

Operations Memorandum - Food Stamps
OPS050305

3/25/05

SUBJECT: Food Stamp Program (FSP) Income Exclusions Under the Consolidated Appropriations Act of 2005

TO: Executive Directors

FROM: Christine M. Bowser, Director, Bureau of Operations

Purpose

To implement FSP income exclusion provisions of the Consolidated Appropriations Act of 2005. The income exclusion must be implemented by March 28, 2005 and is effective retroactive to October 1, 2004.

Background

President Bush signed The Consolidated Appropriations Act of 2005, Public Law 108-447, on December 8, 2004. The law contains a provision to exclude certain income received by military personnel deployed to a combat zone.

Discussion

Currently, an individual absent from a food stamp (FS) household due to active military service is not included as a household member for the purpose of determining the FS benefit level. Only money made available to the FS household by the absent active military member is counted as income for FS purposes.

Under provisions of the Consolidated Appropriations Act of 2005, CAO workers now need to determine if any part of the allotment of military pay made available to the FS household by an absent member deployed to a designated combat zone should be excluded when determining countable income for FS purposes.

Use the process that follows to determine the countable income.

Determination of Countable FS Income

If the military person was part of the FS household before deployment to a designated combat area, then:

1. Determine the net (after taxes) military pay of the person before his or her deployment. **Note:** FNS guidance allows use of the net military pay to simplify this process.

2. Determine the amount of income made available to the FS household from the absent military person's pay since being deployed to a designated combat area. This amount is usually made by direct deposit or allotment.
3. If the amount the person makes available to the FS household is an increase from the earned income used while a FS household member, use the income from Step #1 as unearned income.
4. If the amount made available to the FS household remains the same or decreases, use the actual amount made available to the FS household as unearned income.

If the military person was **not** part of the FS household at the time of deployment to a designated combat area, then:

1. Determine the amount of income actually made available to the FS household by the absent military person before deployment.
2. Determine the amount of income actually made available to the FS household from the absent military person's pay since deployment. This may be by direct deposit or allotment.
3. If the amount of income actually made available to the FS household increases, use the amount of income from Step #1 as unearned income.
4. If the amount made available to the FS household remains the same or decreases, use the actual amount currently made available to the FS household as unearned income.

The amount of the increase in military pay due to a promotion and/or a Cost of Living Adjustment after the military person's deployment is disregarded.

Example #1:

Mr. and Mrs. Bennett and their four children were receiving food stamps. Mr. Bennett is in the army and was deployed to Iraq. While Mr. Bennett was in the household, the CAO counted his \$2,000 gross earnings from his military pay and he was given the 20 percent earned income deduction. Now that he is not in the home and is deployed to a combat zone, the CAO will:

Look at Mr. Bennett's net income prior to deployment. His net military pay earnings after taxes were \$1,440. **Note:** FNS guidance allows use of the net military pay to simplify this process.

- Determine the amount Mr. Bennett makes available to his family either through direct deposit or allotment since being sent to Iraq.

- If the amount after deployment is less than or equal to the \$1,440 net income before deployment, use the actual amount made available as unearned income. If the amount after deployment is greater than the \$1,440 net income available before deployment, use the \$1,440 net income from before deployment as countable unearned income.

Example # 2:

Mrs. Andrews applies for FS for herself and her two children. Mr. Andrews' National Guard Unit was sent for training and then deployed to Iraq. The family's only source of income is Mr. Andrews' military pay. A portion of the pay is allotted to Mr. Andrews. The remaining amount is deposited into the household's checking account.

Mr. Andrews made \$1,000 available to the household before being deployed. Mr. Andrews has \$1,500 deposited into the household's checking account for use by the family since his deployment to Iraq. Count only the amount the household was receiving prior to deployment, i.e., \$1,000. The \$500 increase is excluded when determining income for FS purposes.

Verification

Verify income and deployment to a combat zone.

Income for a deployed person can be verified via:

- The Leave and Earnings Statement (LES).
- A collateral contact with the local military base financial or personnel office.

Deployment location can be verified via:

- The Leave and Earnings Statement (LES).
- A collateral contact with the local military base financial or personnel office.
- The orders issued to military personnel.
- The public record. Military units are frequently deployed in their entirety and the place of deployment is released to the public via the media.
- The internet.

Designated Combat Areas:

See **ATTACHMENT** for a listing of designated combat zones.

Restoration/Desk Review

By law, this policy is retroactive to October 1, 2004. Any FS household that had an increase in income due to the deployment of an active service member to a designated combat zone, and the increase in income was counted for FS purposes as of October 1, 2004, is entitled to restoration of lost benefits. A determination of the lost benefits should be made at the next redetermination, or sooner, if the household requests a review of its case. Any applicant household denied because excludable income was counted is entitled to restoration of lost benefits.

A desk review of all closed and rejected cases from October 1, 2004 must be initiated by the County Assistance Offices (CAOs) and completed by May 31, 2005. Issue restored benefits, if warranted. Narrate all actions related to the Consolidated Appropriations Act of 2005.

Duration

The income exclusions under the Consolidated Appropriations Act of 2005 are effective for one year from October 2004 through September 30, 2005. If the law is extended, the CAOs will be notified. FS households affected by this law must be reviewed at recertifications held after September 30, 2005 to determine if the income exclusion was renewed.

Next Steps

1. Review this information with appropriate staff.
2. Implement the FSP provisions of the Consolidated Appropriations Act of 2005 effective with receipt of this Operations Memorandum.
3. Review all closed and rejected cases by May 31, 2005. Restore FS benefits, if applicable. Do not restore benefits any earlier than October 1, 2004, the effective date of the policy.
4. Review all active cases for lost benefits by the next redetermination. Restore FS benefits, if applicable. Do not restore benefits any earlier than October 1, 2004, the effective date of the policy.
5. Direct questions to your Area Manager.
6. This Operations Memorandum will become obsolete effective October 1, 2005. If the law is extended for Federal Fiscal Year 2006, the CAO will be notified to extend the provisions of this memorandum.

Combat Zone Tax Exclusion Areas

Executive Order (EO) 12744 (effective 17 Jan 1991)

-- Arabian Sea Portion that lies North of 10 degrees North Latitude and West of 68 degrees East Longitude

- Bahrain
- Gulf of Aden
- Gulf of Oman
- Iraq
- Kuwait
- Persian Gulf
- Qatar
- Oman
- Red Sea
- Saudi Arabia
- United Arab Emirates

Direct Support of EO 12744

- Turkey effective 1 Jan 2003
- Jordan effective 19 Mar 2003

Executive Order 13239 (effective 19 Sep 2001)

- Afghanistan

Direct Support of EO 13239

- Pakistan effective 19 Sep 2001
- Tajikistan effective 19 Sep 2001
- Jordan effective 19 Sep 2001
- Incirlik AFB Turkey effective 21 Sep 2001
- Kyrgyzstan effective 1 Oct 2001
- Uzbekistan effective 1 Oct 2001
- Phillipines (only troops w/orders that reference OEF) effective 9 Jan 2002
- Yemen effective 10 Apr 2002
- Djibouti effective 1 Jul 2002

Executive Order 13119 (effective 24 Mar 1999) Public Law 106-21 Establishing Kosovo as Qualified Hazardous Duty Area (24 Mar 1999)

- The Federal Republic of Yugoslavia (Serbia/Montenegro)
- Albania
- The Adriatic Sea
- The Ionian Sea north of the 39th parallel

Public Law 104-117 Establishing a Qualified Hazardous Duty Area (November 1995)

- Bosnia
- Herzegovina
- Croatia
- Macedonia