

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

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460 FINANCIAL RESPONSIBILITY AND DEEMING

In determining an individual's eligibility for Adult Public Assistance, certain other individuals are considered financially responsible for the APA applicant or recipient. This chapter explains how the income and resources of financially responsible individuals are treated when determining eligibility and benefit levels for APA.

460-1 DEFINITIONS

A. ALLOCATION

An allocation is an amount deducted from income subject to deeming which is considered to be set aside for the support of certain individuals other than the APA applicant or recipient.

B. DEEMING

Deeming is the process of considering another person's income and resources available to meet the needs of the APA applicant or recipient.

C. DEPENDENT

A dependent for the purpose of allowing an allocation against the income of an alien sponsor is the same as a dependent for federal income tax purposes; a dependent is someone for whom the taxpayer is entitled to take a deduction on his or her personal income tax return.

D. INELIGIBLE CHILD

An ineligible child for the purpose of allowing an allocation against the income of an ineligible spouse is the natural or adopted child of either the eligible or ineligible spouse, who lives in the same household with the eligible individual, is not eligible for SSI, and who is:

1. Under age 18; or
2. Under age 22 and a student regularly attending a school, college, or a university, or a course of vocational training in preparation for gainful employment.

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E. SPONSOR

A sponsor is an individual who signs an affidavit of support agreeing to support an alien as a condition of the alien's admission for permanent residence in the U.S. An alien may have more than one sponsor. For deeming purposes, a sponsor does not include an organization such as the congregation of a church or a service club, or an employer who only guarantees employment for an alien upon entry but does not sign an affidavit of support.

F. SPOUSE

Spouses are people of opposite sexes who are married to each other. For APA purposes, this definition includes people who are known to their neighbors, relatives, or friends as a married couple or who are holding themselves out to the community as husband and wife.

The State of Alaska does not recognize "Common Law" marriages as some states do. The fact that an unmarried couple is living together does not mean that they are holding themselves out to the community as a married couple.

In situations where a couple indicates that they are not married and that they do not hold themselves out to be married, and there is reason to doubt their claim, the case worker must determine their couple status based on the available evidence. Some questions that should be asked to establish whether or not the partners meet the definition of spouses are:

1. What name or names are they known by? Are they known as Mr. and Mrs.? How do they introduce each other to friends, relatives, or others?
2. How are legal contracts such as rental agreements, mortgages, loans, and tax bills written; are both names included; are the parties identified as husband and wife?
3. What names are utility accounts in? Credit cards?
4. In what names do they receive mail, magazines, or other circulars?

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5. If they have children in common, what names are used on school enrollment records? What names were given for birth records?

Obtain documentary evidence if it is available. In questionable situations, it is essential that the reason(s) for a decision that a couple is holding themselves out to be married is thoroughly documented in the case file.

460-2 FINANCIAL RESPONSIBILITY

A. INCOME AND RESOURCES OF SPOUSES

The combined income and resources of spouses who are living together are used to determine APA eligibility and benefit amount. In this section, "living together" means that the couple resides in common living quarters and facilities under domestic arrangements that create one economic unit.

Spouses who no longer live together are treated as individuals as of the first moment of the month following the month they stopped living together. Spouses who live in the same nursing home are treated as individuals, even if they share the same room.

The resources of spouses who do not live together are not considered available to one another unless the resource is jointly owned. Consider the jointly owned resources of spouses to belong totally to each spouse. Do not consider the income of spouses who do not live together available to one another.

The income and resources of spouses may be treated differently depending on whether both spouses are eligible for APA or SSI, or only one spouse is eligible. A spouse is considered **eligible** only if he or she applies for and accepts APA or SSI benefits.

Note: Medicaid policies may differ from APA policies in the treatment of income and resources of institutionalized spouses. Refer to Medicaid manual section 5600.

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Continued

1. Income and resources of spouses who are both eligible for APA or SSI

The income and resources of spouses who are both eligible for APA or SSI, and who live together, are considered to be totally available to each other.

