HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6 BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 676

INCOME

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Historical Note: This chapter is based substantially upon Subchapter 2 [Eff 7/19/82; am 11/16/82; am 6/30/83; am 11/12/83; am 12/24/84; am 9/29/86; am 5/2/87; am 8/15/87; am 6/12/90; R 3/19/93] and Subchapter 3 [Eff 7/19/82; am 11/16/82; am 12/19/83; am 12/24/84; am 8/29/85; am 9/29/86; am 8/15/87; am 6/12/90; R 3/19/93] of Chapter 17-621; §17-744-6 [Eff 7/19/82; am 8/23/84; am 12/21/84; am 9/7/85; am 10/23/87; am 2/22/88; am 6/11/88; am 6/12/90; am

10/4/90; am 5/6/91; R 3/19/93], §17-744-7 [Eff 7/19/82; am 8/20/83; am 8/23/84; am 6/18/87; am 2/22/88; am 1/1/90; R 3/19/93], §17-744-7.1 [Eff 2/22/88; R 3/19/93], and §17-744-7.2 [Eff 2/22/88; R 3/19/93] of Chapter 17-744; Subchapter 2 [Eff 7/19/82; am 10/02/82; am 11/29/82; am 4/1/83; am 7/5/83; am 1/19/84; am 5/18/85; am 7/1/86; am 8/8/86; am 9/2/86; am 12/27/86; am 3/12/87; am 5/28/87; am 8/31/87; am 1/21/88; am 4/28/88; am 6/27/88; am 10/31/88; am 12/10/88; am 5/4/89; am 7/24/89; am 9/1/89; am 10/19/89; am 8/25/90; R 3/19/93] of Chapter 17-717.

SUBCHAPTER 1

GENERAL PROVISIONS

§17-676-1 Purpose. This chapter identifies and describes the types of income which shall be considered in determining an individual's or family's eligibility and amount of benefits from the financial assistance and food stamp programs. [Eff 3/19/93; am 8/1/94; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-53; 45 C.F.R. §233.20)

§17-676-2 Definitions. As used in this chapter:

"Dependent care deduction" means an amount, not to exceed the established maximum, that is deducted from the earned income of a household member who is entitled to receive earned income disregards as specified in this chapter, for the care of an incapacitated adult who is living in the same household and receiving financial assistance.

"Domestic violence victim" means an individual who has been battered or otherwise subjected to extreme cruelty. Acts which constitute domestic violence include but are not limited to the following:

(1) Physical acts that resulted in, or threatened to result in, physical injury;

(2) Sexual abuse;

(3) Sexual activity involving a dependent child;
(4) Nonconsensual sexual acts;
(5) Threats of, attempts at, physical or sexual abuse;
(6) Mental or emotional abuse;
(7) Medical care deprivation or neglect; or
(8) Stalking.

"Earned income" means cash received or available to be received by the family which require some activity on the part of the family to produce. Examples of earned income include, but shall not be limited to, wages, jury duty income excluding reimbursement for transportation and meals; and self-employment income from the sale of blood, blood plasma, and parts of the body.

"Earned income disregard" means the portion of an individual's earned income which the department shall not budget or consider in determining the amount of financial assistance payment.

"Full-time employed" means an individual:

(1) In the financial assistance program who is employed a minimum of thirty two hours a week or one hundred thirty eight hours a month;
(2) In the food stamp program, who is employed or self-employed and working a minimum of thirty hours weekly or receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours.

"Lump sum income" means income received or available to be received by an individual that would not normally be repeated. For financial assistance only, lump sum income may be paid in one or several payments, provided there is a set amount owed to the individual, the purpose of the payments is to liquidate the amount owed, and the payments are never intended to be of a continuous nature. Examples of lump sum income include but shall not be limited to annual tax refunds defined as income, retroactive

social security benefits, retroactive earned income, insurance settlements, or intermittent income.

"Student" means a child:

(1) In the financial assistance programs, under age nineteen enrolled in a public or private elementary, secondary school, or in a program of an equivalent level of vocational or technical training, and a child under eighteen years of age attending a post secondary institute, such as a college, vocational school, or technical trade institute;

(2) In the food stamp program, under age eighteen who is enrolled at least half-time in any recognized school.

"Unearned income" means cash received or available to be received by the family which are not classified as earned income.

"Work participation requirements" means the mandatory work requirements of section 407 of the Social Security Act, 42 U.S.C. §607. [Eff 3/19/93; am 8/1/94; am 7/16/99; am 01/22/02; am 9/18/06; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §§346-53, 346-71; 45 C.F.R. §§233.20, 233.90)

SUBCHAPTER 2

EARNED INCOME

§17-676-3 Wages. All moneys received as wages shall be counted as earned income. All sick leave pay, temporary disability benefits (TDI) due to non work related illness, vacation pay, holiday pay, funeral pay, cost of living allowance (COLA), and birthday pay shall be counted as earned income. [Eff 3/19/93; am 8/18/94; am 1/30/95; comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R §273.9(b); 45 C.F.R. §233.20; HRS §346-14)

§17-676-4 Tips. All tips shall be counted as earned income. [Eff 3/19/93; comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b); 45 C.F.R. §233.20; HRS §§346-14, 346-29)

§17-676-5 Dismissal and severance pay. Dismissal and severance pay shall be counted as earned income. [Eff 3/19/93; comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b); 45 C.F.R. §233.20; HRS §§346-14, 346-29)

§17-676-6 On-the-job-training (OJT) earnings. All wages received from any on-the-job training program shall be counted as earned income. [Eff 3/19/93; comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b); 45 C.F.R. §233.20; HRS §§346-14, 346-29)

§17-676-7 Workforce Investment Act (WIA). All wages received from funds under the Workforce Investment Act of 1998 shall be counted as earned income unless exempt under subchapters 9, or 11. [Eff 3/19/93; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b); 45 C.F.R. §233.20; HRS §§346-14, 346-29)

§17-676-8 Public service employment (PSE). All wages received from public service employment shall be counted as earned income. [Eff 3/19/93; am 9/01/94; am 7/16/99; comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b); 45 C.F.R. §233.20; HRS §§346-14, 346-53)

§17-676-9 In-kind income. (a) In-kind income is any gain or benefit, not in the form of money, paid to an individual and includes perquisites, such as meals, food, shelter, utilities and medical insurance.

(b) For the financial assistance programs, in-kind income shall not be counted as income if the employee does not have the option of obtaining a cash wage in exchange for the perquisite, or if the employer does not report the value of the perquisite as wages on the employees pay statement. The individual whose perquisite is not counted as income shall not be eligible to have the value of the perquisite included in the individual's standard of assistance.

(c) For the food stamp program, in-kind income shall not be considered countable income. [Eff 3/19/93; am 8/01/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b); 45 C.F.R. §233.20; HRS §§346-14, 346-29)

§17-676-10 Earned income from self-employment. (a) Income from self-employment shall be determined by deducting from the amount received from the sale of goods or services, those expenses directly related to producing the goods or services. However, items such as depreciation, personal expenses, meals, and personal transportation shall not be deducted as business expenses.

(b) A business expense shall be an allowable deduction from monthly gross self-employment income only if verified.

(c) A self-employed person shall:

(1) Sell a service or product for a profit;

(2) Be independently responsible for obtaining or providing a service or product;

(3) Have independent costs and expenses necessary to provide a service or product;

(4) Determine independently the manner, method, and process of business operations; or

(5) Have success or failure of the business operation depend upon the efforts of the business.

(d) Persons who do not meet the self-employment requirements specified in subsection (c), shall have the monthly gross income from the work activity counted as the monthly earned income. [Eff 3/19/93; am 08/01/94; am 9/26/97; am 11/19/05; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-11 Royalties. (a) Royalties shall be counted as earned income in the financial assistance programs.

(b) In the food stamp program, royalties are considered unearned income. [Eff 3/19/93; am 08/01/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b); 45 C.F.R. §233.20; HRS §§346-14, 346-29)

§17-676-12 Federal earned income tax credit. Federal earned income tax credit payments shall not be considered earned income in the financial assistance and food stamp programs. [Eff 3/19/93; am 08/01/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §§346-14, 346-29; 7 C.F.R. §273.9; 45 C.F.R. §233.20)

§17-676-13 Entitlements to military personnel. The following are allowances available to military personnel on active duty:

(1) Basic allowance for housing, often referred to as quarters allowance, paid to military personnel who are residing in government quarters or in off base housing. This benefit is shown under the entitlements section of the leave and earnings statement

as BAH. Basic allowance for housing (BAH) is considered earned income.

(2) Basic allowance for subsistence, often referred to as separate rations, paid to military personnel who do not have all meals at the military mess halls because the military personnel are living in nongovernment quarters or do not have access to a military mess hall. This allowance is shown on the leave and earnings statement under the entitlements section as BAS. The basic allowance for subsistence (BAS) is counted as earned income.

(3) Clothing maintenance allowance often referred to as clothing allowance. This allowance is shown on the leave and earnings statement under the entitlements section as CMA. The clothing maintenance allowance is considered an excluded reimbursement in accordance with section 17-676-80 for the financial assistance programs and section 17-676-93 for the food stamp program. [Eff 3/19/93; am 08/01/94; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: 7 C.F.R. §273.9(b) and (c); 45 C.F.R. §233.20; HRS §§346-14, 346-29)

§17-676-13.1 Worker's compensation benefits and temporary disability insurance benefits as earned income. (a) Temporary disability insurance benefits shall be counted as earned income if they are employer funded and made to individuals who continue to be considered employees of the company.

