

**CHAPTER 75-02-01.2
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM**

Section	
75-02-01.2-01	Definitions
75-02-01.2-02	County Demonstration Projects
75-02-01.2-02.1	Diversion
75-02-01.2-02.2	Kinship Care Assistance
75-02-01.2-02.3	Transition Assistance
75-02-01.2-03	Request for Benefits
75-02-01.2-03.1	Upfront Eligibility
75-02-01.2-04	Applicant's or Guardian's Duty to Establish Eligibility
75-02-01.2-05	Verification
75-02-01.2-06	Selection of Primary Individual
75-02-01.2-07	Presumptive Eligibility [Repealed]
75-02-01.2-08	Notification of Program Requirements
75-02-01.2-09	Decision and Notice
75-02-01.2-10	Monthly Report - Must Be Complete and Timely
75-02-01.2-11	Good Cause for Failure to Submit Complete and Timely Monthly Report [Repealed]
75-02-01.2-12	Determining Claims of Good Cause
75-02-01.2-13	Residence
75-02-01.2-14	Deprivation of Parental Support or Care
75-02-01.2-15	Continued Absence of a Parent
75-02-01.2-16	Unemployment of the Principal Wage Earner - Pay After Performance [Repealed]
75-02-01.2-17	Death of a Parent
75-02-01.2-18	Incapacity of a Parent
75-02-01.2-19	Legal Custody [Repealed]
75-02-01.2-20	Eligibility Throughout Month
75-02-01.2-21	Asset Considerations
75-02-01.2-22	Asset Limits
75-02-01.2-23	Exempt Assets
75-02-01.2-24	Lump Sums Received by a Member of the Household
75-02-01.2-25	Good-Faith Effort to Sell Real Property
75-02-01.2-26	Disqualifying Transfers
75-02-01.2-27	Social Security Numbers
75-02-01.2-28	Eligibility for Aliens Who Arrived Before August 22, 1996 [Repealed]
75-02-01.2-28.1	Eligibility for Aliens Who Arrived on or After August 22, 1996 [Repealed]
75-02-01.2-29	Ineligibility Due to Participation in Strikes
75-02-01.2-30	Limitation on Benefits to Pregnant Women
75-02-01.2-30.1	Benefit Cap
75-02-01.2-31	Age of Parent - Effect on Eligibility
75-02-01.2-32	Value of Benefit

75-02-01.2-33	Assignment of Right to Support
75-02-01.2-34	Good Cause for Failure or Refusal to Cooperate in Obtaining Support or Establishing Paternity
75-02-01.2-35	Combined Requirements
75-02-01.2-35.1	Time Limit on Certain Benefits – Exceptions
75-02-01.2-36	Determining Membership in Training, Education, Employment, and Management Household [Repealed]
75-02-01.2-37	Determining Membership of the Household
75-02-01.2-38	Determining Membership of the Food Stamp Filing Unit [Repealed]
75-02-01.2-39	Determining Membership of the Low Income Home Energy Assistance Program Filing Unit [Repealed]
75-02-01.2-40	Combined Supplemental Security Income and Temporary Assistance for Needy Families Households
75-02-01.2-41	Recipients Living Out of State
75-02-01.2-42	Grant Amount in Whole Dollars
75-02-01.2-43	Benefits Less Than Ten Dollars
75-02-01.2-44	Income Described
75-02-01.2-45	Excluded Income
75-02-01.2-46	Gross Income Test [Repealed]
75-02-01.2-47	Budgeting Process
75-02-01.2-48	Net Income Test
75-02-01.2-49	Income Considerations
75-02-01.2-50	Earned Income Considerations
75-02-01.2-51	Disregarded Income
75-02-01.2-52	Voluntary Quit or Refusal of Employment
75-02-01.2-53	Deduction for Dependent Care
75-02-01.2-54	Unearned Income Considerations
75-02-01.2-55	Reinstatement Following Suspension or Case Closing
75-02-01.2-56	Computing Payment for First and Second Months of Eligibility
75-02-01.2-57	Computing Payment for Months Following the Second Month of Eligibility
75-02-01.2-58	Computing Payment Where Individuals Are Added to the Household
75-02-01.2-59	Computing Payments Where Individuals Leave the Household
75-02-01.2-60	Computing Payment Where Stepparent or Alien Parent Income Is Deemed
75-02-01.2-61	Computing Benefits When an Individual's Needs Are Deleted From the Cash Grant
75-02-01.2-62	Computing Payment for a Child in Boarding School
75-02-01.2-63	Budgeting in Unusual Circumstances
75-02-01.2-64	Essential Services
75-02-01.2-65	Catastrophic Events and Unforeseen Circumstances
75-02-01.2-66	Medical Insurance Premiums
75-02-01.2-67	Child Restraint Systems
75-02-01.2-68	High School Graduate or General Equivalency Diploma Incentive Payment

