

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO
DOCKET NO. 16-0304-0801
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-203, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

PUBLIC MEETING SCHEDULE: Public meetings concerning this rulemaking will be held as follows:

Tuesday, June 10, 2008, 9:00 a.m.

**Idaho Department of Agriculture
2270 Old Penitentiary Road
Room A
Boise, Idaho**

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department is amending the Food Stamp rule regarding the calculation of self-employment income so that applicants who are self-employed, and who have high expenses in their self-employment enterprises, do not have their Food Stamp benefits denied or reduced based on self-employment income not actually available to them. This rule change aligns with the Department's philosophy of supporting employment so that Idahoans can be self-reliant.

Specifically, new language is being added to allow an applicant's actual income and actual expenses to be used in the calculation of self-employment income when determining eligibility for Food Stamp benefits.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate because it confers a benefit to food stamp participants.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no anticipated fiscal impact to the state general fund related to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rosie Andueza (208) 334-5553.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2008.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0304-0801

What Health and Welfare sent to us.

426. SELF-EMPLOYMENT INCOME.

For the purposes of these rules, self-employment income is from a business that is a sole proprietorship. A sole proprietorship is a business owned by (1) one person. The Idaho Food Stamp Program recognizes two (2) types of self-employment businesses. ~~(3-30-07)(05-01-08)T~~

01. ~~Farming~~ A Self-Employed Farmer. ~~The~~ To be considered a self-employed farmer a person must receive, or expect to receive, an annual gross income of one thousand dollars (\$1000) or more earned from farming activities ~~to be a self-employed farmer.~~ ~~(3-30-07)(05-01-08)T~~

02. ~~Non-Farming~~ All Other Self-Employment Businesses. ~~(3-30-07)(05-01-08)T~~

What is being published.

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02. ~~Non-Farming~~ All Other Self-Employment Businesses. ~~All other self-employment businesses.~~ ~~(3-30-07)(5-1-08)T~~

~~427. COMPUTING NON-FARMING SELF-EMPLOYMENT INCOME STANDARD DEDUCTION.~~

~~Net self-employment income for a non-farming business is computed by subtracting fifty percent (50%) from the gross income as an allowable standard deduction from non-farming self-employment earnings.~~ ~~(3-30-07)~~

~~4287. WHEN NON-FARMING AVERAGING SELF-EMPLOYMENT INCOME MUST BE AVERAGED OVER TWELVE MONTHS.~~

01. Annual Self-Employment Income. ~~Non-farming~~ When self-employment income, ~~if it~~ is considered annual support by the household, ~~must be~~ the Department averages ~~the~~ self-employment income over a twelve (12) month period, even if: ~~(5-1-08)T~~

a. The income ~~#~~ is received over a shorter period of time ~~period~~ than (12) twelve months; and ~~(5-1-08)T~~

b. ~~#~~The household receives income from other sources in addition to self-employment. ~~(3-30-07)(5-1-08)T~~

~~429. AVERAGING SEASONAL NON-FARMING SELF-EMPLOYED INCOME.~~

02. Seasonal Self-Employment Income. A ~~S~~seasonally ~~non-farming~~ self-employed individual ~~households~~ receives income from self-employment during part of the year. When self-employment income is considered seasonal, the Department averages ~~S~~self-employment income ~~intended to meet the household's needs~~ for only ~~the~~ part of the year ~~must be averaged over the period of time~~ the income is intended to cover. ~~(3-30-07)(5-1-08)T~~

43028. COMPUTING NON-FARMING CALCULATION OF SELF-EMPLOYMENT INCOME.

~~Compute non farming~~ The Department calculates self-employment income by adding ~~projected~~ monthly ~~earnings~~ income to ~~projected~~ capital gains and subtracting ~~the self-employment standard~~ a deduction for expenses as determined in Subsection 428.03. of this rule. (3-30-07)(5-1-08)T

01. Determine How Monthly Earnings Income is Determined. If no income fluctuations are expected, the average monthly income amount is projected for the certification period. If past ~~earnings are~~ income does not reflect ~~of~~ expected future earnings income, ~~make~~ a proportionate adjustment is made to the expected monthly earnings income. ~~Determine the monthly earnings by the using one (1) of the following:~~ (3-30-07)(5-1-08)T

~~a. If tax returns are available, use the information on the return to determine an appropriate average monthly earnings amount. Do not assume that the tax return reflects a full twelve (12) months of self-employment.~~ (3-30-07)

~~b. If no tax return is available, the self-employment income is averaged over the period of time the enterprise has been in operation,~~ (3-30-07)