(b) Worker's compensation benefits shall be counted as earned income for financial assistance if they are employer funded and made to individuals who continue to be considered employees of the company. [Eff 1/30/95, comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-39; 7 C.F.R. §233.9(b); 45 C.F.R. §233.20)

§17-676-14 Other earned income that are countable for the food stamp program. Other earned income considered countable for the food stamp household shall include:

(1) Wage advances at the time received and shall be excluded when deducted from the wages;

(2) Payments from a roomer or boarder. These payments shall also be considered self-employment income for allowing both the cost of doing business and the earned income deduction;

(3) That portion of the cash compensation a household receives for providing meals to the individual that exceeds the cost of producing the meals. Persons who receive meals but not lodging shall not be considered boarders;

(4) Wages earned by a household member that are garnished or diverted by an employer, and paid to a third party for a household's expenses, such as rent. However, if the employer pays a household's rent directly to the landlord in addition to paying the household its regular wages the rent payment shall be excluded as a vendor payment. In addition, if the employer provides housing to an employee, the value of the housing shall not be counted as income;

(5) The earned income of an individual disqualified from the household for intentional program violation or for failure to comply with the work registration or employment and training requirements;

(6) The earned income of an individual disqualified from the household for failing to comply with the requirement to provide an SSN or for being an ineligible alien, less the prorata share for the individual;

(7) Payments under Title I (VISTA, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973, excluding

payments made to those households specified in section 17-676-91(5); and

(8) Residuals based upon a contractual agreement where payments are made to the performer or writer for each rerun after an initial showing are considered a deferred commission based on work performed; and

(9) Profit sharing payments shall be treated as earned income if the individual is still employed at the time of the profit sharing payment and the payment is made by the same employer. If the individual receives the profit sharing payment after terminating employment from the employer funding the profit sharing payment and the individual receives the payment on a regular or periodic basis, then the income shall be counted as unearned income. [Eff 4/7/94; am 2/10/97; comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(b))

§§17-676-15 to 17-676-20 (Reserved).

SUBCHAPTER 3

UNEARNED INCOME

§17-676-21 Social security benefits. (a) All social security benefits, shall be counted as unearned income. Social Security benefits may include, but are not limited to:

(1) Retirement benefits at age sixty-two;

(2) Disability benefits to individuals who are unable to work because of physical or mental handicaps;

(3) Survivor's benefits to the spouse of a deceased wage earner; or

(4) Children's benefits to children of a deceased or disabled parent.

(b) In the financial assistance programs, the amount of social security benefits actually received, which may reflect recoupments, shall be the countable benefit amount. Medicare premium deductions, even if actually deducted from the payment, shall be considered countable income.

(c) In the food stamp program, the Social Security benefits, prior to any deductions for Medicare premiums, garnishments, or voluntary withholdings, shall be considered countable income. Any benefits withheld due to recoupment for an overpayment of social security benefits shall be excluded. [Eff 3/19/93; am 08/01/94; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-22 Veteran's benefits. (a) All veteran's benefits, except as specified in subsection (b), prior to any deductions, shall be counted as unearned income.

(1) Benefits may be available to individuals who served in the Army, Navy, Marine Corps, Coast Guard, or Air Force.

(2) Dependents and survivors of veterans may also be eligible for veteran's benefits.

(3) Some of the benefits available are service connected disability pensions, nonservice connected pensions, retirement benefits for veterans with twenty or more years of service, survivor's benefits to parents or children of a deceased veteran, and aid and attendance benefits to totally disabled veterans.

(b) Veteran's educational benefits are exempt income as specified in section 17-676-80 for the financial assistance programs and section 17-676-91 for the food stamp program. [Eff 3/19/93; am 3/19/94; am 8/1/94; am 01/22/02; am and comp 11/09/06]

(Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-23 Pension and retirement benefits. (a) All pension and retirement benefits shall be counted as unearned income.

(1) In the financial assistance programs, pensions and retirement benefits after any FICA, federal, and state income taxes are withheld, are considered countable net income. The equity in a retirement plan shall not be considered available when the individual is employed and unable to withdraw or make the money available during the individual's term of employment.

(2) In the food stamp program, pension and retirement benefits, prior to any deductions, are considered countable income. The cash value of pension plans or funds shall be treated as specified in section 17-675-29.

(b) Pensions may be administered by the federal government, state government, city government, unions, private corporations, or trust companies.

(c) Children and spouses of the retired employee may also be eligible for pension benefits. [Eff 3/19/93; am 8/1/94; am 2/10/97; am 7/16/99; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R §273.9(b); 45 C.F.R. §233.20)

§17-676-24 Unemployment insurance benefits. (a) All unemployment insurance benefits shall be counted as unearned income. Unemployment insurance benefits may be available to any individual who has worked in covered employment.

(b) For the financial assistance programs, the amount withheld from unemployment insurance benefit payments to recover overpayments or to pay child

support obligations shall not be considered countable income. [Eff 3/19/93; am 8/1/94; am 4/1/96; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-25 Supplemental security income benefits. (a) For the State-ABD and the General Assistance programs, supplemental security income (SSI) benefits shall be counted as unearned income as follows:

(1) Medicare premium deductions, even if actually deducted from the payment, shall be included in the countable benefit amount.

(2) The amount of the SSI benefits actually received, except as specified in paragraph (1), which may reflect recoupments, shall be the countable benefit amount.

(b) For the AFDC program, SSI benefits of an individual excluded as specified in section 17-656.1-17, shall not be counted as income in determining eligibility or the amount of assistance for the remaining household members.

(c) For the food stamp program, the SSI benefits, after deductions for recoupment, shall be countable unearned income. [Eff 3/19/93; am 8/1/94; am 9/26/97; am 7/16/99; am 11/19/05; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-26 Worker's compensation benefits and temporary disability insurance benefits as unearned income. (a) In the food stamp program, all worker's compensation benefits prior to any deductions, shall be counted as unearned income in determining eligibility and benefits.

(b) In the financial assistance program, worker's compensation benefits shall be counted as unearned income if not employer funded or if the

recipient of the benefits is no longer considered an employee of the company.

(c) For financial assistance and food stamp programs, temporary disability insurance benefits shall be counted as unearned income if not employer funded or the recipient of the benefit is no longer considered an employee of the company. [Eff 3/19/93; am 3/14/94; am 1/30/95; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-27 Railroad retirement benefits. (a) All railroad retirement benefits shall be counted as unearned income. This benefit may be available to any person who worked for a United States railroad company.

(b) Railroad retirement benefits, prior to any deductions, are considered countable income in the financial assistance and food stamp programs. [Eff 3/19/93; am 8/1/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9; 45 C.F.R. §233.20)

§17-676-28 Strike benefits. (a) Cash received by a family on strike shall be counted as unearned income.

(b) In the financial assistance and food stamp program, strike benefits, prior to any deduction, are generally considered countable unearned income. [Eff 3/19/93; am 08/01/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-29 Legal settlements, inheritance, insurance settlements, and compensations. (a) Money received to settle any insurance, legal, or inheritance claim shall be counted as unearned income for the financial assistance programs. For the food stamp

program, money received in such settlements are counted as income if received in multiple payments and as assets if received in a lump sum.

(b) Personal injury awards and compensation for pain and suffering shall be counted as unearned income for the financial assistance programs. Money from such awards and compensation are counted as assets for the food stamp program.

(c) Any expense paid which is related to the settlement or award shall be deducted from the total settlement or award.

(1) Examples of allowable expense deductions include, but shall not be limited to, legal fees, medical payments, motor vehicle replacement, or replacement of personal property damaged or lost; and

(2) The individual shall be required to submit verification of the paid expense within thirty days from the date the settlement is received to receive a deduction for the expense. [Eff 3/19/93; am 8/1/94; am 01/22/02; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-30 Repealed. [R 7/16/99]

§17-676-31 Alimony. All alimony payments shall be counted as unearned income for the financial assistance and food stamp programs. [Eff 3/19/93; am 8/1/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9(b); 45 C.F.R. §233.20)

§17-676-32 Child support payments. (a) Child support payments shall be considered unearned income for the financial assistance and food stamp programs.

(b) In the financial assistance program, the child support payments received by the family from the month of application through the month the first payment is authorized shall be considered unearned income in determining the amount of the financial assistance payment.

(c) In the financial assistance program, the child support payments received by the family in subsequent months shall be paid to the department and shall not be considered in determining the amount of the financial assistance payment.

(d) In the financial assistance program, the child support payments received directly by the department shall not be considered in determining the amount of the financial assistance payment.

(e) In the financial assistance program, the department shall budget the child support payments that the family fails to pay to the department as required in subsection (c) and shall recover any overpayments.

(f) The amounts collected as support by the IV-D agency for children and the parents of such children who are current recipients of financial assistance and for whom an assignment under chapter 17-656 is effective shall be retained by the State to reimburse, in whole or in part, the assistance payment for the month in which the support was collected or the next month. [Eff 3/19/93; am 8/01/94; am 12/15/95; am 1/25/97; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 45 C.F.R. §§233.20, 302.51; Administration for Children and Families - Department of Human Services)

§17-676-33 Regular cash contributions. All regular cash contributions shall be counted as unearned income in the financial assistance and food stamp programs. [Eff 3/19/93; am 3/19/94; am 8/01/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.9; 45 C.F.R. §233.20)

§17-676-34 Lump sum benefits. Any other lump sum cash benefit, which is not considered to be earned income and not exempt in subchapters 9 and 11, shall be counted as unearned income. [Eff 3/19/93; am 8/01/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: §346-29; 7 C.F.R. §273.9; 45 C.F.R. §233.20)

§17-676-35 Assistance from other agencies and organizations. (a) Assistance provided by any public or private agency shall not be counted as income for financial assistance if no duplication exists between such other assistance and that provided by the department. Non-duplication of assistance shall be assured by:

(1) The different purpose for which the other agency grants aid such as vocational rehabilitation;
(2) The provision of goods and services that are not included in the department's standard of assistance; or
(3) For the financial assistance program, the provision of supplemental payments that do not exceed the difference between the standard of need and the standard of assistance.

