

ELIGIBILITY FOR CASH ASSISTANCE PROGRAMS

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3. DWP (Diversionary Work Program)
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5. WB (Work Participation Cash Benefits)
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8. SSI (Supplemental Security Income)
9. SSDI (Social Security Disability Insurance)

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I. Government Benefits Basics

- Most benefit programs are need-based & have **INCOME & ASSET** limitations.
- Most programs have **STATE RESIDENCY** requirements.
- Most programs have limitations based on **IMMIGRATION STATUS**.
- Most cash and food benefits are issued **ELECTRONICALLY**.
- Some programs have limitations based on **AGE** &/or **DISABILITY STATUS**.
- Most programs include **APPEAL RIGHTS** for applicants & recipients through state or federal agency.

II. Cash Assistance Programs

1. FUTURE PROGRAM SIMPLIFICATION CHANGES:

A. Uniform verification requirements & procedures

- **GA, MSA, MFIP, & DWP** will have uniform verification requirements & procedures beginning 2/1/15.
- The goal is to provide greater uniformity among programs and provide greater simplicity in delivering services at the local level.

B. Uniform determination of self-employment earnings

- Effective 2/1/15, all programs except **MSA** will use simplified process to determine earned income from self-employment.
- HHs with self-employment income will choose to count:
 - 50% of gross earnings, **OR**
 - taxable income as determined from IRS tax form filed within last year.

C. Uniform earned income disregard

Effective 10/1/15, single earned income disregard will be used across programs.

Disregarded will be:

- ❖ First \$65 of earned income, **AND**
- ❖ 50% of any remaining earnings.

D. Uniform personal property limits

Effective 6/1/16, single asset limit of **\$10,000** will be used across programs but will not affect **MSA** recipients receiving **SSI**.

Assets subject to limit are cash, bank accounts, non-exempted vehicles, & liquid stocks & bonds that can be “readily” accessed without financial penalty.

E. Uniform vehicle limits

Effective 6/1/16, new vehicle limit will apply to all programs (except **MSA** for those on **SSI**).

- 1 vehicle per assistance unit member age ≥ 16 will be excluded.
- Value of any remaining vehicles will be applied to unit's asset calculation.
- Trade-in value will be used to determine value of non-excluded vehicles.

F. Certification & recertification

- Effective 2/1/15, participants whose cases were closed due to failure to complete recertification will be able to get cases reopened and benefits reinstated.
- So long as recertification requirements are met within 30 days of case closure, benefits will be reinstated retroactive to date of closure.
- Effective 2/1/15, county agencies determining value of personal property will be required to accept personal statement of that value from participant.

2. **MFIP**: Minnesota Family Investment Program (Minn. Stat. ch. 256J)

What is **MFIP**?

- **MFIP** is welfare-to-work cash & food assistance program for low-income families.
- Federal welfare reform law enacted 8/22/96 eliminated **AFDC** (Aid to Families with Dependent Children) family cash entitlement program.
- **AFDC** was replaced with **TANF** (Temporary Assistance for Needy Families) block grants to states.

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- The background of the slide features a dark blue gradient with several sets of concentric circles in a lighter blue color, creating a ripple effect across the entire page.
- **MFIP** is administered by **county welfare agencies**.
 - It has been Minnesota's **TANF** program since 1998.
 - **State law** governs most aspects of program, with some directives from federal law

A. Lifetime MFIP limit & exceptions

- ❑ Federal TANF law required states to impose lifetime limit of 24-60 months on adult caregivers (caregivers ≥ 18) for receipt of family cash assistance.
- ❑ Months need not be consecutive.
- ❑ Minnesota chose 60-month (5-year) limit for MFIP.
- ❑ Families may be exempt from 5-year limit.
- ❑ They may also qualify for hardship waiver offering benefits beyond 5 years.

a. Exempt months include those in which

- ☐ caregiver is 60 or older,
- ☐ caregiver is 18 or 19 & going to school,
- ☐ household is experiencing family violence, or
- ☐ caregiver lives in Indian Country.

b. To get extension, recipients must get “hardship waiver” for ill, incapacitated, or “hard to employ.” They must:

- ❖ have serious illness or injury severely limiting ability to obtain/maintain “suitable” employment;
- ❖ be needed in home to care for ill/injured HH member;
- ❖ be granted family violence waiver (*if* complying with terms of employment plan);
- ❖ have low IQ or LD that severely limits ability to obtain/maintain suitable employment;
- ❖ be assessed “unemployable” by vocational specialist; or
- ❖ engage in “work activities” ≥ 30 hrs/wk. (with ≥ 25 hrs/wk. of “work”) *and* be unable to climb out of poverty.