75-02-01.2-68.1	Housing Allowance
75-02-01.2-69	Unrestricted Payment of Assistance - Exceptions
75-02-01.2-70	Payee
75-02-01.2-71	Making Payment - Correcting Overpayments and Underpayments
75-02-01.2-72	Intentional Program Violation - Disqualification Penalties
75-02-01.2-72.1	Denial of Assistance for Fugitive Felons, Probation and Parole Violators, and Certain Convicted Drug Offenders
75-02-01.2-73	Health Tracks
75-02-01.2-74	Assessment and Case Plan [Repealed]
75-02-01.2-75	Temporary Assistance for Needy Families Social Contract [Repealed]
75-02-01.2-76	Social Contract [Repealed]
75-02-01.2-77	Annual Reassessment [Repealed]
75-02-01.2-78	Mandatory Contract Requirements [Repealed]
75-02-01.2-79	Sanctions for Noncompliance with Temporary Assistance for Needy Families Program Requirements
75-02-01.2-80	Good Cause Determination
75-02-01.2-81	Good Cause for Failure to Complete Temporary Assistance for Needy Families Social Contract [Repealed]
75-02-01.2-82	Job Opportunities and Basic Skills Program - Definitions
75-02-01.2-83	Job Opportunities and Basic Skills Program – Basic Requirements [Repealed]
75-02-01.2-84	Job Opportunities and Basic Skills Program – Satisfactory Participation
75-02-01.2-85	Job Opportunities and Basic Skills Program – Work Requirements
75-02-01.2-86	Job Opportunities and Basic Skills Program - Tribal Native Employment Works Program
75-02-01.2-87	Job Opportunities and Basic Skills Program – Exemptions From Participation
75-02-01.2-88	Job Opportunities and Basic Skills Program - Referral
75-02-01.2-89	Job Opportunities and Basic Skills Program - Orientation, Assessment, and Employability Planning [Repealed]
75-02-01.2-90	Job Opportunities and Basic Skills Program – Supportive Services and Post Temporary Assistance for Needy Families Supportive Services
75-02-01.2-91	Job Opportunities and Basic Skills Program – Educational Activities Related to Secondary Education, Basic and Remedial Education or Education in English Proficiency [Repealed]
75-02-01.2-92	Job Opportunities and Basic Skills Program - Job Skills Training Directly Related to Employment [Repealed]
75-02-01.2-93	Job Opportunities and Basic Skills Program – Unsubsidized Employment [Repealed]
75-02-01.2-94	Job Opportunities and Basic Skills Program - Job Search and Job Readiness [Repealed]
75-02-01.2-95	Job Opportunities and Basic Skills Program – Job Development and Job Placement Activities [Repealed]

75-02-01.2-96	Job Opportunities and Basic Skills Program – Vocational Education [Repealed]
75-02-01.2-97	Job Opportunities and Basic Skills Program - Provision of Child Care Services to Another Participant Engaged in a Community Service Program [Repealed]
75-02-01.2-98	Job Opportunities and Basic Skills Program – Work Experience and Community Service Program [Repealed]
75-02-01.2-99	Job Opportunities and Basic Skills Program – Work Readiness Activities [Repealed]
75-02-01.2-100	Job Opportunities and Basic Skills Program - On-the-Job Training [Repealed]
75-02-01.2-101	Job Opportunities and Basic Skills Program – Subsidized Public or Private Sector Employment [Repealed]
75-02-01.2-102	Job Opportunities and Basic Skills Program - Failure or Refusal to Participate
75-02-01.2-103	Job Opportunities and Basic Skills Program - Good Cause for Failure or Refusal to Comply With a Referral to, or Participate in, the Job Opportunities and Basic Skills Program
75-02-01.2-104	County Administration

SECTION 1: Section 75-02-01.2-02.2 is amended as follows:

75-02-01.2-02.2. Kinship care assistance.

