**SECTION IX. HOME HHR INCOME GUIDELINES AND LIMITS**

Table of Contents

Page

1. Background…………………………………………………………………………………. IX-1
2. Eligibility Program Requirements…………………………………………………………. IX-1
3. General Requirements……………………………………………………………………... IX-1
4. Annual Income as Defined in 24 CFR Part 5……………………………………………. IX-3

Attachment IX-1 Part 5 Definition of Income…………………………………………… IX-4

Attachment IX-2 Part 5 Net Family Asset Inclusions and Exclusions……………….. IX-9

Attachment IX-3 Sample Format for Computing Part 5 Annual Income…………….. IX-10

1. **BACKGROUND**

A fundamental component of using HOME funds is ensuring they are targeted to households that are low to moderate and very low-income. The HOME Program requires the use of specific definitions of annual income in order to determine the income eligibility of applicants to the program.

The Wisconsin HOME Program under the Division of Energy, Housing and Community Resources uses the “Part 5 annual income” definition as defined at 24 CFR 5.609.

1. **ELIGIBILITY PROGRAM REQUIREMENTS**

To receive HOME assistance, households must have incomes at or below the Part 5 definition of annual income which is currently 80% of the area median income adjusted by household size. In addition, the contract between the Grantee and the Department contains eligibility requirements. In the event of conflict between the language specified in a grantee’s contract and this handbook or other supporting documents, the provisions in the contract shall take precedence.

1. **GENERAL REQUIREMENTS**

Certain rules and requirements apply when determining the income eligibility of applicants. These requirements include:

**Whose Income to Count:** The HOME Program regulations require that income of all related and unrelated people in the household be included in the determination of income. The Part 5 definition of annual income provides further guidance pertaining to whose income to include. Special consideration is given to income earned by the following groups of people:

**Minors:** Earned income of minors, including foster children (<18) is not counted. However, unearned income attributable to a minor (e.g. child support) is included.

**Live-in aides:** If a household includes a paid live-in aide (whether paid by the family or a social service program), the income of the live-in aide, regardless of the source, is not counted. Except under unusual circumstances, a related person does not qualify as a live-in aide.
**Temporarily absent household members:** The income of temporarily absent household members is counted regardless of the amount the absent member contributes to the household. For example, a construction worker employed at a temporary job on the other side of the state earns $600 per week. He keeps $200 per week for expenses and sends $400 per week home to his family. The entire amount ($600/week) is counted in the family’s income.

**Adult students living away from home:** If the adult student is counted as a member of the household in determining the household size, the first $480 of the student’s income must be counted in the household’s income. NOTE: The $480 limit does not apply to a student who is the head of household or spouse (their full income must be counted).

**Permanently absent household members:** The head of household has the choice of either: (1) counting an absent member of the household and including income attributable to that person as household income, or (2) specifying that the person is no longer a member of the household (Example: a spouse who is in a nursing home).

**Anticipating Income:** The HOME regulations at 92.203(d)(1) require that for the purpose of determining eligibility for HOME assistance, the household’s income must be projected forward 12 months. To do so, a “snapshot” of the household’s current circumstances is used to project future income. Grantees should assume that today’s circumstances would continue for the next 12 months, unless there is verifiable evidence to the contrary.

This method should be used even when it is not clear that the type of income received currently will continue in the coming year. The exception to this rule is when documentation is provided that current circumstances are about to change.

 **Verifying Income:** Grantees are required to determine income eligibility of applicants by examining source documents (e.g., wage statement, interest statement) evidencing annual income and obtaining third-party verification (e.g., employer, Social Security Administration). Applicant certification does not provide adequate source documentation for the HOME Program. An applicant’s federal income tax form is not an adequate source documentation nor does it establish anticipated income.

**Timing Income Certifications:** Households must qualify as LMI at the time of occupancy or at the time HOME funds are invested, whichever is later. Agencies are not required to re-examine a household’s income at the time the home assistance is provided—unless more than six months have elapsed since the household’s income was certified.

**Treatment of Assets:** There is no asset limitation for participation in the HOME Program. Families are not required to “spend down” assets before they can participate. Income from assets is, however, recognized as part of annual income under the Part 5 definition. In general, an asset is cash or a non-cash item that can be converted to cash. The cash value is the market value less reasonable expenses required to convert the asset to cash. Refer to Attachment 2 for a definition of asset inclusions and exclusions.

Under the rules of Part 5, only the cash value (rather than the market value) of an item is counted as an asset. If more than one person owns an asset, grantees must prorate the asset according to the applicant’s percentage of ownership.

Assets can generate income. The actual income generated by the asset (e.g., interest on a savings or checking account) is what counts, not the value of the asset. The income is counted even if the household elects not to receive it.

Income included in the annual income calculation is the income anticipated to be received from the asset during the coming 12 months.

1. **ANNUAL INCOME AS DEFINED IN 24 CFR PART 5**

The Part 5 definition of annual income is the *gross amount of income of all adult household members* that is *anticipated to be received* during the coming 12-month period. The underlined phrase in this definition is key to understanding the requirements for calculating annual income and is defined below:

* **Gross amount:** For those types of income counted, gross amounts (before any deductions have been taken) are used;
* **Income of all adult household members:** The Part 5 definition income contains “inclusions” – types of income to be counted – and “exclusions” – types of income that are not considered (for example, income of minors); and
* **Anticipated to be received:** The Part 5 annual income is used to determine eligibility and the amount of Federal assistance a family can receive. Grantees must, therefore, use a household’s expected ability to pay, rather than past earnings, when estimating housing assistance needs.

Attachment 1 (Definition of Income) defines what income is included and excluded in determining annual income.

