

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) SOURCE BOOK

New York State Office of
Temporary and Disability Assistance

Center for Employment and Economic Supports

**Chapters 1-4, 8, 10, 16-17 and 18
of the SNAP Source Book have been updated.
As other sections are updated, we will notify district staff.**

**For SNAP questions please contact the SNAP Bureau
at 1-800-343-8859, extension 3-1469.**

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SECTION 1: FORWARD/NOTICE

FORWARD

The material contained in this manual provides assistance to local staff by introducing the information necessary for the proper determination of eligibility and by serving as an instructional guide for workers.

This manual is the product of many individuals' work. It is the hope of all those involved in preparing the Supplemental Nutrition Program Source Book that you, the reader, will find it useful.

NOTICE

Supplemental Nutrition Program Source Book is intended simply to express Department policies and regulations which have been formulated in Book 18, The Official Compilation, Rules and Regulations of the State of New York. The final authority on Department Regulations is Book 18.

NOTE: In the event there is a conflict between the Regulations in Book 18 and the Material in the Supplemental Nutrition Program Source Book, users should contact either the Supplemental Nutrition Program Source Book contact person or the Center for Employment and Economic Supports Supplemental Nutrition Program_Bureau staff.

SECTION 2: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

A. General Introduction

POLICY

The Supplemental Nutrition Assistance Program Source Book (SNAPSB) will provide local districts with guidelines to determine eligibility and benefit levels for households and to operate local programs. These include application and notice requirements, and budgeting and resource procedures basic to a determination of financial eligibility for Supplemental Nutrition Assistance Program benefits.

At the end of every subject, the reader will find at the bottom of the page, three possible headings or columns - "References," "Related Items," and "TA Source Book." References will cite the State Regulations; Related Items will cite other relevant sources; the TASB will cite the appropriate TASB Section(s). To facilitate further access to information, the reader will find a master Table of Contents in the front of the book.

Information in the SNAPSB will be revised and updated as needed in order to maintain the continued validity of the Source Book. Notification of the most recent updates will be found in Section 1 in the Notices area.

Administrative Directives, Regulations, General Information System (GIS) and Automated Budgeting and Eligibility Logic (ABEL) Transmittals will provide necessary notification of changes affecting Temporary Assistance staff. Wherever a conflict arises between the SNAPSB and Regulations, Social Services Law, Administrative Directives, GIS or an ABEL Transmittal, local district staff should contact the Center for Employment and Economic Supports, Supplemental Nutrition Assistance Program Bureau.

B. Overview of the Supplemental Nutrition Assistance Program

PURPOSE

The purpose of the federally funded Supplemental Nutritional Assistance Program (SNAP), formerly known in New York State as the Food Stamp Program, is to reduce hunger and malnutrition by supplementing the food purchasing of eligible low income individuals.

LEGAL BASIS

The authority to operate the Supplemental Nutrition Assistance Program is based on both Federal and State Laws and Regulations.

1. Federal Law

Under the Food Stamp Act of 1977, the Food Security and Rural Investment Act of 2002, and the Food, Conservation and Energy Act of 2008, the United States Department of Agriculture (USDA) administers the Supplemental Nutrition Assistance Program. Within USDA, the Food and Nutrition Service (FNS) has program responsibilities.

2. Federal Regulations

7 CFR Sections 172 through 282 govern the Federal Supplemental Nutrition Assistance Program.

3. State Law

Under Sections 95 and 29 of the Social Services Law, the New York State Office of Temporary and Disability Assistance (NYS OTDA) administers the Supplemental Nutrition Assistance Program.

a. Under Section 95, NYS OTDA can:

- (1) Develop the required State plans to utilize the Federal Food Stamp Act of 1977, as amended,
- (2) Accept a designation which makes supplemental nutrition assistance benefits available to eligible persons,
- (3) Delegate or assign appropriate functions to other State departments and agencies with the approval of the Governor,

b. Under Section 29, NYS OTDA, with the approval of the Governor, can accept a designation from, and act as the agent of the duly authorized Federal Agency in the administration of relief and related activities affecting the welfare of individuals and communities, and the disbursement or expenditure of Federal funds and commodities.

4. State Regulations

Part 387 governs the Supplemental Nutrition Assistance Program.

C. ACRONYM/TERMINOLOGY LISTING

-A-

AABD	Aid to Aged, Blind and Disabled
ABAWD	Able Bodied Adult Without Dependents
ABE	Adult Basic Education
ABEL	Automated Budgeting and Eligibility Logic
ACE	Active Corps of Executives
ACHIEVE	Another Change Initiative for Education, Vocation or Employment
ACTUAL	Actual Shelter Cost
A/D	Aged/Disabled
ADA	American's with Disabilities Act
ADC	Aid to Dependent Children
ADM	Administrative Directive (NYS issued directive)
AE	Administrative Error
AFA	Anticipated Future Action
AFIS	Automated Finger Imaging System
AIDS	Acquired Immune Deficiency Syndrome
ALE	Adult Literacy Education
AP	Absent Parent
APP-TAD	Application Turnaround Document
APP-REG	Application Registration
APP-TAD	Application Turn Around Document (DSS-3636)
A/R	Applicant/Recipient
ASAW	Additional Special Agricultural Worker
AVE	Adolescent Vocational Exploration Program

-B-

BASIC	Basic or Personal Allowance
BEDS	Back End Detection System
BCIS	Bureau of Citizen and Immigration Services – Formerly INS
BDD	Bureau of Disability Determinations (NYC)
BEDS	Back End Detection System
BENDEX	Beneficiary Data Exchange
BICS	Benefit Issuance and Control System
BOCES	Boards of Cooperative Educational Services
BRIA	Bureau of Refugee and Immigration Affairs

-C-

CA	Number in Case
CAA	Community Action Agency
CAMS	Cash Management Subsystem
CAP	Child Assistance Program
CASE	Case Type
CASE NO	Case Number
CBIC	Common Benefit Identification Card
CBO	Community Based Organization
CBVH	Commission for the Blind and Visually Handicapped
CCBG	Child Care Block Grant
CEOSC	Comprehensive Employment Opportunity Support Center
CFR	Code of Federal Regulations
CHEP	Cuban/Haitian Entrant Program
CIN	Client Identification Number
CNS	Client Notices System
COB	Close of Business

COLA	Cost of Living Adjustment
CSEU	Child Support Enforcement Unit
CSMS	Child Support Management System
C/THP	Child/Teen Health Plan
CWEP	Community Work Experience Program

-D-

D/A	Drug/Alcohol
DAAA	Division of Alcoholism and Alcohol Abuse
DAR	Dormant Account Review
DCA	Disqualification Consent Agreement
DDD	Division of Disability Determinations
DEF	Deficit
DEFRA	Deficit Reduction Act the Department New York State Department of Social Services
DOH	Department of Health
DMV	Department of Motor Vehicles
DPA	Deferred Payment Agreement
DSS	Department of Social Services
DVL	Domestic Violence Liaison

-E-

EAA	Emergency Assistance for Adults
EAF	Emergency Assistance to Families
EAPP	Employment Alternatives Partnership Program
EBICS	Electronic Benefits Issuance Control System
EBT	Electronic Benefit Transfer
EDC	Estimated Date of Confinement (date of delivery of newborn)

EHP	Enriched Housing Program
EHR	Emergency Home Relief
EITC	Earned Income Tax Credit
EID	Earned Income Disregard
EP	Essential Person
ERT	Employment Readiness Training
ES	Employment Search
ESL	English-as-a-Second Language
ESNA	Emergency Safety Net Assistance
EW	Eligibility Worker
-F-	
FA	Family Assistance
FAP	Food Assistance Program
FDC	Family Day Care
FEDS	Front End Detection System
FEPS	Family Eviction Preventive Supplement
FFR	Face-to-Face Recertification
FFY	Federal Fiscal Year
FICA	Federal Insurance Contributions Act (Social Security) Indicator
FNP	Federal Non-Participation
FNS	Food and Nutrition Service (USDA)
FP	Federal Participation
FS	Food Stamps
FSS	Family Self-Sufficiency Program
-G-	
GA	General Assistance

GAGD	Grants of Assistance for Guide Dogs
GED	General Educational Development
GFDC	Group Family Day Care
GIS	General Information System
GIT	Gross Income Test

-H-

HAP	Housing Assistance Payment
HEA	Home Energy Allowance
HEAP	Home Energy Assistance Program
HEFPA	Home Energy Fair Practices Act
HH	Household
HHS	U.S. Department of Health and Human Services
HIV	Human Immunodeficiency Virus
HMO	Health Maintenance Organization
HR	Home Relief
HRA	NYC Human Resources Administration
HSP	Housing Supplement Program
HUD	Housing and Urban Development

-I-

IAR	Interim Assistance Reimbursement
IDA	Individual Development Account
IHE	Inadvertent Household Error (unintentional client error)
INF	Informational Letter
INS	Immigration and Naturalization Service
IPV	Intentional Program Violation
IRAP	Indochinese Refugee Assistance Program

IRCA	Immigration Reform and Control Act of 1986
IRS	Internal Revenue Service
IV-D	Title IV-D Amendment to the Social Security Act (CSE)
-J-	
J/O	Job Opportunity Program
JOBS	Job Opportunities and Basic Skills Training Program
JOS	Job Opportunity Specialist (NYC)
JTPA	Job Training Partnership Act
JTPC	Job Training Partnership Council
-L-	
LCM	Local Commissioners Memorandum
LDSS	Local Department of Social Services
LEP	Limited English Proficiency
LRR	Legally Responsible Relative
LPR	Lawful Permanent Resident (Alien Status)
LTR	Lawful Temporary Resident
-M-	
MA	Medical Assistance
MARG	Medical Assistance Reference Guide
MOE	Maintenance of Effort
MRB/A	Mass Rebudgeting/Reauthorization
MSS	Mandatory State Supplement
-N-	
NCIC	National Crime Information Center
NCSTA	National and Community Services and Trust Act of 1993

NDR	Non-dependent Relative
NPA	Non-Public Assistance
NTA-FS	Non-Temporary Assistance Food Stamps
NYC	New York City
NYCRR	New York Codes of Rules and Regulations
NYS	New York State
NYSNIP	New York State Nutrition Improvement Project

-O-

OASAS	Office of Alcohol and Substance Abuse
OASDI	Old-Age, Survivors and Disability Insurance
OBRA	Omnibus Budget Reconciliation Act
OCFS	Office of Children and Family Services
OHIP	Office of Health Insurance Programs
OJT	On the Job Training
OMH	Office of Mental Health
OMRDD	Office of Mental Retardation/Developmental Disabilities (now known as OPWDD, Office for People with Developmental Disabilities)
OOE	Order of Exclusion
OPWDD	Office for People with Developmental Disabilities
OTDA	Office of Temporary and Disability Assistance
OVESID	Office of Vocational and Educational Services for Individuals with Disabilities

-P-

PACE	Public Assistance Comprehensive Employment
PARIS	Public Assistance Reporting Information System

PAVE	Progressive Adolescent Vocational Exploration Program
PCAP	Prenatal Care Assistance Program
PHA	Public Housing Authority
PIC	Private Industry Council
PIN	Personal Identification Number
PIO	Public Information Office
PNA	Personal Needs Allowance
PROWRA	Personal Responsibility Work Opportunity Reconciliation Act
PRUCOL	Permanently Residing in the United States Under Color of Law
PSC	Public Service Commission
PWA	Public Works Administration
PWP	Public Work Project
-R-	
RAP	Refugee Assistance Program
RAW	Replenishment Agricultural Worker
RFI	Resource File Integration
RIN	Recipient Identification Number (NYC)
RSDI	Retirement Survivors Disability Insurance
-S-	
SAVE	Systematic Alien Verification for Entitlements
SAW	Special Agricultural Worker
SCU	Support Collection Unit
SDNH	State Directory of New Hires from NYS Tax and Finance
SDX	State Data Exchange
SCORE	Services Corps of Retired Executives
SED	State Education Department

SEMI-TA	Semi-Monthly Cash Grant Amounts
SFY	State Fiscal Year
SHEA	Supplemental Home Energy Allowance
SHELT	Shelter
SLIAG	State Legalization Impact Assistance Grants
SNA	Safety Net Assistance
SNAP	Supplemental Nutrition Assistance Program
SNAPSB	Supplemental Nutrition Assistance Program Source Book
SSA	Social Security Administration
SSDB	Social Security Disability Benefits
SSI	Supplemental Security Income
SSL	Social Services Law
SSN	Social Security Number
SSPNA	State Supplemental Personal Needs Allowance
SWE	Social Welfare Examiner
SUA	Standard Utility Allowance
SUR	Surplus
-T-	
TA	Temporary Assistance
TANF	Temporary Assistance for Needy Families
TASA	Teenage Services Act
TASB	Temporary Assistance Source Book
TEAP	Training and Employment Assistance Program
TPHI	Third Party Health Insurance
TPR	Third Party Resource
TRO	Temporary Restraining Order

TSP (NYS) Office of Transitional Supports and Policy

-U-

UIB Unemployment Insurance Benefits

USCIS United States Citizenship and Immigration Services

USDA United States Department of Agriculture

-V-

VA Veterans' Administration

VESID Vocational Educational Services for Individuals with Disabilities

VISTA Volunteers In Service To America

-W-

WIC Women, Infants and Children

WMS Welfare Management System

WRA Welfare Reform Act (NYS/1997)

WRM Worker's Reference Manual

WRS Wage Reporting System from NYS Tax and Finance

WSP Work Supplementation Program

WTW Welfare to Work

-Y-

YIP Youth Internship Program

YOP Youth Opportunity Program

YWS Youth Work Skills Program

SECTION 3: RESPONSIBILITY OF LDSS

A. General Introduction

POLICY

In order to assist needy families and individuals to obtain Supplemental Nutrition Assistance Benefits, each local district shall fulfill its responsibilities to administer the Supplemental Nutrition Assistance Program in accordance with applicable releases of the New York State Office of Temporary & Disability Assistance, including but not limited to the Supplemental Nutrition Assistance Program Source Book. In addition to the responsibilities listed in this Section, local districts shall perform other appropriate functions in accordance with state and federal requirements.

OPERATING GUIDELINES

Local districts shall operate the Supplemental Nutrition Assistance Program in accordance with the policies and procedures provided to them by the New York State Office of Temporary & Disability Assistance. Accordingly local districts shall submit to NYS OTDA, for approval, all requests for waiver from established policy and all locally developed policy manuals, procedural guides or forms which are intended to be the equivalent of documents which have been provided by NYS OTDA. Such requests shall be submitted in accordance with Department Regulation 300.6.

Reference: 387.2

Related Item: 300.6

B. Personnel

POLICY

The local district shall undertake the certification of applicant households in accordance with the personnel standards used by the Department in the certification of applicants for benefits under the federally aided public assistance programs.

1. Personnel Requirements

- a. Merit Personnel - Certification personnel must meet the current New York State Merit System standards. Only merit employees can conduct the application interview. Additionally, access to permanent CBIC and temporary vault cards, and other issuance documents shall be denied to all persons except authorized employees of OTDA, local districts, and the Federal agency involved in the administration of the program.

NOTE: Volunteers must not conduct the application interview or certify supplemental nutrition assistance program applicants. Volunteers may engage in activities such as outreach, prescreening, assisting applicants to complete the application, and securing needed verification. A volunteer may officially represent households whose members are unable to go to the certification office.