1. Kinship care provides a monthly maintenance payment and supportive services to a child residing outside the child’s parental home with a caretaker who is related to that child within the fifth degree of kinship. To be eligible:
 - a. A court of competent jurisdiction must have entered an order placing a child’s care, custody, and control with a county agency, an official of a county agency, the executive director of the department, or the division of juvenile services; and
 - b. Before placing a child in kinship care for more than thirty days, the child’s custodian must have completed a family study, a child abuse and neglect background check, and other investigations, as identified in chapter 75-03-14, as the department may determine necessary to demonstrate that:
 - (1) The home in which care is provided is in fit and sanitary condition and properly equipped to provide good care to the child;

- (2) The caretaker and other adults residing in the home of the caretaker properly qualify to carry out the duties and responsibilities of a kinship care provider;
 - (3) Kinship care provided in the home is for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all children cared for in the home; and
 - (4) The home is maintained according to standards prescribed for its conduct by the department.
2. Within the limits established by the department, supportive services may provide reimbursements for child care expenses, transportation, clothing, emergent needs, activity fees, and, as a payer of last resort, reasonable legal fees incurred by or on behalf of a child and approved by the department.
 3. For purposes of this section, a relative is within the fifth degree of kinship if the relative by birth, marriage, or adoption, is the child's sibling; niece; nephew; grandniece; grandnephew; grandparent; aunt; uncle; first cousin; first cousin once removed; great-grandparent; great-aunt; great-uncle; parent's first cousin; great, great-grandparent; great, great-aunt; great, great-uncle; or great, great, great-grandparent.
 4. Kinship care monthly maintenance payments must be the same as the standard of need amount for a shared living arrangement for a child under the temporary assistance for needy families program and an additional monthly amount established by the department.

History: Effective June 1, 2005; amended effective January 1, 2009; January 1, 2011; January 1, 2017.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

SECTION 2: Section 75-02-01.2-06 is amended as follows:

75-02-01.2-06. Selection of primary individual.

1. Each household shall have a primary individual. The primary individual must be identified among the household members, with one of the following relationships to a dependent child member of the household, using the following order of priority:
 - a. A natural or adoptive parent;
 - b. An adult relative, within the fifth degree of kinship;

- c. A stepparent;
 - d. A spouse of any person identified in subdivision a, b, or c, whether or not that marriage is terminated by death or divorce; and
 - e. A minor brother, sister, half-brother, half-sister, stepbrother, or stepsister who is at least sixteen years of age.
2. The primary individual may be eligible or ineligible for the assistance. ~~An ineligible caretaker who receives supplemental security income benefits may not receive assistance from the program.~~

History: Effective December 9, 1996; amended effective July 1, 1997; January 1, 2003; January 1, 2017.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

SECTION 3: Section 75-02-01.2-11 is repealed.

75-02-01.2-11. Good cause for failure to submit complete and timely monthly report.

~~Good cause for failure to submit a complete and timely monthly report exists only if:~~

- ~~1. The monthly report form was unavailable to the household because none was sent or it was lost in the mail;~~
- ~~2. The monthly report form was returned to the sender due to lack of sufficient postage;~~
- ~~3. The caretaker relative and all other responsible members of the household were absent from their usual place of residence, due to a death or serious illness in the family or the relocation of the household, during all the days between the day the report form was provided and the day it was to be returned;~~
- ~~4. Weather conditions prevented mailing by the household, delivery by the postal service, or receipt by the county agency;~~
- ~~5. The household was unable, despite reasonable efforts, to obtain necessary verification documents;~~
- ~~6. The county agency determines that the report form was incomplete due to the recipient's misinterpretation or misunderstanding of the form;~~

7. ~~The county agency determines, for some other reason, that the household could not reasonably have submitted a timely and complete report; or~~
8. ~~Claims of good cause must be evaluated using the decisionmaking principles described in section 75-02-01.2-12.~~

History: Effective December 9, 1996; amended effective January 1, 2003.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

Repealed effective January 1, 2017.