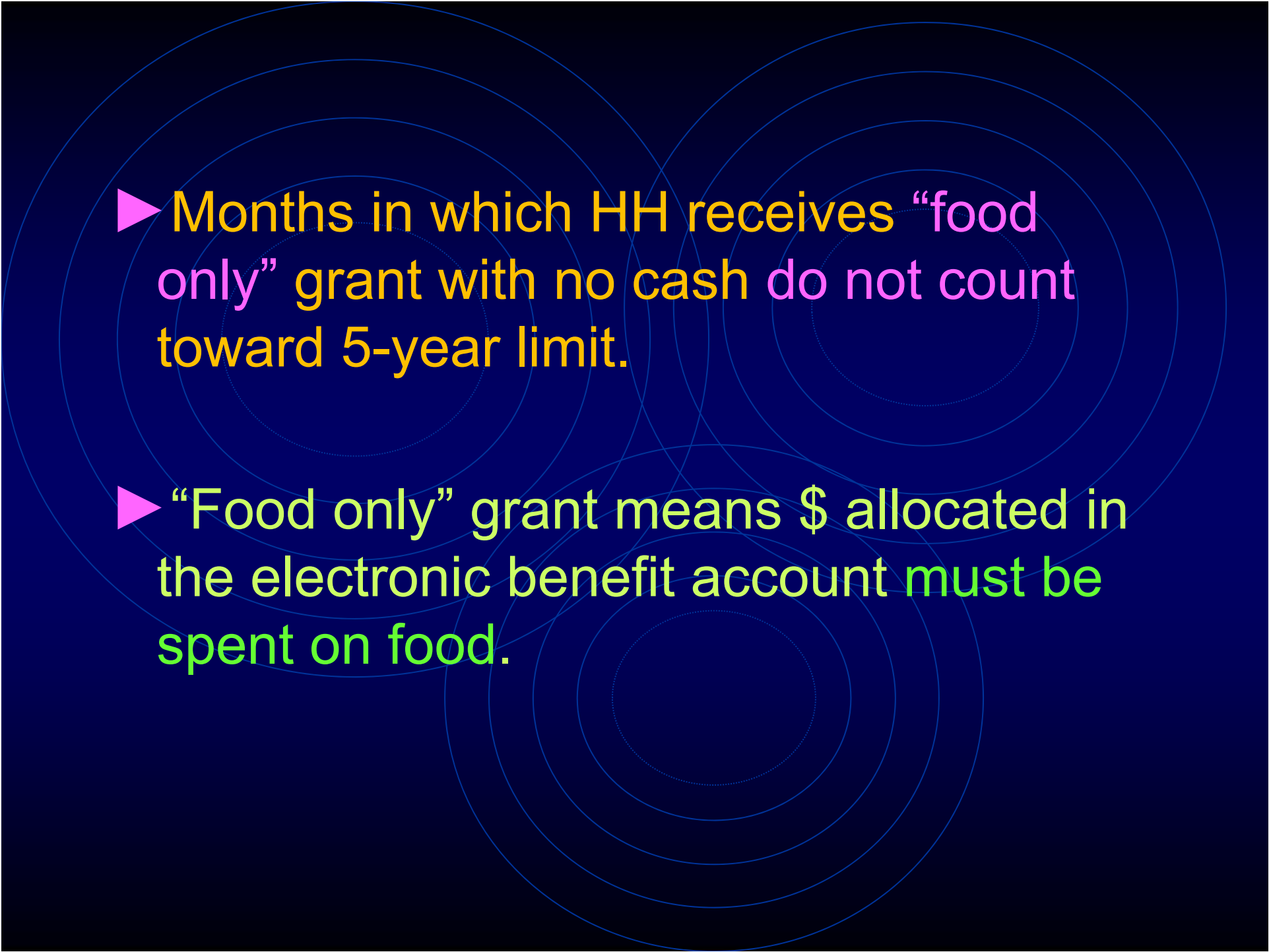
Definition: “Severely limits...person’s ability to obtain or maintain suitable employment”

- ❖ qualified professional has determined that participant’s condition prevents her from working ≥ 20 or more hours/week; **OR**
- ❖ qualified professional has determined she has low IQ or LD, *and* that condition:
 - significantly restricts range of employment she is able to perform, **OR**
 - significantly interferes with ability to obtain or maintain suitable employment ≥ 20 hours/week.

Assessing non-English-speakers in “hard-to-employ” category

In cases involving low IQ or LD for non-English-speakers,

- ✓ determination of low IQ or LD must be made by qualified professional with experience conducting culturally-appropriate assessments, &
- ✓ report must include statement of assessor's confidence in results.
- ✓ For IQ test, county must accept reports that identify IQ range as opposed to specific score.

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- ▶ Months in which HH receives “food only” grant with no cash do not count toward 5-year limit.
 - ▶ “Food only” grant means \$ allocated in the electronic benefit account must be spent on food.

B. Work activities

- MFIP has “universal participation” requirement. Almost all participants must have employment plan approved by county (even if plan doesn’t call for work).
- Most parents have to work or look for work specified number of hrs/wk.
- # of hours that must be spent in work activities will depend on age of children & whether HH is single-parent or 2-parent.
- Once-in-lifetime work exemption exists for single-parent families with child < 12 months.

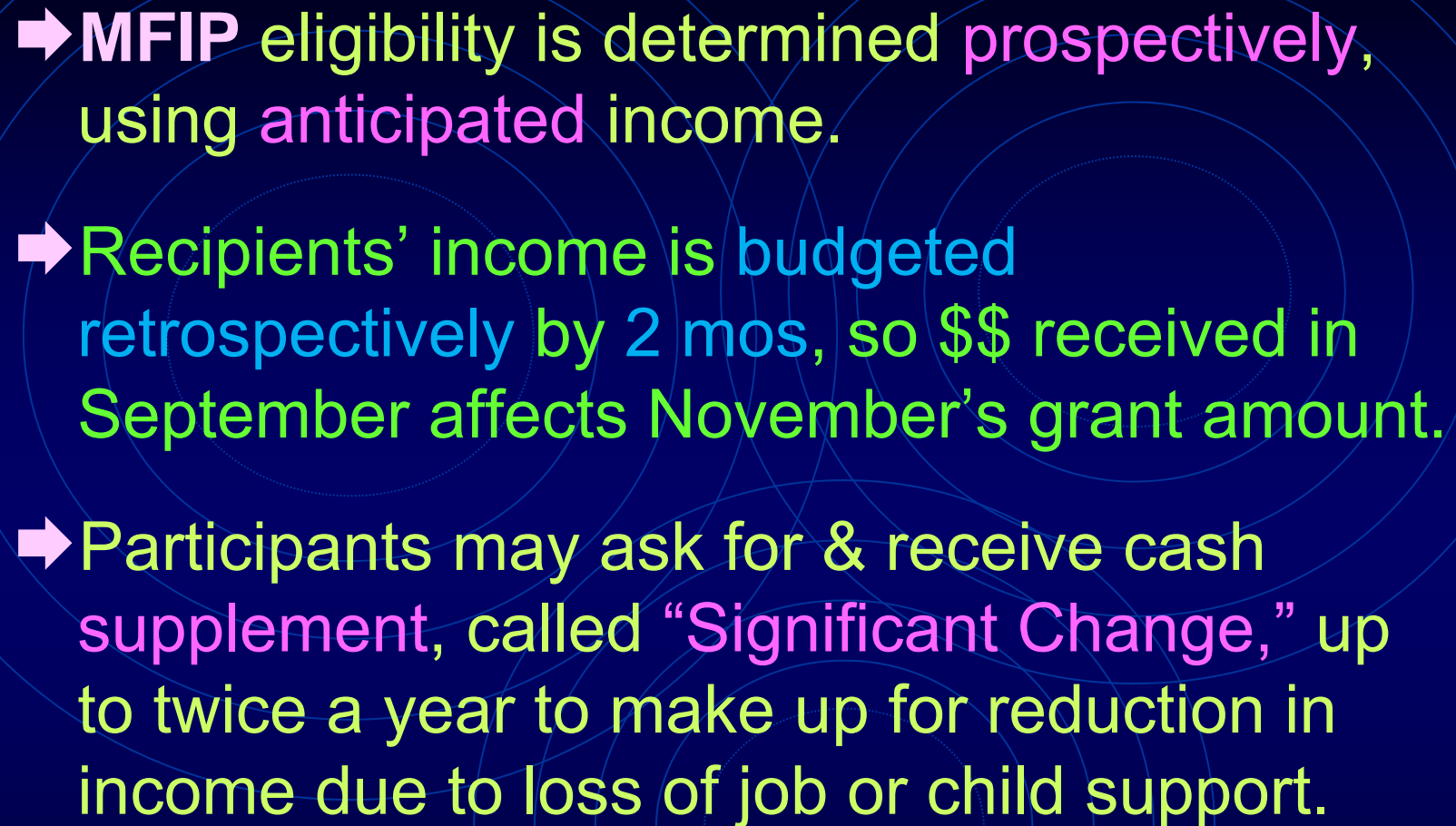
- ★ In past, **MFIP** did not encourage education. If available, it was limited to ≤ 24 mos.
- ★ Effective 7/1/14, education options have broadened for **MFIP** recipients.
- ★ Participants may now enroll in post-secondary programs lasting ≤ 4 years.
- ★ Parents < 20 must generally stay in school to qualify for **MFIP**.