02. Add Monthly Capital Gains Income. Capital gains include profit from the sale or transfer of capital assets used in self-employment. ~~The Department~~ calculates capital gains using the federal income tax method. ~~Determine if~~ the household expects to receive any capital gains income from self-employment assets during the certification period. ~~Add~~ this amount is added to the monthly earnings income, as determined in Subsection 43028.01 of ~~these~~ this rules, to determine the gross monthly income. (3-30-07)(5-1-08)T

03. Subtract Non-Farming Self-Employment Standard Expense Deduction. The Department uses the standard self-employment deduction in Subsection 428.03.a. of this rule, unless the applicant claims that his actual allowable expenses exceed the standard deduction and provides proof of the expenses as described in Subsection 428.03.b. of this rule. (5-1-08)T

~~a. Subtract fifty percent (50%) of the gross monthly income as a~~ The self-employment standard deduction. This is the projected non-farming self-employment monthly income. is determined by subtracting fifty percent (50%) of the gross monthly self-employment income as determined in Subsections 428.01 and 428.02 of this rule; or (3-30-07)(5-1-08)T

~~b. The self-employment actual expense deduction is determined by subtracting the actual allowable expenses from the gross monthly self-employment income.~~

431. COMPUTING FARMING SELF-EMPLOYMENT INCOME.

~~For farming self-employment, compute net income by subtracting allowable expenses from the gross income as follows in Subsections 431.01 through 431.04 of these rules.~~ (3-30-07)

~~01. Determine Monthly Earnings.~~ If no income fluctuations are expected, the average monthly amount is projected for the certification period. If past ~~earnings are not reflective of~~ expected future ~~earnings,~~ ~~make a proportionate adjustment to the expected monthly earnings.~~ ~~Determine the monthly earnings by using one (1) of the following:~~ (3-30-07)

~~a. If tax returns are available, use the information on the return to determine an appropriate average monthly earnings amount. Do not assume that the tax return reflects a full twelve (12) months of farming self-employment.~~ (3-30-07)

~~b. If no tax return is available, the farming self-employment income is averaged over the period of time the enterprise has been in operation,~~ (3-30-07)

~~02. Add Monthly Capital Gains Income.~~ Capital gains include profit from the sale or transfer of capital assets used in self-employment. ~~Calculate capital gains using the federal income tax method.~~ ~~Determine if the household expects to receive any capital gains income from farming self-employment assets during the certification period.~~ ~~Add this amount to the monthly earnings as determined in Subsection 431.01 of these rules to determine the gross monthly income.~~ (3-30-07)

~~03. **Subtract Allowable Expenses.** Subtract any allowable expenses for farming self-employment, except those listed in Subsection 431.04 of these rules for expenses that are not allowed. This is the projected farming self-employment monthly income. (3-30-07)~~

~~04. **Costs Not Allowed for Farming Self-Employment Expenses.** The following items are not allowed ~~able as costs of doing business~~ expenses and may not be subtracted from ~~the farming~~ gross monthly self-employment income. (3-30-07)(5-1-08)T~~

- ~~a.i.~~ Net losses from previous ~~certification periods~~ tax years; (3-30-07)(5-1-08)T
- ~~b.ii.~~ Federal, ~~S~~state, and local income taxes; (3-30-07)(5-1-08)T
- ~~c.iii.~~ Money set aside for retirement; (3-30-07)
- ~~d.iv.~~ Work-related personal expenses such as transportation to and from work; and (3-30-07)(5-1-08)T
- ~~e.v.~~ Depreciation. (3-30-07)

~~432. **AVERAGING FARM SELF-EMPLOYMENT INCOME.**~~

~~To be a self-employed farmer, the farmer must get or expect to get annual gross income of one thousand dollars (\$1000) or more from farming. Self-employed farmers will have their income and income-producing expenses averaged over a twelve (12) month period. This average monthly income is used to compute the amount of the Food Stamp benefits. If the average income does not reflect actual income due to a large increase or decrease in business, the farm self-employment income must be calculated based on expected earnings. For a cash crop farmer, use the gross amount from the most recent crop sale. (6-1-94)~~

~~433.2. **OFFSETTING FARM SELF-EMPLOYMENT LOSSES.**~~

~~If a farmer's cost of producing self-employment income results in a loss, the ~~loss must be~~ Department subtracted ~~s~~ the loss from other countable income in the household in accordance with 7 CFR 273.11(a)(2)(ii)(A) and (B). ~~First, subtract the loss from non-farm self-employment income. If any loss remains, subtract the remaining loss from the total of earned income. If any loss remains, subtract the remaining loss from the total of unearned income. Net losses from the self-employment income of a farmer are prorated over the year. (6-1-94)(5-1-08)T~~~~

~~434. **TERMINATION OF FARM SELF-EMPLOYMENT INCOME.**~~

~~Where a farmer stops a farming operation during a certification period, remove the annualized income, expenses and loss for the remaining months in the certification period. (6-1-94)~~

4350. -- 499. (RESERVED).