SECTION 4: Section 75-02-01.2-22 is amended as follows:

75-02-01.2-22. Asset limits.

No member of a household may be found eligible for benefits unless the value of the household's assets, not specifically excluded under this chapter, does not exceed three thousand dollars for a household consisting of one individual, six thousand dollars for households consisting of two individuals, and an additional twenty-five dollars for each additional individual a value established by the department. In all instances, including determination of equity, property must be realistically evaluated in accord with current market value. Any reasonable costs associated with liquidation of excess assets must be taken into account.

History: Effective December 9, 1996; amended effective July 1, 1997; January 1, 2003; January 1, 2017.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

SECTION 5: Section 75-02-01.2-26 is amended as follows:

75-02-01.2-26. Disqualifying transfers.

1. The transfer of an asset, without adequate consideration, disqualifies the household from receipt of benefits ~~for a period beginning with the month in which the transfer took place and continuing for a number of months equal to the result of dividing the household's total equity value in the transferred asset by the standard of need applicable to the household. For participating household, the disqualification begins the first benefit month after notice of adverse action. For non-participating household, the period of disqualification begins with the month of application.~~
2. Length of disqualification is as follows:

- a. One month for a disqualifying transfer of more than zero dollars but less than two hundred fifty dollars;
 - b. Three months for a disqualifying transfer of two hundred fifty dollars or more but less than one thousand dollars;
 - c. Six months for a disqualifying transfer of one thousand dollars or more but less than three thousand dollars;
 - d. Nine months for a disqualifying transfer of three thousand dollars or more but less than five thousand dollars; and
 - e. Twelve months for a disqualifying transfer of five thousand dollars or more.
3. Notwithstanding subsection 1, a transfer is not disqualifying if it is made by an individual, who is not a responsible relative, by removing the name of a member of the household from a jointly owned account to which no member of the household contributed, provided that the name of the household member is removed:
- a. If the existence of the account is discovered by the county agency while the household is in the process of applying for assistance, before the initial payment is certified; or
 - b. If the existence of the account is discovered by the county agency while the household is receiving benefits, within thirty days after that discovery.
- ~~3.4.~~ If the household member who caused the household's ineligibility due to a disqualifying transfer leaves the household, the remaining household members are no longer subject to the disqualification penalty only if the transferred asset was owned solely by the departing household member. Effective the day following the day, in which the individual left the household, the remaining members may apply for benefits. If the transferred asset was jointly owned with any remaining member of the household, the disqualification period must continue as initially calculated.
- 4.5. When an individual who caused a household's ineligibility due to a disqualifying transfer moves to a different household, the new household may be disqualified from the receipt of benefits for a period beginning with

the month in which the individual became a member of the new household and continuing for a number of months equal to the result of:

- a. — Reducing the individual's total equity value in the transferred asset by an amount equal to the number of months of disqualification imposed upon the previously disqualified household times the standard of need applicable to that household; and
- b. — Dividing that result by the standard of need applicable to the new household for the remainder of the period of disqualification.

History: Effective December 9, 1996; amended effective July 1, 1997; January 1, 2003; January 1, 2017.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

SECTION 6: Section 75-02-01.2-28 is repealed.

75-02-01.2-28. Eligibility for aliens who arrived before August 22, 1996.

1. — Except as provided in subsection 3, an alien who arrived before August 22, 1996, and who is lawfully admitted for permanent residence under color of law is eligible for benefits if all other requirements for eligibility are met.
2. — An alien may be lawfully admitted for a temporary or specific period of time. Such aliens are not eligible for benefits because they do not meet the requirement that residence be permanent. Examples include aliens with student visas, visitors, tourists, some workers, and diplomats.
3. — a. — A sponsored alien who applies for benefits and whose sponsor's income and assets must be deemed available to the alien, as a condition of eligibility, shall provide the county agency with information and verification sufficient to determine the portion of the sponsor's income and assets that may be deemed available to the alien.

