Self-Employment
CalFresh HB Chapters 19 & 22

October 2019
County of Santa Clara

SANTA CLARA COUNTY
SOCIAL SERVICES AGENCY
Module Self-Employment

Objectives By the finishing this module, participants will be able to:

☑ Have an understanding of the Self-Employment criteria

☑ Gain the ability to determine when a job should be considered as Self-Employment

☑ Enter Self-Employment income into CalWIN

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Lesson 1: Definitions

Capital Gain
Capital gain is a profit that results from a sale of capital goods or equipment and is calculated in the same manner as a capital gain for Federal Income Tax purposes. The full amount of capital gain is countable for CalFresh purposes.

Partnership
- An unincorporated business owned by two (2) or more people.
- A legal contract entered into by 2 or more persons in which each agrees to furnish a part of the capital and labor for a business enterprise, and by which each shares a fixed proportion of profits and losses.

Sole proprietorship
A sole proprietorship is a business that is owned by a single entity. Some examples include body shops and restaurants. Other examples include services industries such as insurance agents, catering services, housecleaning services, landscaper, financial services, and ecommerce.
Lesson 2: Self-Employment Determination

The determination of Self-Employment must be done on a case-by-case basis. The EW must gather as much information as possible and consider all the relevant Self-Employment criteria in order to make the best determination.

A PERSON WORKING FOR WAGES OR COMMISSION IS NOT CONSIDERED SELF-EMPLOYED.

Self-Employment Criteria

The following are considered criteria to be considered self-employed:

- Tax Returns
- Employer reports to the IRS
- Social Security tax withholdings
- Employee-Employer Relationship
In most cases if a client files his/her income tax returns as “self-employed”, then they are considered self-employed for CalFresh. However, other criteria that must be taken into account when making the self-employment determination include the following:

- If the client is employed by a company or an individual but chooses to file as self-employed for tax purposes only, the existence of an *employee-employer relationship* must be explored prior to making the self-employment determination for CalFresh.

- If the client does not have any self-employment expenses because they are paid for by another individual or company, the relationship between the payee of the costs and the client must also be explored to determine if there is an *employee-employer relationship*.

An individual does not need to meet all of the criteria mentioned above. In all circumstances, all the information available must be used and the situation thoroughly explored to determine if the case is to be considered self-employment. A sworn affidavit from the client may be needed in order to clarify any conflicting or unclear information.
Employee-Employer Relationship

When determining *employee-employer relationship*, there is certain criterion that must be explored.

**Who has behavioral control of the work or services performed?**
Who decides:

- when and where the work is done;
- what tools or equipment should be used to perform the work;
- what workers to hire or what workers will assist with the work;
- where and when to purchase supplies and/or services;
- what work should be performed and who should perform it;
- what order or sequence should the work be performed in.

**Who has financial control of the "business"?**
Who decides:

- which expenses are reimbursed to the worker;
- how much to pay for the reimbursement;
- how and when the worker is paid;
- who can negotiate the cost of the services.
Examples:

The "Babysitter"

- Client is employed as a babysitter. This client cares for the same child Monday-Friday at the child’s home and gets paid by the child’s parents. The client has no expenses since all the supplies (i.e. food, toys, diapers, etc.) are purchased and provided by the parents of the child. The parents have the final say in what supplies are used and where and when the babysitting is to take place.
- Is this client Self-employed?

The "Child Care Provider"

- Client is a child care provider. She/he provides child care for her niece and gets paid by the program 4Cs. The child’s parents do not have control as to the amount or how the client is paid. The program 4Cs only provides the payment for the child care, but does not have control where and when the services are provided.
- Is this client Self-employed?
The "Adult Care Provider"

- Client provides adult care services for a disabled adult and is paid through the In-Home Supportive Services (IHSS). IHSS withholds State and Federal taxes from the client's paycheck as well as Medicare and Social Security taxes.
- Is this client Self-employed?

The "Day Laborer"

- This individual stands in front of Home Depot waiting for someone to offer him work to do. On the days he is hired, he does not have any expenses, since he only provides the manual labor. In a month he can be hired by several different people.
- Is this client considered Self-employed?
The "Housekeeper #1"

- This client cleans house for several families and does it several times a week. For the most part, she has her own equipment and supplies (i.e. vacuum, dusters, mop, broom cleaning products, etc.) however, on occasion some of the home owners provide their own supplies that they would like her to use to clean their home. Days worked and price is an agreement between the homeowners and the client. The client can choose which homes to clean.