C. Categorical eligibility & HH composition

- **MFIP** applicants must be pregnant or have “needy child” in home.
- Blood or legal relationship must be proven between caregiver & child.
- Both parents must be on grant if both are in home, except when 1 parent is on **SSI**, ineligible due to immigration status, or seeking 60-mo. extension).
- HH must include all minor children including siblings, half-siblings, & stepsiblings, along with natural or adoptive parents & stepparents.

D. Income limits & budgeting

- ❖ **MFIP** families must have little income.
- ❖ Effective 10/1/15, new earned income disregards will come into play, where 1st \$65 of earned income, plus ½ of remaining earnings, will be disregarded.
- ❖ New income disregards will effectively raise **MFIP** “exit level” from 115% to 143% of FPG.

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- ➡ **MFIP** eligibility is determined prospectively, using anticipated income.
 - ➡ Recipients' income is budgeted retrospectively by 2 mos, so \$\$ received in September affects November's grant amount.
 - ➡ Participants may ask for & receive cash supplement, called "Significant Change," up to twice a year to make up for reduction in income due to loss of job or child support.

E. Asset limits

- Under current law, personal property limit is \$2,000 for applicants & \$5,000 for participants.
- Real property used as homestead is excluded.
- Effective 6/1/16, **MFIP** will have new personal property limitations: \$10,000 in personal property (cash, bank acc'ts, liquid stocks & bonds that can be accessed readily without financial penalty, & vehicles not otherwise excluded).
- Effective 6/16/16, 1 vehicle will be excluded per HH member ≥ 16 years old, regardless of value. Non-excluded vehicles will be assessed by trade-in value.

F. Grants

- Cash grant levels (\$437 for HH of 2, \$532 for HH of 3, \$621 for HH of 4) have been static since 1986.
- Current **MFIP** grants leave recipients at 60% of FPG. When scrutinizing cash alone, levels for recipients are below 34% FPG.
- Under current **MFIP** law, grants are reduced by 10% when someone living with family is not caring for HH's children. Reduction is called "shared household standard."
- Shared HH standard will be repealed 1/1/15.

- ➔ Under current law, for most families that **have another child** while receiving **MFIP**, their cash grants will **not increase** for new child due to “**family cap**.”
- ➔ “Family cap” will disappear **1/1/15**.
- ➔ **MFIP** grants are reduced by **\$50** for most families living in **public** or **HUD-subsidized** housing.
- ➔ Starting **7/1/15**, recipients will be eligible for **\$110** **monthly Housing Assistance** grant **unless** they receive HUD subsidy **or** are in child-only **MFIP** units.
- ➔ **MFIP** can be **retroactive** to date of application.

G. Sanctions, ineligibility, & overpayments

- ✓ Fleeing felons & parole violators are not eligible for MFIP.
- ✓ Participants convicted of felony-level drug offenses within 10 years of application must have benefits vendor-paid & are subject to random drug-testing as condition of continued eligibility.
- ✓ Those subject to drug-testing will suffer monetary sanctions &/or program disqualification for failing drug tests.

- Failure to cooperate in developing or following employment plan results in financial sanction.
- Failure to “fix” sanction causes another sanction following month.
- Recipients may demonstrate “good cause” for failing to cooperate with employment & training.
- Applicants & recipients must cooperate with establishment of paternity & collection of child support; failure also results in financial sanction.
- MA, MinnesotaCare, & child care assistance programs also require cooperation with child support enforcement.

“Good cause” for non-cooperation with child support collection efforts exists when:

Pursuit of support could “reasonably result” in:

- ✓ Physical or emotional harm (of “serious nature”) to child, **OR**
- ✓ Physical harm to parent or caregiver that would reduce ability to adequately care for child, **OR**
- ✓ Emotional harm to parent or caregiver, **IF** of such nature or degree that it reduces ability to adequately care for child (must demonstrate emotional impairment that “substantially affects” parent’s ability to function).

Additional bases for “good cause”:

- ✓ child was conceived as result of incest or rape, **OR**
- ✓ legal proceedings for child’s adoption are pending in court, **OR**
- ✓ parent is currently being assisted by social services to resolve issues of whether to keep or place child for adoption. (This exemption lasts only **90 days**).

“**Best interests of child**” are considered in determining “good cause.”

Proof of “good cause”

Those claiming good cause have 20 days to provide evidence, including:

- ❖ birth, medical, or law enforcement records indicating child conceived by rape, **OR**
- ❖ court or other records showing adoption pending in court, **OR**
- ❖ court, medical, criminal, child protection, social services, domestic violence advocate services, psychological, or law enforcement records indicating alleged father might inflict physical or emotional harm on child, parent or caregiver,

OR

- ❖ medical records or written statements from “licensed medical professional” indicating emotional health history, status, diagnosis or prognosis re: emotional health of child, parent or caregiver, **OR**
- ❖ written statement from social services agency that parent is deciding whether to keep or place child for adoption, **OR**
- ❖ sworn statements from other individuals that provide evidence supporting a “good cause” claim.