b. — The sponsor and the sponsored alien are both liable for the amount of any overpayment of benefits that results from the failure of either to provide information and verification sufficient to allow the county agency to correctly determine the portion of the sponsor's income and assets that may be deemed available to the alien.

c. — For purposes of this section:

- (1) ~~"Sponsor" means an individual including an individual's spouse, public organization, or private organization who executed an affidavit of support or similar agreement on behalf of an alien, who is not the child of the sponsor, as a condition of the alien's entry into the United States.~~
- (2) ~~"Sponsored alien" means an alien whose entry into the United States was conditioned on the execution of an affidavit of support or similar agreement by a sponsor who is not a parent or the spouse of a parent of the alien.~~

History: Effective December 9, 1996; amended effective July 1, 1997; January 1, 2003; January 1, 2011.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

Repealed effective January 1, 2017.

SECTION 7: Section 75-02-01.2-28.1 is repealed.

75-02-01.2-28.1. Eligibility for aliens who arrived on or after August 22, 1996.

1. ~~This section applies only to immigrants who arrive in the United States on or after August 22, 1996.~~
2. ~~Except as provided in subsection 3, no noncitizen immigrant is eligible for benefits for the first five years of that immigrant's residence in the United States.~~
3. ~~An otherwise eligible noncitizen immigrant may be provided benefits:~~
 - a. ~~After that immigrant has resided in the United States for five years. The immigrant's sponsor's and sponsor's spouse's income and assets must be deemed available to the immigrant, if applicable;~~
 - b. ~~If the immigrant is:~~
 - (1) ~~A refugee, asylee, victim of human trafficking, or has been granted withholding of deportation.~~
 - (2) ~~A veteran of United States military service, an individual on active military duty, or a spouse or dependent of such a veteran or person on active military duty.~~
 - (3) ~~An entrant entitled to refugee and entrant assistance.~~

- (4) ~~Deportation withheld under section 243(h) of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].~~
- (5) ~~Cuban or Haitian entrants as defined in section 501(e) of the Refugee Education Assistance Act of 1980.~~
- (6) ~~Amerasian entrant.~~
- (7) ~~Conditional entrant under section 203(a)(7) of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] prior to April 1, 1980, if a veteran or on active duty in the United States armed forces or spouse or unmarried dependent child of a veteran or person on active duty.~~
- (8) ~~Lawfully admitted for residence if lawfully residing in the United States on August 22, 1996, and if receiving benefits for blindness or disability; or was born on or before August 22, 1931; or is now under eighteen years of age; or if elderly, disabled; or child entered after August 22, 1996, and meet other alien eligibility criteria or ineligible.~~
- (9) ~~An individual that has a past or current involvement with the United States armed forces and is lawfully admitted to the United States under immigration and naturalization service status. Spouses and unmarried dependent children of an individual with past or current United States military involvement may also meet eligibility criteria.~~

History: Effective July 1, 1997; amended effective January 1, 2003; July 16, 2003; January 1, 2011.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

Repealed effective January 1, 2017.

SECTION 8: Section 75-02-01.2-44 is amended as follows:

75-02-01.2-44. Income described.

1. All income that is actually available must be considered. Income is actually available when it is at the disposal of an applicant or recipient; when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make the sum available for support or maintenance; or when the applicant or recipient has the lawful power to make the income

available or to cause the income to be made available. In specific circumstances, income available to persons other than the applicant or recipient is deemed available. This subsection does not supersede other provisions of this chapter which describe or require specific treatment of income, or which describe specific circumstances that require a particular treatment of income.

2. Income may be earned, unearned, or deemed. It may be received regularly, irregularly, or in lump sums. Income may be counted or excluded. It may be disregarded for some purposes, but not for others. Other sections of this chapter explain those treatments.
3. Each household member must accept any earned rights benefits to which entitled. Each household member must provide verification as to whether the household member is qualified for earned rights benefits; and, if qualified, must make application for those benefits and secure those benefits if qualified.
4. Earned income includes:
 - a. Wages, salaries, commissions, bonuses, or profits received as a result of holding a job or being self-employed;
 - b. Earnings from on-the-job training including the Workforce Investment Innovation and Opportunity Act of 1998 and job opportunities and basic skills program;
 - c. Wages received as the result of participation in the mainstream and green thumb programs a program under the Older Americans Act;
 - d. ~~Earnings of recipients employed by schools under title I of the Elementary and Secondary Schools Act [20 U.S.C. 236 et seq.]~~;
 - e. ~~Wages received from sheltered workshop employment~~;
 - f.e. Sick leave pay or loss-of-time private insurance paid for the loss of employment due to illness or injury;
 - g.f. Compensation for jury duty;
 - h.g. Tips;
 - i.h. Income from boarders;
 - j.i. Income from room rentals;