- Is this client Self-employed?

The "Housekeeper #2"

- Your client cleans houses as part of a Merry Maids team. The Merry Maids company decides which homes the client will provide housekeeping services for, how much to charge for the service and pays the client for the services.

- Is this client Self-employed?
SJ Mercury News Carriers

- Newspaper (San Jose Mercury News) carriers are considered Self-Employed if they satisfy the certain conditions:
  - They engaged in the delivery or distribution of newspaper,
  - All of the pay for these services directly related to sales or other output rather than to the number of hours worked,
  - The person performs these services under a written contract that states that the person won’t be treated as an employee for federal tax purposes.

Other Self-Employment Examples

- Hair dresser
- Direct sales consultant
  - Avon
  - Princess House
  - Pampered Chef
  - Amway
  - Gold Canyon, etc.
- Selling items at the Flea Market
- Dog Walkers
- Taxi Drivers
- Plant display, watering and care services
- DJ
- Wedding singer
- Personal trainer
- Renting a room (only if the CF HH owns the property)
- Uber/ Lyft drivers

This is not an all-inclusive list.
Uber drivers are independent contractors, and their income is treated as self-employment. The amount received in the client’s bank account through direct deposit or the “earnings” or “Total Payout” amount on the Payment Statements is the amount to be used as the driver’s gross income. The “Rider Fee” and the “Uber Fee” (20%) are not included in this paid amount. To determine the CalFresh net gross income of the client, the individual shall choose either actual costs of producing self-employment income or a standard deduction of 40 percent of gross earned income. The amount of actual costs of producing self-employment or the standard 40 percent of gross earned income is deducted from total gross earned income to arrive at the net gross earned income amount. (CF Update 2016-7)

What questions could you ask to determine if someone is self-employed?

1. 
2. 
3. 
4. 
5. 
6. 
7. 
8. 
9. 
10.

Case Narration/IDM

- Be sure to document/narrate in CalWIN all the information used in the determination of Self-Employment
- All documents provided must be scanned into IDM
Lesson 3: Income

- Self-Employment income is considered **EARNED** income
- Verify self-employment income as a condition of eligibility
- The client may use business records or tax forms or tax records as verification of self-employment income and expenses
  - **Business records include:**
    - Copies of daily, weekly, or monthly ledgers (records in the account books)
    - Invoices
    - Itemized receipts
    - Purchase orders
    - Copies of customer receipts
    - Cancelled checks
    - Copy of business checking account statement
    - Statements from the client’s customers, etc.
- Gross self-employment income is determined by subtracting business expenses from the total self-employment income.
- The client can choose which expense deduction to use:
  - **Actual Cost of producing the self-employed income**
  - **40% standard deduction**
Expense Deductions

Actual Expenses

If the client chooses to declare actual expenses, they must provide verification of such expenses with their Periodic Report (SAR 7) or at the time of RRR (RC) and submit an SCD 380 (Income/Profit and Loss Statement).

40% Standard Deduction

If the client chooses the 40% standard deduction, NO verification is required and NO SCD 380 (Income/Profit and Loss Statement) is required. The 40% standard deduction is allowable, even if the client claims no business expenses.

Allowable Costs

Include the following but is not limited to:

- Identifiable labor costs
- Supplies, telephone and internet expenses
- Raw materials, including seed, fertilizer, etc.
- Advertisement costs, legal and accounting fees, licenses, permits
- Insurance premiums
- Interest paid to purchase income-producing property
- Taxes paid on income-producing property
- Payments made on the principal of the purchase price of income producing real estate and capital assets, machinery and other durable goods.
- Actual transportation costs (not a set mileage rate) to PRODUCE business (Not to and from work)
- Rent and utility expenses
Non-Allowable Costs

The following items are NOT ALLOWED as a cost of doing business:

- Net losses from previous periods,
- Federal, state and local income taxes,
- Money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work) as these expenses are included in the earned income deduction of 20%,
- Depreciation

Lesson 4: Budgeting Concepts: Self-Employment Income

Averaged Income

At the time of application, the income and expenses from a self-employment enterprise shall be verified for either the last year or the last period during which income was earned which was intended to cover either a year or a part of a year. The EW shall then use this verified information to average the household's income and/or expenses over the certification period.

If the household has experienced a substantial increase or decrease in business income, the household shall provide verification of the increase or decrease. The EW shall calculate the averaged self-employment income based on the anticipated earnings rather than on prior income.

