

DEPARTMENT OF HUMAN SERVICES FAMILY INVESTMENT ADMINISTRATION	FOOD SUPPLEMENT PROGRAM MANUAL	
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200.1 Purpose

This section describes the Food Supplement Program (FSP) resource limitations, included and excluded resources, and disqualification for certain transfers of resources.

Please note that resources are not considered when determining eligibility for categorically eligible households. **Remember, because of expanded categorical eligibility, you should not have any non-categorically eligible FSP households.**

200.2 General Information

Uniform resource eligibility limits must be applied to non-categorically eligible households. The maximum allowable non-exempt resource limit is \$2,250. Households containing an elderly member (age 60 or over) or disabled member are permitted to have \$3,250 in non-exempt resources. See Food Supplement Program Manual section 212.3B 2-13 for the list of benefits that make non-categorically eligible households eligible for the higher resource standard because of disability.

Note: The resource limits described above **do not apply** to categorically eligible households as described in section 115 (Categorical Eligibility) of this manual. Almost all FSP households are categorically eligible and this policy on counting resources does **not** apply to them.

200.3 Included Resources for Households That Are Not Categorically Eligible

- A. **Only for households that are not categorically eligible**, document a household's resources at the point of application in sufficient enough detail to permit verification. Verify the source, amount and frequency of all non-exempt resources only for households that are not categorically eligible.
- B. Only for non-categorically eligible households, verify non-exempt resources at application and recertification.
- C. The value of non-exempt resources is the equity value. The equity value is the fair market value less any amount owed on the resource.

200.31 Countable Resources

Consider the following when determining the value of a household's resources:

- A. Liquid resources, such as:
 - 1. Cash on hand, and
 - 2. Checking or savings accounts.

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200.31 Countable Resources (continued)

B. Non-recurring lump sums

Consider non-recurring lump sums as a resource in the month received unless otherwise excluded. Lump sum payments include but are not limited to the following:

1. Income tax refunds, rebates, or credits;
2. Retroactive Social Security benefits, SSI, TCA, Railroad Retirement or any other retroactive benefits payment;
3. Lump sum insurance settlements;
4. Refunds of rent or utility deposits;
5. Cash lottery prizes; and
6. A Welfare Avoidance Grant (WAG)

Reminder: Some WAG payments are reimbursements. See Sec. 211.3G for treatment of reimbursements.

Note: Interim assistance to families awaiting benefits from unemployment, social security or SSI may not be excluded as a non-recurring lump sum payment because the payment is designed to provide assistance for normal living expenses.

If the local department anticipates only one payment, consider it a non-recurring lump sum payment if it meets the above criteria. However, if a second payment is made later in the same 12 month period, do not consider the second payment a non-recurring lump sum. Either count the second WAG payment as income or, if applicable, exclude it as a reimbursement.

If more than one payment is anticipated, count them as income or, if applicable, exclude them as reimbursements.

200.32 Jointly Owned Resources

- A. Consider resources owned jointly by two or more households totally available to the applicant unless the applicant can demonstrate that the resource is inaccessible.

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200.32 Jointly Owned Resources (continued)

- B. Consider a resource unavailable to the household if it cannot be practically subdivided and the household's access to it is dependent on the agreement of the joint owner who refuses to comply.
- C. Count only the accessible portion if a household has access to only a portion of a resource. Disregard the entire value of the resource if it is totally inaccessible because the joint owner refuses to cooperate.
- D. Consider the resources of residents of shelters for battered women and children (as defined in Section 103 of this manual) as inaccessible when:
 - 1. The resources are jointly owned by members of their former household; and
 - 2. The resident's access to the resources is dependent on the agreement of the joint owner who still resides in the former household.

200.33 Resources of Non-Household Members

- A. Exclude the resources of non-household members in non-categorically eligible households, such as ineligible students, unless the individual is:
 - 1. Disqualified for failure to provide a social security number,
 - 2. An ineligible alien,
 - 3. Disqualified for an Intentional Program Violation (IPV),
 - 4. A felony drug felon,
 - 5. A fleeing felon,
 - 6. Disqualified for failure to comply with work requirements, or
 - 7. An able-bodied adult without dependents (ABAWD).
- B. For the above categories of disqualified persons, count the person's resources as available to the remaining eligible household members.