NOTE: Individuals, organizations, and facilities involved in a strike or lockout cannot be used in the certification process except to verify the applicant's information.

- b. Staffing Standards - To meet the timeliness standards set forth in this manual, local districts must employ sufficient staff to certify accurately and issue benefits to eligible households and to process fair hearing requests within the appropriate timeliness standards.
- c. Bilingual Requirements – Local districts, including those with a seasonal influx of single-language minority households, must provide sufficient bilingual program information and certification materials, and staff or interpreters to meet the needs of single-language minority households.

2. Training

With the assistance of the OTDA training coordinator, the local districts must develop a continuing comprehensive training program for all personnel engaged in certification, program informational activities, or prescreening activities. The local districts must designate training coordinators to:

- a. Implement State training materials and techniques
- b. Supplement State training programs with sessions designed for local districts, and community partners, if appropriate
- c. Conduct and/or supervise training sessions
- d. Assure that appropriate personnel receive training

The following "Training Table" provides guidelines to follow in training staff.

SESSIONS COVERING	PERSONS TO BE TRAINED	TIME STANDARDS
Eligibility criteria, Certification procedures, household rights and responsibilities, other duties related to household certification	Eligibility Workers, new employees responsible for certifying	Prior to initial assumption of duties. Periodically, based on policy changes, program deficiencies, USDA audits, district management self assessments, or individual performance deficiencies or individual performance
Policy/procedures changed based on court action or revisions to legislation and regulations	All affected personnel, individuals specified by the court, law or directives	Within 30 days or as specified
Formal certification training conducted statewide, citywide, or regionally	Certification personnel, the public (up to 5% of total attendance or 5 persons, whichever is smaller, must be allowed)	As Needed
Program information pre-screening techniques	Volunteers, other pre-screeners, Community Based Organizations	As Needed
Program regulations and hearing procedures	Hearing Officers, performance reporting system reviewers	Prior to initial assumption of duties. Periodically, as needed based on policy changes, program deficiencies, USDA audits, district management self assessments or individual performance

NOTE: Although public attendance is not required for certification training groups of less than 20 persons, the public may be invited to any training sessions conducted.

Reference: 387.2

C. Certification Responsibilities

POLICY

Each local district shall:

1. Certify eligible families and individuals
Approve and issue benefits or deny applications for TA and NTA applicants within 30 days of receipt of an identifiable application or within five calendar days if it is an identifiable application eligible for expedited processing. An identifiable application is one which contains a legible name and address of the applicant or authorized representative; and a signature.

For certification of households which are TA/ SNAP see SNAPSB Section 4
2. Insure that SNAP provided to any eligible household shall not be considered as income or resources for any purpose under the Social Security Act of 1935 as amended, or under any other Federal or State laws including, but not limited, to laws relating to taxation, welfare, and TA programs.
3. Not terminate or reduce a TA grant, or deny application for TA or care or otherwise adversely affect a family's or an individual's eligibility for TA or care, on the grounds that the recipient or applicant is receiving or is eligible to receive SNAP benefits, or fails to apply for or to utilize SNAP benefits.
4. During an emergency or disaster declared by USDA, certify households in accordance with regulations, policies and procedures of the Department and USDA/FNS.
5. Undertake the timely and accurate issuance of benefits to certified households. Households comprised of elderly or disabled members, or those who would face an undue hardship in reaching a local office to complete a face-to-face interview; those who are qualified to participate in the Working Families Supplemental Nutrition Assistance Program Initiative, and households which do not reside in a permanent dwelling or at a fixed mailing address, will be given assistance in obtaining their benefits. Districts shall offer to conduct interviews and other contacts electronically, or by telephone when appropriate.
6. Screen all applications to determine if such application qualifies for expedited SNAP processing, and complete the Supplemental Nutrition Assistance Program Benefits Expedited Processing Screening sheet (LDSS-3938) as a record of the agency disposition.
7. Screen all applications to determine if such application qualifies for Working Families Supplemental Nutrition Assistance Program Initiative (WFSNAPI) using the WFSNAPI screening sheet (LDSS-4921) or approved local equivalent process to see if the applicant household presumptively qualifies to participate in the WFSNAPI.
8. Include the "Helping Hands" brochure in each SNAP application packet. Households that have a gross income at or below 130% of the federal poverty limit that receive the *Helping Hands* brochure will have received a Temporary Assistance for Needy Families (TANF)/Maintenance of Effort (MOE)-funded service that confers categorical eligibility for the SNAP for a period of one year.

Reference:

387.2
07-ADM-10
Attachment
07-ADM-09
Attachment
01-ADM-08
99-ADM-06
02-INF-23
Attachment

Related Item: Certification (SNAPSB)

D. Information

POLICY

Each local district shall:

1. Inform all SNAP applicants and recipients of their program rights and responsibilities including the use of printed materials in languages other than English where required. Client informational books LDSS-4148A, LDSS-4148B, LDSS-4148C, LDSS-4148A(S), LDSS-4148B(S) and LDSS-4148C(S), fulfill this requirement and the LDSS-4826A, which accompanies the LDSS-4826, also fulfills this requirement.
2. Have both the common application and the simplified Supplemental Nutrition Assistance Program applications readily available for potentially eligible households and provide an application to anyone requesting one according to SNAPSB Section 4.
3. Provide each applicant for TA, (excluding EAA) MA , or family/children's services with information explaining the SNAP program and provide them the opportunity to apply and provide each NTA applicant for the SNAP program (excluding SSI recipients) with information explaining the program and opportunity to apply. Client informational books fulfill this requirement.
4. Accept any application as complete which lists at minimum the applicant's or authorized representative's name, address (if they have one) and a signature.
5. Explain to the applicant/recipient at application and each recertification the consequences of the household's principal wage earner quitting his or her job without good cause. The LDSS-4148B or LDSS-4826 fulfills this requirement.
6. Insure that eligibility or extent of participation in the program will be without discrimination because of race, religious creed, political beliefs, national origin, age or sex; and maintain a Civil Rights compliant file (03-LCM-03, 03-LCM-03 Attachment 1, 03-LCM-03 Attachment 2).
7. Prominently display in all local SNAP offices:
 - a. The National Voter Registration Act Poster
 - b. The LDSS-3814 "Temporary Assistance Additional Allowance and Other Help" flyer
 - c. "Supplemental Nutrition Assistance Program Complaint Procedures" (LDSS-8036, Revised 2/00)
 - d. "And Justice for All" poster (AD-475B Revised 12/99, 04 INF-14)
 - e. "Will You Receive Supplemental Nutrition Assistance Program After Cash Assistance Ends" poster (English)
 - f. "Will You Receive Supplemental Nutrition Assistance Program After Cash Assistance Ends" poster (Spanish)
 - g. The "Language Poster"
8. Make the Supplemental Nutrition Assistance Program Source Book available for examination upon request at each local certification office.

9. Identify households which are eligible for or receiving expedited service; according to SNAPSB Section 4.

NOTE: USDA regulations and policies, State plans of operations, manuals and procedures which affect the public are maintained by the Department for public examination on regular workdays during normal working hours.

10. Provide SNAP applicants and recipients with general information on verification requirements at application and recertification. Client informational books LDSS-4148A, LDSS-4148B, LDSS-4148C and the LDSS-4826A fulfill this requirement. For specific types of verification required see SNAPSB Section 5.
11. Provide a local telephone number and either a toll-free number or a number at which collect calls will be accepted from households outside the local calling area. The number must be provided in writing at certification and recertification.
12. Provide client information books LDSS-4148A, LDSS-4148B, LDSS-4148C and LDSS-4826A in the manner described below.

General Requirements:

The Client Information Books and the Helping Hands Brochure must be distributed at the same time that the Application (LDSS-2921) is distributed, and the LDSS- 4826A and Helping Hands Brochure must be distributed with the LDSS-4826. Specifically:

ACTION	REQUIREMENTS
The Application (LDSS- 2921) is mailed or given in person.	Client Books 4148A, B, C and Helping Hands Brochure must be mailed or given with the application.
The SNAP Application (LDSS-4826) is mailed.	The LDSS-4826A and Helping Hands Brochure must be mailed with the application form.

13. Disclosure of Information to Law Enforcement Officials (96-LCM-83)

Previously, local districts had to restrict the use or disclosure of information obtained from households to persons directly connected with the administration and enforcement of the SNAP program, or other Federal or State means-tested program.

Local districts must now provide client information proactively to any federal, state or local law enforcement officer in the event the applicant identifies him/herself as a felon with an unsatisfied warrant, or that said applicant appears on database matching reports indicating he/she is a fleeing felon.

Local districts must furnish the address, social security number and, if available, photograph of applicants/recipients to law enforcement officials who present a request for this information providing that:

- a. The Federal, State or local law enforcement official furnish the local district with the name of the individual being sought, and
 - (1) The individual is fleeing to avoid prosecution, or custody or confinement after conviction for a felony (or in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole, or
 - (2) The individual has information that is deemed necessary for law enforcement purposes related to provisions (1) above, and
- b. Locating or apprehending the individual is in the exercise of an official duty, and
- c. The request is being made in the proper exercise of an official duty.

Fleeing felons are ineligible for supplemental nutrition assistance program benefits, and such applications should be handled accordingly.

Reference:

387.2;
95-INF-39;
94-INF-34;
91-INF-60;
96-LCM-83;
90-LCM-93;

GIS Message (89-IM/DC-017);
03-ADM-03;
272-7CFR272 Requirements for Participating State Agencies;
04-INF-12

Related Items:

Right to Apply (SNAPSB);
Application Processing for Expedited/Service (SNAPSB)

TA Source Book: Chapter 4

E. Records

POLICY

Each local district shall:

1. Maintain certification folders on applicants and/or recipients of supplemental nutrition assistance program including:
 - a. Applications for certification or recertification, in addition to withdrawn applications
 - b. Worksheets used in the computation of income for eligibility and the basis of issuance
 - c. Documentation, including the method of verification used by the eligibility worker to make decisions in the case
 - d. Copies of forms sent to the issuance unit to authorize or change participation or to serve as the basis of issuance
 - e. Copies of notices sent to the household and any subsequent responses to those notices
 - f. Copies of actions related to the fair hearing process
 - g. The electronic equivalents of the above documents
2. Restrict the use or disclosure of information obtained from applicant households to:
 - a. Persons directly connected with the administration and enforcement of:
 - (1) The Food Stamp Act or regulations;
 - (2) Other Federal assistance programs; or
 - (3) Federally assisted State programs which provide assistance on a means tested basis to low-income individuals.
 - (4) The establishment, monitoring and collection of overissuance claims

NOTE: Items 2 and 3 refer to programs such as FA, Medicaid, SSI, SNA, EAF and EAA.

- b. Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and
 - c. Local, state or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the identity of the individual requesting the information, and his authority to do so, the violation being investigated and the identity of the person on whom the information is requested.
3. Keep all records, documentation and other information including paper originals, copies of originals, electronically imaged documents or an electronic record such as information retained in WMS, CAMS, clearance reports, and so forth. Information must be readily

retrievable for local district, federal, State, client, or fair hearing review, and kept according to the USDA time limits and State requirements. Keep closed case documentation according to the USDA time limits outlined below:

IPV Disqualification Records: Indefinite. These records must be retained for the life of the individual or until USDA notifies the State that the record is no longer needed.

Work Requirement Violation Records: Indefinite. Permanent work rule disqualifications must be retained for the life of the individual or until s/he reaches age 60, whichever occurs first.

Claims Records: 3 years after the claim is either satisfied or closed administratively.

Issuance Records: 3 years from the date the federal debt is paid for cases with claims.

In addition, follow these State requirements:

General Program Records: 6 years from the date of closing.

Certification Records: 6 years from the end of the date of certification or, if under investigation, until the investigation is resolved or the penalty imposed.

DSS-3214 "Status of Claims Against Households": 6 years

CAMS Reports: 6 years

4. Submit statistics, reports and other information (including the work registration program) as may be required by the Department within the timeframes established by the Department.

NOTE: The local district must keep records and submit reports and other information as required by the Department. (SNAPSB Section 18: Supplemental Nutrition Assistance Program Record Retention/Documentation).

NOTE: Establish an organizational structure which divides the responsibility for eligibility determination and SNAP benefit issuance among the certification, data management and issuance monitoring units to assure that the unauthorized creation or modification of case records is not possible.

5. Make the contents of the case file available for inspection during normal business hours when there is a written request to review material and information contained in the file from a responsible member of a household or their designated representative, (regarding administrative actions that impact their own circumstances), the household authorized representative, or a person acting in the household's behalf.
6. Protect the integrity of the client's PIN by NOT maintaining a copy of the client's PIN in the case record or elsewhere.

Reference: 387.2;
GIS Message (97 TA/DC008);

GIS Message (91 IM/DC042);
98-INF-03;

92-LCM-122

TA Source Book: Chapter 4-I

**F. Securing, Control and Processing of CBICS, PINS or State Approved Local
Equivalents & State Approved Local District Notice of Change Form**

POLICY

Electronic Benefit Transfer (EBT) is mandated by USDA to deliver SNAP benefits electronically through the commercial financial infrastructure.

1. CBIC- Any unauthorized issuance, use or alteration of a Common Benefit Identification Card (CBIC) and the State-approved local district notice of change form is a Federal crime.

Therefore, local districts shall take all precautions necessary to avoid unauthorized use of the CBIC or notice of change forms and shall safeguard these documents from theft, embezzlement, loss, damage or destruction by keeping them under lock and key. Districts are to notify the department immediately if counterfeit or stolen cards and/or notice of change forms are discovered or if a theft occurs. When a recipient, who accesses supplemental nutrition assistance program benefits by the use of a CBIC, reports the loss or theft of that CBIC, the local district must initiate procedures to prevent unauthorized access to the recipient's supplemental nutrition assistance program benefits.

Local districts should institute procedures for ensuring that CBICs returned undeliverable by the USPS be handled in a secure manner, and that the disposition of these cards be documented. (04-LCM-02)

Local districts are required to issue Vault Cards when there is a need for a valid card in a timeframe that precludes mailing. Note: Mailing of vault cards is allowed when it is unlikely that the CBIC and PIN can be mailed/delivered to the applicant within the expedited five day timeframe. Thus, local districts should have secure storage areas for plastic card stock, and terminal security arrangements for issuance and activation. Precautions to be exercised by the local district further include designating specific personnel for accessing the plastic card stock, and notice of change forms; maintaining an inventory control record of the serial number and date of all cards withdrawn from or placed in inventory; maintaining the signature of the person receiving said card as a record of receipt; and continuing to retain the inventory record for audit purposes. A physical inventory of all blank Vault Cards must be made at least once a year. When the vault card is mailed, the LDSS worker and supervisor must sign the inventory control form. Depending on the volume of cards issued, the inventory control forms should be filed on a daily or weekly basis.

NOTE: In districts that are responsible for a bulk supply of these cards, it is required that the responsibility for maintaining the inventory be restricted to one individual.

The department recommends that documents related to the CBIC be retained for six years and that documents related to card issuance be stored where the person responsible for card inventory can access the information, rather than only with the case files.

2. PIN - After a PIN has been registered, local districts must dispose of the PIN selection form in accordance with departmental procedures. The social service district must not record the PIN code in the case record, nor maintain a separate file or permanent record of PIN codes.

A client who forgets his/her PIN must request a new PIN by following the procedures found in SNAPSB Section 15.