NOTE: if requested by person seeking good cause claim, child support & public assistance agencies “shall” assist in obtaining evidence of good cause.

Duration of “good cause” claim

- ❖ “Good cause” requires annual redetermination, **BUT**
- ❖ “good cause” must be allowed to continue without additional evidence when factors that led to exemption continue to exist.

SANCTIONS:

- 1st sanction = reduction of 10% of grant.
- 2nd-6th sanctions = mandatory vrending with remainder of grant reduced by 30%.
- Those sanctioned 6 times for non-cooperation with work or child support lose all benefits the 7th month of sanction.
- Sanction months don't have to be consecutive.
- Once **MFIP** is closed, it must stay closed a full month.
- Case will reopen only after participant has been cooperating 30 days.
- Families in sanction are not eligible for **EA**.

- Overpayments must be repaid regardless of fault, unless < \$35.
- Overpayment recovery is limited to 12 mos. before discovery for agency error & 6 years before discovery for client error or intentional program violation.
- Fraud is dealt with criminally OR through civil Administrative Disqualification Hearing (ADH) process.
- 1st ADH fraud determination renders adult recipients ineligible for 12 months; 2nd results in 2 years' disqualification; 3rd results in permanent disqualification.
- ADH Disqualification requires clear & convincing proof of intent to defraud.

Other **MFIP** provisions:

- ❖ Most **immigrants** residing permanently & lawfully in U.S. can get **MFIP**.
- ❖ **U.S. citizen child of ineligible parents** can get “**child only**” grant.
- ❖ New immigrants in U.S. < 12 mos. will be referred to **FSS** instead of **MFIP**.
- ❖ **Sponsor-deeming** may affect eligibility.

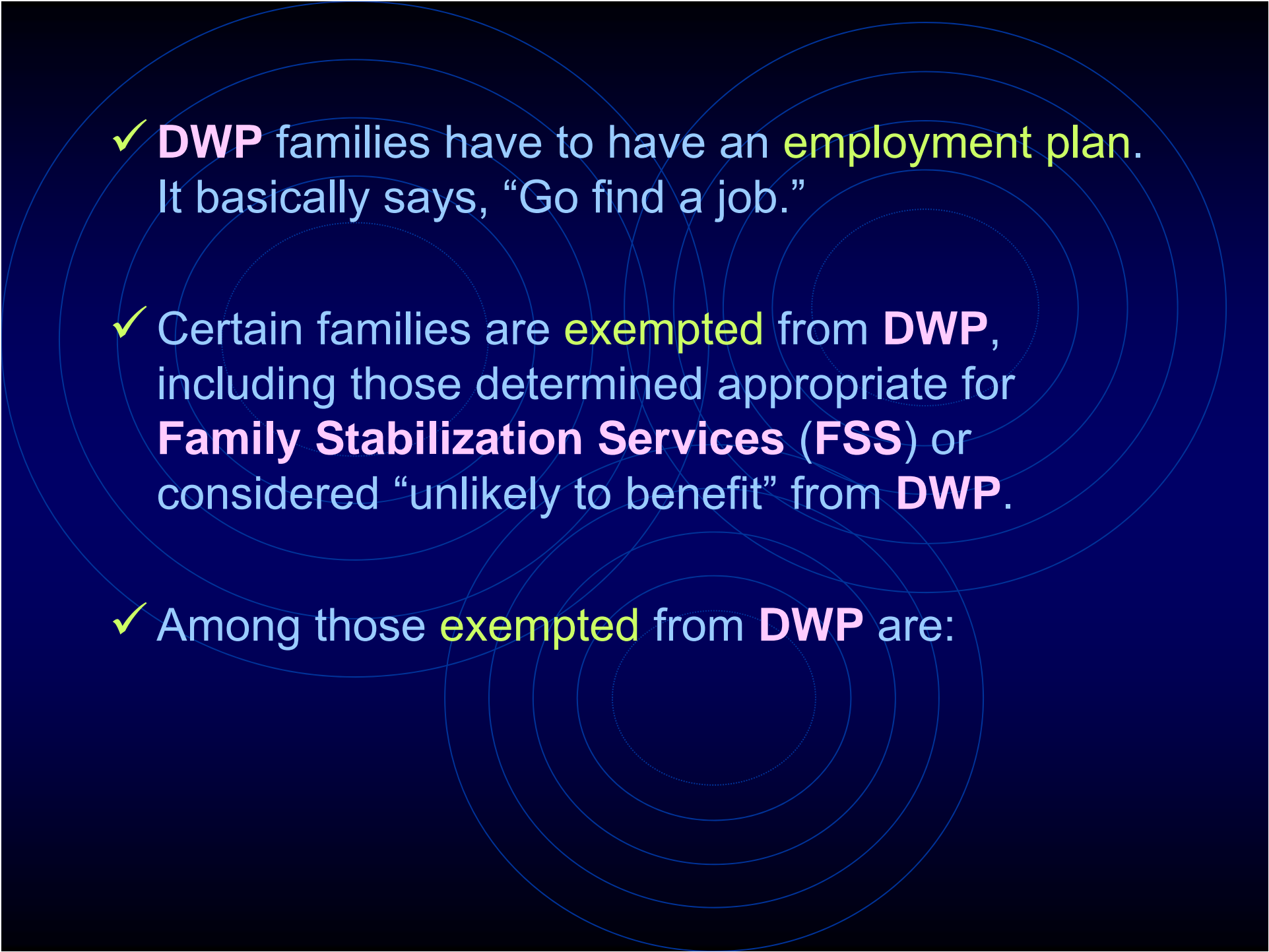
- Complicated requirements for reporting income & asset changes will be simplified beginning 1/1/15.
- New applicants have to meet 30-day state residency requirement unless hardship documented.
- Applicants & recipients can appeal any issue (including imposition of sanction, work issues, grant amounts, denials of benefits) to MN DHS.
- Appeals made within 10 days of notice date, or before effective date of change, preserve benefits pending outcome of appeal.
- Appeal deadlines are 30 days for MFIP cash & 90 days for food portion, (There are “good cause” exceptions for late appeal).
- Appeals of DHS decisions go to state district court.