~~k.j.~~ Income from participation in job corps; and

~~l.k.~~ Income from internship or stipends.

5. Unearned income includes:

- a. Social security, veterans benefits of any kind, private pensions, pensions provided to former employees of public entities, workers' compensation, unemployment benefits, union compensation during strikes, and military allotments;
- b. Rents paid without an appreciable amount of personal involvement and effort provided as a service to the tenant, mineral lease rentals, bonus payments and royalties, dividends, and interest paid;
- c. ~~Cash contributions from relatives provided to the household for living expenses;~~
- d. Cash gifts;
- e. ~~Poor relief or general~~ General assistance payments made to any member of the household by a county agency or the bureau of Indian affairs; and
- f. Any other form of income that is not earned income.

6. Deemed income includes:

- a. ~~In the case of income deemed from a stepparent or alien parent, that stepparent's or alien parent's entire gross income less:~~
 - (1) The greater of one hundred eighty dollars or the twenty-seven percent standard employment expense allowance;
 - (2) An additional amount for the support of the stepparent ~~or alien parent~~ and any other individuals living in the home whose needs are not taken into account in making the eligibility determination and who are or could be claimed by the stepparent ~~or alien parent~~ as dependents for federal income tax purposes, but not including any sanctioned individuals or individuals who are required to be included in the household, but have failed to cooperate, equal to the standard of need amount for a family group of the same composition and size as the stepparent ~~or alien parent~~ and those other individuals described in this paragraph;

- (3) Spousal support child support payments, health insurance premiums, and child or adult dependent care costs related to employment or employment and education or training actually being made to or on behalf of persons not living in the home; and
 - (4) Amounts actually being paid to individuals not living in the home who are or could be claimed by the stepparent or alien parent-as dependents for federal income tax purposes.
- b. In the case of income deemed from the sponsor of a sponsored alien, the ~~entire gross income~~ of the sponsor and the sponsor's spouse ~~in excess of~~ is calculated by allowing:
- (1) The earned income disregard of the greater of one hundred eighty dollars or the twenty-seven percent standard employment expense allowance; and
 - (2) A disregard equal to one hundred ~~twenty-five~~ thirty percent of the federal poverty level equal to the household size of the sponsor.

History: Effective December 9, 1996; amended effective July 1, 1997; January 1, 2003; January 1, 2011; January 1, 2017.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

SECTION 9: Section 75-02-01.2-45 is amended as follows:

75-02-01.2-45. Excluded income.

- 1. The following income must be excluded in determining eligibility for assistance:
 - a. All earned income of any child, except a minor parent, attending elementary or high school full time;
 - b. ~~Earned income of any child derived from a program carried out under the Workforce Investment Act of 1998 [29 U.S.C.2801 et seq.];~~
 - c. ~~Payments made to any member of the household under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [Pub. L. 91-646; 42 U.S.C. 4601 et seq.];~~