References: 387.4;
387.5;
00-ADM-08;
00-ADM-08 ERRATTA ;
92-LCM-122;
04-LCM-02

G. Disaster/Emergency Preparedness

POLICY

1. BACKGROUND - In recent years, New York State has experienced a number of disasters/emergencies which have resulted from natural forces, such as floods, hurricanes and ice storms. In addition, man-made disasters have added a new dimension to disaster services.

Response to these disasters takes place first at the local level. Also alerted and readied are State forces, mobilized through the State Emergency Management Office (SEMO).

Often when disaster strikes, conditions warrant the Governor to declare a "State of Emergency". When a declaration is made by the Governor, the SEMO is usually designated as the agency empowered with the authority to conduct the response and recovery activities at the State level. These activities are ordinarily carried out from the Emergency Operations Center (EOC) in Albany and enlist staff from this Department, other State agencies, and voluntary organizations, e.g., the American Red Cross (ARC). OTDA works very closely with the American Red Cross to address human needs resulting from the emergency.

The issuance of Disaster Supplemental Nutrition Assistance Program Benefits (DSNAP) is contingent upon authorization of the State by USDA and subsequently, the Districts by the State OTDA. During a disaster the normal methods of providing supplemental nutrition assistance program benefits may be disrupted. Further, the number of individuals applying for supplemental nutrition assistance program benefits may increase significantly. Special processes must be put into place during a disaster to assure assistance is provided quickly, fairly, and accurately. Information on the Disaster Supplemental Nutrition Assistance Program (DSNAP) in New York State can be found on the OTDA intranet. The method and species of benefit issuance will vary to meet the circumstances associated with the disaster. Districts will be informed of the specific delivery methods in the State's instructions. In the interim, Districts are advised to familiarize themselves with the DSNAP and designate a contact person to be used in the event of a disaster.

1. RESPONSE TO THE EMERGENCY - During the response phase of the emergency, it is essential that local districts provide information and required reports to State Office of Temporary and Disability Assistance, provide applicants and recipients with information on how and where to apply for assistance; assure that there are a sufficient number of application sites; that these sites are safe and meet health standards; process DSNAP applications, and in conjunction with the issuance agent, institute safeguards to prevent fraud and abuse; and coordinate disaster relief efforts with other county, state, and federal agencies, and with other private and community-based agencies.
2. IMPACT OF THE EMERGENCY - After the emergency is over, and recovery activities are being conducted, it is necessary to determine the impact of the emergency to the fullest extent possible. This assessment will include not only the cost of assistance, but administrative costs, including costs for staff overtime and any damages to local district offices and equipment. USDA often requires significant post disaster audit activities.

Reference: 88 INF-13

TA Source Book: Chapter 24- N

SECTION 4: APPLICATION PROCESSING

POLICY

A. Definitions

Applicant - An applicant is a person who has requested through submission of a state-prescribed form (including electronic forms and applications) to a social services office to receive assistance and/or care, or to have their eligibility for such assistance and care determined. This submission may be done directly by the applicant or through a representative.

Application - An application is an action by which a person indicates in writing (including electronic application submissions) on the state-prescribed form(s) their desire either to receive assistance and/or care or to have their eligibility considered by a social services official. Such action shall be considered an application even if the applicant subsequently withdraws the application or proves, upon investigation, to be ineligible.

Authorized Representative - An individual who is:

1. Designated in writing by the head of household, spouse or other responsible adult household member to represent the household in applying for, obtaining and/or using the supplemental nutrition assistance program;
2. An employee designated by a publicly operated community mental health center or a private, non-profit drug addiction or alcoholic treatment and rehabilitation facility, group living arrangement and/or shelter for battered women and children who will represent households who reside at such centers in applying for and obtaining SNAP; or
3. The only household adult available to be the authorized representative for the household children, even though classified as a non-household member.

Destitute Household - Households whose only income for the month of application:

1. Was received prior to application and was from a source which has been terminated, or
2. Is from a new source and no more than \$25 gross income from the new source will be received within ten calendar days of the application date.

For procedures on determining destitute households see SNAPSB Section 5.

SSA - Social Security Administration

Supplemental Security Income (SSI) - Monthly cash payments under the authority of Title XVI of the Social Security Act, as amended, to the aged, blind and disabled, or Federally administered mandatory supplemental payments.

Reference:

387.1(i)
09 INF-16
91 LCM-3

Related Item:

Eligibility for Expedited Services (SNAPSB)

B. Right to Apply

1. Right to Make an Application

Any person has the right to file an application for supplemental nutrition assistance program benefits, either directly or through an authorized representative, in person through the mail, by facsimile (fax), or by electronic application by completing a State-prescribed application form or electronic form and filing it with the local district on the day the application is requested or at a later date at the discretion of the household. Each household has the right to file an application form at any time during regular office business hours.

The district is required to advise each applicant household that it does not need an interview before filing an application and may file an incomplete application form so long as the form contains the applicant's name and address (if they have one), and is signed by a responsible member of the household or the household's authorized representative (this includes the electronically signed applications). Providing the households with the "How to Complete the Supplemental Nutrition Assistance Program Benefits Application/Recertification" and the "Applicant/Recipient Rights and Responsibilities", LDSS- 4826A and/or the Client Informational books LDSS-4148A, LDSS-4148B and LDSS-4148C fulfills these requirements. Households that apply electronically are provided this information through the myBenefits application.

NOTE: If a household requests an application the local district must mail an application form on the same day if possible but no later than the next business day unless the household prefers to come to the appropriate SNAP office to file an application or chooses to file an electronic application.

The household must be provided the address and telephone number of the appropriate SNAP office for filing an application. However, a household may leave an application at any SNAP office within the district. If an application is not left at the appropriate office, the office shall offer to forward the application to the appropriate office the same day, if the household has completed enough information so that it meets filing requirements.

The household must be advised that the application is not considered filed and the processing standard does not begin until the application is received by the appropriate office.

2. Separate Determinations

A household whose Temporary Assistance (TA) application is denied must not be required to file a new SNAP application but must have their SNAP eligibility determined or continued on the basis of the original application filed for TA and SNAP purposes.

3. Right To Reapply

A household may voluntarily withdraw or request to withdraw its application for SNAP at any time prior to the determination of eligibility without any consequences to its right to reapply at any time subsequent to the withdrawal.

4. Access for Non-Citizens

- a. A household's right to apply and be interviewed for Supplemental Nutrition Assistance Program must not be denied, limited or discouraged because of the national origin or citizenship status of a person or persons who reside in that household.
- b. Title VI of the Civil Rights Act of 1964, and its implementing regulation, prohibit entities receiving federal funds, such as states or counties, from discriminating against any person on the basis of that person's race, color or national origin.
- c. Title VI covers both intentional acts and facially neutral policies and actions that have an adverse impact based on race color or national origin.
- d. Households with members born in another country who may not be citizens must be permitted to provide documentation of citizenship or alien status. Receptionists and screeners must be directed not to prevent or discourage such households from filing applications.
- e. Eligibility workers must be sufficiently trained regarding what documentation must be provided by non-citizens, how to advise the non-citizen about containing such documentation, and how to make a correct assessment of alien documentation.
- f. In addition to following procedures that ensure foreign-born applicants the right to prove citizenship or eligible alien status, workers must ensure that the eligibility of household members who are citizens is determined even if there are ineligible aliens in the household. This situation occurs frequently when an ineligible alien parent has a child who is a citizen.

References:

387.5(a);
01 ADM-8;
90 ADM- 41;
01 INF-9;
99 INF-8;
91 INF-60;
10 INF-14

C. Authorized Representative

1. Application

The following conditions apply when the application is made by the authorized representative (as defined in this Section).

- a. When the head of household or spouse cannot apply, another household member may apply, or an adult non-household member may be chosen as the authorized representative for certification purposes only, providing that:
 - (1) The authorized representative has been chosen in writing by the head of household, the spouse, or another responsible household member; and
 - (2) The authorized representative is an adult who is familiar with the relevant household circumstances.
- b. The authorized representative will complete the interview. However, it is important that the head of household or the spouse prepare or review the application whenever possible.
- c. The local district must inform the household that it will be held liable if the authorized representative provides erroneous information which results in an overissuance.
- d. After an authorized representative has been chosen, the application form can be signed by either the head of household or the authorized representative.

2. Obtaining Supplemental Nutrition Assistance Program Benefits

- a. An individual should be chosen by the household as the authorized representative to obtain SNAP when the application is completed.
- b. The authorized representative to obtain SNAP can be the same person chosen to apply for the household. It can also be someone else.
- c. SNAP personnel should encourage the household to name an authorized representative to obtain supplemental nutrition assistance program benefits. When the household member cannot obtain supplemental nutrition assistance program due to unforeseen circumstances, the authorized representative can act for the household.
- d. When neither a household member nor the previously designated authorized representative is available due to unforeseen circumstances, an emergency authorized representative can be designated by the household. An emergency authorized representative is a person who was not chosen at the time of the household's interview.
- e. To obtain the households SNAP benefits, the authorized representative should present the designated SNAP cardholder's current CBIC to the issuing agent and enters the SNAP cardholder's PIN on the issuer's key pad.
- f. An authorized representative must be a person and not an institution.

3. Redeeming Supplemental Nutrition Assistance Program

With the household's full knowledge and consent, the authorized representative can use the CBIC and SNAP benefits to purchase food for the household.

4. Drug Addict/Alcoholic Treatment Centers

Residents of drug addiction/alcoholic treatment centers (as defined in SNAPSB Section 5) who choose to participate must use an authorized representative to apply for certification.

The non-profit organization or institution that administers the treatment and rehabilitation program must choose an employee to be the authorized representative. They must apply for each resident separately, and spend the SNAP benefits for food prepared by and/or served to the resident.

5. Group Living Arrangements

- a. Residents of a group living arrangement (as defined in SNAPSB Section 5) shall either apply and be certified through use of an authorized representative employed and designated by the group living arrangement or apply and be certified on their own behalf or through an authorized representative of their own choice.
- b. The group living arrangement shall determine if any resident may apply for supplemental nutrition assistance program on his/her own behalf. The determination should be based on the resident's physical and mental ability to handle their own affairs. The group living arrangement is encouraged to consult with any other agencies of the State providing other services to individual residents prior to a determination.

All of the residents of the group living arrangement do not have to be certified either through an authorized representative or individually in order for one or the other method to be used.

Applications shall be accepted for any individual applying as a one-person household or for any grouping of residents applying as a household.

- c. If the resident applies with the facility as the authorized representative, the group living arrangement may either receive and spend the SNAP benefit for food prepared by and/or served to the eligible resident, or allow the eligible resident to use all or any portion of the SNAP benefit on their own behalf.
- d. If the residents are certified on their own behalf, the SNAP benefit may either be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents; used by eligible residents to purchase and prepare food for their own consumption; and/or to purchase meals prepared and served by the group living arrangement.
- e. If the group living arrangement has its status as an authorized representative suspended, residents applying on their own behalf shall be able to participate if otherwise eligible.

6. Shelters For Victims Of Domestic Violence

Residents of shelters for Victims of Domestic Violence normally would apply and be certified on their own behalf or through an authorized representative of their own choice. Shelter residents are free to name a shelter staff member or volunteer as an authorized representative for application and certification purposes. This procedure may be necessary in cases where shelter residents would be endangered if they left the shelter and they are unable to appoint another authorized representative of their choice.

7. Restrictions

- a. The authorized representative may not be a local district employee involved in the certification and/or issuance process or a retailer authorized to accept SNAP. For exceptions, the local district commissioner must determine that no one else is available to serve and give specific written approval.

An individual disqualified for SNAP fraud cannot act as the authorized representative during the disqualification period unless the individual is the only household adult.

The eligibility worker shall determine whether the disqualified individual is needed to apply on behalf of the household, to obtain SNAP, and to use the SNAP for the household.

EXAMPLE: The household may have designated an authorized representative to obtain its SNAP each month but not be able to find anyone to purchase food regularly with them. If the eligibility worker is also unable to find anyone to serve as an authorized representative to purchase food regularly with supplemental nutrition assistance program benefits, the disqualified individual shall be allowed to do so.

- b. Homeless meal providers which are authorized to accept supplemental nutrition assistance program benefits may not be authorized representatives for homeless recipients.

In order to prevent abuse of the program, a local district may set a limit on the number of households an authorized representative may represent within a specific time period for purposes of applying for supplemental nutrition assistance program benefits and reporting changes in household circumstances.

8. Documentation And Control

- a. The local district must ensure that the authorized representatives are properly chosen. Specifically, a part of the household's case file must include the name of the authorized representative. No limits can be placed on the number of households an authorized representative may represent.
- b. The case file must contain the written designation when an authorized representative has been chosen.

An authorized representative can be designated by the household on the LDSS-4826 Supplemental Nutrition Assistance Program Benefits application, or by using the LDSS-4942 or by any other written designation. The representative's name, address and phone number should be included in all forms. Both the authorized representative and the head of household or other responsible adult member of the household must sign and date the designation.

This is true in all cases with an authorized representative, including group living facilities and drug or alcohol treatment facilities. If the applicant/recipient is physically and/or mentally unable to provide the written statement, this fact must be documented in the case record.

The designation of crew chiefs as authorized representatives for large numbers of migrant households is discouraged.

In the event an employer, such as those that employ migrant or seasonal farm workers, is designated an authorized representative or when a single authorized representative has access to a large number of CBICs, PINs, or SNAP, the local district shall assure that:

- (1) The household has freely requested the assistance of the authorized representative;
- (2) The household's circumstances are correctly represented; and
- (3) The authorized representative is properly using the SNAP.

9. Disqualification Of Authorized Representative

An authorized representative may be disqualified from participating as an authorized representative for up to one year.

- a. A local district may impose the disqualification if there is evidence that an individual has:
 - (1) Misrepresented the household's circumstances,
 - (2) Knowingly provided false information pertaining to the certified household's circumstances, or
 - (3) Made improper use of SNAP benefits.
- b. A written notice to the affected household(s) and the authorized representative must be sent 30 days prior to the date of disqualification. The notice must include the following:
 - (1) The proposed action and the reason for it.
 - (2) The household's right to request a fair hearing.
 - (3) Telephone number and contact person for additional information.

NOTE: Individuals who act as authorized representatives for residents of drug and alcohol treatment centers or residents of group living arrangements may not be disqualified under the above provisions.

References:

09 INF-16

D. Date of Application

POLICY

The date of application filing shall be the date the signed form, containing at least the applicant's name and address (if they have one), is received through the mail, fax, electronically or in person by the local district. The filing date for faxed and electronic applications that are submitted after LDSS business hours is the following business day.

An address may consist of a mailing address provided a reasonable explanation is presented by the applicant to explain the use of such mailing address.

An interview with the applicant/authorized representative is not required prior to the filing of an application. [387.5(c)]

All local districts shall:

1. Act promptly on all applications and provide SNAP benefits retroactive to the day of application to those households that have completed the application process and have been determined eligible. [387.5(b)]
2. Approve and issue benefits or deny applications for TA and NPA applicants within 30 days from the first calendar day following the filing date of an identifiable application. An identifiable application is one which contains a legible name and address of the applicant or authorized representative. For example, a household files a supplemental nutrition assistance program application on April 1st. Unless the supplemental nutrition assistance program application is opened sooner under expedited service, the local district has 30 days following the April 1st filing date, or until May 1st, to process the supplemental nutrition assistance program application. In this example, the first day of the count is April 2nd.