2. Income and resources of spouses, only one of whom is eligible for APA or SSI

The income and resources of an ineligible spouse, who is living with the APA applicant or recipient, are considered to be available to meet the needs of the APA applicant or recipient. The income and resources of the ineligible spouse are subject to the income and resource counting rules listed in the income and resource sections of this manual. However, certain additional income and resource exclusions may be available to the ineligible spouse depending on the situation. For example, Temporary Assistance benefits received by an ineligible spouse, as well as any income used to determine the amount of the Temporary Assistance benefit, are excluded income. See manual sections 460-4A (resource exclusions of ineligible spouse) and 460-6A (income exclusions of ineligible spouse).

Allocations from the income of an ineligible spouse for the care of an ineligible child may also be allowed under certain conditions. See manual section 460-5A.

B. INCOME AND RESOURCES OF ALIEN SPONSORS

The income and resources of an alien's sponsor and the sponsor's in-home spouse are considered to be available, subject to certain limited income and resource exclusions, to an alien applicant or recipient for several years. This deeming period begins with the month the alien is admitted into the U.S. for permanent residence or is granted permanent resident status. See manual sections 460-4B (resource exclusions of alien sponsors) and 460-6B (income exclusions of alien's sponsor). Alien sponsor deeming applies whether or not the alien and sponsor live together, and whether or not the sponsor actually makes his or her income and resources available to meet the needs of the alien.

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Allocations from the income of the alien's sponsor, and from the income of the sponsor's in-home spouse, may be allowed for the sponsor, the sponsor's in-home spouse, and the sponsor's dependents. See manual section 460-5B.

***Note:** The Medicaid program does not always count the income and resources of an alien sponsor when determining Medicaid eligibility. Persons who are not eligible for APA **solely** because of the income and resources of an alien sponsor may be eligible for Medicaid. (Refer to Medicaid manual section 5580.*

***Verification.** An alien is responsible for providing proof of who his or her sponsor(s) is, and for obtaining the sponsor's cooperation in the development and documentation of information necessary to determine eligibility for assistance. If either the alien or the sponsor fails to cooperate, APA benefits shall be denied or terminated.*

If a sponsor cannot be located or leaves the U.S., making verification of the sponsor's income and resources difficult, it is the alien's responsibility to get the necessary proof. If the alien does not provide proof of the sponsor's income and resources, APA benefits shall be denied or terminated.

460-3 SSI AND APA DEEMING

SSA will calculate the deemed income and resource amounts for SSI applicants and recipients. DPA will then use these deemed income and resource amounts for APA budgeting. If the case worker discovers a discrepancy in the SSI deeming calculations, he or she will continue to accept SSI deeming amounts, notify SSI of the discrepancy, and make any changes needed **after** SSI takes action.

For those cases subject to deeming that are not eligible for SSI, the case worker will use the income and resource deeming processes described in this chapter. For example, an APA applicant who is not eligible for SSI because of an ineligible spouse's or alien sponsor's deemed income may still be eligible for APA if the applicant's own countable income in combination with the countable deemed income is equal to or less than the applicable APA need standard.

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460-4 RESOURCE EXCLUSIONS OF INELIGIBLE SPOUSE AND/OR ALIEN SPONSOR

In addition to the resource exclusions available to an APA applicant or recipient, certain additional resource exclusions may be applied to the resources of an ineligible spouse and/or alien sponsor when determining the resource eligibility of an APA applicant or recipient.

A. RESOURCE EXCLUSIONS OF INELIGIBLE SPOUSE

The following resource exclusions are applied to the resources of an ineligible spouse:

1. PENSION FUNDS

Any pension funds owned by an ineligible spouse are excluded. Pension funds include, but are not limited to, funds that are held in:

- (a) Individual retirement accounts (IRA's);
- (b) Work-related pension plans (including plans for self-employed individuals, sometimes referred to as Keogh plans);
- (c) Alaska's Supplemental Benefit System (SBS);
- (d) Alaska's Public Employees Retirement System (PERS).

Example:

George Davis, who is not eligible for APA, lives with his disabled wife, Mary Davis. Mr. Davis owns a pension fund worth \$55,000. Exclude the pension fund belonging to Mr. Davis as a resource when determining Mrs. Davis' eligibility for APA.

2. OTHER RESOURCE EXCLUSIONS

All resource exclusions that apply to the resources of an APA applicant or recipient also apply to the combined resources of an APA applicant or recipient and an ineligible spouse who lives with him or her.