3. DWP: Diversionary Work Program (Minn. Stat. § 256J.95)

What is DWP?

- ✓ **DWP** is 4-month **TANF**-funded program for new **MFIP** applicants & former **MFIP** recipients reapplying after being off 12 months. Such applicants are ineligible for **MFIP**.
- ✓ **DWP** is administered by county welfare departments.
- ✓ Goal is to provide short-term supports & services for families to get them back to work post-haste.

- ✓ Many aspects of **DWP** are same as in **MFIP**: financial eligibility, state residency, retroactivity, immigration issues, cooperation requirements, & overpayments.
- ✓ During 4 months of **DWP**, family receives no cash. Vendor payments are made for rent & utilities, up to standard **MFIP** grant.
- ✓ Leftover \$ can be given in form of “personal needs” allowance of \$70 per HH member.
- ✓ If no work is secured during 4 months of **DWP**, family gets transferred automatically to **MFIP**.
- ✓ Supports, including **SNAP (Food Stamps)**, **Medical Assistance (MA)**, & **MFIP** child care, should be provided to **DWP** households.

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- ✓ **DWP** families have to have an **employment plan**. It basically says, “Go find a job.”
 - ✓ Certain families are **exempted** from **DWP**, including those determined appropriate for **Family Stabilization Services (FSS)** or considered “unlikely to benefit” from **DWP**.
 - ✓ Among those **exempted** from **DWP** are:

- ❖ those determined appropriate for **FSS**,
- ❖ “**child only**” cases (where parent on **SSI** or **ineligible** due to immigration status),
- ❖ single-parent families with **child < 12 months** (exemption available **only once in lifetime**),
- ❖ parents **under 20** with no high school diploma who plan to go to school,
- ❖ caregivers age **60 or older**, &
- ❖ **non-citizen immigrants** who arrived in U.S. **< 12 months** before applying for assistance.

- **DWP** does not use retrospective budgeting. Budgeting does not change during 4-month period, so recipients who find job get to keep all their earnings.
- Non-cooperation with **DWP** employment plan means disqualification from **DWP** & no eligibility for **MFIP** or **EA**.
- **DWP** months do not count toward MFIP 60-month lifetime limit.

FSS: Family Stabilization Services (Minn. Stat. § 256J.575)

What is **FSS**?

- ❑ **FSS** is for families not making progress in **MFIP**.
- ❑ **FSS** is administered by county welfare departments.
- ❑ **FSS** was created to increase state's **TANF** work participation rates by taking people not making progress in **MFIP** off **TANF**-funded benefits.

FSS eligibility exists for caregivers who are:

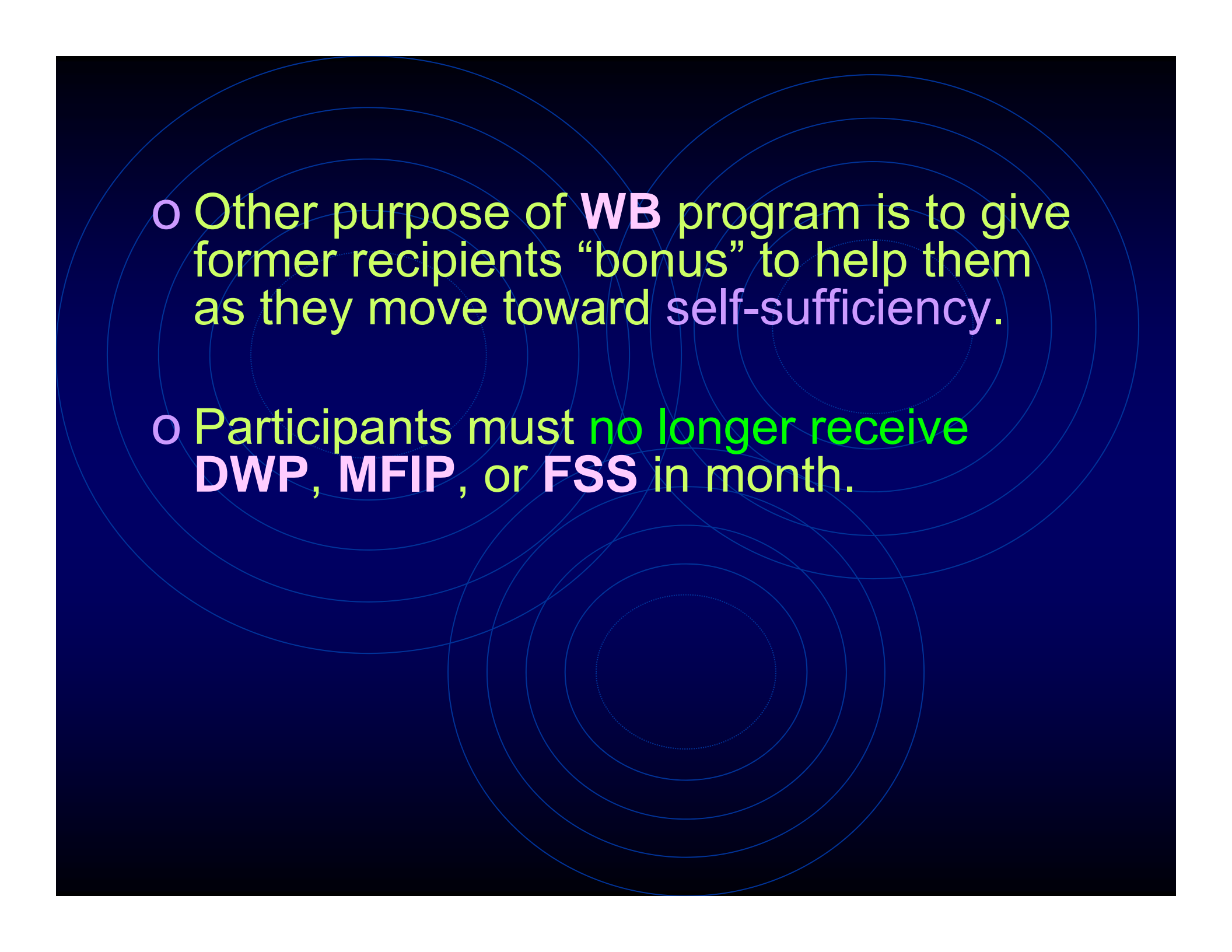
- granted or eligible for “ill or incapacitated” or hard-to-employ **MFIP** extensions (including those with low IQ or LD, as well as those granted family violence waiver),
- applying for **SSI** or **SSDI**,
- non-citizens in U.S. < 12 months, or
- ≥ 60 years old.