(b) In the food stamp program, unearned income shall include:

(1) Assistance payments from federal, federally aided, or state financial assistance programs including:
    (A) Supplemental security income (SSI);
    (B) Aid to families with dependent children (AFDC);
    (C) General assistance (GA);
    (D) Work transition program;
    (E) Other assistance programs based on need, including state loans to SSI applicants; and
    (F) Assistance payments from programs which require, as a condition of eligibility,

the actual performance of work without compensation other than the assistance payments themselves, such as the temporary labor force program. Such assistance shall be considered unearned income even if provided in the form of a vendor payment, unless the vendor payment is exempt from consideration as countable income as specified in section 17-676-89;

(2) All or part of a financial assistance grant which would normally be provided in a money payment to the household, but which is diverted to third parties or to a protective payee for purposes such as managing a household's expenses, unless specifically excluded in section 17-676-89. However, payments by the department that would not normally be provided in a money payment to the household, that are above normal financial assistance grants, shall be excluded as a vendor payment if the payments are made directly to a third party for a household expense. This rule shall apply even if the household has the option of receiving a direct cash payment;

(3) Payments from government sponsored programs such as agriculture stabilization and conservation service programs, dividends, interest, royalties, and all other direct money payments from any source which may be construed to be a gain or benefit. [Eff 3/19/93; am 8/1/94; am 7/16/99; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 45 C.F.R. §233.20)

§17-676-36 Financial assistance from another state. (a) Any individual or family receiving financial assistance from another state shall be eligible for financial assistance for the period

during which financial assistance is available from another state provided the individual or family:

(1) Establishes state residency; and

(2) Meets all eligibility requirements.

(b) The financial assistance payment received from another state shall be considered unearned income in the financial assistance and food stamp programs. [Eff 3/19/93; am 8/1/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 45 C.F.R. §233.40)

§17-676-37 Income of sponsor of an alien. (a) For the financial assistance programs, income of a sponsor of an alien and sponsor's spouse living with the sponsor shall be deemed to be the unearned income of the alien. The amount of the sponsor's income which is deemed to be available to the alien shall be calculated as follows:

(1) Obtain the total earned and unearned income of the sponsor of an alien and the sponsor's spouse;

(2) Deduct the lesser of twenty per cent of total earned income or $175;

(3) From the remainder, deduct an amount equal to the department standard of need for a family of the same composition. The following persons living with the sponsor of an alien, shall be considered to be part of the sponsor's family:

(A) Sponsor's spouse; and

(B) Sponsor's dependents who qualify as federal income tax dependents;

(4) From the remainder, deduct actual amounts paid by the sponsor or sponsor's spouse to persons living out of the home who qualify as sponsor's federal income tax dependents;

(5) From the balance, deduct any alimony or child support paid to persons not living with the sponsor; and

(6) The net amount shall be considered available to the alien and deducted from the alien's

monthly standard of financial need.

(b) In the financial assistance programs, the income of the sponsor of an alien who entered the United States prior to December 19, 1997, shall be considered available to the alien for a period of three years after the alien's entry into the United States. The income of the sponsor of an alien that entered the United States on or after December 19, 1997, shall be considered available to the alien until such time as the alien becomes a United States citizen. The alien's failure to provide information and verification of the income of the sponsor of an alien shall disqualify the alien from receiving financial assistance.

(c) The provisions of subsections (a) and (b) do not apply to an alien:

(1) Admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(2) Paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act for a period of at least one year;

(3) Granted political asylum by the Attorney General under section 208 of the Immigration and Nationality Act;

(4) Who is the dependent child of the sponsor or sponsor's spouse and is living in the same home as the sponsor; or

(5) Who is a domestic violence victim as defined in section 17-676-2 and the alleged perpetrator of the violence is the alien's sponsor.

(d) In the financial assistance programs, income which is deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income is actually available to the unsponsored aliens.

(e) In the food stamp program, that amount of the monthly income of an alien's sponsor and the sponsor's spouse to be deemed shall be determined in accordance with chapter 17-663. [Eff 3/19/93; am8/1/94; am 10/28/96; am 9/26/97; am 7/16/99; am 01/22/02; am 11/19/05; am and comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R. §273.4; Pub. L. No. 104-193 (1996))

§17-676-38 Other unearned income that are countable for the food stamp program. Other unearned income considered countable for the food stamp household shall include:

(1) The unearned income of an individual disqualified from the household for failing to comply with the requirement to provide an SSN or for being an ineligible alien, less the prorata share for the individual;

(2) The unearned income of an individual disqualified from the household for intentional program violation or for failure to comply with the program's work requirements;

(3) Gross income minus cost of doing business derived from rental property if a household member is not actively engaged in management of the property at least twenty hours a week;

(4) Moneys that are legally obligated and otherwise payable to the household, but which are diverted by the provider of the payment to a third party for household expenses. The distinction between whether the moneys are income or vendor payments is whether the person or organization making the payment on behalf of a household is using funds that otherwise are payable to the household. Funds payable to the household shall include wages earned by a household member and owed to the household,

a financial assistance grant to which a household is legally entitled, support or alimony payments in amounts which legally must be paid to a household member, and educational assistance. If an employer, agency, former spouse, or educational or financial institution who owes the funds to a household diverts the funds instead to a third party to pay for a household expense, the payments shall be counted as income to the household, unless specifically excluded in subchapter 11. Funds that are considered income and not vendor payments shall be handled as earned or unearned income depending on the nature of the income;

(5) Moneys withdrawn or dividends which are or could be received by a household from trust funds considered to be excludable assets under section 17-675-30. These moneys shall be considered income in the month received, unless otherwise exempt under subchapter 11. Dividends which the household has the option of either receiving as income or reinvesting in the trust shall be considered as income in the month they become available to the household unless otherwise exempt;

(6) Moneys received on a recurring basis whether it is obligated to the individual, such as a legal settlement, or unanticipated, such as a monetary contribution;

(7) That amount of the monthly income of an alien's sponsor and the sponsor's spouse that has been deemed to be that of the alien as unearned income in accordance with chapter 17-663;

(8) Payments received under the Repatriated American Programs, unless the person receiving the payment is required to sign an express agreement to repay the funds received;

(9) Foster care payments of the foster person when the foster care home provider has opted to include the foster person as a member of its food stamp household in accordance with section 17-663-2. Any additional paymentprovided to the foster care home provider as incentive or retainer fees for participating in the foster care program shall be considered as unearned income to the foster care home provider household;

(10) Any interest or dividends received by the food stamp household or credited to any accounts for the household from banks, loans, or other sources; and

(11) Cash dividends from stocks, life insurance, or other sources. [Eff 02/7/94; am 1/30/95; am 10/28/96; comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(b); Pub. L. No. 104-193 (1996))

§§17-676-39 to 17-676-43 (Reserved).

SUBCHAPTER 4

AVAILABILITY OF INCOME FOR SUPPORT

§17-676-44 Purpose. The purpose of this subchapter is to describe the persons whose income are considered available for support of applicants and recipients in the financial assistance and food stamp programs. [Eff 3/19/93; am 8/01/94; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29)

§17-676-45 Availability of income in the financial assistance programs when relatives live in the same household. (a) The income of the husband

shall be considered available to meet the needs of the wife.

(b) The income of the wife shall be considered available to meet the needs of the husband.

(c) In family groups in which there are children, income of both parents, natural, legal, hanai, or adoptive, shall be considered available for each other and the support of their children.

(d) When the husband, wife, or parent, living in the home, is not included in the financial assistance payment, the department shall determine the amount of available income pursuant to subsections (a), (b), and (c) as follows:

(1) Obtain the monthly total earned and unearned income of the individual not included in the financial assistance payment;

(2) Deduct the following amounts from the monthly gross earned income:

(A) A standard deduction of twenty per cent; and

(B) The amount paid for the care of each incapacitated adult living in the same household and included in the financial assistance payment not to exceed $175 if the individual is employed full-time or $165 if the individual is not employed full-time;

(3) Deduct the difference between the following standards of assistance:

(A) The first standard shall include the needs of the individuals included in the financial assistance payment and the needs of the individual and other individuals not included in the financial assistance payment provided such other individuals are or may be claimed by the individual as dependent for federal income tax purposes and are not being sanctioned or are not excluded due to failure to cooperate

(B) The second standard shall include only the needs of the individuals included in the financial assistance payment.

(C) For the purpose of subparagraphs (A) and (B), the standard of assistance for GA and AABD households shall be as specified in section 17-678-3 and thestandard of assistance for AFDC households shall be in accordance with the household's exempt or non-exempt status as specified in section 17-678-3.1;

(4) All of the remaining income shall be considered available to meet the needs of the family.

(e) When an individual is excluded from financial assistance due to the individual's failure to cooperate or comply with an eligibility requirement, the department shall determine the amount of the excluded individual's income available to the assistance unit pursuant to subsections (a), (b), and (c) and:

(1) If the individual is required to be included in the financial assistance unit under sections 17-647-12 or 17-647-13, the individual's available monthly income shall be determined under section 17-676-54.

(2) If the individual is not required to be included in the financial assistance unit under sections 17-647-12 or 17-647-13, all of the individual's monthly income shall be considered available to meet the needs of the assistance unit.

(f) For AFDC, in the case of a dependent child whose parent is under the age of eighteen, the State shall count as income to the assistance unit the income, after appropriate disregards, of that minor's own parent living in the same household as the minor and dependent child. The disregards to be applied are the same as are applied to the income of a stepparent pursuant to subsection (g). However, in applying the

disregards, each employed parent will receive the benefit of the work expense disregard pursuant to subsection (g)(1).

(g) The income of a stepparent, living with a stepchild, shall be considered available for the stepchild. The following budgeting process shall be usedto determine the amount of the stepparent's income which shall be counted as income for the stepchild:

(1) From the monthly gross earned income, deduct a standard deduction of twenty per cent;

(2) From the remainder of the stepparent's income, subtract the amount specified in the department's standard of need to meet the needs of the stepparent and any other individuals who are living in the home whose needs are not considered in the financial assistance payment, except for sanctioned individuals or individuals who are required to be included in the financial assistance payment but have failed to cooperate, and are being claimed or may be claimed as the stepparent's dependents for federal income tax purposes;

(3) From the remainder of the stepparent's income, subtract the actual amount paid by the stepparent for individuals not living in the household who are or may be claimed as the stepparent's federal income tax dependents;

(4) Subtract all payments made by the stepparent for alimony and child support for persons not living in the household; and

(5) The remaining income shall be deemed available to the assistance unit as follows:

(A) When the stepparent enters the home after the first of the month, prorate the remaining income from the date the stepparent entered the home. The same procedure specified in section 17-680-12(b) shall be used to prorate the deemed income; or

(B) The stepparent's total remaining income shall be deemed available to the assistance unit when the stepparent is in the home on the first of the month.