For the date of application for households which are Jointly Processed see 87 INF-14.

The local district must document the date the application was filed by recording on the application form the date it was received by the appropriate SNAP office. Electronic applications have a filing date automatically generated on the electronic form. Submission to the Supplemental Nutrition Assistance Program Bureau of the Supplemental Nutrition Assistance Program Application Register (WINR-1140 or the DSS-2550) is no longer required. The Department will, however, continue to monitor the timeliness of application processing and the issuance of initial benefits via the Management Evaluation (ME) process and the following WMS reports:

1. WINR-1240, Application/Registry Processing;
2. WINR-4111, Application Register;
3. WINR-4113, Application Register-Summary of Application Activity;
4. myWorkspace Inbox log

References:

387.2(o)

387.5(b)
387.5(c)
387.5 (k)
87 INF-14
"WMS Coordinator" Letter (04/16/90)

Related Item:

Certification (SNAPSB)

E. Applicant Interview

POLICY

1. Required Eligibility Interview

An interview is required with the applicant or authorized representative in all cases, to establish eligibility for SNAP. A completed application form and verification of certain information is also required to complete the eligibility determination process.

Federal SNAP rules prohibit “first come, first served” interviews. Local districts must schedule interviews on a specific day and time for each applicant not interviewed on the same day he or she applies.

The individual interviewed may be the head of household, spouse, any responsible adult member of the household or an authorized representative. The applicant may also bring any person he/she chooses to the interview.

All applicant households, including those submitting applications by mail, fax or electronically shall have interviews prior to initial certification and at least once every 12 months thereafter.

2. Waiver Of The Face To Face Interview

All applicant households must be advised that the face-to-face interview can be waived for hardship. Households who qualify for the WFSNAPI (Working Families Supplemental Nutrition Assistance Program Initiative) qualify for the waiver. (The LDSS- 4826A explains applicants’ rights to have an interview and the right to request a waiver of the face-to-face interview in hardship situations.) For households that have had the office interview waived, the local department must schedule and conduct the interview by telephone or, make a home visit except if the applicant is interviewed on the initial filing date. A home visit must be scheduled in advance. In either situation, the verification requirements, as specified, remain in effect.

Upon request of the applicant household, the office interview shall be waived providing:

- a. The household qualifies for a hardship if all adult members are elderly or disabled or the household qualifies for WFSNAPI or applies electronically. For elderly or disabled definition see SNAPSB Section 5.
- b. Hardship conditions may include, but are not limited to, employment, residing in a rural or remote area, illness, care of a household member, and prolonged severe weather. The local district can establish a hardship policy in advance for vulnerable groups, i.e., lack of transportation and cost of transportation and parking.
- c. The household consists of only an SSI recipient classified as living alone or with his/her spouse.
- d. Residents of group living arrangements.

3. Supplemental Nutrition Assistance Program And Public Assistance Applicants

SNAP eligibility interviews for TA applicants shall be conducted at the same time the eligibility worker does the interviewing for the TA (FA and SNA) programs. However, as a result of differences in TA and SNAP application processing procedures and timeliness standards, the local district may have to determine SNAP eligibility and expedited service qualification prior to determining eligibility for TA.

- a. SNA Household - SNAP eligibility still must be determined and benefits issued by the 30th day after the SNA application date. The application date is the date of receipt by the local district of a signed completed application on the State prescribed form.

Joint processing procedures for TA/ SNAP households must be followed in that the SNA household may not be required to file a separate application or have a separate interview for SNAP. These applications must be processed as TA/ SNAP households. They may not be processed as NPA/ SNAP cases.

- b. Notices - A notice of action taken regarding the request for SNAP must be issued by the 30th day after the date of application for SNA/ SNAP. Notice "Action Taken on Your Supplemental Nutrition Assistance Program Case" or the equivalent system generated client notice must be used in situations where eligibility for SNA has not been established.

If SNA eligibility has been determined, Notice LDSS-4013 "Action Taken on Your Application: Public Assistance, Supplemental Nutrition Assistance Program and Medical Assistance Coverage" (LDSS 4013A & LDSS4013B) (or the equivalent system generated client notice must be used. This notice, containing information regarding SNA payments, may be sent by the 30th day, even though SNA payments will not be made until day 45.

Procedures for households which fail to provide documentation for SNAP eligibility by the 30th day, as specified in this section, have not changed.

- c. Day 45 - This change has implications for the SNAP budget. Only SNA payments the household receives, or can be reasonably expected to receive, are counted as SNAP income. If the amount of the SNA payment has been determined but will not be issued until day 45, the amount of the payment is considered "reasonably expected to be received". It is budgeted as SNAP income beginning on day 45.
- d. Budget Impact - The worker must carefully assess whether there is any SNA income to budget for each SNAP issuance interval between the date of application and the 45th day.

EXAMPLE: An application for SNAP and SNA is filed on March 25th. Day 45 is May 9th. SNAP eligibility is determined on April 20th. There is no SNA to count as SNAP income for either March or April. If the SNA to be paid in May has been determined by April 20, the amount of the initial prorated SNA payment for the period of May 9th- 31st counts as SNAP income for the month of May.

If the SNA payment amount is determined after the initial SNAP determination is made, but before May 1st, the SNAP benefit for May may be reduced to budget the SNA income without notice to the household. The initial SNAP notice specifies that SNAP benefits may be reduced without further notice if a household receiving benefits while a TA application is pending has an increase in income due to receipt of TA.

If the SNA benefit amount has not been determined by May 1st, no SNA income is counted for May. The regular recurring SNA, grant minus appropriate SNAP disregards and deductions, would be counted as income beginning in the month of June.

4. Non-Public Assistance Applicants

Eligibility interviews for NPA applicants must be scheduled on a timely basis to assure a determination of eligibility and benefit issuance within 5 days for expedited processing and 30 days for normal filing of an application. (387.5)

5. Missed Interview

The local district must send a household that misses their application interview or recertification interview the LDSS-4753, "Supplemental Nutrition Assistance Program Request For Contact/Missed Interview" notice or the system generated CNS equivalent informing them that it is their responsibility to reschedule their interview. If the household contacts the local district within the 30-day processing timeframe from the application date, the local district must reschedule the interview with a scheduled appointment day and time.

NOTE: The local district must still allow 30 days from the date the application was filed to deny the application even though the household has failed to appear for the interview and has had no other contact with the local district. If the household is denied for a missed interview, then the household must file a new application if it wishes to participate in the program. Local districts must develop procedures to ensure that no SNAP application is denied prior to the 30th day from the application date for failure to appear for an eligibility interview.

6. Responsibility Of A Local District At Application Interview

Households shall be advised of their rights and responsibilities during the interview. These include:

- a. Reporting any changes in household circumstances promptly that occur during the eligibility determination,
- b. Providing required documentation, and
- c. Complying with other appropriate SNAP program requirements. (387.7)
- d. The opportunity to apply to register to vote upon initial application and at recertification.

No judgment is to be made concerning an applicant's qualifications to register to vote, although local districts may point out the "Qualifications for Registration" listed on the "NYS Agency Based Voter Registration Form". The final determination on registering an individual to vote and responsibility for adding their name to the Voter Registration List rests with the

County and/or City Board of Elections. The client will receive a written verification from the board of elections.

- (1) Applying to register to vote is not an eligibility requirement and there can be no negative effect on applicants or recipients who refuse to apply or who refuse to sign a declination.
- (2) Homeless applicants and recipients are included in the State and Federal legislation. Homeless persons can apply to register to vote if they can indicate where they live. They must provide an address where they can receive mail. This includes any and all non-traditional dwellings and habitations.
- (3) In any case in which a representative applies for an applicant, no judgment is to be made concerning that applicant's qualifications to register to vote. It will be up to the representative of the applicant to decide if the voter registration form should be completed by him (the representative) or the applicant being represented and this decision should be noted in the case record just as is the case with an applicant applying personally.
- (4) The same level of assistance must be provided for completing the voter registration application as is given in completing DSS forms. The applicant who must be given the opportunity to apply to register to vote is the adult in the case who actually applies for assistance.

Others in the household should be offered a registration application to the extent that such an offer is not disruptive of the application process and if the forms are requested. Mail-in voter registration applications will be available for such other household members.

- (5) Assign a site coordinator for each local district site at which applications for DSS benefits are taken.
- (6) The law requires that all applications to register to vote be forwarded to the appropriate County or City Board of Elections within 10 days of receipt. The law also requires that forms received by the local district between the 30th and 25th day prior to an election be transmitted so they are received by the County Board of Elections by the 20th day before an election.
- (7) Obtain a signed declination at the time of application and at each recertification when an applicant/client does not wish to apply to register to vote. These signed declination forms must be retained by the local district for 22 months. Since local districts may be required to retrieve the forms for a specific period, declinations should be kept in chronological order rather than in case files. This will also assist in the purging of files.

If the client does not sign the declination form, that fact should be noted and tallied for the Agency Based Registration Transmittal Form (Attachment II of 95 ADM-1).

There are no requirements that copies or records of affirmative responses be retained.

- (8) Be aware of the following prohibitions:
 - (a) No statement shall be made nor any action taken to discourage a local district applicant from applying to register to vote;

- (b) Local districts must not seek to influence an applicant's political preference or party designation;
- (c) Local districts must not display any political preference or party allegiance; and
- (d) No statement shall be made or action taken to lead a local district applicant to believe that a decision to apply to register or not to apply to register has any bearing on the availability of local district services or benefits.

NOTE: SNAP and TA Applicants: A single interview must be conducted for both TA and SNAP initial certifications. A household's eligibility for waiver of the SNAP office interview does not relieve the household of any responsibility for a TA face-to-face interview.

7. Current Eligibility Document:	Used By:
a. Common Application (LDSS-2921) Services	TA, MA, SNAP,
b. How to Complete Application (Pub. 1301)	
c. Supplemental Nutrition Assistance Program Benefits Application/Recertification (LDSS-4826)	
d. How to Complete the Supplemental Nutrition Assistance Program Benefits Application/Recertification (LDSS-4826A)	
e. myBenefits Electronic Supplemental Nutrition Assistance Program Application SNAP	
f. Recertification Application (LDSS-3174)	
g. ABEL Input (LDSS-3570A) (Optional)	TA, SNAP
h. Documentation/Verification Desk Aid (LDSS-3666) (Optional)	TA, MA, SNAP
i. Shelter Verification (LDSS-3668) (Optional)	TA, MA, SNAP
j. myBenefits Electronic Supplemental Nutrition Assistance Program Application/Recertification	

Note: No local equivalents shall be permitted for any of the required documents.

8. WMS INSTRUCTIONS

Except for electronic applications, an Application Turnaround Document (APP-TAD) DSS-3636 will automatically be generated for each non-services application at the time of Application Registry reflecting data input from the client completed Application. Additionally, data entered at Application Registry will automatically be "carried over" to the full data entry screens. The myBenefits electronic Supplemental Nutrition Assistance Program Application does not generate the DSS-3636 and the FDE is immediately available in myWorkspace.

The APP-TAD is used for Application Maintenance transactions as well as full data entry for non-services case processing. Application Withdrawals and Application Denials are to be performed via the Common Application.

The APP-TAD is unique in that only fields generated from application information are shaded and it is printed in blue to distinguish it from the authorization document.

References:

387.5
387.7
03 ADM-3
01 ADM-8
95 ADM-1
01 INF-10
95 INF-39
95 INF-8
07 ADM-10

Related Items:

94 INF-34
92 INF-49
89 INF-64
GIS Message 92 ES/DC048

F. Required Use of State-Prescribed Application Form(s)

POLICY

1. All local districts shall:

Use the State-prescribed application form(s) in processing eligibility for SNAP, including the myBenefits electronic application.

NOTE: These forms are the LDSS-2921 (Application for TA, MA, SNAP and Services) or LDSS-4826 (Supplemental Nutrition Assistance Program Benefits Application)

2. Availability Of The Application Form

Application forms must be readily available to all interested persons, including potentially eligible households and those groups and organizations involved in outreach efforts. The forms shall be given or mailed the same day an individual requests information about the SNAP Program either in person or by telephone. The myBenefits application is available online at myBenefits.ny.gov or at a local district participating Community Based Organization (CBO). A listing of participating CBOs by district is available online at the OTDA website or the myBenefits website.

Note: Supplemental Nutrition Assistance Program applications can also be ordered on Form OTDA-876 (Rev. 7/09): "Request for Forms or Publications" and should be sent to:

**Office of Temporary and Disability Assistance
Document Services
P.O. Box 1990
Albany, New York 12201**

Questions concerning ordering forms should be directed to Document Services at 1-800-343-8859, ext. 4-9522.

3. Instructions

Copies of instructions for completion of the application form(s) must accompany each distributed form. The LDSS-4826A is available at the local districts, online and through myBenefits.

4. Assistance In Completing

Worker or volunteer assistance must be available to those applicants who need/request help in completing and filing the form(s) including applicants applying with the online myBenefits applications at the LDSS office.

5. Withdrawal Of Application

A household may voluntarily withdraw its application or request to withdraw for supplemental nutrition assistance program at any time prior to the determination of eligibility without any consequences to its right to reapply at any time subsequent to the withdrawal.

6. When State-Prescribed Application Form Is Not Required

A new application form is NOT required in cases denied for failure to meet program requirements, providing the household takes the necessary action to complete the application process within 60 days following the date the application was filed. For example, a household fails to provide necessary verification.

The LDSS-4826 with the LDSS-4826A or the Client informational books LDSS-4148A, LDSS-148B and LDSS- 4148C must be provided in the manner described in SNAPSB Section 3.

References:

387.6
03 ADM-3
95 INF-39
95 INF-8
94 INF-34
91 INF-60

G. Required Application Information

POLICY

1. Application Filing

The form(s), including any approved electronic application, must be completed with the name and address of the applicant and signed by either the applicant or authorized representative for application filing purposes only; and

- a. Each SNAP household must be provided with general information on verification requirements at application and recertification. The LDSS-4826A and the Client Informational books LDSS- 4148A, LDSS-4148B and LDSS-4148C fulfill this requirement. For specific types of verification requirements see SNAPSB Section 5.
- b. The local district must provide each household, at the time of application, with a written statement explaining what action the household must take to cooperate with the district in obtaining verification of appropriate information and otherwise completing the application process. Use of the DSS-2642 "Documentation Requirements" is mandated. This form version is available through the myBenefits electronic application.
- c. Local districts must provide a local telephone number and either a toll-free number or a number at which collect calls will be accepted from households outside the local calling area. The number must be provided in writing at certification and recertification.

NOTE: The local district can determine eligibility only when the household or its authorized representative completes the application form, is interviewed, and assists the local district in the verification of certain required information. If the household refuses to cooperate in completing the entire process, the local district must deny the application at the time of refusal as specified in SNAPSB Section 5.

2. Determination Of Eligibility

The form(s) must be completed with the name(s), address and other pertinent information requested on or related to the prescribed form(s), and the signature(s) of the applicant(s) or the authorized representative for the determination of SNAP eligibility.