- **FSS** has “universal participation” requirement but work requirements are more relaxed than in **MFIP**.
- **FSS** offers increased protections against sanctions, vis-à-vis **MFIP** & **DWP**.
- **FSS** provides same cash & food benefits as **MFIP**, has same financial eligibility requirements, & is same as **MFIP** re: state residency, retroactivity, immigration, fraud, overpayments, & appeals.
- **FSS** participants aren't counted in **TANF** work participation rates.

5. **WB**: Work Participation Cash Benefits (Minn. Stat. § 256J.621)

What is **WB**?

- o **WB** was created to increase Minnesota's **TANF** participation rates by including in **TANF** former **MFIP** recipients exiting **MFIP** due to earnings.
- o County welfare departments can give participants exiting **DWP** or **MFIP** with earnings **WB** benefits of \$25/mo.

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- Other purpose of **WB** program is to give former recipients “bonus” to help them as they move toward self-sufficiency.
 - Participants must **no longer receive DWP, MFIP, or FSS** in month.

- Caregivers must be employed certain # hours per mo.
- **WB** benefits are available up to 24 consecutive months.
- Net income must be below 200% of FPG.
- **WB** months count for state in **TANF** participation.
- Months receiving **WB** do not count against participants as **MFIP** months.
- State residency, retroactivity, immigration status, overpayments, fraud, & appeal rights are same as in **MFIP**.

NOTE: **WB** will effectively end on 12/1/14 when statutory program suspension begins.

6. **GA**: General Assistance (Minn. Stat. ch. 256D; Minn. Rules ch. 9500)

What is **GA**?

- **GA** is state-funded, non-family cash program administered by **county welfare** departments.
- **GA** is for adults who **can't work**.
- **GA** is also for **minor children** who can't qualify for **MFIP** because of inability to demonstrate blood or legal relationship to caregiver.

A. Income & assets

- **GA** has **income & asset** limits which are **very low**, but those limits will be changing in next 2 years.
- Currently, most income (earned or unearned) counts dollar-for-dollar to reduce grant, after exclusion of 1st \$50 of earned income.
- New **earned income disregards** will apply to **GA** beginning **10/1/15** (1st \$65 plus 50% earnings).
- **GA** applicants & recipients currently can own only \$1,000 in real or personal property or liquid assets.
- **Homestead** is excluded, as is vehicle with equity value **< \$1,500**.
- Beginning **6/1/16**, new personal property limits of \$10,000 will apply, and recipients will be able to exclude 1 vehicle entirely.

B. Budgeting & benefit amounts

- ✓ Benefit payments are extremely low: \$203 for single, \$260 for married couple (no increase since 1986).
- ✓ Income is determined prospectively & budgeted retrospectively, as it is in MFIP.

C. Categorical eligibility

Applicants must:

a. suffer from a permanent or temporary illness, injury or incapacity which:

- ❖ is “professionally certified”
- ❖ is expected to continue > 45 days
- ❖ prevents them from obtaining or retaining employment,

OR

b. be needed in the home on a substantially continuous basis:

- ✓ because of an illness, injury, or incapacity
- ✓ of another household member
- ✓ that has been professionally certified,

OR

c. be placed or residing in **licensed or certified facility** for physical or mental **health or rehabilitation**, **OR approved chemical dependency inpatient facility**, **OR domestic violence shelter facility**.

- For those in rehabilitation or chemical dependency facilities, placement must be **based on illness or incapacity AND**
- be according to **plan** developed or **approved** by county agency through its director or designated director,

OR

d. be developmentally disabled or mentally ill,
IF:

- o diagnosed by licensed physician,
psychological practitioner, or other
“qualified professional” AND

- o condition prevents them from obtaining or
retaining employment,

OR

- e. have application pending for, or are appealing, denial or termination of **SSI** or **SSDI** benefits, IF
- they have a permanent or temporary illness, injury or incapacity
 - which is professionally certified,
 - which is expected to continue > 30 days, and
 - which prevents them from obtaining or retaining employment,

OR

f. are of “advanced age” (≥ 55):

- which makes them unable to obtain or retain employment because it
- significantly affects their ability to seek or engage in “substantial work,”

OR

g. have been determined “unemployable” by vocational specialist in consultation with county agency.

- People are considered “employable” if positions exist in local labor market they are capable of performing, regardless of availability of or openings for those positions.
- Onus is on applicant or recipient to obtain vocational assessments.
- Certification must occur annually,

OR

h. have “specific learning disability” (SLD).

☐ SLD must be determined by county agency according to rules adopted by Commissioner that qualify under state Special Education rules.

☐ Must have rehabilitation plan developed or approved by county agency.

☐ Must be following plan,

OR

- i. be eligible for displaced homemaker services, programs or assistance, IF enrolled as full-time student, **OR**
- j. be involved with protective or court-ordered services that prevent work at least 4 hours/day, **OR**
- k. be attending high school at least half-time IF over 18 **AND** primary language is not English,

OR

I. have alcohol or drug addiction (DAA), IF:

- ✓ DAA is “material” factor that “contributes” to disability, AND
- ✓ they undergo assessment by county agency to determine amenability to treatment.
 - If determined NOT amenable to treatment, then GA must be “vendor-paid” for shelter costs up to GA grant amount limit.
 - If determined amenable to treatment, must be in treatment program or on wait list, AND benefits must be vendor-paid.

D. Other GA provisions

- **GA** applicants are required to **apply for other benefits** for which they may be eligible, & they must **reimburse** county if later found eligible for another benefit for time they received **GA**.
- **GA** applicants convicted of drug offense after **7/1/97** are **ineligible** for **GA** for **5 years** after completion of sentence unless they have completed or are participating in drug treatment.
- Those who “become eligible” under statute are subject to random drug tests as condition of continued eligibility.
- They will **lose benefits** for **5 years** beginning month following positive drug test or discharge of sentence after conviction for another drug felony.