(h) The income of a stepparent receiving Supplemental Security Income benefits shall be exemptin determining eligibility for the federally funded AFDC category.

(i) The assistance unit's failure to provide information and verification regarding a stepparent's income, a legal guardian's income, or a natural, legal, hanai, or adoptive parent's income shall disqualify the assistance unit from receiving financial assistance.

(j) The adult applicant or recipient shall determine whether a common law spouse, who is not the legal, natural or adoptive parent of the children, is willing to provide a voluntary contribution towards household expenses. The adult's failure to assist in determining whether the common law spouse is willing to contribute towards the adult's household expenses shall disqualify the adult for financial assistance.

(k) The voluntary contributions of a common law spouse shall be counted as income available to the assistance unit.

(l) In households in which more than one relationship exists when determining the amount of income to be considered available to a household, the following priority shall be used:

(1) The natural, hanai, or legal parent relationship;

(2) The step-parent relationship; and

(3) The spousal relationship. [Eff 3/19/93; am 3/14/94; am 11/25/94; am 1/25/97; am 9/26/97; am 01/22/02; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 45 C.F.R. §233.20; 42 U.S.C. §602)

§17-676-46 REPEALED. [R 8/01/94]

§17-676-47 Availability of income in the food stamp program. The income of all members of the household, as defined in chapter 17-663, shall be considered in determining food stamp eligibility andbenefits. [Eff 3/19/93; comp 11/09/06] (Auth: HRS §346-53) (Imp: HRS §346-29; 7 C.F.R §273.9)

§§17-676-48 to 17-676-49 (Reserved).

SUBCHAPTER 5

DETERMINING MONTHLY INCOME
IN THE FINANCIAL ASSISTANCE AND FOOD STAMP PROGRAMS

§17-676-50 Rounding off income. The amounts used in the process for determining and computing income shall be rounded down to the next lower whole dollar, as follows:

(1) The amounts used in determining the individual's monthly gross earned or unearned income shall not be rounded off. The individual's gross earned and unearned income from each source shall be rounded down to the next lower whole dollar before being used in any computation; and

(2) The amounts used in determining each allowable earned income deduction shall not be rounded off. Each allowable earned income deduction shall be rounded down to the next lower whole dollar before being used in any computation. [Eff 3/19/93; comp 11/09/06] (Auth: HRS §§346-14, 346-53) (Imp: 7 C.F.R. §273.10; 45 C.F.R. §233.20)

§17-676-51 Determining income prospectively for all applicants and recipients. (a) Monthly earned income shall be determined based on the income and circumstances that existed or which are anticipated in the month for which earned income is budgeted. The department shall determine the assistance unit's monthly gross earned income as follows:

(1) For a month prior to the current month use The actual income received in the prior month.

(2) For the current month use actual income received and any income anticipated to be received in the current month.

(3) For a future month, determine income as follows:

(A) Use previous paychecks only if the source of income, rate of pay, and frequency of pay are expected to remain the same.

(i) Source of income shall be considered to remain the same as long as the individual has the same job with the same employer;

(ii) Rate of pay shall be considered to remain the same as long as the hourly wage or monthly salary will not change, and the terms of employment, full-time, part-time, or on-call, do not change; and

(iii) Frequency of pay shall be considered to remain the same as long as there is no change in how often the individual is paid.

(iv) Divide the prior monthly income by the number of paychecks received in a prior month and multiplying it by the frequency of pay as follows:

(a) Weekly income shall be multiplied by 4.3333;

(b) Bi-weekly income shall be multiplied by 2.1667;

(c) Twice a month income shall be multiplied by 2.

(B) When income is new or when the source, rate, or frequency of pay has changed from the prior month, project the monthly income as follows:

(i) Obtain the anticipated monthly pay from the employer; or

(ii) Multiply the rate of pay by the number of hours the individual anticipates being paid in a pay period and then multiply that amount by the frequency of pay (for example, weekly, bi-weekly, twice a month, etc.

(b) Monthly unearned income shall be determined based on the income and circumstances that existed or which are anticipated in the month for which unearned income is budgeted. The department shall determine the assistance unit's monthly gross unearned income as follows:

(1) For a month prior to the current month use the actual income received in the prior month.

(2) For the current month use income already received and any income anticipated to be received in the current month.

(3) For a future month, determine income as follows:

(A) Use previous income only if the source of income, rate of payment, and frequency of payment are expected to remain the same.

(i) Source of income shall be considered to remain the same as long as the individual has the same income from the same source;

(ii) Rate of payment shall be considered to remain the same as

long as the monthly amount or terms of receipt do not change; and

(iii) Frequency of payment shall be considered to remain the same as long as there is no change in how often the individual is paid.

(iv) Divide the prior monthly income by the number of checks received in a prior month and multiplying it by the frequency of payment as follows:

(a) Weekly income shall be multiplied by 4.3333;

(b) Bi-weekly income shall be multiplied by 2.1667;

(c) Twice a month income shall be multiplied by 2.

(B) When income is new or when the source, rate, or frequency of payment has changed from the prior month, project the monthly income as follows:

(i) Obtain an estimate from the source of the income; or

(ii) Use the individual's statement of the amount the individual anticipates to receive in the month; or

(iii) If the income is anticipated to be received more frequently than monthly, multiply the income by the frequency of payment (for example, weekly, bi-weekly, twice a month, etc.

(c) The method used to project the monthly income shall be documented in the case record. [Eff 3/19/93; am and comp 11/09/06] (Auth: HRS §§346-14, 346-29, 346-53) (Imp: 7 C.F.R. §§273.10, 273.12; 45 C.F.R. §§233.20, 233.31, 233.33)

§17-676-52 REPEALED. [R 9/26/97]

§17-676-53 REPEALED. [R 11/09/06]

§17-676-54 Determining monthly net income for financial assistance. (a) Monthly net earned income for households whose total gross income does not exceed one hundred eighty-five per cent of the family's standard of need shall be determined by the following process:

(1) From the monthly gross earned income of each applicant or recipient, deduct a standard deduction of twenty per cent;

(2) After the twenty per cent standard deduction, deduct a flat rate of two hundred dollars from the remainder;

(3) After the two hundred dollar flat rate deduction, a thirty-six percent earned income disregard shall be deducted from the remainder; and

(4) Deduct an amount equal to the actual cost for the care of each incapacitated adult living in the same household and receiving financial assistance, but not to exceed:

(A) $175 a month if the applicant or recipient is employed full time; or

(B) $165 a month, if the applicant or recipient is employed less than full time.

(b) Monthly net earned income for each applicant and recipient shall be added to any unearned income to determine net income for the family.

(c) If the family's net income does not exceed the standard of assistance, the family shall be eligible for benefits. [Eff 1/25/97; am 9/26/97; am 7/16/99; am 11/15/04; am 9/18/06; comp 11/09/06] (Auth: HRS §346-14) (Imp: 42 U.S.C. §§601, 602, 608; HRS §§346-29, 346-53, 346-71)

§17-676-55 Earned income disregard reimbursement to reward work in the AFDC program. (a) Effective January 2006, households eligible for AFDC who have not received an exit bonus or job retention bonus as described in section 17-656.2, and who meet the work participation requirements, are eligible for an earned income disregard reimbursement as follows:

(1) From month one through month twenty-four of receipt of benefits, the earned income disregard reimbursement shall be the difference between thirty-six percent as specified in section 17-676-54(a)(3) and one hundred percent;

(2) From the twenty-fifth month through the forty-eighth month of receipt of benefits, the earned income disregard reimbursement shall be the difference between thirty-six percent as specified in section 17-676-54(a)(3) and fifty percent.

(b) The earned income disregard reimbursement specified in subsection (a) shall be issued for each month the recipient has complied with the work participation requirements for that month.

(c) The department shall count the number of months the employed adult received benefits since July 1997 to determine the amount of the earned income disregard reimbursement specified in subsection (a) each recipient is eligible to receive.

(d) For the purposes of this section, there shall be no good cause available for failure to comply with the work participation requirements. [Eff 9/18/06; am and comp 11/09/06] (Auth: HRS §346-14) (Imp. 42 U.S.C. §§601, 602, 608; HRS §§346-29, 346-53; 346-71)

§17-676-56 Determining net monthly income in the food stamp program. (a) A household's net food stamp monthly income shall be determined by applying the rounding technique specified in section 17-676-50 and the method set forth in this section.

(b) Add the gross monthly income earned by all household members, including any net self-employment income, minus earned income exclusions as defined in subchapter 11, and the total monthly unearned income, less income exclusions, as defined in subchapter 11, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with chapter 17-663.

(c) Multiply the total gross earned income by twenty per cent and subtract that amount to determine net monthly income from earnings.

(d) Subtract the standard deduction.

(e) Subtract the total monthly dependent care expenses incurred by the household, if any. To complete computing the food stamp net monthly income for a household in which a member is elderly or disabled the method specified in subsections (j) to (k) shall be followed.

(f) Subtract the legally obligated child support payments that are paid by a household member.

(g) Total the allowable shelter expenses such as rent, mortgage, and utility costs to determine shelter costs. Subtract from the total shelter cost fifty per cent of the adjusted income (the household's monthly income after the deductions in subsections (c) to (e) have been subtracted). The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the food stamp net monthly income has been determined. If there is an excess shelter cost, the shelter deduction shall be determined.

(h) The shelter deduction, if any, shall be one of the following:

(1) If the excess shelter cost is equal to or more than the allowable maximum, the shelter deduction is the allowable maximum; or

(2) If the excess shelter cost is less than the allowable maximum, the shelter deduction is the actual amount of the excess shelter cost

(i) Subtract the shelter deduction, if any, from the adjusted income. The result is the food stamp net monthly income.