References:

387.5(d)
387.6(a)
90 ADM-41
91 INF-60
91 INF-42
GIS Message (89 IM/DC017)
89 LCM-80

H. Delays In Processing

1. Determination

- a. Cause Of The Delay - When it appears that the local district cannot determine a household's eligibility and provide the opportunity to participate within 30 days of the filing date the local district must determine the cause of the delay. A delay shall be considered the household's fault if:
 - (1) The household has failed to complete the application process; and
 - (2) The local district has taken all required action to assist the household.
- b. Local District Responsibility - Before a delay can be considered the household's fault, the local district must have:
 - (1) Offered, or attempted to offer, to households that failed to complete the application, assistance in its completion.
 - (2) Informed the household of the need to register for work when any member so required has not done so and given the household at least 10 days from the date of notification to register these members.
 - (3) Provided the household assistance as required when verification is incomplete, and allowed the household sufficient time to provide the missing verification.

NOTE: Sufficient time is at least 10 days from the date the local district initially requested the particular verification that was missing.

- (4) USDA has approved a SNAP case processing waiver. Local districts may opt to process cases under existing procedures or under waiver procedures providing all cases within a local district are processed under the same method.

The waiver is of federal regulations which prohibit denying a SNAP application before the 30th day after the application filing date when the household has failed to provide all required verification. Under this waiver, local districts may deny an application for failure to provide required verification after a period of 10 days from the date a household is requested in writing to provide missing verification. USDA has approved this waiver with the following conditions:

- (a) Households must be assisted in obtaining verification in accordance with SNAPSB Section 5.
- (b) Households must be informed of the 10 day requirement for providing verification in writing at the time of application and must be notified at the interview of the date by which any missing verification must be provided.
- (c) If a household provides missing verification within the initial 30-day period, the local district must open the case and provide benefits from the date of application.
- (d) If the household does not provide the missing verification until the second 30 days after application, the case must be opened and provided benefits from the first day of the calendar month in which the household furnishes the missing verification.

- (5) When a household has filed an application but fails to appear for an interview, the district must:
 - (a) Send the household a Notice of Missed Interview (NOMI) using either CNS or manual form LDSS-4753.
 - (b) This notice informs the household it has missed the scheduled interview, it is their responsibility to contact the district to arrange for another interview, and that failure to be interviewed will result in their application for supplemental nutrition assistance program benefits being denied.
 - (c) The district is not required to make any further attempts to contact the household, but if the household contacts the local district within the 30-day processing timeframe from the application date, the local district must reschedule the interview.
 - (d) The district must wait until 30 days following the application filing date to deny the application for failure to be interviewed, even though the household has failed to appear for the interview and has had no other contact with the local district. Local districts must develop procedures to ensure that no SNAP application is denied prior to the 30th day from the application date for failure to appear for an eligibility interview.
 - (e) If the household does not contact the district to reschedule the interview and the application is therefore denied, the delay is the fault of the household. The household must file a new application if it wishes to participate in the SNAP program.
- c. Delays Caused By The Local District - Delays that are the fault of the local district include, but are not limited to, those cases where the local district failed to take the action described under Local District Responsibility.

Reference:

01 ADM-8
387.14(a)
GIS Message (91 IM/DC043)
03 INF-10

I. Action On Delays Caused By The Household

1. Delays Up To 60 Days

If by the 30th day the local district cannot take any further action on the application due to the fault of the household, the district must send the household a notice of denial on the 30th day. The household shall lose its entitlement to benefits for the month of application. Further contact by the household should be processed in the following manner:

- a. If the household was denied upon expiration of the 30 day processing timeframe for failure to be interviewed, the household must reapply if it wishes to participate in the SNAP program. If following the denial the household contacts the district to reapply and is found eligible for benefits, benefits are issued only back to the date of the new application.
- b. If the household was denied for failure to take some other action, the district must give the household an additional 30 days, beyond the normal 30 day processing timeframe, to take the required action. When the notice of denial is sent and the household takes the required action within 60 days of the date the application was filed, the local district must process the case without requiring a new application. Local districts may include in the notice a request that the household report all changes in circumstances since it filed its application.
- c. If the household was at fault for the delay in the first 30 day period due to failure to take a required action (other than being interviewed as discussed above), but takes the required action and is found to be eligible during the second 30 day period, the local district must provide benefits from the first day of the calendar month in which the local district received the necessary verification.

NOTE: No further action by the local district is required after the notice of denial is sent if the household fails to take the required action within 60 days of the application filing date.

2. Delays Beyond 60 Days

When the household is at fault for not completing the application process by the end of the second 30 day period, the local district shall deny the application and require the household to file a new application if it wishes to participate. The household is not entitled to any lost benefits, even if the delay in the initial 30 days was the fault of the local district.

References:

387.14(a)
GIS Message (91 IM/DC043)

J. Action on Delays Caused By The Local District

1. Delays Up To 60 Days

Whenever a delay in the initial 30 day period is the fault of the local district immediate corrective action must be taken.

- a. The local district cannot deny the application if it caused the delay. Instead, the household must be notified by the 30th day after the application filing date that the application is being held pending, and if any further action it must take to complete the application process.
- b. If the household is found to be eligible during the second 30 day period, the household is entitled to benefits retroactive to the date of application.
- c. If, however, the household is found to be ineligible, the local district shall deny the application.

2. Delays Beyond 60 Days

- a. When the local district is at fault for not completing the application process by the end of the second 30 day period and the case file is otherwise complete, the local district must continue to process the original application until an eligibility determination is reached. If the household is determined eligible and the local district was at fault for the delay in the initial 30 days, the household must receive benefits retroactive to the day of application.
- b. When the local district is at fault for not completing the application process by the end of the second 30 day period, even though the case file is not complete enough to reach an eligibility determination, the local district must continue to process the original application. When the local district was also at fault for the delay in the initial 30 days, the amount of benefits lost would be calculated from the date of application.
- c. The local district may use the original application in the months following the 60 day period, or it may require the household to file a new application.

Reference:

387.14(a)

K. Application For Expedited Processing Service

1. Application Process

The application process includes completing and filing an application form, including any approved electronic application form, being interviewed, having certain information verified and processed in a manner appropriate to the household's needs. (387.8)

2. Screening For Expedited Service

To identify the households qualified for expedited service, the local district must allow for identification of such households by using a receptionist, volunteer or other employee to screen all applications for SNAP for potential expedited service processing as they are filed or as individuals come in to apply. For information on the LDSS-3938 " Supplemental Nutrition Assistance Program Application Expedited Processing Summary Sheet," see this section. For information on issuing benefits under the expedited standard, see SNAPSB Section 14.

3. Waiver Of Face-To-Face Interview

For applicants qualified for expedited service as defined in SNAPSB Section 5 and waiver of the face-to-face interview, the local district shall conduct the interview and complete the application process within the expedited service time standards. In situations where the application is mailed to the household for signature and the interview is by telephone, the expedited processing standard shall not include mail time. The mailing time shall only include the days the application is in the mail to and from the household, as well as the days the application is in the household's possession pending signature. (387.7)

4. Mail In Or Electronic Applications

When a household mails in an application or submits an electronic application it must be scheduled for an interview with a specific date and time. If, within the expedited time frame, after reasonable efforts are made to contact the household by telephone to be interviewed within the 5 day period the agency must schedule an interview.

5. Joint Processed Cases

SNAP applications submitted by an SSI household at a Social Security Office shall be screened for expedited services in accordance with this section.

6. Ineligible Households

Households requesting, but not qualified for expedited service, shall have their applications processed according to normal standards as specified in this section.

NOTE: *There is no limit to the number of times a household can receive expedited processing of their SNAP applications, as long as prior to each expedited certification the household either:*

- *completes verification that was postponed at the previous expedited certification,*
or

- *was certified under normal processing (no pended verification) since the last expedited certification, or*
- *submits all verification relevant to the current application so that no verification needs to be pended.*

7. Supplemental Nutrition Assistance Program Application Expedited Processing Summary Sheet (LDSS-3938)

This form is designed to assist local district staff in making accurate and consistent assessments of applicants' qualification for expedited processing of their application for supplemental nutrition assistance program benefits.

Use of the LDSS-3938, and subsequent maintenance of the completed form in each case record, will also ensure that all TA and NPA applicant households have been assessed for expedited service eligibility in accordance with SNAP Program requirements.

- a. **Mandatory Use** - Local district use of the LDSS-3938 as required in 99 ADM-6 and 05 ADM-13. Electronic applications will have the form automatically completed however the worker must review it for accuracy ...based on the interview.
- b. **Completion** - The completion of the LDSS-3938 is self-explanatory. The form's design guides the worker through each part until it is determined that a household is either "Qualified" or "Not Qualified" for expedited processing of the supplemental nutrition assistance program benefit application. In cases involving migrant/seasonal farm worker households, it should be noted that if qualification for expedited processing of the supplemental nutrition assistance program benefits application can be determined in Part Two, it is not necessary to complete Part Three. Part Three is needed only if the household fails to meet the eligibility criteria in Part Two. However, Part Four must be completed for ALL households screened for expedited processing.

References:

387.7
387.8
05 ADM-13
99 ADM-6
97 INF-15
93 INF-16
88 INF-81
94 LCM-124

Related Item:

Issuing Benefits

L. Mixed Households & ‘Pure’ SSI Households

1. Mixed Households

If the household applying for SNAP contains members not included in the unit applying for TA, the local district must choose one of the following processing options:

- a. The local district can use the application and process the household through the TA system. Under the option, information pertaining to the N PA person's income, resources, and other eligibility factors must be obtained and considered for SNAP certification.
- b. The local district can use a separate SNAP application and process the entire household through the NPA/ SNAP system.

The decision on how to process a mixed household cannot be made on a case-by-case basis. The local district must select one of the above listed options and uniformly process all mixed households in that manner.

2. "Pure" SSI Households

Certain "pure" SSI households have the option of applying for SNAP either at the SSA office where they conduct their SSI business or by mail through their local district SNAP office.

- a. If they choose to apply at their SSA office, they shall be processed in accordance with "SSI/SNAP Joint Application Processing (Joint Processing)" procedures found in this section.

M. SSI/ Supplemental Nutrition Assistance Program Joint Application Processing (Joint Processing Procedures)

1. General

- a. " Pure" SSI Households Eligible For Joint Processing Through SSA - Certain households which consist entirely of SSI applicants/recipients (i.e., "pure" SSI households) have the option of applying for supplemental nutrition assistance program benefits either at the Social Security Administration (SSA) office where they conduct their SSI business or at their local district supplemental nutrition assistance program office.
- b. Application At The Local District - Households which choose to apply at the local district shall have their applications processed in the same manner as all other households which apply at the local district.
- c. Application At The SSA Office - However, households which choose to apply at their SSA office will have their applications processed in accordance with the Joint Processing procedures.

2. Eligibility

In order to be eligible for joint processing, households must:

- a. Be a "pure" SSI household (consist entirely of SSI applicants/recipients);
- b. Not have applied for supplemental nutrition assistance program benefits within the preceding 30 days; and
- c. Not have applications pending within the preceding 60 days.

3. Households Ineligible For Joint Processing

The SSA shall refer households not eligible for Joint Processing to the correct local district supplemental nutrition assistance program office. The local district shall process these households as they would any other household applying for supplemental nutrition assistance program benefits (i.e., an application from such households will be considered filed and processing time standards shall begin the date the signed application is received at the correct local office).

4. Certification

The following provisions and procedures shall apply for the initial certification of SSI households eligible for Joint Processing.

- a. Households Have The Option Of Where To Apply For Supplemental Nutrition Assistance Program Benefits - Whenever a member of a pure SSI household transacts SSI business at an SSA district office, the SSA shall inform the household of:

- (1) Its right to apply for SNAP at the SSA office without going to the SNAP office; and
 - (2) Its right to apply at a SNAP office if it chooses to do so.
- b. Households Which Choose To Apply At SSA - The SSA will accept and complete SNAP applications received at their offices, from "pure" SSI households.
- (1) SSA is using the LDSS-4826 " Supplemental Nutrition Assistance Program Benefits Application."
 - (2) SSA interviews the applicant, and makes copies of any pertinent documentation available.
 - (3) In instances where SSA is unable to obtain all required verification at the time of application, they will use the LDSS-2642 "Documentation Requirements" to let the applicant know what still needs to be provided to the local district Supplemental Nutrition Assistance Program Office. The applicant is given the white copy of the form.
 - (4) SSA is providing the applicant with a:
 - (a) Self-addressed envelope to the local district Supplemental Nutrition Assistance Program Office which serves the applicant's address; and
 - (b) LDSS-4148A, LDSS-4148B and LDSS-4148C.
 - (5) Within one working day, SSA forwards to the local district SNAP Office in the county in which the applicant resides:
 - (a) The completed application;
 - (b) The yellow copy of "Documentation Requirements" (LDSS-2642);
 - (c) A completed SSA-4233 "Social Security Administration Transmittal for Supplemental Nutrition Assistance Program Applications" which will provide the required mandatory verification as outlined in SNAPSB Section 5 for the local district to make an eligibility determination.
- c. Local District Procedures
- (1) The local district screens all SNAP applications received for expedited application processing service on day of application.
 - (2) The local district registers the application in WMS and determines eligibility and issues benefits in accordance with this section. A " Supplemental Nutrition Assistance Program Change Report Form" (LDSS- 3151) and the appropriate notice is also sent.
 - (3) The local district maintains in the case record all documents received from SSA, including the SSA-4233 "Social Security Administration Transmittal for Supplemental Nutrition Assistance Program Applications".
 - (4) The local district provides identification cards for all new applicants when the application is approved, ensuring that a member of the household has a Benefit ID Card

and a PIN, and providing instructions on how and where to access the supplemental nutrition assistance program benefits.

- d. Local District Contact With Jointly Processed Households - Households eligible for Joint Processing which elect to be interviewed by and submit an application with SSA shall not be subjected to a second supplemental nutrition assistance program interview by local district staff. The local district shall not contact the household to obtain information in addition to the information provided by the SSA unless:
- (1) The application is improperly completed;
 - (2) Mandatory verification (SNAPSB Section 5) is missing and it has been 10 days since missing verification was requested by SSA : or
 - (3) The local district determines that certain information on the application is questionable.

NOTE: In no event shall the applicant be required to appear at the SNAP office, or shall the further contact constitute a second SNAP interview.

- e. Households Which Choose To Apply At The Local District - When households eligible for Joint Processing choose to apply for SNAP through the local district office (rather than SSA), they shall be certified in the same manner as all other households which apply at the local district. In such cases, all mandatory verification, including that pertaining to SSI program benefits, shall be provided by the household, by SDX or BEN DEX, or obtained by the local district rather than being provided by the SSA.
- f. Telephone Certification - If SSA conducts an SSI application or redetermination interview on the telephone with a member of a "pure" SSI household, a SNAP application shall also be completed during the conversation (if requested by the applicant). In these cases, the SNAP application shall be mailed to the claimant for signature and for return to either the SSA or the correct local district office. The telephone interview shall serve as the required SNAP interview and the household will not be contacted further except as allowed in paragraph c above.
- g. Providing Households With Program Information - The SSA will provide all households processed through their offices with an informational sheet (prepared by New York State Office of Temporary and Disability Assistance) which shall provide the address and phone number of the household's correct SNAP office; the remaining actions to be taken in the application process; notification procedures; a listing of the household's rights and responsibilities; and information on how to obtain and use SNAP benefits.
- h. Normal Processing Time Standard
- (1) Applications shall be considered filed for normal processing purposes when the signed application is received by SSA. The local district shall make an eligibility determination and issue SNAP benefits to eligible SSI households within 30 days following the date the application was received by the SSA.
 - (2) The date of application filing for a resident of a public institution who applies jointly for Supplemental Security Income and SNAP as part of the federal Social Security Administration's Pre-release Program for the Institutionalized is the date the applicant is released from the institution. The local district must approve and issue SNAP benefits or

deny applications for SNAP within 30 days from the date of release of the applicant from the institution.