- “Fleeing felons” & parole violators are not eligible for GA.
- GA applicants & recipients are subject to many of same requirements as in MFIP, including state residency, retroactivity, immigration status, overpayments, & fraud.
- Sponsor-deeming may affect eligibility, & non-citizens must take “steps” toward citizenship.
- GA has same appeal rights & processes as MFIP.

7. **MSA**: Minnesota Supplemental Aid (*Minn. Stat.. §§ 256D.33-256D.54*)

What is **MSA**?

- ❑ **MSA** is state supplement administered by counties for recipients of **SSI** & those who would receive **SSI** but for excess income.
- ❑ **MSA** serves primarily to ameliorate effects of high housing costs for those living alone. People in “shared households” are usually ineligible.
- ❑ **MSA** can pay for furniture replacements & other needs, as well as special medical diets.
- ❑ **MSA** can be used to pay “representative payee” fees for **SSI** or **SSDI** recipients required to have someone manage their federal benefits.

A. Income & assets

- ❑ To qualify, **MSA** applicants have to receive **SSI** or be barely over **SSI** income limits.
- ❑ Income limits for **MSA** are low, & grants are based on “standards of assistance” set out in state law.
- ❑ New earned income disregards take effect for **MSA** 10/1/15.
- ❑ Asset rules are the same as for **SSI** (\$2,000 for single, \$3,000 for married couple).
- ❑ Only **MSA** recipients not on **SSI** will benefit from new uniform property & vehicle limitations taking effect 6/1/16.

B. Miscellaneous provisions

- ▶ Average **MSA** supplement for housing is \$81 for non-institutionalized recipients.
- ▶ Immigration limitations are very strict for **MSA**, as they relate to **SSI**.
- ▶ **MSA** is similar to **MFIP** & **GA** in terms of state residency, retroactivity, fraud, & appeal rights.

8. **SSI**: Supplemental Security Income
(42 USC ch. 7, subch. XVI, 1381-1383; 20 CFR pts. 404, 416)

9. **SSDI**: Social Security Disability Insurance
(42 USC ch. 7, subch. II, secs. 401-434; 20 CFR pt. 404)

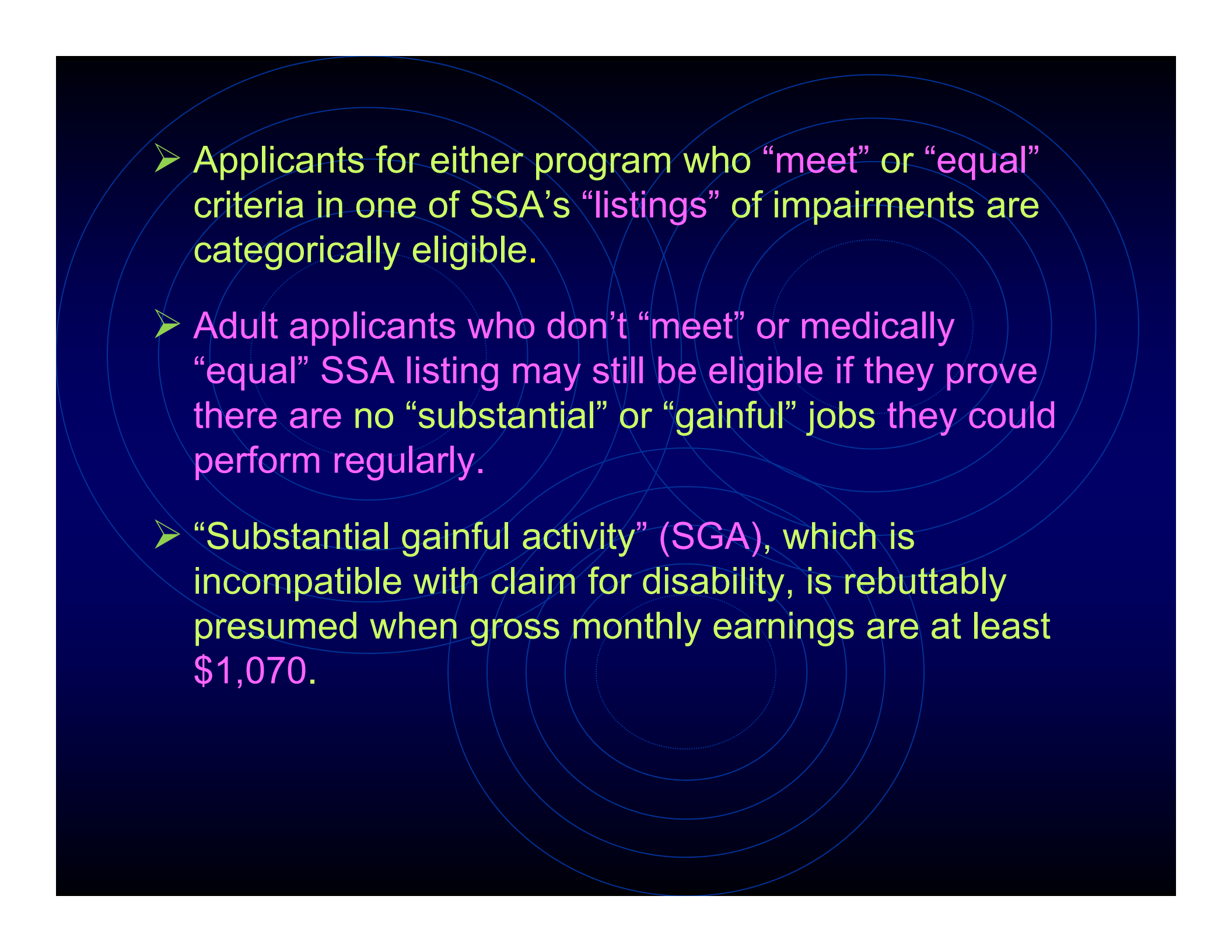
What are **SSI** & **SSDI**?

SSI & **SSDI** are
federal disability benefits
administered by
Social Security Administration (SSA).

A. Disability

- ❖ To qualify for **SSI** or **SSDI**, applicant must be unable to work competitively for ≥ 12 months due to severe impairment or combination of impairments.
- ❖ “Disability” is:
 - ✓ inability to do any “substantial gainful activity”
 - ✓ by reason of medically determinable physical or mental impairment
 - ✓ which can be expected to result in death or which has lasted or can be expected to last for continuous period of ≥ 12 months.