(j) To complete computation of the net food stamp monthly income for a household in which a member is elderly or disabled as defined in chapter 17-655:

(1) Add all nonreimbursable medical expenses, then subtract $35 from the total nonreimbursable medical expenses to determine the monthly medical deduction. Subtract the medical deduction from the adjusted net income in subsection (e);

(2) Total allowable shelter expenses to determine shelter costs. Subtract from total shelter costs fifty per cent of the household's adjusted net income after all the above deductions have been subtracted. The remaining amount, if any, is the shelter deduction; and

(3) Subtract the shelter deduction from the household's adjusted net income as determined by this subsection. The net result is the household's food stamp net income.

(k) The food stamp net monthly income shall be compared to the net monthly income eligibility standards for the appropriate household size as specified in chapter 17-680 to determine eligibility for the month. [Eff and comp 11/09/06; am 11/22/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.10; 273.21; Pub. L. No. 110-246)

§17-676-57 (Reserved)

SUBCHAPTER 6

DETERMINING MONTHLY INCOME
IN THE MEDICAL ASSISTANCE ONLY PROGRAM

§17-676-58 REPEALED. [R 8/01/94]

§17-676-59 REPEALED. [R 8/01/94]

§17-676-60 REPEALED. [R 8/01/94]

§17-676-61 REPEALED. [R 8/01/94]

§17-676-62 REPEALED. [R 8/01/94]

§§17-676-63 to 17-676-66 (Reserved).

SUBCHAPTER 7

FOOD STAMP PROGRAM DEDUCTIONS AND EXPENSES

§17-676-67 REPEALED. [R 11/09/06]

§17-676-68 REPEALED. [R 11/09/06]

§17-676-69 REPEALED. [R 11/09/06]

Historical Note: §17-676-69 is based substantially upon §17-718.1-6. [Eff 12/27/86; R 3/19/93]

§17-676-70 REPEALED. [R 11/09/06]

Historical Note: §17-676-70 is based substantially upon §17-718.1-7. [Eff 12/27/86; R 3/19/93]

§17-676-71 Averaging income and expenses. (a) Households, except for seasonal farmworker households,

may elect to have income averaged. Income shall not be averaged for a seasonal farmworker household since averaging would result in assigning to the month of application income from future periods which is not available to the seasonal farmworker household for its current food needs. To average income, the department shall use the household's anticipation of income fluctuations over the certification period. The number of months used to obtain the average income need not be the same as the number of months in the certification period.

(b) Households which, by contract or self-employment, derive annual income intended to support the household for a year, in a period of time shorter than one year shall have that income averaged over a twelve-month period, provided the income from the contract is not received on an hourly or piecework basis. The households may include school employees, share croppers, farmers, and other self-employed households. However, these provisions shall not apply to migrant or seasonal farm workers. If the self-employment income is intended to support the household for only part of the year, the income shall be averaged over the period of time it is intended to cover. The procedures for averaging self-employment income are specified in subchapter 6 of chapter 17-663.

(c) Households may elect to have fluctuating expenses averaged. Households may elect to have expenses which are billed less often than on a monthly basis averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover regardless of the certification period.

(1) Households may elect to have one-time only expenses averaged over the entire certification period in which they are billed.

(2) Households reporting one-time only medical expenses during their certification period

may elect to have a one-time deduction or to have the expense averaged over the remaining months of their certification period. Averaging would begin the month the change would become effective. [Eff 2/7/94; am and comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.10 (c)(3) and (d)(3), 273.21)

Historical Note: §17-676-71 is based substantially upon §§17-718.1-13 and 17-718.1-15. [Eff 12/27/86; R 3/19/93]

§17-676-72 Income deductions. Deductions shall be allowed for the following household expenses:

(1) The monthly standard deduction per household which is set by the USDA;

(2) An earned income deduction of twenty per cent of all gross earned income other than income excluded to compensate for taxes, other mandatory deductions from salary, and work expenses;

(3) The payments for the actual costs for the care of a child or other dependent when necessary for a household member to accept or continue employment, attend training or education which is preparatory to employment, or to seek employment in accordance with the job search criteria, or an equivalent effort by those not subject to job search requirements;

(4) That portion of medical expenses in excess of $35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in section 17-663-1. Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient shall not be eligible to receive this deduction. Persons who receive only state supplemental benefits and not federal SSI benefits shall

not be eligible for medical or shelter deductions as SSI recipients unless the persons are elderly or disabled as defined in section 17-663-1.

(A) Allowable medical costs include:

(i) Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by state law or other qualified health professionals;

(ii) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the State;

(iii) Prescription drugs when prescribed by a licensed practitioner authorized under state law and other over-the-counter medication, including insulin when approved by a licensed practitioner or other qualified health professional;

(iv) Costs of medical supplies, sickroom equipment, including rental, or other prescribed equipment;

(v) Health and hospitalization insurance policy premiums. The costs of health and accident policies such as those payable in lump sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled shall not be deductible;

(vi) Medicare premiums related to coverage under Title XVIII of the Social Security Act (42 U.S.C. §1395) and any cost-sharing or spend down expenses incurred by medicaid recipients;

(vii) Dentures, hearing aids, and prosthetics;

(viii) Securing and maintaining a seeing eye dog or hearing dog including the cost of dog food and veterinarian bills;

(ix) Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;

(x) Reasonable cost of transportation and lodging to obtain medical treatment or services; and

(xi) Maintaining an attendant, home-maker, home health aide, child care giver, or a housekeeper to aid a person because of age, infirmity, or illness. In addition, an amount equal to the one person coupon allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for the meal related deduction shall be the amount in effect at the time of initial certification. The department shall be required to update the allotment amount at the next scheduled recertification, however, the department may do so earlier. If a household incurs attendant care costs that may qualify under both the medical deduction and dependent care deduction, the

department shall treat the cost as a medical expense.

(B) That portion of an allowable medical expense which is not reimbursable. Households entitled to the medical deduction shall have the nonreimbursable amount deducted when the bill is received or can otherwise be verified; and

(C) One-time only medical expenses during the certification period. A household may elect to have a one-time deduction or to have the expense averaged over the remaining months of the certification period. Averaging shall begin the month the change becomes effective.

(5) Monthly shelter costs in excess of fifty per cent of the household's income after all the deductions in paragraphs (1) to (4) have been allowed. The shelter deduction shall not exceed the shelter maximum which is established by the USDA unless the household contains a member who is elderly or disabled as defined in section 17-663-1. The households shall receive a limitless shelter deduction for the monthly shelter cost that exceeds fifty per cent of the household's monthly income after all other applicable deductions. Households in which all members are homeless and are not receiving free shelter throughout the calendar month shall be eligible for the homeless standard estimate as a shelter deduction. The standard estimate amount is computed annually effective October of each calendar year and provided by the U. S. Department of Agriculture. All homeless households that incur or reasonably expect to incur shelter costs during a month shall be eligible for the estimate unless higher shelter costs are

verified, at which point, the household may use actual shelter costs rather than the estimate. If a homeless household has difficulty in obtaining the verification of its shelter costs, the department shall use prudent judgment in determining if verification obtained is adequate. For example, if a homeless individual claims to have incurred shelter costs for several nights and the costs are comparable to costs incurred by homeless people for shelter, the department shall accept this information as adequate verification and not require further verification. Homeless households that incur no shelter costs during the month shall not be eligible for the standard estimate. Shelter costs shall include only the following:

(A) Continuing charges made for the shelter occupied by a household, including rent, mortgage, condominum or association fees, or other continuing charges leading to the ownership of the shelter, such as loan payments for the purchase of a mobile home, including interest on such payments;

(B) Property taxes, state and local assessments, and insurance on the structure, but not separate costs for insuring furniture or personal belongings;

(C) Charges for heating, cooling, cooking fuel; electricity; water and sewer; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One time deposits shall not be included as shelter costs;

(D) The shelter costs for a home if temporarily not occupied by the household because of employment or training away from home, illness, or abandonment of the home due to natural disaster or casualty loss. For the costs of a vacated home to be included in shelter costs, the household must intend to return to the home. The current occupants of the home, if any, shall not claim the shelter costs during the absence of the household and the home shall not be leased or rented in the household's absence; and

(E) Charges for the repair of a home which is substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs shall not include charges for repair of a home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source; and

(6) Legally obligated child support payments, paid by a household member to or for a nonhousehold member, including payments made to a third party on behalf of the nonhousehold member. The department shall allow a deduction for amounts paid toward arrearages. The deduction shall be allowed in the month paid. Alimony payments made to or for a nonhousehold member shall not be included in the child support deduction. [Eff 2/7/94; am 8/18/94; am 10/13/95; am 11/19/05; am and comp 11/09/06; am 11/22/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9; Pub. L. No. 110-246)

Historical Note: §17-676-72 is based substantially upon §17-717-31. [Eff 7/19/82; am 4/01/83; am

10/01/83; am 1/19/84; am 5/1/86; am 2/6/87; am 3/2/87; am 1/21/88; am 5/04/89; R 3/19/93]

§17-676-73 Standard utility allowance. (a) The department shall establish individual standard utility allowances for use in calculating shelter costs of households which incur utility costs separate from the rent or mortgage. The specific standard shall be allowed only if the household is billed separately for the specific utility cost. The household shall be advised that actual individual utility costs which exceed the individual standards shall be deducted only if the household can verify the costs. Households which live in public housing or other rental units which have central utility meters and charge the household only for excess utilities shall not be permitted to use the fuel or electricity standards.

(b) The department shall establish a mandatory telephone allowance for use in conjunction with the standard utility allowances. The telephone allowance shall be used for households which have telephone expenses. The telephone allowance shall be used even if actual costs are higher. The telephone allowance shall be prorated if more than one household shares the telephone expenses.

(c) Households may change between actual utility costs and the standard utility allowances at each re-certification action and one additional time during each twelve-month period following the initial certification action. Households shall be advised at the time of certification and recertification of the right to claim actual utility costs if the individual utility cost exceeds the standard for that utility. They shall be further advised of their right to switch between the use of actual utility costs and the standard utility allowances.

(d) Households which share utilities with any other household shall have the individual allowances prorated among all household members. If the department is unable to actually determine the prorata share of utility costs paid by the parties, the actual utility costs paid by each household shall be used. Under no circumstances shall the total amount of utility costs used to determine the amount of the deduction exceed either the total amount of actual utility costs for the residence if actual costs are being used, or the individual standard utility allowances if the standard is being used.