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Example:

A similar situation to the example in section 460-4A(1) except that the couple's resources, in addition to the pension fund owned by Mr. Davis, include their home, one vehicle which is used for essential daily activities, a savings account belonging to Mr. Davis containing \$1,300, and a joint checking account containing \$970.

The pension fund is excluded under section 460-4A. The home and the vehicle are excluded from countable resources by allowing the resource exclusions listed in manual section 432-1A and 432-2A. No funds have been designated as burial funds. The checking and savings accounts are both countable resources. The couple's combined countable resources are \$2,270 ($\$1,300 + \$970 = \$2,270$).

B. RESOURCE EXCLUSIONS OF ALIEN SPONSORS

The following resource exclusions are applied to the resources of an alien sponsor:

1. PENSION FUNDS

If the alien's sponsor is also the alien's ineligible spouse or parent, and that spouse or parent owns a pension fund, exclude the pension fund from resource determinations for the alien. This exclusion does not apply to alien sponsors who are not the alien's ineligible spouse or parent.

2. OTHER RESOURCE EXCLUSIONS

Apply the same exclusions that apply to an APA applicant's or recipient's resources to the resources of an alien's sponsor.

460-5 INCOME ALLOCATIONS

An allocation for an ineligible child may be applied against the income of an ineligible spouse. Certain allocations may also be applied against the income of an alien sponsor and an alien sponsor's spouse. Income allocations are applied first to unearned income and then to earned income.

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A. INCOME ALLOCATIONS OF AN INELIGIBLE SPOUSE

An allocation from an ineligible spouse's income is allowed for each child who is not eligible for SSI and who lives in the same household. No allocation is given for any child who is receiving a public income maintenance payment (such as Temporary Assistance) as defined in section 460-6A(1). Ineligible child allocations are always applied before the income exclusions listed in section 460-6A are applied.

The amount of the allocation is equal to the difference between the SSI maximum payment standard for a couple in an independent living arrangement and the SSI maximum payment standard for an individual. In 2000, this amount is \$257 ($\$769 - \$512 = \257). Subtract these allocations from the ineligible spouse's income before any income exclusions are applied.

Each ineligible child's allocation is reduced by the amount of the child's own income, including child support payments received on the child's behalf from an absent parent. (Children who are not eligible for SSI do not receive the one-third child support exclusion that is allowed to an SSI-eligible child.)

Example:

In 2000, Mr. Steven Davis and his disabled spouse, Jane, live with their three minor children, Ben, Robert, and Joshua. None of the children are eligible for SSI. Mr. Davis receives gross monthly earnings of \$2,000. Mrs. Davis' only source of income is a gross monthly pension of \$225.

Mr. Davis receives monthly child support of \$100 from his ex-wife for one child, Ben. The other two children, Robert and Joshua, receive no income. Allow allocations from Mr. Davis' monthly earned income for each ineligible child living in the home. Ben's monthly child support payment of \$100 reduces his allocation dollar-for-dollar.

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Continued

Determine the amount of the allocations allowed against the gross monthly income of Mr. Davis as follows:

\$2,000	<i>Mr. Davis' gross monthly earned income</i>
	<i>Less ineligible child allocations for:</i>
- \$ 157	<i>Ben (\$257 - \$100 = \$157)</i>
- \$ 257	<i>Robert</i>
- <u>\$ 257</u>	<i>Joshua</i>
= \$1,329	<i>Amount of Mr. Davis' gross monthly earned income after subtracting ineligible child allocations</i>

Mr. Davis' remaining gross monthly income is then combined with that of Mrs. Davis. This combined income, after the income exclusions listed in section 460-6 are applied, is used to determine APA eligibility and benefit level for Mrs. Davis.

In this example, the \$20 general income exclusion is applied against the couple's unearned income of \$225 ($\$225 - \$20 = \205), and the \$65 plus 1/2 of any remaining earned income exclusions are applied against the couple's earned income amount after allocations of \$1,329 ($\$1,329 - \$65 = \$1,264$. $\$1,264 \times 1/2 = \632 .). The resulting amount of \$837 ($\$205 + \$632 = \837) is used to determine Mrs. Davis' APA eligibility and benefit level.