- i. Dual Participation Detection - Local districts shall develop and implement a method to determine if members of SSI households whose applications are forwarded by the SSA are already participating in the SNAP Program.
- j. Certification Period - Local districts shall certify Jointly Processed households for up to 24 months in accordance with the standards established in SNAPSB Section 15.

5. Prescreening For Application Processing Services

- a. SSA Actions - The SSA shall prescreen all applications for expedited services on the day the application is received at the SSA office and shall mark "Expedited Processing" on the first page of any applications which appear to be qualified for such processing.
 - (1) The SSA will inform households which appear to be qualified for expedited services that benefits may be received a few days sooner if they choose to apply directly at the local district SNAP office.
 - (2) Households which choose this option may take the application to the local district SNAP office for screening, an interview, and processing of the application.
- b. Local District Actions - The local district shall prescreen all applications received from SSA for expedited service on the day the application is received at the correct local district office. For information on the LDSS-3938 " Supplemental Nutrition Assistance Program Application Expedited Processing Summary Sheet" in this section. All SSI households qualified for expedited service shall be certified in accordance with the expedited processing standards established in SNAPSB Section 15, except that the time standard shall begin on the date the application is received at the correct local district office.

NOTE: Supplemental nutrition assistance program applications sent to an incorrect local district office shall be forwarded to the correct office on the same day they are received, in accordance with this section.

6. Verification of Information

- a. SSA Responsibilities
 - (1) The SSA will verify income, resources (except savings accounts under \$500) and alien status and will record this information on transmittal form SSA-4233. The transmittal form, along with the completed application, will be forwarded to the appropriate local district SNAP office within one working day of the date of application.
 - (2) In instances where the SSA is unable to obtain all required verification at the time of application, SSA will notify the household and the local district of what verification needs to be provided through the use of a Necessary Supplemental Nutrition Assistance Program Documentation Form. (LDSS-2642).

The SSA will give one copy of the LDSS-2642 to the household at the time of application and will forward a second copy to the local district with the completed application and the transmittal form.

b. Local District Responsibilities

- (1) Although SSA will attempt to gather all required verification as outlined SNAPSB Section 5, local districts are primarily responsible for the verification of information required for SNAP certification.

The local district shall not contact the household for verification of the information provided by SSA unless:

- (a) The application is improperly completed;
- (b) Mandatory verification (SNAPSB Section 5) is missing, and it has been 10 days since the missing verification was requested by SSA. In this circumstance the local district shall contact the household by mail to:
 - 1) Notify them that required information is still outstanding; and
 - 2) Inform them of the consequences for not providing the verification; and
 - 3) Offer assistance in obtaining verification.

If after 30 days the household fails to provide required verification (without a good cause), the local district shall send a notice of denial in accordance with SNAPSB Section 8. If the missing verification is provided in the 30 day period following the notice of denial, the household shall not be required to file a new application; or if the application contains questionable information.

Under no circumstances shall the household be required to personally present verification information at the local district SNAP office. In addition, since SSA does not verify savings accounts under \$500, and verification of this information is a SNAP requirement, the local district must verify this information.

- c. Use Of SDX/BEN DEX Or SOLQ For Verification - The local district has the option of verifying SSI benefit payments, or other information, through the State Data Exchange (SDX), the Beneficiary Data Exchange (BENDEX), or SOLQ and/or through documentation provided by the household. The following guidelines shall apply to the use of SDX and BEN DEX or SOLQ for verification of information:

- (1) Wage information shall not be verified through BEN DEX;
- (2) Information verified through SDX or BEN DEX or SOLQ shall not be reverified unless it is questionable; and
- (3) Households shall be given the opportunity to provide verification of information which is either unavailable through SDX/BEN DEX or SOLQ, or is contradictory to the SDX/BEN DEX or SOLQ.

7. Recertification

- a. Notice Of Expiration - Local districts shall issue revised notices of expiration to recipients including information that any household consisting only of SSI applicants or recipients is entitled to apply for supplemental nutrition assistance program recertification at an SSA office.
- b. Recertification Through The Local District - Local districts shall recertify "pure" SSI households in accordance with existing mail-out procedures. When the requirement to appear in-office is waived, the requirement to be interviewed has not been waived; SSDs are still required to interview the household by phone or scheduled home visit. For households in which all members are in receipt of SSI and for Group Home residents, it is recognized there is a potential administrative burden in connection with this requirement. For these households, "interview" should be interpreted in broad terms. For instance, the telephone interview does not need to be in depth but rather only has to be extensive enough to allow the local district to feel it has obtained sufficient information to determine the household's circumstances.

As an example, one monthly phone interview with an authorized representative from a Congregate Care facility could suffice for all the SSI residents due for recertification that month.

Note: The LDSS-3035 has been replaced by the simplified LDSS-4826: "SNAP Benefits Application".

- c. Recertification Through SSA
 - (1) SSA shall accept applications for supplemental nutrition assistance program recertification from all "pure" SSI households in accordance with procedures set forth in this Section.
 - (2) SSA shall forward the completed application, transmittal form and any available verification to the designated supplemental nutrition assistance program office. In these situations, the household shall not be required to appear at the supplemental nutrition assistance program office, although the local district must conduct an out-of-office interview, by phone or home visit if the household has not had a SNAP eligibility interview.
- d. Households Determined Ineligible For SSI - If a Jointly Processed household is determined ineligible for SSI prior to a scheduled supplemental nutrition assistance program recertification and the local district believes the supplemental nutrition assistance program eligibility or benefit level may be affected, the household shall be sent a request for contact using either CNS or a manual LDSS-4753.

NOTE: For cases in which the SSI determination results in denial, but the local district believes that the household's supplemental nutrition assistance program eligibility or benefit level will be unaffected, the certification period can continue until normal expiration.

8. Changes in Circumstance

Under Joint Processing, changes in household circumstances shall be treated in the following manner:

- a. Households shall report changes and local districts shall act upon reported changes in accordance with Section 6.
- b. The local district shall process adjustments to SSI cases resulting from mass changes, in accordance with Section 6.
- c. Within ten days of learning of the determination of a household's application for SSI, the local district will take any action required in accordance with Section 6.

NOTE: Local districts should monitor the results of the SSI determination through the SDX and BEN DEX to the extent practical.

9. Waiver of Work Registration Requirements

Household members who are applying for SSI and supplemental nutrition assistance program benefits under Joint Processing shall have the requirement for work registration waived until:

- a. They are determined eligible for SSI and thereby become exempt from work registration; or
- b. They are determined ineligible for SSI and a subsequent determination of their work registration status is made through recertification or other means.

Reference:

01 ADM-8
03 INF-10
387.2
387.5
91 INF-38
97 INF-15
93 INF-16
94 LCM-124

Related Items:

Certification Responsibilities (SNAPSB)
Date of Application (SNAPSB)
Application Processing for Expedited/Accelerated Services (SNAPSB)
Right to Apply (SNAPSB)
Certification Periods/Issuing Benefits (SNAPSB)

SECTION 5: Initial Eligibility Determination**Household Concept****General Household Definition****POLICY**

HOUSEHOLD COMPOSITION - Household composition is based primarily on food units. A food unit consists of individuals customarily purchasing food and preparing meals together for home consumption.

Local districts shall generally accept a household's statement as to which individuals residing with the household are members.

NOTE: A person cannot participate as a member of more than one household at a time unless the person is a resident of a shelter for battered women and children (as defined in FSSB Section 5) and was a member of a household containing the person who has abused him or her.

A household is composed of any of the following individuals or groups of individuals:

- An individual living alone,
- An individual living with others but customarily purchasing food and preparing meals for home consumption separate and apart from others, or
- A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

NOTE: Customarily purchasing and preparing means for a majority of meals in a calendar month.

NOTE: An individual away from the household for military assignment is not counted as a member of the FS household.

JOINT CUSTODY

DETERMINING HOUSEHOLD COMPOSITION - Household composition must be decided on a case-by-case basis in joint custody situations. The fundamental applicable rule is that no individual can receive FS as a member of more than one household in any month.

Such factors as parental control, the court order, if any, and similar considerations must be evaluated. However, the duration of time, per se, which a child spends with one parent in joint situations is not the primary determining factor in whether or not the child is a member of that parent's household.

CHANGES IN CIRCUMSTANCES - So long as a parent has joint custody of a child, the child may be included in the parent's FS household provided only that the child is not a member of another participating FS household. The child would remain a member of the parent's FS household unless: See also Reconstituted Households as affected by Six-Month reporting.

- a. The child is removed on a long-term basis, such as for a summer vacation of several months duration; or,
 - b. It becomes appropriate to add the child to a different FS household. Once in receipt of FS as a member of one household, the child must be deleted from that household in order to be added to a different FS household.
1. DOCUMENTATION - All decisions regarding household composition in joint custody situations should be thoroughly and accurately documented in the case record for Quality Control purposes.
 2. LOCAL DISTRICT RESPONSIBILITY - If both parents in a joint custody situation wish to receive benefits for the same child, the issue must be resolved between the parents. Local district responsibility only requires insuring against duplicate participation by any individual. In addition, it is always preferable to include a joint custody child in a FS household than to make a determination which results in the child being ineligible for FS at all.

POLICY (Danks Co-op Person(s) and Essential Person(s))

1. DETERMINING HOUSEHOLD COMPOSITION - The presence of a Danks Co-op Person(s) or an Essential Person(s) does not alter the method for determining FS household composition. That is, FS household composition continues to be primarily determined based on which members residing together purchase and prepare their food together.

The Danks Co-op Person(s) or Essential Person(s) may, therefore, be determined a member(s) of the FS household that includes other individuals with whom he or she resides, or they may be determined to be their own separate FS household.

2. SEPARATE HOUSEHOLD - If the Danks Co-op Person(s) or Essential Person is a separate FS household they must be processed the same as any other separate FS household and be required to file a separate FS application and receive all required FS notices.

If the Essential Person(s) is a separate FS household but is not a separate ADC case, a separate NPA/FS case must be opened on WMS in order to separately issue FS benefits. However, if the Essential Person has a separate TA case opened on WMS for purposes of separately being issued their ADC benefits, their FS benefits may be issued as part of that TA/FS case.

3. MEMBER OF TA HOUSEHOLD - If the Essential Person(s) is determined a member of the FS household that includes other ADC members, he/she will be issued their FS benefits included with the other ADC members, as part of the main TA household's TA/FS case.

References

Related Item

TASB

387.1
86 INF-21
GIS Message (90IM/DC035)

Eligibility of Residents (FSSB)

Chapter 8

Special Household Definition**POLICY**

1. **INELIGIBLE FOR NON-HOUSEHOLD/SEPARATE HOUSEHOLD STATUS** - The following individuals living with others or groups of individuals living together must be considered as customarily purchasing food and preparing meals together, even if they do not do so:
- A spouse of a member of the household;
 - Parents and their child(ren) or stepchild(ren) 21 years of age or younger, regardless of whether they have children or a spouse, or regardless of whether the child is legally emancipated;
 - Children under 18 years of age other than foster children under the parental control of an adult household member who is not the children's parent or stepparent.

NOTE: The determination as to whether a minor child under 18 is under the parental control of a household member must be made on a case by case basis.

Parental control is generally determined based on the minor's capability of providing for 50% or more of his or her own financial support. This support may be from sources such as wages from employment or receipt of his or her own TA grant.

In the circumstance of an unrelated minor child residing with an adult, the child may not always be determined to be under the adult's parental control. For example, a 17 year old mother residing with an adult may be receiving AFDC in her own name, may be employed or may be residing with her spouse. In such situations, a strong case can be made she is not under the adult's parental control.

On the other hand, a 13-year old with a child, who has no income, would have difficulty establishing that she or he is not under parental control. The reason for the decision to allow or disallow separate household status must be thoroughly documented in the case record.

NOTE: For the treatment of Foster Care Children see FSSB Section 5 and 12.

2. An otherwise eligible individual who is 60 years of age or older living with others (and the spouse of such individual) and who is unable to purchase and prepare meals because he/she suffers from a disability considered permanent under the Social Security Act or suffers from a non-disease-related, severe, permanent disability may be a separate household.

However, the income of others with whom the individual resides (excluding the income of the individual and spouse) cannot exceed 165 percent of the poverty level. For further budget information, see ABEL Manual, Section K-21 & 22.

NOTE: Residents of Drug Addiction or Alcohol Treatment and Rehabilitation Facilities (as defined in FSSB Section 5 and Group Living Facilities (as defined in FSSB Section 5) who apply through an authorized representative are not subject to the provisions of this Special Household Definition Section. Household composition for such residents shall be determined according to FSSB Section 5.

References

387.1
97 ADM-4
95 ADM-15
91 INF-3
89 INF-31
88 INF-35
96 LCM-83

Related Items

Elderly/Disabled Members (FSSB)

Restoration of Lost Benefits (FSSB)
Questionable Information (FSSB)
Eligibility of Residents (FSSB)

GIS Message (88 IM/DC007)

GIS Message (87 IM/DC023)

"All Commissioner" Letter 06/24/86

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Non-Households Members**POLICY**

ELIGIBLE FOR NON-HOUSEHOLD/SEPARATE HOUSEHOLD STATUS - The following individuals if otherwise eligible may participate in the food stamp program as separate households:

1. ROOMER - An individual who pays a household for lodging but not food.

Before an individual is budgeted as a roomer consideration should first be given to treating the individual as a non-household member, who shares in incurring household expenses.

2. LIVE-IN ATTENDANT - An individual who lives with a household to provide medical, housekeeping, child care, or other similar personal services.
3. OTHERS - Individuals who share living quarters with the household but do not customarily purchase food and prepare meals with the household.

Reference

387.2

Ineligible Individuals

POLICY

INELIGIBLE INDIVIDUALS - The following individuals or groups of individuals are not eligible to participate:

1. INELIGIBLE STUDENT - A student who is subject to but does not meet the eligibility requirements stated in **FSSB Section 5**.
2. INELIGIBLE ALIEN - An individual who does not meet the citizenship or eligible alien status set forth in **FSSB Section 5**.
3. FRAUD/INTENTIONAL PROGRAM VIOLATION - An individual disqualified for fraud/IPV according to **FSSB Section 6**.
4. SSN DISQUALIFIED - An individual disqualified for refusal to apply for or provide an SSN as set forth in **FSSB Section 5**.
5. WORK REGISTRATION/WORK REQUIREMENT SANCTION - An individual who was sanctioned for failure to comply with a FS work registration or work requirement contained in **FSSB Section 9**.

NOTE: The income and resources of individuals in paragraphs 2, 3, 4 and 5 shall be considered available to the remaining household members as stated in FSSB Sections 12 and 16. The income and resources of individuals in paragraph 1 shall be excluded as stated in FSSB Sections 12 and 16.