(e) Households shall not be entitled to the utility standard for an individual utility cost if all the cost is paid by an excluded vendor payment. With the exception of households residing in public housing or other rental units that have central utility meters who charge the household for excess utilities, the household shall be eligible to claim the standard utility allowance if the household is responsible to pay any portion of the utility cost that is billed to the household.

(f) Households that receive indirect (vendor) energy assistance payments except as provided in subsection (g) may be eligible for the standard utility allowance if they continue to incur out-of-pocket utility expenses during any month for which the energy assistance payment is intended. When the energy assistance payment is reported to the department, it shall be divided by the twelve-month period for which it was intended. This amount shall then be compared with the household's actual monthly utility expenses. When the actual monthly expense exceeds the prorated energy assistance payment in any month, the household shall be entitled to claim the standard utility allowance. If the actual monthly expense is less than the prorated energy assistance payment in all of the preceding twelve months, the household shall claim the actual utility expense only.

(g) Households that receive benefits funded through the Low Income Home Energy Assistance Act of

1981, (Title XXVI of Pub. L. No. 97-35), whether directly or in the form of an indirect payment made to the energy provider on the household's behalf, shall be eligible to claim the department's standard utility allowance. The energy expense covered by the Low Income Home Energy Assistance Program shall be considered to be an out of pocket expense for the purpose of determining eligibility to receive the standard utility allowance.

(h) The department shall review the standard utility allowances and telephone allowance annually and shall adjust the allowances as necessary to reflect changes in the cost of utilities. The standard utility allowances shall remain in effect during the period of October 1 through September 30 of each year.

(i) The sewer and trash standard utility allowance shall be an average of the sewer rate and trash rate of all counties weighted by the percent of the total food stamp population in each county.

(j) The telephone allowance shall be an average of the telephone rate of all counties weighted by the percent of the total food stamp population in each county. The rate for each county shall be the sum of basic line rental, basic subscriber rate, and rental of one standard rotary instrument.

(k) The water standard utility allowance shall be an average of the water rate of all counties proportioned according to household size and weighted by the percentage of the total food stamp population in each county. The rate for each county shall be the sum of the meter charge, power charge, and rate charge for thirteen thousand gallons.

(l) The electricity and gas standard utility allowance shall be an average of the electricity rate and gas rate of all counties weighted by the percentage of the total food stamp population in each county:

(1) Electricity rate for each county shall be proportioned according to household size and shall be the sum of the customer charge and

the product of the kilowatt hours by number of bedrooms and rate charge;

(2) Gas rate for each county shall be an average of the basic gas rate and electricity rate. Basic gas rate for each county shall be proportioned according to household size and shall be the sum of the customer charge and the product of the therms by number of bedrooms and rate charge.

(m) Households which incur utility costs for utilities other than the standard allowances shall be allowed the actual utility costs if the household can verify the cost. [Eff 2/7/94; am 10/13/95; am and comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(d)(6))

Historical Note: §17-676-73 is based substantially upon §17-717-32.1. [Eff 6/8/84; am 6/13/85; am 11/29/85; am 8/16/86; am 9/02/86; am 5/28/87; am 8/31/87; am 8/25/90; am 7/20/91; R 3/19/93]

§17-676-74 Determining deductions. (a) Deductible expenses shall include only certain costs of dependent care, shelter, child support, and medical costs.

(b) An expense paid by an excluded reimbursement or vendor payment such as government rent, utility reimbursements made by the Department of Housing and Urban Development (HUD) and Farmers Home Administration (FmHA), or child care subsidy shall not be deductible. Any portion of the expense not covered by the vendor payment or reimbursement is deductible.

(c) Expenses shall only be deductible if the service is provided by a person outside the food stamp household and the household makes a money payment for the service. Expenses shall not be deductible if compensation paid by the household for the service is paid through an in-kind benefit such as food or lodging in exchange for child care. An expense

covered by an excluded reimbursement or vendor payment shall not be deductible. For example, the portion of rent covered by excluded vendor payments shall not be calculated as part of the household's shelter cost.

(d) Unless an expense is averaged, an expense shall be allowed only in the month it becomes due regardless of when the household intends to pay the expense. Amounts which are past due shall not be deductible even if included with the most recent billing and which are actually paid by the household. A particular expense shall only be deducted once.

(1) Recurring monthly deductible expenses such as rent and utility cost shall be allowed once a month. Interim adjustment need not be made because two bills were received in the same month. For example, if a household certified from August through October is billed for electricity in August, in early September for September, and again in late September for October, the household shall be allowed a deduction for each of the three months from August through October.

(2) If a renter or boarder has agreed with the landlord to pay certain utility costs, but the utilities are billed in the landlord's name, the household shall be allowed a deduction for the utility costs which are paid to the landlord. Although the household is not billed for the expense, the expense is otherwise due. When two households reside in the same home, share utility expenses, and only one household is billed for the utility expenses, both households may claim utility expenses since both pay for utilities.

(e) During the household's initial certification and recertification interviews, the household members, who are eligible to claim the excess medical expense deduction, shall report and verify all medical expenses. The household's monthly medical deduction for the certification period shall be based on the

information reported and verified by the household. The household shall be allowed to give a reasonableestimate of its medical expenses that are expected to be incurred during the course of the household's certification period. The estimated amount should be based upon available information about the member's medical condition, public or private medical insurance coverage, and the current verified medical expenses incurred by the household member. The households that give such an estimate shall not be required to file reports about its medical expenses during the certification period.

(f) The department shall calculate the household's expenses based on what the household expects to be billed during the certification period. Anticipation of the expense shall be based on the most recent month's bills unless the household is reasonably certain a change will occur. When the household is not claiming the utility standard, the actual utility cost shall be verified, then projected for the certification period. [Eff 2/07/94; am 12/9/94; am 10/13/95; am and comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.10(d))

Historical Note: §17-676-72 is based substantially upon §17-718.1-14. [Eff 12/27/86; am 12/24/90; R 3/19/93]

SUBCHAPTER 8

AVAILABILITY AND VERIFICATION OF INCOME

§17-676-75 Availability and verification of income in the financial assistance programs. (a) All individuals shall apply for and develop potential sources of income.

(b) The department shall deny or terminate financial assistance when the individual fails to

apply for and develop potential sources of income and fails to provide the department with verification to determine the amount of the income.

(c) When the department determines that an assistance unit has failed to cooperate in providing information, supported by documents to determine eligibility or the amount of assistance, the assistance unit shall be ineligible for financial assistance. Failure to cooperate includes, but is not limited to failure to provide accurate and complete information, failure to provide verification, or any other action on the part of the individual that prevents a correct determination of eligibility or amount of assistance.

(d) In the financial assistance programs, when the individual fails to apply for and develop a specific source of income, but provides the department with verification of the amount the individual is entitled to receive, that amount shall be budgeted in determining eligibility and the amount of assistance. [Eff 3/19/93; am 8/1/94; am and comp 11/09/06] (Auth: HRS §§346-14, 346-29, 346-53) (Imp: 45 C.F.R. §§233.20, 233.31, 233.33)

§17-676-76 Availability and verification of income in the food stamp program. (a) Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify income have been unsuccessful, because the income provider fails to cooperate with the household and the department, and all other sources of verification are unavailable, the department shall determine an amount to be used, based on the best available information.

(b) The department shall use documentary evidence as the primary source of verification. Whenever documentary evidence cannot be obtained, alternate sources such as collateral contacts and home visits shall be used for verification.

(c) The department shall determine on a case by case basis when to verify loans, but shall verify loans in any questionable case. When verifying that income is exempt as a loan, a statement signed by both parties indicating the payment is a loan which shall be repaid shall be sufficient verification. However, if the household receives payments on a recurrent or regular basis from the same source but claims the payments are loans, the department may also require that the provider of the loan sign a statement which states that repayments are being made or that payments will be made in accordance with an established repayment schedule.

(d) Earned income may be verified through documents from the applicant including, but not limited to:

(1) Pay stubs;
(2) Pay envelope;
(3) Employee's W-2 forms;
(4) Wage tax receipts;
(5) State or federal income tax return;
(6) Self-employment bookkeeping records; or
(7) Sales and expenditure records.

(e) Earned income may be verified through other sources including, but not limited to:

(1) Employer's wage records;
(2) Statement from employer;
(3) State income tax department; or
(4) Employment security office.

(f) In verifying other income to the household, documents or records generally available from the applicant may be used including, but not limited to:

(1) Social security award letter (changes in benefits may not always be reflected);
(2) Benefit payment check;
(3) Unemployment compensation letter;
(4) Pension award notice;
(5) Correspondence on benefits;
(6) Income tax records;
(7) Railroad retirement award letter;

(8) Support and alimony payments evidenced by court order, divorce, separation papers, or contribution check; or

(9) Veterans administration award notice.

(g) Other documents or records from the following sources may also be used for verification including, but not limited to:

(1) Social security card;

(2) Social security district office files;

(3) Bureau of employment security, unemployment compensation section;

(4) Employer's records;

(5) Union records;

(6) Worker's compensation records;

(7) Veterans administration records;

(8) Insurance company records;

(9) Tax records; or

(10) Railroad retirement board records.

(h) If documentary evidence of social security benefits is not readily available from the applicant, the department may verify the income through the Beneficiary Data Exchange (BENDEX). The amount of social security benefits reported on the application shall be used to compute the household's eligibility and benefit level pending receipt of verification from BENDEX.

(i) In addition to verifying reported income, the department may investigate the possibilities of unreported income. If it appears that the applicant may be eligible for other benefits, the [branch] department may verify that the applicant is not receiving income from other sources such as social security, unemployment compensation, or public assistance. Additional situations in which the possibility of unreported income may be investigated include:

(1) Difficulty in contacting the head of the household at home;

(2) Seasonal employment at its peak in the area;

(3) Shelter costs higher than reported income; or

(4) Similar questionable situations.

