



MAR 28 2001

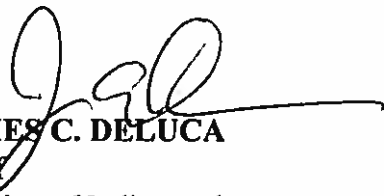
DINAP BULLETIN NO. 00-11

TO: ALL INDIAN AND NATIVE AMERICAN GRANTEES

SUBJECT: Definition of "Family Income" Applicable to Workforce Investment Act (WIA) Section 166 Programs

1. **Purpose.** To provide grantees with the subject definition for use in determining WIA section 166 eligibility.
2. **References.** 20 CFR 632.4 (JTPA regulations); 20 CFR 668.150; 20 CFR 668.300(b); 20 CFR 668.430.
3. **Information.** In the initial draft Interim Final Rule which the Department submitted for OMB clearance in March of 1999, the following definition was included in section 20 CFR 668.150. But, because of its extreme length and the fact that other (State) WIA programs did not even have such a definition, and none was to be found in the Act, the definition was omitted from both the Interim Final Rule and the Final Rule published on August 11, 2000. Subsequent section 166 grantee WIA implementation efforts revealed the need for more detailed instructions concerning what type of monies were to be counted as "family income" for eligibility purposes. This has demonstrated the need for and utility of such a lengthy and detailed definition for use by section 166 grantees when attempting to qualify applicants for the Indian and Native American program, especially the Supplemental Youth Services component. In keeping with that need and the expressed desire of many section 166 grantees, DINAP is now officially issuing the following definition of "Family Income" for use in determining WIA section 166 eligibility where and as needed.
4. **Action Required.** Grantees should retain copies of the attached definition for their program use and ensure that all staff utilize it in making eligibility determinations under WIA section 166 programs. Grantee staff should pay special attention to the NOTE following the definition in applying the definition to payments received as a result of casino operations or the distributed profits of other tribal enterprises, regardless of the name attached to said payments by the tribe.

5. **Expiration Date.** Continuing.
6. **Rescissions.** None
7. **Questions.** Contact your DINAP Federal Representative.



JAMES C. DELUCA
Chief
Division of Indian and
Native American Programs

Attachment

Attachment

Family Income --means all income actually received from all sources by all members of the family for the six-month period prior to application. Family size is the maximum number of family members during the six-month period prior to application. When computing family income, income of a spouse and other family members is counted for the portion of the six-month period prior to application that the person was actually a part of the family unit.

(a) For the purposes of determining participant eligibility (and not for grantee allocations), family income includes:

(1) Gross wages, including CSE, Work Experience and OJT paid from JTPA funds, and salaries (before deductions):

(2) Net self-employment income (gross receipts minus operating expenses); and

(3) Other money income received from sources such as interest, net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, and periodic income from insurance policy annuities, and other sources of income

(b) Family income **does not** include:

(1) Non-cash income such as food stamps, or compensation received in the form of food or housing;

(2) imputed value of owner-occupied property, i.e., rental value;

(3) Public assistance payments;

(4) Cash payments received pursuant to a State plan approved under Titles I, IV, X or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(5) Federal, State or local unemployment benefits;

(6) Capital gains and losses;

(7) One time unearned income, such as, but not limited to:

(i) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(ii) One-time or fixed-term scholarship and fellowship grants;

(iii) Accident, health, and casualty insurance proceeds;

(iv) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits;

(v) One-time awards and gifts;

(vi) Inheritance, including fixed term annuities;

(vii) Fixed term workers' compensation awards;

(viii) Terminal leave pay;

(ix) Soil bank payments; and

(x) Agriculture crop stabilization payments;

(8) Pay or allowances which were previously received by any veteran while serving on active duty in the Armed Forces;

(9) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36, of Title 38, United States Code;

- (10) Payments received under the Trade Act of 1974;
- (11) Black Lung payments received under the Benefits Reform Act of 1977, Pub. L. 95-239, 30 USC 901;
- (12) Child support payments; and
- (13) Any income directly or indirectly derived from, or arising out of any property held by the United States in trust for any Indian tribe, band or group or any individual; per capita payments; and services, compensation or funds provided by the United States in accordance with, or generated by, the exercise of any right guaranteed or protected treaty; and any property distributed or income derived therefrom, or any amounts paid to or for any individual member, or distributed to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim.

[NOTE: Grantees have raised questions concerning the nature of payments received by individual tribal members (or their families) as a result of the distribution of profits earned through tribal economic development operations, specifically casinos. The general rule is that, regardless of the title(s) attached to such payments, income derived from businesses is considered as “family income” for Federal program eligibility purposes. To be exempt as income, per capita payments must have been derived from an exercise of the trust responsibility, such as rents paid by non-Indian ranchers to graze on tribal lands or revenue paid to the tribe as the result of oil and gas leases. A simpler rule is that if the income is taxable according to the Internal Revenue Service, it’s considered “family income” for purposes of this definition. Cases (payments) which are in doubt should be referred to DINAP for a legal determination.]