

STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM



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Q: According to the County Clerk's Office, an applicant is not receiving their court ordered child support. The client states that they have opened a case file with

Child Support Enforcement Office. Do I count the full amount of child support even though it is not being received?

A: No, you will not count the full amount of court ordered child support as income if, after all legal means have been exhausted, the support is still not being received.

According to the child support policy that is outlined in HUD Handbook 4350.3 Chapter 5, the full amount of court-ordered child support is counted as household income regardless of the amount being received, unless you can document that the applicant has exhausted all legal means of obtaining the support. If all legal means have been exhausted, then the actual amount received is counted as income.

In Florida, there are two methods available to pursue child support that is not being received:

1. filing a Contempt of Court hearing, or
2. establishing a file with the Office of Child Support Enforcement.

Either option meets the requirement of exhausting all legal means. If an applicant is pursuing the first option, the applicant must provide the SHIP office with documentation that a Contempt of Court hearing has been scheduled. If the applicant is pursuing the matter through option two, adequate documentation from the Child Support Enforcement Office would be a printout showing that no payment is being received or a letter

from them stating that the applicant has initiated a file. By including any of this documentation in your file, you are demonstrating that the applicant has exhausted all legal means to obtain the child support.

Q: I am trying to fully understand what steps need to be taken if someone is supposed to get child support. First you count what is listed in the child support order if there is one. If they claim they are not getting it, confirmation from Department of Revenue is not enough. There needs to be court action and then confirmation from the Department of Revenue that they are not receiving it. Is that right?

A: If an applicant has court ordered child support, but claims to not be receiving it, then first get a print out from the Clerk of the Court to substantiate payment history. In order to not count the full amount of court ordered child support, you must document that the applicant has taken one of the two legal actions available, either with the Court or Child Support Enforcement. Additionally, it is not necessary to wait until an outcome has been reached, just filing the motion or filing with the Child Support Enforcement Office is sufficient. If they have sought legal action, then only count the amount of support they are actually receiving, whether it is a partial payment or none at all. If you cannot document that the applicant has taken one of these options for obtaining the child support, you must count the full amount of support whether or not the household is actually receiving this income.

The Department of Revenue's Child Support Enforcement Office can provide a SHIP administrator with the appropriate certification that an applicant has initiated a file to collect child support. Conversely, an applicant who sets up a Contempt of Court hearing

should present the administrator with written documentation or copy of the Motion that the hearing has been scheduled. You will document the income source with a copy of the divorce decree or court hearing document indicating the child support payment amount that has been ordered.

Q: We have an applicant whose divorce decree states that he should be receiving child support from the non-custodial parent, but he did not list it as income on his intake form. What do we do?

A: Ask the applicant if he is receiving the child support and review the Clerk of the Court payment records. If the applicant is not receiving the court ordered child support, he must provide either documentation from the Child Support Enforcement Office that he has notified them of the non payment, or an amended support agreement from the court stating that child support is no longer owed. The burden of providing this documentation is on the applicant. If he cannot provide it, you must count the child support as if it is being received.

Q: An applicant's court order for child support states that the non-custodial parent must pay \$101.00 per week plus \$30.00 for the amount in arrears and \$5.25 for clerk fees. According to the Department of Revenue the applicant is receiving \$131.00 per week. Should I include the \$5.25 in clerk fees since it is listed in the court order?

A: The \$5.25 clerk fee is not included in the income calculation because it is not paid to the applicant but to the Clerk of the Court. Additionally, you will always use the current amounts and circumstances, as relayed to you by the Department of Revenue, unless an imminent change is expected.

Have you got a question about the SHIP program? Free telephone technical assistance is available to help you successfully implement your SHIP funded work. Call the Florida Housing Coalition's SHIP telephone line at (800) 677-4548.

Q: *We have an applicant who receives \$300 a month in cash as child support without a court order. We have requested a letter from the parent paying the child support. Is there anything else that we should do?*

A: Yes, have the applicant self certify that she is receiving \$300 a month child support and expects to continue to receive this assistance for the next 12 months. Place this in the applicant's file with the letter that you have requested. You should also ask if they have any written agreement between them stating that the father will continue to make these payments. If they do, this document will be sufficient for the file to document the income being received from child support.

Q: *An applicant has her daughter living with her. The daughter is a full time student and she has a daughter of her own. The applicant's daughter does not work, but she was awarded child support by the courts. Do I count the full amount of child support or only the first \$480 that is counted as income for full time students?*

A: As per HUD Handbook 4350.3 Chapter 5, annual income exclusions include: Income from earnings in excess of \$480 for each full-time student. In the case that you have presented, the income being received is not from earnings; it is from court-ordered child support which is not excluded. Therefore, count the full amount of child support.

Q: *I have an applicant who has a court order for child support. According to the court order, she is supposed to be receiving \$350 bi-weekly; however, she provided to me an affidavit that she is only receiving \$300 bi-weekly from the non-custodial parent. Can I count the amount that she is receiving instead of the court ordered amount?*

A: According to the child support policy that is outlined in HUD Handbook 4350.3 Chapter 5, in order to not count the court ordered amount of child support an individual must take all legal means to receive the child support in order not to count the court ordered amount. In the State of Florida, the legal means include initiating a file with the Department of Revenue Child Support Enforcement or Contempt of Court. An affidavit is not one of the legal means that is outlined; therefore, unless your applicant can document one of the legal means noted above, you must count the full amount of child support as outlined within the court order.

Q: *We have an applicant who is not receiving her court ordered child support and she has initiated a file with the Department of Revenue Child Support Enforcement Office. The reason she is not receiving the child support is because the non-custodial parent is incarcerated until 2018 as per the Florida Department of Corrections website. Do I have to still count the child support?*

A: You will not count the child support because she has initiated a file with the Child Support Enforcement Office. Obtain documentation from the Child Support Enforcement office to substantiate the case file and from the Department of Correction website, print any information that states the non-custodial parent's release date.

Q: *Can child support payments being paid by an applicant be deducted from an applicant's gross income?*

A: No, as per the HUD handbook 43503 chapter 5 under income inclusions we must consider an applicants gross income, before deductions. Here is the citation from the handbook. Income Inclusions (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;

Q: *My applicant is receiving court ordered child support for a child who is 17 years old and in high school. The support will cease when the child turns 18. Do I count the child support for the full 12 months?*

A: You should first review the court order to insure that the support payments will actually cease when the child turns 18 and there are no additional circumstances, such as the child remaining in school (college), which can continue the payments to the custodial parent. If the payments will definitely cease, only calculate the child support that is currently being received for the remaining months until the date that it will cease.

Q: *We have an applicant whose divorce settlement states that she is receiving in addition to her child support a reimbursement from the husband for medical expenses on behalf of their child. She is also getting child support in arrears. Do we count these?*

A: Child support payments that are a reimbursement for medical expenses are not counted. Here is the citation from the HUD handbook 43503 chapter 5.

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

Child support that is being received in arrears is counted and added to the current child support payment to calculate projected income.