(j) A household's report of expenses which exceed its income may be grounds for a determination that further verification shall be required. However, these circumstances alone shall not be grounds for a denial. The department shall review with the household how the household manages its finances, whether the household receives excluded income or has resources, and how long the household has managed under these circumstances. [Eff 3/19/93; am and comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.2(f))

§§17-676-77 to 17-676-79 (Reserved).

SUBCHAPTER 9

DISREGARDED INCOME AND INCOME EXEMPTIONS IN THE FINANCIAL ASSISTANCE PROGRAMS

§17-676-80 Income exemptions in the financial assistance programs. The department shall exempt all of the following income in determining the amount of the financial assistance payment:

(1) Earned income of each child if the child is a full-time student or is a part-time student who is not a full-time employee;

(2) The value of the food stamp payments under the Food Stamp Act of 1977, 7 U.S.C. §§2011-2027;

(3) The value of the U. S. Department of Agriculture donated foods (surplus commodities);

(4) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§4601-4655;

(5) Payments distributed per capita to or held in trust for member of any Indian tribe

under 25 U.S.C. §§1179, 1261-1265, 1305, 1401-1407, 459-459e, and 1626 and Pub. L. No. 94-540. Effective October 17, 1975, pursuant to 25 U.S.C. §459e, receipts distributed to members of certain Indian tribes which are referred to in 25 U.S.C. §459d;

(6) Certain Indian judgment funds, as provided under Pub. L. No. 93-134, §7 and amended by 25 U.S.C. §1407, including those funds:

(A) Held in trust by the Secretary of the Interior (including interest and investment income accrued while such funds are so held in trust); or

(B) Distributed per capita to a household or member of an Indian tribe in accordance with a plan prepared by the Secretary of the Interior and not disapproved by a joint resolution of the Congress; and

(C) Initial purchases made with such funds. This exclusion does not apply to the proceeds from the sale of initial purchases, or to funds or initial purchases which are inherited or transferred;

(7) All funds held in trust (including interest and investment income accrued while the funds were held in trust) by the Secretary of the Interior for an Indian tribe, and distributed per capita to a household or member of an Indian tribe, and initial purchases made with such funds as provided by 25 U.S.C. §117b. This exclusion does not apply to proceeds from the sale of initial purchases, subsequent purchases made with funds derived from the sale or conversion of initial purchases, or to funds or initial

purchases which are inherited or transferred;

(8) As provided by 43 U.S.C. §1626, any of the following distributions made to a household, an individual Native, or a descendant of a Native by a Native Corporation established in accordance with the Alaska Native Claims Settlement Act, 43 U.S.C. §1620:

(A) Cash distributions (including cash dividends on stock from a Native Corporation) received by an individual to the extent that such cash does not, in the aggregate, exceed $2,000 in a year. Cash which, in the aggregate, is in excess of $2,000 in a year is not subject to the above exclusion;

(B) Stock, including stock issued or distributed by a Native Corporation as a dividend or distribution of stock;

(C) A partnership interest;

(D) Land or an interest in land, including land or an interest in land received by a Native Corporation as a dividend or distribution of stock; and

(E) An interest in a settlement trust;

(9) Payments to applicants or recipients in the Volunteers in Service to America (VISTA) Program or any AmeriCorps Program, except when the value of such payments is equal to or greater than the federal minimum wage or the state minimum wage whichever is greater. Payments to student volunteers enrolled in institutions of higher education who participate in the University Year for Action (UYA) program, and foster grandparents, senior health aides, and senior companions, 42 U.S.C. §§4951-5085, under the Small Business Act (Service Corps of Retired Executives (SCORE)) or the Active Corps of Executives (ACE), 15 U.S.C. §637;

(10) Value of free school lunches, provided under the Child Nutrition Act of 1966 and the National School Lunch program, 42 U.S.C. §§1771-1789;
(11) Any meals provided to senior citizens, such as congregate meals, or home delivered meals funded by the Older Americans Act of 1965, 42 U.S.C. §§3001-3057;
(12) Any need-based payments, payments for supportive services, or compensation in lieu of wages provided to a dependent child, under age nineteen, under the Workforce Investment Act (WIA) of 1998, 20 U.S.C. §9201;
(13) Work incentive payments made under the work programs, 42 U.S.C. §§630-644;
(14) Any assistance received under the Low Income Home Energy Assistance program of Pub. L. No. 97-35, the Low Income Home Energy Assistance Act of 1981, 42 U.S.C. §§8621-8629;
(15) Earnings of persons in the Youth Incentive Entitlement Pilot Project, 29 U.S.C. §§894-898, the Youth Community Conservation and Improvement Projects, 29 U.S.C. §§899-906, and the Youth Employment and Training Program, 29 U.S.C. §§907-915;
(16) Any wages received by a dependent child under age nineteen under the Workforce Investment Act (WIA) of 1998, 20 U.S.C. §9201, which are not exempt under paragraph (1), shall be exempt for six months per year. Any other benefits, received by a dependent child under age nineteen under WIA (including Summer Youth Employment and Training Program and Job Corps Program), shall also be exempt;
(17) Foster child's board payment to licensed foster care parents;

(18) Home produce of an applicant or recipient utilized by the household for their own consumption;
(19) The value of medical insurance, employer's share of contributions to a pension fund,and employer's share of social security contributions;
(20) Training related expenses provided by the First-to-Work program;
(21) Housing and Urban Development (HUD) refund payments pursuant to Underwood vs. Harris No. 76-469 (D.D.C. March 22, 1976) received by applicants and recipients of financial assistance shall be disregarded as income and assets in the month received and in the following month. After this period, any remaining portions of the refund payment shall be included in the personal reserve standard;
(22) Small nonrecurring gifts, such as those for Christmas, birthdays, and graduations, not to exceed $30 per recipient in any calendar quarter;
(23) Reimbursements for past, present, or future expenses related to employment, volunteer work, medical need, or training shall be exempt as income. Examples of reimbursement include, but shall not be limited to, travel, per diem, uniform, transportation, mileage, and out-of-pocket expenses;
(24) Bonafide loans from any source including but not limited to educational loans, shall not be counted as income. A bonafide loan is a debt that the borrower has an obligation to repay;
(25) Cash payments to the assistance unit responsible for household bills by a non-unit household member for his or her share of common household expenses;
(26) Restitution payments provided under the Civil Liberties Act of 1988, Title I of

Public Law 100-383 and the Aleutian and Pribilof Islands Restitution Act, Title II of Public Law 100-383;

(27) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. (E.D.N.Y.) effective to January 1, 1989;

(28) The income of foster care children who are not included in the AFDC grant;

(29) Payments made to individuals because of their status as victims of Nazi persecution, pursuant to Pub.L. 103-286;

(30) All public and privately funded educational loans, grants, or scholarships, including veteran's educational benefits; and

(31) Payments made to a victim of a crime by the Criminal Injuries Compensation Commission, Section 1403 of the Victims of Crime Act of 1984, as amended by Pub. L. 103-322. [Eff 03/19/93; am 3/14/94; am 11/25/94; am 12/15/95; am 1/25/97; am 7/16/99; am 01/22/02; am and comp 11/09/06; am 1/17/08] (Auth: HRS §346-53)(Imp: HRS §346-29; 45 C.F.R. §233.20)

§§17-676-81 to 17-676-82 (Reserved).

SUBCHAPTER 10

DISREGARDED INCOME AND INCOME EXEMPTIONS IN THE MEDICAL ASSISTANCE ONLY PROGRAMS

§17-676-83 REPEALED. [R 8/01/94]

§17-767-84 REPEALED. [R 8/01/94]

§17-676-85 REPEALED. [R 8/1/94]

§§17-676-86 to 17-676-87 (Reserved).

SUBCHAPTER 11

DISREGARDED INCOME AND INCOME EXEMPTIONS
IN THE FOOD STAMP PROGRAM

§17-676-88 Income exclusions. (a) Any gain or benefit not in the form of money payable directly to the household such as nonmonetary or in-kind benefits shall be excluded from household income including, but not limited to, meals, clothing, public housing, or produce from a garden.

(b) Money payments that are not payable directly to the household but are paid to a third party for a household expense shall be considered a vendor payment as specified in section 17-676-89. [Eff 3/19/93; am 8/18/94; comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(c))

§17-676-89 Vendor payments. (a) Excluded vendor payments means payments made in money on behalf of a household, by a person or organization outside the household, using its own funds to make direct payment to either the household's creditors or a person or organization providing a service to the household.

(b) Rent or mortgage payments and utility reimbursements paid to a landlord or mortgagee by the Department of Housing and Urban Development (HUD), Farmers Home Administration (FmHA), or the Hawaii Housing Authority (HHA) shall be vendor payments.

(c) If an employer, agency, former spouse, or other person makes payments on household expenses to a third party from funds not owed to the household

these payments shall be excluded as vendor payments.

(d) Payments by a government agency to a child care institution to provide day care for a household member shall also be excluded as vendor payments.

(e) All or part of a financial assistance grant which is not made directly to the household, but paid to a third party on behalf of the household to pay a household expense, shall be considered an excludable vendor payment and not counted as income to the household if such financial assistance payment is for:

(1) Medical assistance;

(2) Child care assistance; or

(3) Energy assistance.

