim work. He/she works steadily for one contractor. The contractor does not withhold income tax on this individual. There is no cost of doing business to the individual such as supplying his tools or materials. The carpenter is determined self-employed.

**EXAMPLE 2:** An individual is a painter. He/she provides all the paint, ladders, brushes, and other supplies necessary to complete the job. This individual primarily works for one contractor but occasionally does side jobs. The contractor pays the painter by the job. No taxes are withheld. This painter would be considered self-employed.

A. Records of Self-employment

- 1. Records containing the total business income (including business invoices and accounts receivable) and business expenses (allowable costs of doing business) are essential to determine eligibility and correct benefit level. Request the previous year's tax records (Form 1040 and all Schedules to show the business income and expenses) when they are representative. If last year's tax records are not available, request business income **and expense records** for the previous 12 months. If the business has not been in operation for 12 months, request income and expense records for the period of time the business has operated.

If these records are not representative due to an increase or decrease in business, average and anticipate income for the certification period based on the most accurate information available. Document why the records were not representative and how the determination of countable income was made.

When first working with a household applying for Food and Nutrition Services, if **the previous year's tax records or business** records are not available, the county

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department can anticipate income and expenses based on the best available information from the self-employed individual. Remember, deductions from self-employment income must be **allowable** (reasonable to the cost of doing business). If tax records are not available, receipts of expenses must be provided. To determine which deductions may be allowed, see 273.03, C., Allowable Costs of Doing Business.

2. If records were not available at this first contact, the county department should inform the household that the household is responsible for keeping adequate records and receipts to provide future verification of income and expenses.

**B. Budgeting of Self-employment**

1. If the business has been in existence at least one year and the household states this is representative:
  - a. Obtain income and expense verification for the previous year.
  - b. Subtract the allowable and reasonable costs of producing the income. See 273.03, C. for a listing of these deductions.
  - c. Divide the result by 12 to obtain the average monthly income to count for the certification period.
  - d. Continue to budget this amount for the certification period unless the FNS unit reports a substantial increase or decrease in income.
    - i. Enter the anticipated averaged monthly income in FSIS.
    - ii. If there was a loss in farm income, see 273.03, E.
2. If the business has been in existence for less than one year and the household states this is representative:
  1. Obtain income and expense verification for the number of months that the business has been in existence.
  2. Subtract the allowable and reasonable costs of producing the income. See 273.03, C. for a listing of these deductions.
  3. Divide the result by the number of months that the business has been in existence.
  4. Continue to budget this amount for the certification period unless the FNS unit reports a increase or decrease in income.
  5. Enter the anticipated averaged monthly income in FSIS.
  6. If there was a loss in farm income, see 273.03, E.
3. If the average of the previous records are not representative due to an increase or decrease in business, average and anticipate income for the certification period based on the most accurate information available. Document why the records were not representative and how the determination of countable income was made.

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**NOTE:** Do not consider normal business or seasonal fluctuations as a change. Do not consider a client who does sporadic or odd jobs that do not reoccur as self-employed.

4. When the FNS unit reports an increase or decrease in business, refer to section 450.04, Reacting to Changes During The Certification Period, to determine when to react to the change. If reacting to the change:
  1. Estimate the annual income and expenses based on the most accurate information available. Average and anticipate this income for the remainder of the certification period.
  2. Enter the anticipated averaged monthly income in FSIS.
  3. If there was a loss in farm income, see 273.03, E.

**NOTE:** Do not consider normal business or seasonal fluctuations as a change.

C. Allowable Costs of Doing Business Include:

1. Costs of maintaining a place of business such as, rent, utilities, insurance on the business and its property, and property taxes.

**NOTE:** If a business is operated in the home, allow only those costs identified for the part of the home used exclusively for the business. If expenses for the business are not separately identifiable, use a prorata share of household expenses as a cost of doing business. Payments on the principal cannot be allowed as a cost of doing business.

2. Principal and Interest paid on loans used to purchase income producing equipment and property.
3. Taxes paid on income producing property.
4. Repairs and maintenance related to the business.
5. Employee labor costs including commissions paid, taxes, FICA insurance, etc.
6. Cost of goods, supplies, and materials, livestock, seed and fertilizer.

**NOTE:** Allow the expense for purchase of goods for resale in the month incurred.

**EXAMPLE:** An Avon representative purchases \$300 worth of products in October to sell in December. Allow the \$300 expense in October when incurred. Count the income from resale in December when received.

7. Advertising costs.
8. Accounting and legal fees.
9. State and local sales taxes paid.
10. Professional licenses, permits, and taxes, if necessary, to practice a profession or trade.

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11. Transportation costs necessary to produce income. The transportation deduction is not to exceed the federal mileage rate for income tax purposes.
12. Actual costs of providing meals as part of the business, such as baby-sitting.
13. Insurance premiums on business equipment
14. For sharecroppers, the percentage of gross sales paid to the landowner for the use of the land
15. For operation of non-commercial boarding houses, deduct the greater of the following:
  - a. The Thrifty Food Plan (maximum food coupon allotment) for a FNS unit size that is equal to the number in the boarder household; **or**
  - b. The verified actual separate and identifiable costs of providing room and meals if the actual costs exceed the appropriate Thrifty Food Plan for the number in the boarder household.