- d. ~~Per capita payments made to members of Indian tribes under the Indian Tribal Judgment Funds Use and Distribution Act [25 U.S.C. 1407 et seq.], including all interest and investment income accrued on such funds while held in trust pursuant to a plan approved under the provisions of that Act pursuant to a plan approved by Congress prior to January 12, 1983, and any purchases made with such payments for so long as the payment is not commingled with other funds;~~
- e. ~~Income derived from submarginal lands held in trust for Indians, to the extent required by Pub. L. 94-114 [25 U.S.C. 459e], for so long as the income is not commingled with other funds;~~
- f. ~~Up to two thousand dollars per year of income received by an individual Indian derived from that Indian's interests in trust or restricted lands, as required by 25 U.S.C. 1408, for so long as the income is not commingled with other funds;~~
- g. ~~A loan from any source that is subject to a written agreement requiring repayment by the recipient;~~
- h. ~~Agent orange settlement payments;~~
- i. ~~Payments made under the Radiation Exposure Compensation Act [Pub. L. 101-426; 104 Stat. 920; 42 U.S.C. 2210 (note) (1993 Supp.)], for so long as the payment is not commingled with other funds;~~
- j. ~~The value of any supplemental food assistance received under the Child Nutrition Act of 1966, as amended [42 U.S.C. 1771 et seq.], and the special food service program for children provided under the National School Lunch Act, as amended [42 U.S.C. 1751 et seq.];~~
- k. ~~Payments received by any member of the household, from the child nutrition and food distribution unit of the North Dakota department of public instruction, in reimbursement of the cost of furnishing meals and snacks by any member of the household who provides child care in the home, provided that the child care provider is licensed under North Dakota Century Code chapter 50-11.1;~~
- l. ~~Income received as a housing allowance through any program sponsored by the United States department of housing and urban development and rent supplements or utility payments provided through the housing assistance program;~~

- ~~m.~~ The value of surplus commodities provided through the United States department of agriculture;
- ~~n.~~ Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides or senior companions, or to individuals serving in the service corps of retired executives, active corps of executives, and any other programs under title II of the Domestic Volunteer Services Act of 1973 [Pub. L. 93-113; 42 U.S.C. 5001 et seq.];
- ~~o.~~ Payments made to volunteers in service to America under title I of the Domestic Volunteer Services Act of 1973 [Pub. L. 93-113; 42 U.S.C. 4951 et seq.];
- ~~p.~~ Any payment made as a result of the Alaska Native Claims Settlement Act, which is made tax exempt under Public Law 92-203 [43 U.S.C. 1601 et seq.];
- ~~q.~~ The value of benefits received under the supplemental food program for women, infants, and children [Pub. L. 94-105; 42 U.S.C. 1786];
- ~~r.c.~~ The value of general assistance benefits provided in voucher form by any county agency, tribe, or the bureau of Indian affairs;
- ~~s.d.~~ Assistance payments from other programs, agencies, or organizations that:
 - (1) Do not serve the same purposes as the temporary assistance for needy families cash grant; or
 - (2) Provide goods or services that are not included in the standard of need;
- ~~t.e.~~ Scholarships, grants, stipends, and awards for educational purposes, which are given because of need or achievement by the bureau of Indian affairs, other federal sources, state sources, civic, fraternal, and alumni organizations, or relatives, to undergraduate-level and graduate-level students;
- ~~u.f.~~ Workstudy program income earned by an undergraduate-level or graduate-level student;
- ~~v.g.~~ Family subsidy program payments made by the department;

- w.h. Returned deposits from rentals and from utility companies;
 - x.i. Adoption assistance and subsidized adoption payments;
 - y.i. Foster care payments, subsidized guardianship payments, and payments received as a retainer for services as an emergency shelter foster home; and
 - z.k. Irregular cash gifts, which total, in any month, less than five hundred dollars per household received for a special occasion, such as Christmas, birthdays, or graduations;
 - ~~aa. Any refund or federal income taxes received as an earned income tax credit pursuant to 26 U.S.C. 32, and any payments made by an employer as an advance payment of earned income tax credit pursuant to 26 U.S.C. 3507;~~
 - ~~bb. Payments of education award money and living allowance moneys to an individual enrolled in AmeriCorps under the National and Community Service Act, as amended [42 U.S.C. 12571 et seq.]; and~~
 - ~~cc. Crime victim compensation.~~
2. For purposes of this section, "child" means an individual:
- a. Under age eighteen; or
 - b. Age eighteen and a full-time student in elementary or high school, or in an equivalent level of vocational or technical training, if, before attaining age nineteen, such student may reasonably be expected to complete the high school or vocational training curriculum.

History: Effective December 9, 1996; amended effective January 1, 2003; June 1, 2005; January 1, 2017.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

SECTION 10: Section 75-02-01.2-51 is amended as follows:

75-02-01.2-51. Disregarded income.