Self-employment income averaged for the current certification period must be re-determined or re-averaged in the following instances:

- The household will likely experience or has experienced a substantial decline in income due to a change in circumstance such as crop failure or bankruptcy;
- The household reports increases or decreases in self-employment income that are outside what is normal for the particular season or trade;
- The household provides verification of self-employment expenses which the household incurred to produce the income, but had previously failed to provide.

In re-determining a household's averaged self-employment income the EW must only consider income and actual expenses which have been verified.
Semi-Annual Reporting Households

Semi-Annual Reporting (SAR) households which receive self-employment income on a monthly basis shall report the actual amount of such income at the application, on the SAR 7 for the Data Month, or at the time of the recertification (RC). The household’s benefit level for the SAR Payment Period is calculated based on the actual amount of self-employment income reported and anticipated income for each month of the certification period. The anticipated actual averaged cost of producing the self-employment income or a standard 40% deduction is allowed for business expenses. The households are allowed to change the method of deduction ONLY at RRR or at SAR 7 submission, whichever occurs first.

Income received from other sources in addition to self-employment is treated as regular income.

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**Example**

The client owns a janitorial business and earns a $4,000 each month in gross income. In addition, he is also employed by the local hardware store and earns $1,000 per month. The client elects the standard 40% self-employment deduction.

The gross self-employment income of $4,000 is entitled to the 40% income deduction:

\[ 40\% \text{ of } 4,000 = 1,600; \ 4,000 - 1,600 = 2,400 \]

The income from the job at the hardware store is not entitled to the 40% self-employment income deduction. However, both the self-employment and regular employment income are entitled to the 20% earned income deduction:

\[ 2,400 + 1,000 = 3,400 - 20\% \times 680 = 2,720 \]
Annual Income Derived < One Year

The households, which derive their annual self-employment income in a period of time shorter than one year, must have that income averaged over a 12-month period. The annualized monthly income figure is used as the monthly income in the CalFresh budget.

The client is self-employed only during the summer (June - August) as a swim instructor. The rest of the year the client works as a teacher’s assistant for the local school district. The self-employment income the client earns as a swim instructor is to be averaged over the 12-month certification period.

Self-Employment Enterprise < One Year

If the self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise shall be averaged over the period of time the business has been in operation, and the monthly amount projected over the certification period.

Applicant has been self-employed as a photographer since January. She applied for CalFresh in June and provided verification of her monthly income from January through June.

<table>
<thead>
<tr>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Total</th>
<th>Averaged Monthly Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>$500</td>
<td>$600</td>
<td>$900</td>
<td>$1,000</td>
<td>$2,200</td>
<td>$1,700</td>
<td>$6,900 ÷ 6 = $1,150</td>
<td></td>
</tr>
</tbody>
</table>
One (1) Household and two (2) Self-Employment Enterprises

The income and costs of doing each business must remain separate and a separate calculation for each self-employment must be done.

Lesson 5: Real Property

Self-employment income from rental property shall **ONLY** be considered earned income if a member of the household is actively engaged in the management of the property at least an average of 20 hours a week and is the homeowner of the property. This qualifies for the 20% earned income deduction.

Property that produces income consistent with its fair market value is exempt as a resource, and the income would be counted as self-employment, unless it qualifies as earned income.

Use the CalWORKs criteria or contact local realtors, tax assessors, the Small Business Administration, Farmers Home Administration, or other similar sources to determine the prevailing rate of return, e.g., square foot rental, for similar usage of real property in the area. Newspaper classified ads may also be used as a resource. If the property is being leased for a return that is comparable to other property in the area leased for similar purposes, it shall be considered producing income consistent with its fair market value.
Rental Income in CalWIN

**Unearned Income**

**Earned Income**
Self-Employment

Case Narration/IDM

- Be sure to document/narrate in CalWIN all the information used in the determination of Self-Employment
- All documents provided must be scanned into IDM

Employment Case in CalWIN
**Employer Information**

- **Effective Begin Date:** 08/01/2018
- **Effective End Date:**
- **Self-Employed (Y/N):** Yes
- **Farming (Y/N):**
- **Begin Date:** 07/15/2018
- **End Date:**
- **Name:** Susie's Cleaning Service
- **Address:**
- **FEIN:**
- **Email Address:**
- **Verification:** Received
- **Sources:** Other Conclusive Verification
- **Occupation:** Cleaning Lady
- **Monthly Amount Earned:** $1,000.00
- **Estimated Average Hrs/Week:** 35
- **Health Insurance:**
- **Dental Insurance:**
- **County Helped Get the Job (Y/N):**
- **Contracted Employee (Y/N):**
- **Distance in Miles:**
- **Title V Employee (Y/N):**
- **Other Employee Benefits:**
- **Country of the Employer:**
- **Employment Termination Reason:**
- **Verification:**
- **Source:**

