

VIII. LIVING ALLOWANCES, OTHER IN-SERVICE BENEFITS, AND TAXES

Requirements related to member living allowances and benefits are in 45 CFR §§ 2522.240 and 2522.250. In addition, recipients must ensure that the following procedures are followed:

§2522.245 **How are living allowances disbursed?** A living allowance is not a wage and programs may not pay living allowances on an hourly basis. Programs must distribute the living allowance at regular intervals and in regular increments, and may increase living allowance payments only on the basis of increased living expenses such as food, housing, or transportation. Living allowance payments may only be made to a participant during the participant's term of service and must cease when the participant concludes the term of service. Programs may not provide a lump sum payment to a participant who completes the originally agreed upon term of service in a shorter period of time.

From the FAQs and Terms & Conditions:

A. **Living Allowance Distribution.** A living allowance is not a wage. Recipients must not pay a living allowance on an hourly basis. Recipients should pay the living allowance in regular increments, such as weekly or bi-weekly, paying an increased increment only on the basis of increased living expenses such as food, housing, or transportation. Payments should not fluctuate based on the number of hours served in a particular time period, and must cease when the member's service ceases. If a member serves all required hours and is permitted to conclude his or her term of service before the originally agreed upon end of term, the recipient may not provide a lump sum payment to the member. Similarly, if a member is selected after the program's start date, the recipient must provide regular living allowance payments from the member's start date and may not increase the member's living allowance incremental payment or provide a lump sum to make up any missed payments

C. 26 How should a program handle a situation when a member serves no hours during a pay period? Situations in which a member serves zero hours during a pay period should be very rare and the member should be suspended if there are periods in which no service is performed. Otherwise, since the living allowance is to be distributed evenly over the service period, it should be paid regardless of the number of hours. **However, a member's agreement could also stipulate conditions under which the living allowance is paid and what the member should do if a period occurs in which no hours are served. The agreement could also stipulate the minimum number of hours required during each service period**

C. 18. May a program temporarily withhold a member's living allowance if the member has failed to submit his or her timesheets for two or more weeks? A program may temporarily withhold a member's living allowance if the member has failed to submit timesheets. The member agreement must clearly state the policy, and the withholding must be temporary, and not result in the program docking the member's living allowance. Reference: 2007 AmeriCorps grant provisions IV. H.

C. 24. What are allowable minor disciplinary actions? The grantee may temporarily suspend or impose a fine on a member for minor disciplinary reasons, such as chronic tardiness, as outlined in the conditions of the member agreement. **When a member is suspended as a minor disciplinary action, should he or she continue to accrue service hours and collect the living allowance?** The period of suspension does not count toward a member's required service hours. Further, members who are suspended for minor disciplinary reasons may not receive a living allowance for the suspension period. How should fines be

collected as a minor disciplinary action? If determined to be necessary for improvements in member performance or attendance, the grantee may impose a reasonable fine on members for minor disciplinary problems consistent with the member agreement. The fines may not be calculated on an hourly basis. For example, a member who is an hour late may not be fined an hour's worth of living allowance. Instead, the grantee should establish a written policy on fines, which is not linked to an hourly rate. The grantee may deduct fines from that portion of the member's living allowance that is paid by non-federal funds. Before making any deductions, the grantee should consider how this might affect the status of members under employment laws, including minimum wage and unemployment compensation. Further, a grantee that deducts in this fashion may be required to provide additional matching funds

C. 10. We pay our living allowances on a monthly basis. How should we handle situations in which members come on board late in the month or exit early in the month at the end of their term? You should establish a written policy that is reasonable. For example, if a member comes on board within the first two weeks of the month, you might set policy that gives them the entire living allowance. If they start service later than that, you could prorate the amount based on the number of days in the month they will serve. The same would hold true for the end of service. If they leave within the first two weeks of the month, their living allowance could be based on the number of days in the month they served. If they serve over the 2-week cut-off, they could get the full living allowance. You can establish different cut-off points as long as they are reasonable, documented in policy, and followed consistently.

C. 57. What is the impact on the living allowance for residential programs, or programs that provide housing? Residential programs, or programs that otherwise provide housing, should ensure that the living allowance that they are providing, in addition to the value of the housing, does not equal more than the maximum living allowance

C. 68. Can a member be authorized for temporary leave for the reasons allowed under the Family Medical Leave Act (FMLA) if he or she does not otherwise meet the eligibility requirements for FMLA?

At the grantee's discretion, temporary leave may also be authorized for the reasons allowed under FMLA to AmeriCorps members who do not otherwise meet the eligibility requirements for FMLA leave as described in the regulations. If temporary leave is appropriate, grantees have the flexibility to determine the duration of the absence for up to 12 weeks, and may choose to continue providing health benefits to the member during the period of absence. The member must be suspended during the period of temporary leave.

The length of the leave must be based on two considerations: (1) the circumstances of the situation; and (2) the impact of the absence on the member's service experience and on the overall program. If the disruption would seriously compromise the member's service experience or the quality of the program as a whole, then the grantee may offer the member the option of rejoining the program in the next class or completely withdrawing from the program.