6. Residents of an institutional living arrangements except for the following as defined in **FSSB Section 5**:
 - a. Residents of federally subsidized housing for the elderly, built under section 202 of the Housing Act of 1959 (P.L. 86-372) or section 236 of the National Housing Act (P.L. 73-479);
 - b. Drug addicts or alcoholics residing in public or approved nonprofit private drug or alcoholic treatment centers and children who live with their parent or parents in such drug or alcoholic treatment centers.
 - c. Disabled persons (See **FSSB Section 5**) who reside in approved group living facilities as defined in **FSSB Section 5-D**;
 - d. Women or women with their children who are residing in temporary shelters for battered woman and children;
 - e. Homeless individuals or families residing in temporary public or private non-profit shelters for homeless persons.
7. Residents of a commercial boarding house. A boarding house is an establishment which is licensed or viewed by the community as a commercial enterprise, offering meals and lodging for compensation with the intention of making a profit. The number of boarders residing in the boarding house shall not be used to determine if it is a commercial enterprise.
8. Individuals living with others and paying compensation to the others for meals and lodging (boarders) except as specified in **FSSB Section 5**.

NOTE: Infants who are born to incarcerated mothers within the prison system are ineligible for FS benefits.

References

387.1
 95 ADM-4
 GIS Message (87 IM/DC006)
 91 LCM-3

Related Items

Students (**FSSB**)
 Determining Income (**FSSB**)
 Income of Ineligible Individuals (**FSSB**)
 Special Household Definition (**FSSB**)

Eligibility of Residents (FSSB)
Resource Limits (FSSB)
Excluded Resources (FSSB)
Citizenship and Alien Status (FSSB)
Disqualification for Intentional
Program Violation/Fraud (FSSB)
Social Security Number (FSSB)
Work Registration Process (FSSB)

Boarders**POLICY**

DEFINITION - A boarder is an individual who resides with others and pays reasonable compensation for lodging and meals.

1. INELIGIBLE TO PARTICIPATE - Boarders are ineligible to participate independent of the household providing the board. However, the household providing the boarder services may request that the boarder participate as a member of their household.
2. BOARDER STATUS - Boarder status shall not be extended to:
 - a. Those individuals or groups of individuals described in **FSSB Section 5-A-2.1, Paragraphs 1 and 2, including children or siblings residing with elderly or disabled parents or siblings.**
 - b. Individuals paying less than a reasonable monthly payment for meals. These persons will be counted as members of the household which provides the lodging and meals.
3. DETERMINING REASONABLE COMPENSATION - A reasonable monthly amount for meals shall be either of the following:
 - a. Boarders whose board arrangement is for more than two meals a day shall pay an amount which equals or exceeds the Thrifty Food Plan for the appropriate size of the boarder household; or
 - b. Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds of the Thrifty Food Plan for the appropriate size of the boarder household.

NOTE: Only the amount paid for meals shall be used provided that the amount paid for meals is distinguishable from the amount paid for lodging.

4. HOUSEHOLD ELIGIBILITY - The households with whom a boarder resides (including the household of the proprietor of a boarding house) may participate in the program if otherwise eligible.

References**Related Item**

387.1 387.16 "All Commissioner" Letter - 06/24/86 89 ADM-28	Special Household Definition (<u>FSSB</u>)
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Elderly/Disabled Members**POLICY****ELDERLY/DISABLED MEMBERS -**

1. An elderly member is one who is 60 years of age or older.
2. A disabled member is one who is:
 - a. Receiving Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act,
 - b. A veteran with a service-connected or non-service connected disability rated or paid as total (100%) by the Veteran's Administration (VA) or is considered by the VA to be in need of regular aid and attendance or permanently housebound,
 - c. A surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound,
 - d. A surviving child of a veteran and considered by the VA to be permanently incapable of self-support,
 - e. A surviving spouse or child of a veteran and entitled to compensation for a service-connected death or pension benefits for a non-service connected death based on a VA determination and has a disability considered permanent under the Social Security Act. "Entitled" in this definition refers to those veterans' surviving spouses and children who are receiving the benefits stated above or have been approved for such payment. For disabilities that are considered permanent see **FSSB Section 18**.
 - f. Receiving Federal- or State-administered supplemental benefits under section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under title XVI of the Social Security Act.
 - g. Receiving Federal- or State-administered supplemental benefits under section 212(a) of Public Law 93-66,
 - h. Receiving a Federal, State or Local government disability retirement pension because of a disability considered permanent under Section 221(i) of the Social Security Act. This includes individuals receiving payments under the Federal Employment Compensation Act (FECA). Individuals receiving FECA payments are considered permanently disabled under section 221(i) of the Social Security Act if the payments are made to a person in lieu of Civil Service Retirement (CSR) benefits.

Persons receiving FECA payments pending a determination of eligibility for CSR may not be considered disabled under this provision. Only those who can document that they have elected to receive FECA payments in lieu of CSR benefits satisfy the requirements of this provision.

NOTE: Employees injured on the job who receive temporary FECA payments while they recover are not considered permanently disabled under this provision.

- i. Receiving an annuity under:
 - (1) Section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under Title XVI of the Social Security Act; or
 - (2) Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to qualify for Medicare by the Railroad Retirement Board; or
- j. Receiving authorization of Medical Assistance (MA) based upon disability or blindness. In New York State, such medical assistance recipients are those who have been certified by Medical Assistance as blind, disabled or "SSI-related", pursuant to Title XVI.

The following is a link to what disabilities are classified as permanent under the Social Security Act:

<http://www.ssa.gov/disability/professionals/bluebook/listing-impairments.htm>

- k. A recipient of interim assistance benefits pending the receipt of Supplemental Security Income (SSI),

PROVIDED THAT THE ELIGIBILITY TO RECEIVE THESE BENEFITS IS BASED UPON DISABILITY CRITERIA WHICH ARE AT LEAST AS STRINGENT AS THOSE USED UNDER TITLE XVI OF THE SOCIAL SECURITY ACT (SSA). For purposes of this part of the FS definition of disabled, interim assistance means any TA given to individuals applying for SSI.

In New York State, interim assistance is issued to eligible individuals pending receipt of SSI. However, there is no requirement that a determination of disability be done as a condition of receiving the interim assistance. Since these individuals can be referred to SSI without a thorough disability determination, or have applied on their own without a local district review of their disability, they do not meet the definition of disabled while receiving interim assistance payments.

However, in certain circumstances a determination of disability using criteria as strict as required by the SSA is done for interim assistance recipients before the SSI determination is completed. In such situations, the person is considered disabled while receiving interim assistance. It is anticipated that one group this provision may apply to would be individuals in receipt of the emergency shelter allowance for persons with AIDS or HIV-related illness.

NOTE: The definition of elderly or disabled applies when determining eligibility for uncapped excess shelter and medical deductions and the exemption from gross income test.

When households/individuals receiving FS while pending SSI are determined eligible for SSI, they must be rebudgeted as a household with an elderly/disabled member retroactive to the date of eligibility for SSI, or FS application date, whichever is later (see **FSSB Sections 5 and 11**). Benefits will be restored according to **FSSB Section 10**.

WMS INSTRUCTION

Individuals described in paragraph j. above are identified by WMS Individual Categorical Code "11 - Blind" or "12 - Disabled" on Screen 3 of the WMS Medical Assistance Case Record. An 'X' should be entered in the Aged-Disabled Indicator on the FS ABEL Budget if the Individual Categorical Code is 11 or 12.

References

Related Items

387.1	Permanent Disabilities Under the
94 ADM-15	Social Security Act (FSSB)
91 ADM-15	Special Household
88 INF-35	Definition (FSSB)
GIS Message (88 IM/DC007)	Categorical Eligibility (FSSB)
"All Commissioner" Letter	Medical Deduction (FSSB)
- 7/15/86	Shelter Deduction (FSSB)
99 LCM-1	Restoration of Lost Benefits (FSSB)
91 LCM-3	P.L. 93-66
	SSA 221(i)
	SSA Title XVI

Household Types**POLICY**

1. TEMPORARY ASSISTANCE (TA) HOUSEHOLD - A household in which all members are applying for or receive an ADC, ADC-U, HR, EAF, or EAA grant.
2. MIXED HOUSEHOLD - A household in which all members apply for food stamps as a single unit and some members are TA applicants or recipients, while others are not receiving TA.

EXAMPLE: A five-person household applies for food stamps. Three members receive a TA grant. One member who receives SSI and one member who is a legally assigned foster child are not included in the TA grant. This household is a mixed household for food stamp purposes.

3. NON-TEMPORARY ASSISTANCE (NTA) HOUSEHOLD - A household in which no one is a TA applicant or recipient.
4. "PURE" SSI HOUSEHOLD - A household in which all members are SSI applicants or recipients. Such households may apply for food stamps through their Social Security Office, as detailed in **FSSB Section 4**.

Related Item**Certification (FSSB)**

Head of Household**POLICY**

DEFINITION - Head of Household is the member of the applicant household designated by the household to represent the household in all matters pertaining to its eligibility for and receipt of FS.

The head of household classification must not be used to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household receive benefits in his/her name or appear at the certification office to apply for benefits.

DESIGNATION -

1. BY APPLICANT - At time of application, the applicant should designate a household member as head of household in whose name benefits will be issued.
2. BY LOCAL DISTRICT - If the applicant is unable to designate a head of household, the eligibility worker shall designate the head of household.

References

387.1
91 LCM-3

Related Item

Definitions (FSSB)

Non-Financial Eligibility Standards**Categorical Eligibility****POLICY****1. CATEGORICALLY ELIGIBLE HOUSEHOLDS -**

- a. Households in which all members receive or are authorized to receive FA, SNA and/or SSI benefits shall be eligible for FS because of their status as FA, SNA and/or SSI recipients. This means that the FS resource limit and the food stamp gross and/or net income limits are not applied as eligibility criteria to such households.
- b. Recipients who meet the categorical eligibility criteria because they are authorized to receive FA, SNA or SSI benefits shall include:
 - (1) Individuals determined eligible for FA, SNA and/or SSI benefits who have not yet received payments from these programs;
 - (2) Individuals whose FA, SNA or SSI benefits are suspended or being recouped;

NOTE: If an SSI recipient has his/her SSI benefits suspended, the SSI income would continue to be budgeted for FS only if the suspension is due to a recovery of past SSI benefits fraudulently received. (See FSSB Section 12.)

However, a household in which a member is suspended from SSI for non-compliance with Drug Addiction and/or Alcoholism treatment requirements is not categorically eligible to participate in the FS Program. The household cannot be considered categorically eligible as SSI recipients until that individual's suspension ends and the individual starts receiving SSI benefits.

Because these individuals will not receive any retroactive SSI benefits for the period of suspension, they would not be "authorized to receive" SSI benefits as required for categorical eligibility. In order to regain FS certification, the household would have to be determined eligible under normal requirements. The FS eligibility determination would be calculated without including an SSI benefit as income for the suspended individual until the suspension period ends and benefits are resumed.

- (3) Individuals determined eligible to receive zero FA, SNA or SSI benefits;

EXAMPLE: FA, SNA or SSI recipients whose benefits are being recouped, or FA recipients whose benefits are less than \$10 and therefore not payable.

- (4) Individuals initially denied SSI. If a person is denied SSI, then wins an appeal later, the FS categorical eligibility would be effective from the effective date of his/her SSI application (or of a FS application which is filed later than the SSI application) as established by the appeal.
- 2. DETERMINING HOUSEHOLD COMPOSITION - All FS household composition provisions as defined in FSSB Section 5 must be properly applied when establishing whether a group of people is categorically eligible. For example:**
- a. The FA, SNA assistance unit may not include everyone who should be considered a food stamp household member. The food stamp household may, therefore, contain non-temporary assistance (NTA) members other than SSI members SNA and not be categorically eligible. This, for example, will occur when parents and children or siblings reside together, and all are not in receipt of FA SNA and/or SSI but are one FS household.
 - b. The FA, SNA or SSI member(s) may be boarders and not be categorically eligible.
 - c. Two or more FA, SNA units residing together would each be categorically eligible if each is a separate FS household, or the entire group would be categorically eligible if all were purchasing and preparing food in common providing all persons in the FS household are FA or SNA recipients.
 - d. An SSI household which is participating as a separate household would remain categorically eligible

even if living with NPA persons or persons receiving SNA.

3. COMPLIANCE WITH OTHER ELIGIBILITY REQUIREMENTS - Categorically eligible households must comply with all requirements regarding:

- a. Work registration,
- b. Participation in employment activities,
- c. Reporting, and
- d. Voluntary quit provisions, and
- e. Social Security enumeration.

4. APPLICATION PROCESSING - If a food stamp household has either jointly or separately filed an application for FA, Federally Funded SNA and/or SSI benefits, the application for food stamps must be processed according to the following standards:

a. FA, SNA/SSI Determination Is Made Within 30 Days of Food Stamp Application Filing Date:

- (1) If a food stamp applicant household either jointly or separately files an application for FA, SNA or SSI benefits and appears to be categorically eligible, the food stamp eligibility determination may be postponed if the household is not qualified for expedited service. However, the food stamp eligibility determination shall not be delayed beyond the 30th day from the date the food stamp application was filed, awaiting the determination of eligibility for FA, SNA and/or SSI benefits.
- (2) If a potentially categorically eligible household is ineligible for FS based on NTA criteria (i.e., application of the gross and net income tests and resource limits), the application may not be denied before the 30th day after the application filing date, pending a decision on the household's eligibility for FA, SNA or SSI benefits. This is to avoid filing and processing an additional FS application if the household subsequently becomes categorically eligible.
- (3) If, by the 30th day from the date the application is filed, the household is determined eligible for FA, SNA or SSI and eligible for FS based on categorical eligibility, FS are provided retroactive to the filing date of the application.
- (4) If, by the 30th day from the date the application is filed, the household is determined ineligible for FA, Federally Funded SNA or SSI, a separate eligibility determination for FS using the NPA criteria must be completed. Households determined eligible as NTA households are provided benefits retroactive to the filing date of the application. Households determined ineligible as NPA households are to be denied.

b. FA, SNA/SSI Determination Is Not Made Within 30 Days of the FS Application Filing Date:

- (1) If the decision on the household's eligibility for FA, SNA and/or SSI benefits is not made by the 30th day, the local district must process the FS application as a non-public assistance (NPA) FS application by the 30th day.
- (2) If a potentially categorically eligible household is found eligible for benefits based on NPA criteria, FS benefits are provided retroactive to the filing date of the application. However, if NPA/FS benefits are issued before FA or SSI eligibility is established, FS benefits duplicating those already issued must not be issued when authorizing the ongoing TA/FS case.

NOTE: When households/individuals receiving FS while pending SSI are determined eligible for SSI, they must be rebudgeted as a categorically eligible elderly/disabled household retroactive to the date of eligibility for SSI or FS application date, whichever is later. See FSSB Section 10.

- (3) When a household is denied FS based on NTA criteria and is potentially categorically eligible (pending the FA, SNA and/or SSI determination), the Action Taken Notice (Denial Notice) shall advise the household to notify the local district if it is later determined eligible for FA, SNA or SSI. The local district must ensure that a denied FS application of any potentially categorically eligible household (FA, SNA or SSI) is easily retrievable so that it can be used at a later time to determine benefits if the household becomes categorically eligible.

- (4) A household, which has an FA, SNA or SSI application pending, which is found to be ineligible for FS as an NTA case but is later found to be eligible for FA, SNA and/or SSI benefits is categorically eligible. The household's entitlement to FS benefits must be re-evaluated based on the original application and any pertinent changes that occurred since the application was filed. The household shall not be required to be re-interviewed. The application form shall be updated from other available information and/or through phone or mail contact with the household or authorized representative.

If there are significant changes, the household may be required to initial changes on the original application and re-sign and re-date the application. The re-evaluation is done either at the household's request or when the local district otherwise becomes aware of the household's eligibility for FA, SNA and/or SSI benefits.