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**Collect Employment History Detail - Bartlett, Teagan | 35 | 166-12-3456**
Self-Employment
<table>
<thead>
<tr>
<th>Date Received/Expected to be Received</th>
<th>Gross Amount</th>
<th>Pay Period Begin Date</th>
<th>Pay Period End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/01/2018</td>
<td>$1,000.00</td>
<td>07/01/2018</td>
<td>07/31/2018</td>
</tr>
</tbody>
</table>

**Pay Period**

- *Begin Date:* 07/01/2018
- *End Date:* 07/31/2018
- *Gross Amount:* $1,000.00
- *Year to Date Total:* 
- **Verification:** Received
- *Source:* Self-Employment Ledger

- *Income Terminated [Y/N]:* No
- *Unreported for FS [Y/N]:* 
- *Total # of Hours Worked:* 
- *Lump Sum [Y/N]:* No
- *Report Date:* 
- *Unavailable [Y/N]:* 

**Transfer of Income...**
Self-Employment

Display Food Stamps - Financial Eligibility Budget

<table>
<thead>
<tr>
<th>Household</th>
<th>Federal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Earned Income Total: $600.00</td>
<td>Gross Earned Income Total: $600.00</td>
</tr>
<tr>
<td>Child Support:</td>
<td>Child Support:</td>
</tr>
<tr>
<td>Earned Income Disregard: $120.00</td>
<td>Earned Income Disregard: $120.00</td>
</tr>
<tr>
<td>Unearned Income:</td>
<td>Unearned Income:</td>
</tr>
<tr>
<td>Child Support:</td>
<td>Child Support:</td>
</tr>
<tr>
<td>Total Deemed Income:</td>
<td>Total Deemed Income:</td>
</tr>
<tr>
<td>Income Sub Total: $480.00</td>
<td>Income Sub Total: $480.00</td>
</tr>
<tr>
<td>Standard Deduction: $160.00</td>
<td>Standard Deduction: $160.00</td>
</tr>
<tr>
<td>Dependent Care:</td>
<td>Dependent Care:</td>
</tr>
<tr>
<td>Homeless Shelter Deduction:</td>
<td>Homeless Shelter Deduction:</td>
</tr>
<tr>
<td>Court Ordered Child Support:</td>
<td>Court Ordered Child Support:</td>
</tr>
<tr>
<td>Medical Deduction:</td>
<td>Medical Deduction:</td>
</tr>
<tr>
<td>Adjusted Gross Income: $320.00</td>
<td>Adjusted Gross Income: $320.00</td>
</tr>
</tbody>
</table>

Display Food Stamps Monthly Income

<table>
<thead>
<tr>
<th>May 2018</th>
<th>June 2018</th>
<th>July 2018</th>
<th>August 2018</th>
<th>September 2018</th>
<th>October 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Earned Income:</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$600.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>Unearned Income:</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Deemed Income:</td>
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<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
</tbody>
</table>
Lesson 7: Self-Employment Income for Mixed HHs (SA-331)

When a client has Self-Employment income, he/she can choose to have the Standard Deduction for CalFresh, but actual expenses must be used for Medi-Cal (both MAGI and Non-MAGI). CalWIN is programmed to use the standard deduction for all programs when the standard deduction is selected. For that reason, the actual expenses must still be entered for Medi-Cal.
Forms

- CSF 33
  • Notice to Self-Employed Individuals
- CSF 35
  • Self-Employment Sworn Statement
- SCD 380
  • Income/Profit and Loss Statement
- SCD 1250
  • Preliminary Self-Employment Questionnaire
- SCD 2227
  • Daily Wage Statement
References

Handbook Chapters/Paragraphs
• 19.1.3
• 22.6

CalFresh Updates
• 2008-7
• 2008-8
• 2016-1
• 2016-7

BEnDS/Flashes/PIs
• BEnDS 2007-16
• DEBS Flash #16-19: "Self Employment Income Flowchart"
• Policy Interpretation 2008-2

CalWIN/System Announcements
• SA-331