[Eff 3/19/93; am 10/16/95; am 10/28/96; comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(c)(1); Pub. L. No. 104-193 1996))

§17-676-90 Other types of excluded income. Other types of excluded income shall include:

(1) All loans, including loans from private individuals as well as commercial institutions, other than state loans to SSI applicants;

(2) Cash donations, not to exceed $300 in a federal fiscal year quarter, which are received by the household based on need from one or more private nonprofit charitable organizations;

(3) Any prospective income in the certification period which is received too infrequently or irregularly to be reasonably anticipated but not in excess of $30 in a quarter;

(4) Money received in the form of a nonrecurring lump sum payment, including, but not limited to, income tax refunds, rebates or credits, retroactive lump sum social security payment, SSI, public assistance, railroad retirement pension, unemployment

compensation benefits, or other payment, retroactive lump sum insurance settlements,refunds of security deposits on rental property or utilities, or the annual adjustment payment in the VA disability pension. These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other laws;

(5) The cost of producing self-employment income;

(6) The income of nonhousehold members who have not been disqualified, including the income of ineligible students as defined in chapter 17-663; and

(7) Any payment made to an E&T or FTW participant for costs that are reasonably necessary and directly related to participation in the E&T or FTW programs. These costs include, but are not limited to, dependent care costs, transportation, other expenses related to work, training or education, such as uniforms, personal safety items or other necessary equipment, and books or training manuals. These costs shall not include the cost of meals away from home. Also, the value of any dependent care services provided for or arranged shall be excluded. Only expenses that are paid by the household that are in excess of the payment received for the preceding costs may be considered an allowable household deduction as specified in section 17-676-72. [Eff 3/19/93; am 8/18/94; am 7/16/99; am and comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §§273.4(c); 273.9(c)(2) and (4))

§17-676-91 Income excluded by law. Any income that is specifically excluded by any other federal

statute from consideration as income for the purpose of determining eligibility for the food stamp program shall be considered as an excluded income. The following types of income shall be excluded by law:

(1) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. §§4601-4655);

(2) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. §1620);

(3) Any payment to volunteers under Title II of the Domestic Volunteer Service Act of 1973 (Retired Senior Volunteer Program, Foster Grandparents Program, Older Americans Community Service Programs, and others) (42 U.S.C. §§5001-5023) and under the Small Business Act (Service Corps of Retired Executives, and Active Corps of Executives) (15 U.S.C. §637);

(4) Payments to individuals participating in the Senior Community Service Employment Program (SCSEP) funded under Title V of the Older Americans Act of 1965 (Pub. L. No. 100-175);

(5) Payments to volunteers under Title I of the Domestic Volunteer Services Act of 1973 (VISTA, University Year for Action, and Urban Crime Prevention Program) shall be excluded for those individuals receiving food stamps or financial assistance at the time the individuals joined the Title I program (42 U.S.C. §§4951-4958). Households receiving an exclusion for VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 (7 U.S.C. §§2011-2027) shall continue to receive an income exclusion for VISTA for the length of the households' volunteer contract in effect at the time of conversion. Temporary interruptions in food stamp participation shall not alter the exclusion once an initial determination is

made. For example, if an individual who is receiving food stamps subsequently joins VISTA and temporarily becomes ineligible for assistance because the individual is away for VISTA training, when the individual reapplies, the VISTA income shall be excluded because the VISTA volunteer was receiving food stamps at the time the person joined VISTA. New applicants who are not receiving financial assistance or food stamps at the time they joined VISTA, shall have the subsistence allowance included as earned income;

(6) Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (25 U.S.C. §459);

(7) Payments received from the youth incentive entitlement pilot projects (29 U.S.C. §§894-898), the youth community conservation and improvement projects (29 U.S.C. §§899-906), and the youth employment and training programs (29 U.S.C. §§907-915) under the Title IV of the Comprehensive Employment and Training Act Amendments of 1978;

(8) Payments or allowances made for the purpose of energy assistance under any federal law, including utility reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(9) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. No. 94-540);

(10) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (12 U.S.C. §2075);

(11) Payments to the Passamaquoddy Tribe and the Penobscott Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. §1724);

(12) Allowances and payments to participants in programs, other than on-the-job training,under the Workforce Investment Act (WIA) of 1998;
(13) Payments of relocation assistance to members of the Navajo and Hopi (25 U.S.C. §640d-640d-28);
(14) The earned income of individuals participating in on-the-job training programs under the Workforce Investment Act (WIA) of 1998 who are between eighteen and nineteen years of age and under the parental control of another household member;
(15) Earned income tax credit (EITC) payments received either as a lump sum or payments under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income tax credits received as part of the paycheck or as a reduction in taxes that otherwise would have been paid at the end of the year);
(16) Payments made from the Agent Orange Settlement Fund or any other fund established in connection with settling liability claims concerning the chemical agent orange (Pub. L. No. 101-201);
(17) Child care assistance payments funded under Title IV-A of the Social Security Act, such as the transitional child care (TCC) payments made under the job opportunities and basic skills (JOBS) training program;
(18) Assistance payments issued as a result of a declared federal major disaster or emergency from the federal emergency management agency (FEMA), and other comparable disaster assistance payments provided by any state or local governmental agency, and disaster assistance organizations;
(19) Restitution payments provided under the Civil Liberties Act of 1988, Title I of Pub. L. No. 100-383, and the Aleutian and

Pribil of Islands Restitution Act, Title II of Pub. L. No. 100-383 made to U. S.citizens of Japanese ancestry and permanent resident Japanese aliens or their survivors and Aleut residents of the Pribilof Islands and the Aleutian Islands West of Unimak Island;

(20) "At-risk" block grant child care payments authorized under section 5801 of Pub. L. No. 101-508, which amended section 401(i) of the Social Security Act, and child care payments issued under the Child Care and Development Block Grant Act of 1990 as amended in section 8 of Pub. L. No. 102-586;

(21) All public and privately funded educational loans, grants, or scholarships, including veteran's educational benefits;

(22) Income of an SSI recipient necessary for the fulfillment of a plan for achieving self-support (PASS) which has been approved under sections 1612(b)(4)(A)(iii) or 1612(b)(4)(B)(iv) of the Social Security Act. This income may be spent in accordance with an approved PASS or deposited into a PASS savings account for future use;

(23) Payments made to a victim of a crime by the Criminal Injuries Compensation Commission (Section 1403 of the Victims of Crime Act of 1984, as amended by Pub. L. 103-322); and

(24) Any additional payment received by or from a member of the United States Armed Forces deployed to a designated combat zone, provided the additional pay:

(A) Is the result of deployment to or services in a combat zone; and

(B) Was not received immediately prior to serving in a combat zone. [Eff 3/19/93; am 2/07/94; am 12/9/94; 10/16/95; am 01/22/02; am and comp 11/09/06; am 11/22/08] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(c))

§17-676-92 Payments not considered income. (a) Moneys withheld from an assistance payment, earned income, or other income source, or money received from any income source which is voluntarily or involuntarily returned to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under sections 17-676-88 through 17-676-91, shall not be considered income. However, moneys withheld from assistance from another program, as specified in chapter 17-680 for purposes of recouping from a household an overpayment which resulted from the household's intentional failure to comply with the other program's requirements shall be included as income.

(b) Child support payments received by AFDC recipients which must be transferred to the agency administering Title IV-D of the Social Security Act of 1935, as amended (42 U.S.C. §§644-667), to maintain AFDC eligibility, shall not be considered income. [Eff 3/19/93; am 3/14/94; am 8/18/94; comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(c)(6))

§17-676-93 Reimbursements. (a) Reimbursements for normal household living expenses such as rent or mortgage, personal clothing, and food eaten at home, are a gain or benefit and therefore shall be counted as income.

(b) Reimbursements for past or future expenses to the extent the reimbursements do not exceed actual expenses and do not represent a gain or benefit to the household shall not be counted as income. To be excluded, these payments shall be provided specifically for an identified expense, other than normal living expenses, and used for the purpose intended. The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income. However, reimbursements shall not be considered to exceed actual expenses, unless the provider or household indicates the amount is excessive. Excludable reimbursements which shall not

be considered a gain or benefit to the household include:

(1) Reimbursements or flat allowances for job or training related expenses such as travel, per diem, uniforms, and transportation to and from the job or training site;

(2) Reimbursements for the travel expenses of migrant workers;

(3) Reimbursements for out-of-pocket expenses of volunteers incurred in the course of work;

(4) Reimbursements or allowances for educational assistance not funded under Title IV of the Higher Education Act to students attending institutions of post secondary education, a school for the handicapped, a vocational education program, or a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof for educational expenses, provided the reimbursement or allowance does not exceed the amount used for or made available as an allowance determined by such school, institution, program, or grantor, for tuition, mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, transportation, and other miscellaneous personal expenses (other than normal living expenses such as food, rent, or clothing) of the student incidental to attending the school, institution, or program;

(5) Reimbursements or allowances to students for educational assistance funded under Title IV of the High Education Act or under Bureau of Indian Affairs student assistance programs;

(6) Reimbursements received by households to pay for services provided by title XX of the Social Security Act (42 U.S.C. §1397);

(7) Reimbursements for multiple expenses. Each expense need not be separately identified as long as none of the reimbursement covers normal living expenses (reimbursements for normal living expenses shall not be excluded);
(8) Medical or dependent care reimbursements;
(9) Clothing maintenance allowance (CMA) provided to enlisted military personnel;
(10) Any allowance received by the household from a financial assistance program that is paid no more frequently than annually for the sole purpose of purchasing clothes for the children when the children enter or return to school or day care, provided there is no related reduction in the financial assistance grant for the month in which the school clothes allowance is received; and
(11) Reimbursements made to the household for expenses necessary for participation in an education component under the E&T program. [Eff 3/19/93; am 02/07/94; comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(c)(3), (4), (5), (10))

§17-676-94 REPEALED. [R 11/09/06]

§17-676-95 Moneys received for third parties. If the intended beneficiaries of a single payment are both household and nonhousehold members, any identifiable portion of the payment intended and used for the care and maintenance of the nonhousehold member shall be excluded. If the nonhousehold member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion shall be applied to the nonhousehold member's prorata share or the amount actually used for the nonhousehold member's care and maintenance, whichever is less. [Eff 3/19/93; comp

11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(c)(6))

§17-676-96 Earnings of minors. The earned income of any household member who is under age eighteen, who is an elementary or secondary school student, and who lives with a natural, adoptive, or stepparent or under the parental control of a household member other than a parent. For purposes of this provision, an elementary or secondary school student is someone who attends elementary or secondary school, or who attends classes to obtain a General Equivalency Diploma that are recognized, operated, or supervised by the student's state or local school district, or who attends elementary or secondary classes through a home-school program recognized or supervised by the student's state or local school district. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's prorata share excluded. [Eff 3/19/93; am 8/18/94; am 10/28/96; am and comp 11/09/06] (Auth: HRS §346-14) (Imp: 7 C.F.R. §273.9(c)(7))