

Readopt with amendment He-W 654.10, effective 12-12-14 (Document #10743), to read as follows:

He-W 654.10 Deemed Income from a Non-citizen's Sponsor.

~~— (a) Real property resources, vehicles, and non-essential household items of a non-citizen's, formerly referred to as an alien's, sponsor and sponsor's spouse shall not be deemed available to a sponsored non-citizen.~~

~~— (b) When there are unsponsored members in a non-citizen's assistance group, the deemed income from the sponsor shall be compared to a standard of need that applies only to the sponsored non-citizens.~~

~~— (c) The standard of need applicable to the sponsored non-citizens shall be computed in accordance with He-W 658.01, as follows:~~

~~(1) The sponsored non-citizens' prorated share of the shelter needs allowance shall be determined;~~

~~(2) The basic maintenance needs allowance applicable to the number of sponsored non-citizens in the assistance group shall be determined; and~~

~~(3) The sum of the amounts in (1) and (2) above shall equal the standard of need for the sponsored non-citizens.~~

~~(a) In accordance with 8 USC 1631, a portion of a sponsor's income shall be deemed to the sponsored non-citizen and treated as unearned income when determining eligibility and the amount of assistance for financial assistance to needy families (FANF). The amount to be deemed shall be determined as follows~~
the end result of the following determined as follows:

(1) Subtract 20% from the monthly gross earned income of the sponsor and of the sponsor's spouse, if applicable, and total the resulting individual net earned income amounts to determine the net earned income;:

(2) Add the net earned income and all unearned income of the sponsor and the sponsor's spouse; and

(3) Subtract all of the following:

a. The standard of need, in accordance with He-W 658.01, for the sponsor, sponsor's spouse, and all individuals living in the sponsor's home who could be claimed as legal dependents for tax filing purposes;

b. Any amounts actually paid by the sponsor or the sponsor's spouse to individuals who are not in the home and could be claimed as legal dependents for tax filing purposes; and

c. Any amount actually paid by the sponsor or the sponsor's spouse for child or spousal support. —

d. The result in c. above shall be the available deemed income to the sponsored non-citizen.

~~(b) If the~~ The available deemed income, as determined in (a) above, is shall be added to the assistance group's ~~sponsored non-citizens' other income and eligibility is shall be determined in accordance with He-W 654.02, exceeds the special standard of need, the sponsored non-citizens shall be ineligible.~~

~~(c) Income shall not be deemed from a sponsor who is receiving FANF financial assistance to needy families, an adult category of financial assistance, or supplemental security income.~~

~~— (e) If the sponsored non-citizens are determined ineligible, the proration process in (c) above shall be used to determine the standard of need and eligibility for the unsponsored non-citizens.~~

~~— (f) If the sponsored non-citizens are determined eligible, eligibility for the entire assistance group shall be computed using the standard of need appropriate for the whole group and all income including the deemed income from the sponsor.~~

~~(dg) In accordance with 45 CFR 233.52, good cause for not providing sponsor information to the department shall exist when the sponsor provided accurate information to the non-citizen and the non-citizen misinterpreted or misrepresented the information when applying for financial ~~and/or medical~~ assistance.~~

~~(e) Income shall be deemed to a non-citizen from the sponsor and sponsor's spouse until one of the following circumstances occur:~~

~~(1) The sponsor or the non-citizen dies;~~

~~(2) The non-citizen becomes a United States citizen;~~

~~(3) The non-citizen has earned, or can be credited with, 40 qualifying quarters of work, as defined by the Social Security Administration;~~

~~(4) The non-citizen ceases to hold the status of lawful permanent resident and leaves the United States; or~~

~~(5) The non-citizen is subject to removal, but applies for and obtains; in removal proceedings, a new grant of adjustment of status.~~

Readopt with amendment He-W 656.05, effective 9-20-16 (Document #11187), to read as follows:

He-W 656.05 Real Property Resources.

(a) For the adult categories of financial assistance, real property resources, as defined in He-W 601.07, shall be treated as follows when determining eligibility:

(1) The home occupied by the individual shall not be counted ~~when determining eligibility for adult categories of financial assistance;~~

(2) An unoccupied home shall not be counted during periods of temporary absence such as short-term hospitalization or institutionalization;

(3) Income-producing property shall not be counted;

(4) Any real property not otherwise excluded shall not be counted if it is necessary as the residence for the individual's spouse, minor child, or disabled child;

(5) One burial plot per assistance group (AG) member shall not be counted; and

(6) The equity value of real property which is not specifically excluded above shall be counted as a resource ~~when determining eligibility for adult categories of financial assistance.~~

(b) For adult categories of financial assistance, the ~~AG~~assistance group shall take action to dispose of the property within 6 months of being notified by the department of health and human services (department) ~~of health and human services (DHHS)~~ that the property must be liquidated, and:

- (1) The equity value of the property shall not be counted during the disposal period; and
- (2) The disposal period shall be extended as long as:
 - a. The individual verifies that action has been taken to sell the property and that there are valid reasons for inability to sell the property; or
 - b. The individual’s hospitalization or institutionalization, although long term, is not expected to be permanent and it is likely that the individual will return to the home.

(c) If disposal does not occur within the disposal period, as specified in (b) above, financial assistance shall be denied or terminated.

(d) For ~~the FANF category of~~ financial assistance to needy families (FANF), disposal of real property shall be treated as follows:

- (1) The ~~AG~~assistance group shall take action to dispose of the property within 6 months of being notified by ~~the department~~ DHHS that the property must be liquidated;
- (2) Individuals shall have an additional 3 months to dispose of excess unoccupied real property, when the individual verifies that ~~they~~ he or she ~~has made~~ a good faith effort has been made to sell the property;
- (3) The equity value of the property shall not be counted during the disposal period described in (1) and (2) above; and
- (4) When the property is sold, the net proceeds from the sale of the property shall count as a lump sum resource, in accordance with He-W 654.03. ~~resource.~~

(e) For FANF, real property resources of a sponsor or sponsor’s spouse shall not be deemed available to a non-citizen.

APPENDIX

Rule	Specific State or Federal Statute or Regulations the Rule Implements
He-W 654.10	RSA 167:83, II(l) & (m); 45 CFR 233.51; 45 CFR 233.52; 8 USC 1631; 42 USC 608(f)(1)
He-W 656.05	RSA 161:4-a, II; RSA 167:3-c, I; RSA 167:81; 45 CFR 233.20(a)(3)(i)(B)(5)