- ❖ **Vocational factors** (age, education, past work) & physical & mental impairments are considerations in determining adult disability in both programs.
- ❖ **SSI** has special criteria for determining disability in **children**, often focusing on function.
- ❖ **SSDI** does not have separate disability program for children but does have “**Disabled Adult Child**” (DAC) benefit for adults disabled before age 22 to get benefits on account of deceased or disabled parent.
- ❖ Claims for **SSI** & **SSDI** will be denied if **alcoholism** or **drug dependence** is “contributing” factor “material” to finding of disability.

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- Applicants for either program who “meet” or “equal” criteria in one of SSA’s “listings” of impairments are categorically eligible.
 - Adult applicants who don’t “meet” or medically “equal” SSA listing may still be eligible if they prove there are no “substantial” or “gainful” jobs they could perform regularly.
 - “Substantial gainful activity” (SGA), which is incompatible with claim for disability, is rebuttably presumed when gross monthly earnings are at least \$1,070.

B. Income & Assets

- **SSI** is **need-based**, not contingent on applicant's work history or earnings.
- **SSI** has **strict income & asset limits**. Even "in-kind" income is counted. Non-excluded resources are limited to **\$2,000** for single person & **\$3,000** for married couple when each spouse is eligible for **SSI**.
- **SSI** recipients not paying pro rata share of HH operating expenses will have grant **reduced by 1/3**.
- To qualify for **SSDI**, recipients (or deceased or disabled parent, spouse, or child) must have **paid into** system through **FICA** wage deductions.
- **SSDI** has **no** income or asset limits, other than limitation on earned income for recipients. Worker's Comp. & other Social Security benefits may reduce payments.

C. Benefit reach

- ❖ **SSI** benefits extend only to disabled or elderly recipients. There are no “dependent” or “survivor” benefits.
- ❖ **SSDI** benefits may be available to non-disabled dependent minors, based on “family maximum” formula.
- ❖ **SSDI** derivative benefits may be considered as if they were child support for purposes of setting or modifying child support order for non-custodial parent receiving **SSDI**.

D. Garnishments & attachments

- Neither **SSI** nor **SSDI** can be garnished or attached, for most debts.
- **SSDI** can be garnished for debts from federal government programs, such as **SNAP** or student loans.
- **SSDI** can be garnished for child support & maintenance debts. Derivative benefits going to the child on account of disabled parent should be credited as child support.

E. Retroactivity

- ✧ **SSI** benefits are retroactive only to date of application.
- ✧ **SSDI** can be retroactive up to year before date of application, if disability is proved for that period of time.

F. Interaction of work & disability benefits

- ❑ Both **SSI** & **SSDI** encourage participation in “Ticket to Work” program through state vocational rehabilitation agencies.
- ❑ **SSDI** has “trial work period” (TWP) that allows recipients to try to work before losing benefits.
- ❑ **SSI** has no TWP. Most unearned income, cash or in-kind, counts dollar-for-dollar to reduce grant. Half of earned income counts, after \$65 disregard, to reduce grant.
- ❑ **SSI** allows Plans for Achieving Self-Support (PASS), which may help some recipients work.

G. Medicare

- ❑ Disabled **SSI** recipients under 65 are **not eligible** for Medicare.
- ❑ Disabled **SSDI** recipients under 65 can qualify for Medicare after **2 years** of **SSDI** eligibility.

H. Benefit Amounts

- ▶ **SSI** grant amounts are firm & significantly higher than comparable **GA** or **MFIP** grants.
- ▶ **SSI** grants are \$721 for single person & \$1,082 for eligible married couple.
- ▶ **SSI** grants are reduced by 1/3 if recipients aren't paying pro rata share of housing costs.
- ▶ **SSDI** grants are based on workers' earnings histories.
- ▶ If **SSDI** grant is lower than **SSI** payment level, recipients can get "concurrent" consisting of partial **SSI** grant in addition to **SSDI**.
- ▶ Both **SSI** & **SSDI** are usually increased annually with cost-of-living adjustments (**COLAs**).

I. Immigration

- © **SSI** is most restrictive federal program for non-citizens. Eligibility depends on specific immigration status, date of arrival in U.S. or of adjustment to LPR status, & whether “sponsor-deeming” applies.
- © In general, non-citizens immigrating to U.S. after 8/22/96 are either completely ineligible for **SSI** or, if asylees or refugees, eligible only for 7 years after date of grant of refugee status or asylum.
- © **SSDI** has no immigration-related restrictions for those who reside lawfully in U.S.
- © Because **SSDI** is not need-based, sponsor-deeming does not apply.

J. Appeals

- **SSI & SSDI** appeal periods are **60 days**. Applicants denied have 60 days to request reconsideration. After second denial they have 60 days to request hearing before Administrative Law Judge (ALJ).
- ALJ denials can be appealed within **60 days** to Appeals Council (AC) in Virginia. AC appellants are generally precluded from filing new claim until AC rules on appeal.
- AC decisions can be appealed within **60 days** to federal district court.
- Deadlines are important in SSA programs, but SSA can grant “good cause” for late appeal.

K. Miscellaneous SSI/SSDI stuff

- ❖ “Fleeing felons” & parole violators aren’t eligible for **SSI** or **SSDI**.
- ❖ In general, **overpayments** in both programs must be **repaid**.
 - In **SSI**, SSA can withhold **10%** of benefits from current recipients to recover non-fraud overpaymentst & entire grant for overpayments based on “fraud.”
 - In **SSDI**, SSA can withhold entire grant even in non-fraud overpayment cases, but amount of withholding can be negotiated.
- ❖ Overpaid recipients can request **waiver** at any time.
- ❖ Waivers can be granted in both programs if recipients can show they were **without fault** in creating overpayment & **can’t afford to repay** overpaid benefits.

III. Immigration Considerations

- Generally, only non-citizens lawfully & permanently in U.S. are eligible for benefits.
- There is 5-year bar (waiting period) affecting eligibility for federally-funded benefits for some non-citizens.
- Some immigrants in U.S. on temporary basis, or in process of adjusting to Lawful Permanent Residency, may qualify for state-funded benefits.
- Eligibility for purely federal benefits will depend on variety of factors.
- Sponsor-deeming makes many immigrants ineligible for an array of federal & state-funded benefits.