If an item is used for purposes other than producing income, prorate the expense using the percentage of time the item is used to produce income.

**EXAMPLE:** A self-employed child care provider uses her vehicle 50% of the time in her business. The other 50% of the time she uses it for her own personal use. She is entitled to 50% of the vehicle expenses as a deduction for her business.

**D. Non-allowable Costs of Doing Business Include:**

1. Losses from previous periods.
2. Current or anticipated losses (except for self-employed farmers).
3. Depreciation claimed for tax purposes.
4. Deposits into the self-employed individual's retirement account and/or payment for his life and health insurance.
5. The self-employed individual's work-related expenses accounted for by the earned income deduction including federal, State, and local income taxes, and other work-related personal expenses, such as transportation expenses for the commute to and from the individual's place of business.
6. Other personal expenses not related to the business, such as meals, clothing, etc.
7. Capital assets or equipment.
8. Expenses paid or incurred from last year's crop production.

**E. Procedures to Offset Farm Losses:**

1. A loss from farming occurs when the cost of doing business is greater than the income received. When the annual gross receipts of a farmer are expected to be at least \$1000, offset losses against other FNS unit income.
  - a. Compute the total gross farm income (which must be at least \$1000), and subtract the allowable costs of doing business. See 273.03.C.

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- b. Subtract any losses from the self-employment income first; **and**
  - c. Subtract any remaining losses from other earned and unearned income.
2. Continue to budget the loss for the remainder of the certification period using code L in field 80-F on the DSS-8590. If the farm operation discontinues remove the monthly offset when income from the farm operation ceases.

**273.04 CAPITAL GAIN INCOME**

- A. The actual capital gain from the sale of capital goods or equipment is included as income. Determine the actual capital gain as follows.
- 1. Determine if the FNS unit has capital assets. The following is a listing of capital assets.
    - a. Real property;
    - b. Equipment;
    - c. Machinery; **and**
    - d. Other items expected to last at least 12 months.
  - 2. Ask the FNS unit if any member has sold or transferred a capital asset.
  - 3. Determine if there was a capital gain realized from the sale or transfer of capital assets.
  - 4. Compute the capital gain as follows.
    - a. Subtract depreciation from the original purchase price of the capital asset to establish the "adjusted basis."
    - b. Subtract the "adjusted basis" from the sales price to establish the capital gain.

**EXAMPLE:** A farmer purchased a tractor for \$3000 in 1984. Over a period of ten years, he claimed \$2500 in depreciation on the tractor. In 1994, he sold the tractor for \$1100.

Purchase Price	\$3000	Sales Price	\$1100
Depreciation Claimed	- 2500	Less Adjusted Basis	- 500
Adjusted Basis	\$ 500	Capital Gain	\$ 600

- B. Budget a capital gain in the same manner as self-employment income. Prorate the gain over 12 months. Count the \$600 capital gain as self-employment income prorated over 12 months.

**273.05 INSURANCE SETTLEMENTS**

Crop insurance settlements and insurance settlements on stock-in-trade held for resale (but not settlements on property, such as buildings, vehicles, etc.) are earned income subject to the cost of doing business. The settlements shall be considered as if they were the actual earned income from the self-employment enterprise and shall have the costs incurred in the attempted production of income deducted.

**EXAMPLE:** A farmer may lose a cotton crop due to a hailstorm and, subsequently, receive a \$1000 crop insurance settlement. In attempting to produce this crop, the farmer had spent \$300 for seed, fertilizer, etc. The \$300 would be deducted from the \$1000 as identifiable costs of

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doing business, thus leaving \$700 of the insurance settlement to be treated as actual self-employment income for food stamp purposes.

**273.06            AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (ASCS) CASH PAYMENTS**

- A.     The ASCS provides payments for crop losses. These include, but are not limited to, Commodity Credit Corporation and acreage reduction and conservation payments. These payments may be one-time payments or installment payments. Such payments are counted as earned self-employment income except when provided as a loan. Farm loans are excluded from income.
- B.     If ASCS payments are the result of a Presidential declared disaster or emergency, they are excluded from income and resources in accordance with the Disaster Relief Act of 1974 as amended.

**273.07            FEDERAL CROP INSURANCE CORPORATION (FCIC)**

- A.     The FCIC is a separate agency within the U. S. Department of Agriculture.
- B.     FCIC also provides payments to farmers for crop losses but, unlike ASCS payments, the farmer must pay a premium for FCIC insurance.
- C.     The federal government subsidizes the premiums.
- D.     The insurance payments are paid out as a nonrecurring lump-sum payment. Therefore, they are considered a resource.
- E.     Other crop insurance settlements from private companies that are made as a nonrecurring lump-sum payment are counted as a resource in the month of receipt and until spent.