1. The department shall establish an employment incentive, and an employment incentive limit, to reasonably encourage household members to earn income.

2. If permitted under subsection 3, income must be disregarded, as an employment incentive, in determining the cash grant amount.
 - a. The greater of one hundred eighty dollars or twenty-seven percent of the household's monthly gross earned income, except earnings of any child who is a full-time elementary or high school student, is disregarded as a standard employment expense allowance. The amount remaining is net earned income.
 - b. Any net earned income that exceeds the income incentive limit is treated as countable earned income.
 - c. A portion of net earned income that is equal to or less than the income incentive limit may be disregarded, under this subdivision, in determining countable earned income.
 - (1) If an applicant has earned income in the month of application or the month after the month of application, at least fifty percent of the net earned income may be disregarded for six months beginning the month in which the earned income is first budgeted.
 - (2) If a recipient has earned income, at least thirty-five percent of the net earned income may be disregarded for months seven through nine beginning the month earned income is first budgeted.
 - (3) If a recipient has earned income, at least twenty-five percent of the net earned income may be disregarded for months ten through thirteen after the month earned income is first budgeted.
 - (4) If a recipient has earned income, no net earned income may be disregarded under this subdivision after the thirteenth month after the month earned income is first budgeted.
 - (5) Individuals that have received a full thirteen months of the incentive known as the time-limited percentage will not be eligible for this incentive again.
 - d. An employed household member who receives an employment incentive disregard for a period of at least six consecutive months is provided employment incentive disregards of at least fifty percent for the first six months beginning the month in which the income is first budgeted, at least thirty-five percent for months seven through

nine, at least twenty-five percent for months ten through thirteen, and none thereafter.

- e. An employed household member who receives an employment incentive disregard for a period of less than six consecutive months is, upon reemployment, provided the employment incentive disregards the member would have received if the first month of reemployment was the first month income is budgeted retrospectively.
 - f. If an employed household member, who is receiving the employment incentive disregard, voluntarily terminates employment and is unable to show good cause for failure or refusal to participate, the employment incentive disregard cycle continues as if the household member was employed.
 - g. If any non-disregarded income remains, a health insurance premium, or paid child or spousal support, if applicable, may be disregarded.
 - h. If any non-disregarded income remains, child and dependent care costs that are employment-related or a combination of employment-related and education or training-related may be disregarded.
3. An income disregard is available only if the eligible employed individual previously received assistance, but has not completed the ~~twelve-month~~ thirteen-month earned income employment incentive disregard cycle, including months in which the earned income disregard was unavailable because:
- a. No payment was made because the calculated cash grant was less than ten dollars; or
 - b. The household voluntarily requested termination of assistance for the primary purpose of avoiding completion of the earned income employment incentive disregard cycle or any part of that cycle; ~~or~~
 - c. ~~The household failed, without good cause, to file a signed and completed monthly report form by the fifteenth day of the month in which the report was due.~~
4. If, in any month, additional income received from a recurring source causes the household to be suspended as ineligible for one month, the month of suspension does not count as a month for purposes of this section.

5. Non-household member deduction for stepparent and minor parent budgeting, if applicable, may be made.

History: Effective December 9, 1996; amended effective July 1, 1997; January 1, 2003; January 1, 2009; January 1, 2011; January 1, 2017.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02

SECTION 11: Section 75-02-01.2-60 is amended as follows:

75-02-01.2-60. Computing payment if stepparent ~~or alien parent~~ income is deemed.

1. The amount of a household's cash grant must be reduced by the deemed income of a stepparent ~~or an alien parent~~ who lives in the home, but who is not a member of the household.
2. To encourage marriage among single-parent families and assist those families when the primary individual in a household marries, the income of the stepparent must be disregarded in determining the cash grant for the first six months, effective the month of the marriage. This subsection applies to recipients only, but not to applicants. No six-month disregard of stepparent income is allowed in situations when a primary individual marries before receiving benefits.

History: Effective December 9, 1996; amended effective July 1, 1997; January 1, 2003; January 1, 2009; January 1, 2017.

General Authority: NDCC 50-09-02, 50-09-25

Law Implemented: NDCC 50-09-02