B. INCOME ALLOCATIONS OF ALIEN'S SPONSOR

The following allocations may be allowed against the income of an alien sponsor:

1. SPONSOR ALLOCATION

An allocation from a sponsor's own income is given for the sponsor when deeming the sponsor's income to an alien. The amount of the allocation for a sponsor is the SSI maximum payment standard for an individual in an independent living arrangement. In 2000, this amount is \$512. The allocation reduces the amount of the sponsor's income dollar-for-dollar.

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Continued

2. SPONSOR'S SPOUSE ALLOCATION

If the spouse is a co-sponsor: An allocation for the sponsor's spouse, who lives in the same household as the sponsor, is given when deeming the sponsors' income to an alien. The amount of the allocation is equal to the SSI maximum payment standard for an individual in an independent living arrangement. In 2000, this amount is \$512.

If the spouse is not a co-sponsor: An allocation for the sponsor's spouse, who lives in the same household as the sponsor, is given when deeming the sponsor's income to an alien. The amount of the allocation is equal to one-half the SSI maximum payment standard for an individual living independently (an "A" living arrangement). In 2000, this amount is \$256 ($\$512 \times 1/2 = \256).

Example:

In January 2000, Ms. Lieu Wong, an aged alien sponsored by her son, is subject to sponsor deeming. She lives with her son, who is the sole sponsor, and daughter-in-law. They have no children or dependents. The son's total earned and unearned income is \$1,700. The daughter-in-law has no income. Ms. Lieu Wong has no income of her own and receives both food and shelter from her son. In 2000, the monthly income considered available to Ms. Lieu Wong from the sponsor's income is determined as follows:

	\$1,700	Income of sponsor and wife
-	\$ 512	Sponsor allocation
-	<u>\$ 256</u>	Sponsor's spouse allocation
=	\$ 932	Amount deemed available from sponsor

The amount of the sponsor's income considered available to meet the needs of Ms. Lieu Wong exceeds the APA payment standard for an individual living in another's household (\$786 in 2000). Ms. Lieu Wong is not eligible for APA based on 2000 payment standards.

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3. SPONSOR'S DEPENDENT ALLOCATION

An allocation for each dependent of a sponsor of an alien is deducted from the sponsor's income before it is deemed to the alien. The allocation for each dependent is equal to one-half the SSI maximum payment standard for an individual in an independent living arrangement. In 2000, this amount is \$256 ($\$512 \times 1/2 = \256). The dependent allocation is **not** reduced by the dependent's own income.

Example:

A similar situation to example in section 460-5B(2), except that the sponsor's family consists of the sponsor, his wife and child, and one dependent sister. The monthly income considered available to Ms. Lieu Wong from the sponsor's income is determined as follows:

	\$1,700	Income from sponsor and wife
-	\$ 512	Sponsor allocation
-	\$ 256	Sponsor's spouse allocation
-	\$ 256	Dependent allocation for child
-	<u>\$ 256</u>	Dependent allocation for sister
=	\$ 420	Amount deemed available from sponsor

The amount of the sponsor's income considered available to meet the needs of Ms. Lieu Wong does not exceed the APA payment standard for an individual living in another's household (\$786 in 2000). Ms. Lieu Wong is income eligible for APA based on 2000 standards.

**460-6 INCOME EXCLUSIONS OF INELIGIBLE SPOUSE
AND/OR ALIEN SPONSOR**

After all possible income **allocations** are allowed against the income of an ineligible spouse and/or alien sponsor, the following income **exclusions** are applied against the income of an ineligible spouse and/or alien sponsor when determining the income eligibility of an APA applicant or recipient.

A. INCOME EXCLUSIONS OF AN INELIGIBLE SPOUSE

The following income exclusions are applied to the income of an ineligible spouse:

1. PUBLIC INCOME MAINTENANCE PAYMENTS

Exclude any public income maintenance payments received by an ineligible spouse, and any income that was counted or considered and excluded in figuring the amount of the payment. **This exclusion applies only to the income of the ineligible spouse, not to the resources of the ineligible spouse.**

A public income maintenance payment is any financial assistance furnished by a state, political subdivision of a state, or the United States on the basis of need. This exclusion does not apply to SSI benefits, nor to income taken into account in determining eligibility for and amount of SSI benefits. Public income maintenance payments include:

- (a) Temporary Assistance;
- (b) Bureau of Indian Affairs General Assistance (BIA-GA);
- (c) VA pension payments based on need; and
- (d) All state or local government assistance programs where eligibility is based on need.