***Income eligibility*** *may be determined by using either the template in Attachment 3 or the HUD calculator* at [www.hudexchange.info/incomecalculator](http://www.hudexchange.info/incomecalculator).

**ATTACHMENT IX-1**

**DEFINITION OF INCOME**

All HOME HHR grantees must use the following as the definition of income. In the event of conflict between the language specified in a grantee’s contract and this handbook or other supporting documents, the provisions in the contract shall take precedence.

**24 CFR Part 5 Subpart F Sec. 5.609 Annual income.**

**(a) Annual income means all amounts, monetary or not, which:**

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

**(b) Annual income includes, but is not limited to:**

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(ii) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (b)(6)(ii) shall be the amount resulting from one application of the percentage;

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

**(c) Annual income does not include the following:**

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that is specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution;

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;

(8)(i) Amounts received under training programs funded by HUD;

(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include: fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) For public housing only: (i) The earnings and benefits to any family member resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of the 1937 Act (42 U.S.C. 1437t), or any comparable Federal, State, or local law during the exclusion period.

(ii) For purposes of this paragraph, the following definitions apply:

 (A) Comparable Federal, State or local law means a program providing employment training and supportive services that:

(1) Is authorized by a Federal, State or local law;

(2) Is funded by the Federal, State or local government;

(3) Is operated or administered by a public agency; and

(4) Has as its objective to assist participants in acquiring employment skills.

(B) Exclusion period means the period during which the family member participates in a program described in this section, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the family member is terminated from employment with good cause, the exclusion period shall end.

(C) Earnings and benefits mean the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job;

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

 **(d) For public housing only.** In addition to the exclusions from annual income covered in paragraph (c) of this section, a PHA may adopt additional exclusions for earned income pursuant to an established written policy.

(1) In establishing such a policy, a PHA must adopt one or more of the following types of earned income exclusions, including variations thereof:

(i) Exclude all or part of the family's earned income;

(ii) Apply the exclusion only to new sources of earned income or only to increases in earned income;

(iii) Apply the exclusion to the earned income of the head, the spouse, or any other family member age 18 or older;

(iv) Apply the exclusion only to the earned income of persons other than the primary earner;

(v) Apply the exclusion to applicants, newly admitted families, existing tenants, or persons joining the family;

(vi) Make the exclusion temporary or permanent, for the PHA, the family, or the affected family member;

(vii) Make the exclusion graduated, so that more earned income is excluded at first and less earned income is excluded after a period of time;

(viii) Exclude any or all of the costs that are incurred in order to go to work but are not compensated, such as the cost of special tools, equipment, or clothing;

(ix) Exclude any or all of the costs that result from earning income, such as social security taxes or other items that are withheld in payroll deductions;

(x) Exclude any portion of the earned income that is not available to meet the family's own needs, such as amounts that are paid to someone outside the family for alimony or child support; and

(xi) Exclude any portion of the earned income that is necessary to replace benefits lost because a family member becomes employed, such as amounts that the family pays for medical costs or to obtain medical insurance.

(2) Any amounts that are excluded from annual income under this paragraph (d) may not also be deducted in determining adjusted income, as defined in Sec. 5.611.

(3) Housing agencies do not need HUD approval to adopt optional earned income exclusions.

(4) In the calculation of Performance Funding System operating subsidy eligibility, housing agencies will have to absorb any loss in rental income that results from the adoption of any of the optional earned income exclusions discussed in paragraph (d)(1) of this section, including any variations of the listed options.

**(e) If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.**

**ATTACHMENT IX-2**

**PART 5 ANNUAL INCOME NET FAMILY ASSET INCLUSIONS AND EXCLUSIONS**

**Inclusions**

1. Cash held in savings (current balance) or checking accounts (average 6-month balance), safe deposit boxes, etc.
2. Cash value of revocable trusts available to the applicant.
3. Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., broker fees) that would be incurred in selling the asset. Under HOME, equity in the family's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.
4. Cash value of stocks, bonds, Treasury bills, CD’s and money market accounts.
5. Individual retirement and Keogh accounts (even though withdrawal would result in a penalty).
6. Retirement and pension funds.
7. Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).
8. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
9. Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and amounts not intended as periodic payments.
10. Mortgages or deeds of trust held by an applicant.

**Exclusions**

1. Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars and vehicles specially equipped for persons with disabilities.
2. Interest in Indian trust lands.
3. Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household and that other person is responsible for income taxes incurred on income generated by the asset.
4. Equity in cooperatives in which the family lives.
5. Assets not accessible to and that provide no income for the applicant.
6. Term life insurance policies (i.e., where there is no cash value).
7. Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

**ATTACHMENT IX-3**

**Sample Format for Calculating Part 5 Annual Income**

|  |  |
| --- | --- |
| 1. Name | 2. Identification |
| **ASSETS** |
| FamilyMember | Asset Description | Current Cash Value of Assets | Actual Income fromAssets |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| 3. Net Cash Value of Assets…………………… | 3. |  |
| 4. Total Actual Income from Assets........................................................ | 4. |
| 5. If line 3 is greater than $5,000, multiply line by \_\_\_\_\_ (Passbook Rate) and enter results here; otherwise, leave blank | 5. |
| **ANTICIPATED ANNUAL INCOME** |
| Family Members | a. Wages/ Salaries | b. Benefits/ Pensions | c. Public Assistance | d. Other Income | e. Asset Income |
|  |  |  |  |  | Enter the |
|  |  |  |  |  | greater of |
|  |  |  |  |  | lines 4 or 5 |
|  |  |  |  |  | from above |
|  |  |  |  |  | in e. |
| 6. Totals | a. | b. | c. | d. | e. |
| 7. Enter total of items from 6a. through 6e.This is *Annual Income.* | 7. |