**273.08            NON-COMPLIANCE WITH WORK FIRST FAMILY ASSISTANCE (WFFA)**

Do not increase a FNS unit's benefits when a FNS unit's WFFA payment is reduced, terminated or not issued because of a penalty or sanction for failure to comply with WFFA and the household is certified for benefits at the time the sanction is imposed. This policy does not apply to initial applications or reapplications as long as the FNS unit was not receiving Food and Nutrition Services when the penalty or sanction was imposed.

Use the following criteria to determine how to count the WFFA payment.

- A.     Payment type '1' "Child Only" households
  - 1.     If the WFFA payment is not released due to a penalty or sanction during the certification period, continue to count the payment for the full penalty period. The WFFA payment type is changed to 'S'. If a penalty or sanction is in place at reapplication/recertification, determine if it is the same penalty or sanction or a new penalty or sanction. Continue to count the WFFA payment amount if it is the same penalty or sanction. If it is a new penalty or sanction, determine when the penalty or sanction was imposed. Budget the WFFA payment amount if the penalty or sanction was imposed while the case was certified to receive FNS benefits.
  - 2.     If the WFFA case is terminated due to a penalty or sanction during the certification period delete the payment effective with the month after the case terminates.

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3. If the WFFA payment is terminated due to a penalty or sanction imposed effective the month of application/reapplication or in a non-certified month, do not count the WFFA payment amount when determining benefits. If a penalty or sanction is in place at reapplication/ recertification, determine if it is the same penalty or sanction or a new penalty or sanction. If it is a new penalty or sanction, determine when the penalty or sanction was imposed. If the WFFA check is terminated due to a penalty or sanction imposed effective the month of application/reapplication or in a non-certified month, no WFFA payment amount will be budgeted. Budget the payment amount if the penalty or sanction was imposed while the case was certified to receive FNS benefits.

**B.** Payment type '2' Work First Benefit (WFB) households

**NOTE:** WFFA payments for Payment type '2', Work First Benefit (WFB), households are issued the month after completing all requirements on the MRA for the benefit month. The **payment** for type '2' households terminates one month after the case terminates.

1. If the WFFA payment is not released due to a penalty for noncompliance with the MRA, and the household is certified for FNS benefits at the time of noncompliance, the WFFA payment will continue to be counted in the FNS allotment. Delete the payment the month after the WFFA **payment** terminates, providing the client has not reapplied and been reapproved.

If the WFB is terminated due to a penalty for noncompliance with the MRA effective the month of application/reapplication or in a non-certified month, do not count the WFFA payment amount when determining benefits.

2. If the WFFA payment is not released due to a sanction for noncompliance with Child Support, and the household is certified for FNS benefits at the time of noncompliance, the WFFA payment will continue to be counted in the FNS allotment for the full sanction period. The WFFA payment type is changed to 'S'. Delete the payment the month after the WFFA payment terminates, providing the client has not reapplied and been reapproved.

If the WFB is terminated due to a sanction for noncompliance with Child Support effective the month of application/reapplication or in a non-certified month, do not count the WFFA payment amount when determining benefits.

3. If the WFFA payment is reduced due a penalty for Substance Abuse Treatment noncompliance during the certification period, continue to count the gross payment amount for the full penalty period. If a reduction penalty is in place at reapplication/recertification, determine if it is the same penalty or a new penalty. Continue to count the gross payment amount if it is the same penalty. If it is a new penalty, determine when the penalty was imposed. Budget the gross payment amount if the penalty was imposed while the case was certified to receive FNS benefits. If the penalty was imposed when the case was not certified for FNS benefits, count the actual payment.

4. If a WFFA payment is reduced due to a client responsible overpayment, continue to count the gross amount of the WFFA payment as unearned income.

**NOTE:** This does not include Benefit Diversion (BD), since BD is not countable income.

**EXAMPLE:** A payment type '2', WFB FNS household's WFB case is terminated effective the end of February for noncompliance with their Mutual Responsibility Agreement (MRA). The payment terminates effective with March. Delete the WFFA payment effective with the April FNS benefits.

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**EXAMPLE:** A payment type '2' WFB household applies for FNS benefits in September. A WFFA penalty reducing the payment from \$236 to \$181 due to Substance Abuse Treatment noncompliance is imposed effective August. Count the actual \$181 WFFA payment as the household was not receiving Food and Nutrition Services at the time the WFFA penalty was imposed.

**EXAMPLE:** The FNS unit received benefits from April through August. The FNS unit reapplies in October. A WFFA penalty reducing the payment from \$236 to \$181 due to Substance Abuse Treatment noncompliance started in August and is still in effect. Count the gross \$236 WFFA payment as the FNS unit was receiving FNS benefits at the time the WFFA penalty was imposed.

**EXAMPLE:** The FNS unit has a certification period of January through June. Included in the FNS unit are members who are certified as a payment type '2' WFB household. The WFB household fails to comply with Child Support and is sanctioned effective March, the WFFA payment type is changed to 'S'. The WFFA payment continues to be counted in the FNS benefits during the full sanction period.