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Continued

Example:

Mr. Fred Fisher lives with his wife Elizabeth and their two minor children. Mr. Fisher is eligible for APA as a disabled individual. Mrs. Fisher receives Temporary Assistance for herself and their two children. Mr. Fisher's only source of income is a gross monthly pension payment from the Civil Service of \$500. Mrs. Fisher's only sources of income are her monthly Temporary Assistance benefits and the earnings she receives from a part-time job of \$600 a month. Part of Mrs. Fisher's earnings are disregarded in the Temporary Assistance eligibility and payment calculations.

Because Mrs. Fisher's monthly earnings are used to calculate her Temporary Assistance benefit, exclude both the entire amount of her earnings and her Temporary Assistance benefits. The countable income used to determine the APA benefit is Mr. Fisher's monthly Civil Service payment of \$500.

2. SUPPORT PAYMENTS

Exclude any income used by an ineligible spouse to make child or spousal support payments under a court order or in compliance with a state agreement under Title IV-D of the Social Security Act. In Alaska, Title IV-D is handled by the Child Support Services Division (CSSD). This exclusion is applied before the other income exclusions listed in #3 below.

Example:

Mr. Jerry Smith lives with his disabled spouse Mary. Mr. Smith receives monthly gross earnings from work of \$1,500. As required by a court order, each month Mr. Smith sends \$325 to his ex-wife for the support of his 16-year-old son. Mrs. Smith's only source of income is a monthly Social Security Disability benefit of \$100.

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The amount of support paid by Mr. Smith each month is excluded from Mr. Smith's own income as follows:

	\$1,500	<i>Mr. Smith's gross monthly earnings</i>
-	<u>\$ 325</u>	<i>Less child support payment</i>
=	\$1,175	<i>Mr. Smith's gross monthly income after child support exclusion is applied</i>

The remaining earned and unearned income of both Mr. and Mrs. Smith is then combined and all other possible income exclusions are applied to the combined income to determine APA eligibility and benefit levels for Mrs. Smith.

In this example, the \$20 general income exclusion is applied against the couple's unearned income of \$100 ($\$100 - \$20 = \80). Then, the \$65 plus 1/2 of any remaining earned income exclusions are applied against the couple's remaining earned income amount of \$1,175 ($\$1,175 - \$65 = \$1,110$. $\$1,110 - \$555 = \$555$). The resulting amount of \$635 ($\$80 + \$555 = \635) is used to determine Mrs. Davis' APA eligibility and benefit level.

3. OTHER INCOME EXCLUSIONS

All income exclusions that apply to an eligible individual's income also apply to the combined income of an eligible individual and an ineligible spouse. Apply these exclusions only after the income of the ineligible spouse is combined with the income of the APA applicant or recipient.

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B. INCOME EXCLUSIONS OF ALIEN SPONSORS

Income exclusions available to an alien sponsor are limited. All the income of an alien sponsor, as well as the income of the alien sponsor's spouse, is included when determining the amount of the sponsor's income that is subject to deeming. From this amount subtract income that is excluded by federal statutes (as described in manual section 442-3A) and Home Energy Assistance (as described in manual section 442-3H). No other income is subtracted from the income of an alien's sponsor, except for the allocations allowed in section 460-5B.

The deemed sponsor income is considered as unearned income to the APA applicant or recipient. If a person is sponsoring more than one alien, the sponsor's income is **not** prorated among the aliens. For example, when both members of a couple have the same sponsor, the sponsor's income is deemed to each member of the couple. The couple's deemed sponsor income is the sum of their deemed income amounts.

The income exclusions that apply to the APA applicant's or recipient's own income are applied only after the sponsor's deemed income is combined with the income of the APA applicant or recipient. For example, the \$20 general income exclusion is subtracted from the combination of the sponsor's deemed income and the alien's own income.

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