200.4 Excluded Resources

Certain resources are not counted when determining whether a household is below the allowable resource limit. **Remember, because of expanded categorical eligibility, you should not have any non-categorically eligible FSP households.**

200.41 Excluded Resources

- A. Exclude all resources except for cash on hand and checking and savings accounts. B – H describes resources that may be deposited in a bank account but are excluded.

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200.41 Excluded Resources (continued)

B. Disaster-related loans and grants

Exclude any governmental payment designated to restore a home damaged in a disaster, if the household is subject to a legal sanction for using the payment for other purposes.

C. Inaccessible resources

1. Inaccessible resources include but are not limited to the following:

- (a) Irrevocable trust funds;
- (b) Inaccessible jointly owned resources;

2. Consider as inaccessible any funds in a trust, or transferred to a trust, including income produced by the trust if:

- (a) The trust arrangement is not likely to end during the certification period;
- (b) No household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;
- (c) The trustee administering the fund is either:
 - (i) A court, or an institution, corporation, or organization that is not under the direction or ownership of any household member, or
 - (ii) An individual (including a household member) who has court imposed limitations to restrict use of the fund to benefit the specific person named by the trust;
- (d) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction or influence of a household member; and
- (e) The funds in the irrevocable trust are either from:
 - (i) The household's own funds solely to make investments on behalf of the trust to pay the educational or medical expenses of any person named by the household creating the trust, or
 - (ii) Non-household funds by a non-household member.

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200.41 Excluded Resources (continued)

D. Resources that have been prorated as income

This includes income of students or self-employed persons

E. Resources/income excluded by federal statute

1. Benefits received under the special supplemental food program for women, infants and children (WIC);
2. Benefits received under the National School Lunch Act (School Lunch and Breakfast Programs, Summer Food Service Program for Children, Commodity Distribution Program, Child and Adult Care Food Program);
3. Benefits received under the Disaster Relief Act;
4. Benefits received under the Higher Education Act;
5. Benefits received from the Workforce Innovation and Opportunity Act except for on-the-job training payments to:
 - (a) Youths, other than dependents under 19 years old, in year round programs, and
 - (b) Adults;
6. Benefits received under the Agent Orange Compensation Exclusion of 1989;
7. Benefits received under the Radiation Exposure Compensation Act of 1990;
8. Benefits received under the Civil Liberties Act of 1988 (Wartime Relocation of Civilians);
9. Benefits received under the Crime Act of 1984;
10. Benefits received under the Nazi Persecution Crime Act;
11. Benefits received under Public Law 104-204 (Payments to a child of a Vietnam veteran for a disability resulting from spina bifida suffered by the child);
12. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970;

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200.41 Excluded Resources (continued)

13. Payments received under the Alaska Native Claims Settlement Act or the Sac Fox Indian claims agreement;
14. Payments received by certain Indian tribal members involving sub-marginal land held in trust by the United States;
15. Payments received from the disposition of funds to the Grand River Band of Ottawa Indians;
16. Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission;
17. Payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1990;
18. Payments of relocation assistance to members of the Navajo and Hopi Tribes;
19. Energy assistance payments under the following circumstances:
 - (a) Federal energy assistance, except that provided under Title IV-A of the Social Security Act (Personal Responsibility and Work Opportunity Reconciliation Act of 1996);
 - (b) Federal or State one-time assistance for weatherization or emergency repair, or replacement of heating or cooling devices;
 - (c) Low-Income Home Energy Assistance Program (LIHEAP) and Electric Universal Service Program (EUSP) payments or allowances. LIHEAP funds the Maryland Energy Assistance Program (MEAP);
 - (d) State or local general assistance for energy assistance which (under State law cannot be provided in cash directly to the household);
20. All student financial assistance;
21. Any Federal, State, or local Earned Income Tax Credit (EITC),

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200.41 Excluded Resources (continued)

- F. Where an exclusion applies because of the use of a resource by or for a household member, the exclusion will also apply when the resource is used by or for an ineligible alien or disqualified member whose resources are counted as part of the household's resources.
- G. The resources of any household member who receives SSI, TCA or TDAP or Public Assistance to Adults (PAA) or any service funded by the Temporary Assistance to Needy Families (TANF) program.
- H. Funds deposited into an individual development account (IDA).

200.42 Handling Excluded Funds

- A. Excluded funds, including any interest earned on those funds, kept in a separate account remain excluded indefinitely.
- B. Any excluded funds co-mingled in an account with other funds remain exempt for six months only. Six months after the funds are co-mingled, consider all funds in the account before the end of the sixth month a countable resource.
- C. Once excluded funds are co-mingled, they cannot later be withdrawn and placed in a separate account for the purposes of an exemption.

EXCEPTION: The resources of students and self-employed persons that have been prorated as income retain their exclusion for the period of time over which they were prorated.

200.43 Verification

Verification of an excluded resource is not ordinarily required because the resource does not affect household eligibility. Request verification in questionable cases (e.g. the household misrepresents an otherwise countable resource as one that would be excluded).

200.5 Transfer of Resources

Remember, because of expanded categorical eligibility, you should not have any non-categorically eligible FSP households.

- A. At application, request non-categorically eligible households to provide information regarding any resources the household has transferred during the three-month period immediately preceding the date of application.
- B. Disqualify from participation in the FSP those households that transfer resources knowingly, for the purposes of qualifying or attempting to qualify for benefits (the disqualification period is for up to one year from the date of transfer discovery).

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200.5 Transfer of Resources (continued)

- C. The disqualification penalty also applies to households that transfer resources after they are determined eligible for the purpose of remaining eligible. For example, a household acquires a resource after being recertified, and transfers the resource to avoid exceeding the resource limit.

200.51 Acceptable Transfers

The following transfers do not affect eligibility for FSP:

- A. Resources that do not otherwise affect eligibility, including resources that are already excluded or resources that, when added to all other non-exempt resources, would not put the household over the limit;
- B. Resources that are sold or traded at, or near, fair market value.

Note: Evaluate as a resource the money or items received in trade, unless the resource is otherwise exempt. If a household subsequently transfers the money or items, evaluate the second transfer separately.

- C. Resources that are transferred between members of the same FSP household;
- D. Resources that are transferred for reasons other than qualifying or attempting to qualify for benefits. For example, a parent sets up an educational trust fund that meets the definition of an excludable trust fund.

200.52 Establishing a Disqualification

Give households a reasonable opportunity to explain the circumstances surrounding a transfer of resources. Do not disqualify the household if the household can establish a valid reason for the transfer, other than the intent to qualify. **Do not disqualify a categorically eligible household.**

- A. Deny the household's application if it is determined it transferred resources knowingly, with the intent to qualify for benefits. The denial notice must state the reason for and length of disqualification as well as the right to a fair hearing.
- B. The disqualification period begins with the month of application.
- C. Send a Notice of Adverse Action explaining the reason for and length of the disqualification if a household's case is active at the time a transfer is discovered.

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200.52 Establishing a Disqualification (continued)

- D. The disqualification period begins with the first allotment following the expiration of the adverse action period, unless the household requests a fair hearing and continued benefits (benefits are not continued if the certification period has expired and eligibility has not been redetermined).
- E. Do not impose a disqualification penalty more than once for the same transfer. The case manager must very clearly document that the disqualification was implemented.

200.53 Determining the Length of the Disqualification

- A. Base the length of disqualification on the amount that **exceeds** the resource limit when the value of the transferred resource is added to all other countable resources.
- B. To determine the length of the disqualification period:
 1. Add the value of the transferred resource to the total countable resources;
 2. Subtract the appropriate resource limit from the total amount;
 3. The remainder is the amount in excess of the resource limit that is used to determine the length of the disqualification:

AMOUNT IN EXCESS OF RESOURCE LIMIT	PERIOD OF DISQUALIFICATION
\$ 0 - 249.99	1 Month
250 - 999.99	3 Months
1,000 - 2,999.99	6 Months
3,000 - 4,999.99	9 Months
5,000 or More	12 Months

EXAMPLE: A one-person household that is not categorically eligible, with \$5,000 in the bank, transfers \$3,500 to a relative. A determination is made that the transfer was made for the purpose of qualifying for the program, resulting in disqualification of the household. The amount in excess of the resource limit is computed as follows:

\$ 3,500	Transferred amount
<u>1,500</u>	Bank account
\$ 5,000	(total resources)
<u>- 2,000</u>	(resource limit)
\$ 3,000	(excess resources)

Based on this computation, the household is disqualified for a period of 9 months.