- (a) Households denied FS based on an NPA determination but later determined categorically eligible are eligible to receive restored FS benefits from the beginning date FA, SNA and/or SSI eligibility has been established. See **FSSB Section 10**.

NOTE: In rebudgeting the FS case for the months covered by the retro SSI payment the monthly SSI amount cannot be budgeted as income because when the benefits were issued, the SSI had not yet been received.

- (b) In no event, however, can FS benefits be provided due to categorical eligibility prior to the date of an original FS application filed on or after December 23, 1985.

5. VERIFICATION -

- a. Households that are categorically eligible will have the following factors accepted for food stamp eligibility without further verification:
- (1) Resources,
 - (2) Social security numbers of the household members,
 - (3) Residency, and
 - (4) Sponsored alien information.
- b. All other eligibility and benefit determination factors must be verified. Questionable circumstances must also be verified. For example, household composition must be verified if it is questionable that the household is a pure FA, SNA/SSI household. Also, it must be verified, if questionable, that any person included as a household member in a categorically eligible household meets the qualifications on citizenship and alien status. Although income is not verified for the gross and net income limits, it must be verified for benefit determinations. Therefore, the amount of FA, SNA or SSI, as well as any other earned or unearned income, must be verified.

6. ELIGIBILITY AND BENEFIT DETERMINATION -

- a. Pure FA, SNA/SSI households are exempt from the food stamp resource, gross income and net income limits, but the standard benefit amount calculation must be followed as for all other food stamp households. One and two person households that are categorically eligible are always entitled to at least \$10 in benefits unless the household is classified eligible for a standardized benefits in NYSNIP, or the group standardized benefits, the household is subject to allotment reduction. Categorically eligible households with three or more members will be entitled to benefits of at least \$2 if the Thrifty Food Plan reduced by 30% of their net income is at least \$1. Pure FA, SNA/SSI households with three or more members will be automatically entitled to a benefit determination, but not necessarily entitled to receive food stamp benefits because of the way benefit levels are calculated.
- b. A household categorically eligible for zero benefits must be denied or closed rather than suspended. In such cases, the household is categorically eligible for zero benefits.
- (1) If this occurs at application or recertification, the household must receive an Action Taken Notice which provides the equivalent of the following message:

"Your case is being denied because your net income is too high to receive any FS. If you experience any change in the number of people in your household, your household income, expenses or other household circumstances, you should reapply for FS as such changes could change the amount of benefits for which you would be eligible."

- (2) If this situation occurs when a household has been in receipt of Food Stamp benefits, it must be issued a Food Stamp Adverse Action Notice, indicating that its Food Stamp case will be closed, with the equivalent of the above message entered as the reason.

7. RECERTIFICATION -

- a. Recertification procedures for FA, SNA households receiving food stamps are not changed by categorical eligibility. However, any pure FA, SNA household which fails to recertify for FA, SNA continues to be categorically eligible until the end of its food stamp certification period. If the household recertifies for food stamps but not FA, SNA, food stamp eligibility is determined as an NPA household. Categorical eligibility ceases to apply to the household.
- b. A categorically eligible food stamp household whose certification period is shortened and is notified to recertify due to a lack of information shall continue to receive food stamp benefits as a categorically eligible food stamp household until the end of the shortened certification period.

8. CHANGE REPORTING -

- a. Categorically eligible households are required to report changes in accordance with **FSSB Sections 6 and 13**. Any reported change affecting food stamp benefit levels must be made in accordance with Sections 6 and 13. Changes are not made if the reported information concerns resources or other eligibility factors that are assumed for categorically eligible households.
- b. In most FA, SNA situations, the worker handling the food stamp case will also be the worker doing the FA, SNA determination. In such situations, the worker will know, depending on the reporting system, if the change makes the household ineligible for FA, SNA and thus no longer categorically eligible for food stamps. FA households who are leaving the caseload may be considered for Transitional Benefit Assistance (TBA) as outlined in **FSSB Section 6**. SNA households in these circumstances will require a separate determination of FS eligibility.
- c. For SSI recipients, the food stamp worker should advise the participant that changes must also be reported to the Social Security Administration. The SSI recipient remains categorically eligible until the Social Security Administration finds the recipient no longer eligible for SSI.

9. HOUSEHOLDS WHICH LOSE CATEGORICAL ELIGIBILITY - Households which lose categorical FS eligibility due to losing eligibility for FA, SNA and/or SSI must be re-determined as NPA households. Such households cannot be required to make a new application unless the household lost FA, SNA eligibility due to failure to recertify for FA or the household has failed to report or verify a change in household circumstances. In such cases, a food stamp recertification application is required if the food stamp certification period has not expired. A new application is required if the food stamp certification period has ended.

10. CATEGORICALLY INELIGIBLE HOUSEHOLDS - The following households are not categorically eligible:

- a. Medicaid only recipient households;
- b. A food stamp household containing an FA, SNA recipient who is sanctioned for non-compliance with an FA, SNA program requirement, that is also a FS requirement, e.g., failure to comply with Food Stamp Reporting requirements and failure to comply with FS Employment and Training requirements.
- c. A household consisting entirely of persons ineligible for food stamps for other than FS financial criteria, e.g., persons disqualified due to an FS intentional program violation, and persons residing in an institution.

11. HOUSEHOLDS CONTAINING DISQUALIFIED OR INELIGIBLE PERSONS -

- a. Disqualified Households or Household Members - A person or household disqualified from receiving

food stamps may not participate in the Food Stamp Program simply because of categorical eligibility.

- (1) Intentional Program Violations - Households which contain a member who is disqualified for a FS Intentional Program Violation (IPV) may not participate as a categorically eligible household. However, the non-disqualified household members may participate as a non-categorical household, if the household meets all the eligibility criteria of an NPA determination (i.e., meeting all Food Stamp Program requirements including meeting FS resource limits and FS gross and/or net income limits). Treatment of the income and resources of disqualified members continues to be handled in accordance with **FSSB Sections 12 and 16**.
- (2) FS Employment and Training Requirements - An FA, SNA household containing an individual who is sanctioned for FS employment or training non-compliance may not participate as a categorically eligible household. However, the remaining household members may participate as a non-categorical household, if the household meets all the NPA eligibility criteria.
- (3) SSN Disqualification - An individual disqualified for refusal to apply for or provide an SSN.

The food stamp voluntary quit provisions must also be applied to any otherwise categorically eligible FS household.

- (4) Quarterly Reporting - In those districts whereby Quarterly Reporting is a TA requirement households discontinued from the FA, SNA program for failure to meet quarterly reporting requirements must have eligibility for FS separately determined.
- b. Ineligible Persons - Otherwise pure FA, SNA or SSI households containing an ineligible person(s) remain categorically eligible because such persons are not considered food stamp household members. The following persons cannot be included as members in any household which is otherwise categorically eligible for food stamps:
- (1) Aliens who do not meet the citizenship or eligible alien status requirements, or the eligible sponsored alien requirements contained in **FSSB Section 5**;
 - (2) Individuals who do not meet the definition of an eligible student as contained in **FSSB Section 5**;

NOTE: Treatment of the income and resources of an ineligible alien or ineligible student will continue to be handled in accordance with **FSSB Sections 12 and 16.**

- (3) Residents of commercial boarding homes;
- (4) Individuals living with others and paying compensation to others for meals and lodging but not meeting the requirements for such group living/shelter arrangements;
- (5) Boarders, as defined in **FSSB Section 5**, unless the boarder participates as a member of the household providing services, including lodging and meals, at such household's request.
- (6) Residents of institutions except those listed in **FSSB Section 5**. Categorical eligibility does apply to pure SSI and TA households residing in facilities listed in **FSSB Section 5**.

WMS INSTRUCTIONS

1. CATEGORICAL INDICATOR - As of November 17, 1986, the Categorical Indicator (CE) for FS is active on ABEL with the result that for budgets with a FROM Date of December 23, 1985 or later, a "Y" or "N" entry will be required in the CE (Categorical Eligibility) field.

Budgetary procedures specified in FSSB Section 5-B-1.4, paragraph 6 will be followed for cases which are indicated to be categorically eligible, for all budgets calculated with an effective FROM date of December 23, 1985 or later.

The CE entry needs to be changed only when FS household circumstances change (i.e., at least one household member who was receiving and/or eligible for FA, SNA or SSI becomes ineligible, or the household member(s) previously ineligible become eligible for FA or SSI or leave the household.)

2. CATEGORICALLY ELIGIBLE - If all persons in the FS household are receiving FA, SNA or SSI, the household is categorically eligible for FS and must be coded "Y." If a "Y" is entered in the CE field, ABEL

will not apply the Gross Income nor Net Income Limit budget procedures.

3. CATEGORICALLY INELIGIBLE - If there are persons in the FS household who are not receiving FA, SNA or SSI, the household is "not" categorically eligible and must be coded "N." FA, SNA households containing a sanctioned FA, Federally Funded SNA member who is also FS sanctioned are not categorically eligible and must be coded "N."
4. CATEGORICAL ELIGIBILITY FOR SURPLUS TA BUDGETS OR TA BUDGETS WITH A SANCTIONED INDIVIDUAL - ABEL requires the worker to reevaluate FS categorical eligibility for TA/FS cases in which:
 - a. A person has been sanctioned from the TA case or;
 - b. There is a TA budget surplus.

ABEL does not require the worker to reevaluate FS categorical eligibility for any other TA/FS cases.

References

Related Items

387.14	Special Household Definition (<u>FSSB</u>)
01 ADM-2	
95 INF-35	
88 INF-81	Voluntary Employment Quit (<u>FSSB</u>)
87 INF-29	Income Exclusions (<u>FSSB</u>)
GIS Message (99 TA/DC015)	Boarders (<u>FSSB</u>)
GIS Message (88 IM/DC007)	Citizenship and Alien Status (<u>FSSB</u>)
GIS Message (86 IM/DC004)	Non-Household Individuals (<u>FSSB</u>)
ABEL Transmittal 89-1	Reporting of Changes (<u>FSSB</u>)
ABEL Transmittal 86-8	Students (<u>FSSB</u>)
	Resource Limits (<u>FSSB</u>)
	Eligibility of Residents (<u>FSSB</u>)
	Failure to Comply with Work Requirements (<u>FSSB</u>)
	Ineligible Individuals (<u>FSSB</u>)

Residency**POLICY**

An applicant must live within the geographic area served by the local district in which they file an application for FS. To determine residency, the local district must:

1. Determine whether or not the applicant physically resides in the local district.
2. Not impose a time limited residency requirement.
3. Not interpret residency to mean the intent to permanently reside in the State or local district. However, persons in the local district solely for vacation purposes must not be considered residents.
4. Consider as residents all other people who are living in the local district.

POLICY ("All Commissioner" Letter 7/15/86) (GIS Message 87 IM/DC023)(91 LCM-3)(96 LCM-83) (97 ADM-4)

HOMELESS INDIVIDUAL OR FAMILY - Is an individual or family who lack a fixed and regular nighttime residence or has a primary nighttime residence that is:

1. A supervised shelter, such as a hotel or motel or congregate shelter, which is designed to provide temporary accommodations; or
2. An institution that provides temporary residence for individuals who need to be institutionalized; or
3. A temporary accommodation in the residence of another individual or family if the accommodation is for 90 days or less. When a person moves from the residence of one individual to the residence of another individual, the 90 day period starts again; or
4. A place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

For homeless households, in addition to the above, the local districts must:

5. Not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Residence can be a car, bus, etc.
6. Not deny participation in the program to a homeless household when residency cannot be verified.
7. Provide assistance in obtaining their benefits to households who do not reside in a permanent dwelling or have a fixed mailing address. An issuance system must be developed that assures that all certified households have access to their benefits.

NOTE: A household cannot receive benefits in more than one local district in any month unless an individual is a resident of a shelter for victims of domestic violence as defined in FSSB Section 5 and was a member of a household containing the person who had abused him or her. Residents of shelters for victims of domestic violence shall be handled in accordance with FSSB Section 5.

NOTE: Residents of residential programs for victims of domestic violence that receive Public Assistance have their food stamp case processed by the district that is determined to be fiscally responsible for public assistance.

RESPONSIBILITIES OF FORMER DISTRICT OF RESIDENCE

1. The former district is required to inform the recipient of the need to apply for FS benefits in the new district if such recipient wishes to have his or her FS benefits continued after the effective closing date of the FS case from the former district.
2. The former district must respond to any oral or written inquiries from the new district about the status of the FS case, the effective closing date of the FS case in the former district, or about whether FS benefits have been issued or received by the households.
3. The former district must provide copies of documentation from the recipient's case record as requested either

orally or in writing by the new district. The former district must comply with such requests as soon as possible, but in no event later than 10 days after receiving the request from the new district.

4. When a recipient of TA and FS moves on their own to another district and continues to be eligible, the "from" district continues to provide TA and FS benefits during the month of the move and the month following the month of the move. Households are encouraged to apply and establish eligibility in the new "move to" district of residence during the two month transitional period to avoid interruption of benefits.

Temporary Assistance households which are continued on TA by the "move from" district, as required under district of fiscal responsibility for reasons of the Medical Facility, Placement, or Temporary Absence rules, as specified in 97 INF-6, will not be required under this policy to be continued on FS by the "move from" district.

RESPONSIBILITIES OF THE NEW DISTRICT OF RESIDENCE

1. At the time an individual contacts the new district and indicates that he/she wishes to apply for FS benefits in that district, the new district must provide such individual with an application and must schedule such individual for a face-to-face interview as explained in **FSSB Sections 4**. The new district must not refuse to give out, accept or process the application on the grounds that the recipient is, or should be, receiving FS benefits from the former district.
2. If the recipient is unable to produce a closing notice from the former district or claims that he/she is not actually receiving appropriate FS benefits from the former district, it is the responsibility of the new district to contact the former district to ascertain the current status of the recipient. See local district contact persons for inter jurisdictional matters in **PASB Section 22 or 97 INF-6**.

NOTE: Expedited application processing service should not be delayed if the local district has failed to obtain verification of the case closing.

3. If the recipient is, or claims to be, unable to provide necessary documentation which is likely to be in the possession of the former district (e.g., birth certificates, social security cards, monthly reports, etc.), it is the responsibility of the new district to obtain documentation needed to establish the recipient's continued eligibility from the case records maintained by the former district. Documentation which is specifically relevant to the recipient's residence in the new district, such as rent costs, current household composition and income, if changed, must be obtained from the recipient or through regular documentation/verification procedures. A copy of a suggested "Inter-District Request for Documentation" is attached to 97 INF-6.
4. When the recipient applies for FS benefits in the new district before benefits from the former district cease, the new district must accept and process the FS application within normal FS processing requirements and time frames. However, every attempt must be made to process the application quickly and to assure that FS benefits to an otherwise eligible recipient are not delayed or interrupted solely because of that recipient's move into a new district. If the new district determines that the recipient is eligible before FS benefits from the former district have ceased, the new district must open the case effective with the date that benefits from the former district are scheduled to end.
5. The initial FS benefits are not prorated if an application is made in a new local district on or before the first day of the month following the expiration of benefits in the county of origin. However, if application is made in the new local district after the first day of the month following the expiration of food stamp benefits in the county of origin, the food stamp benefits for the first month in the new local district must be prorated.

FS eligibility may not be established until all documentation is received. However, an initial month's benefit shall not be prorated due to a delay in receiving documentation which is not the fault of the applicant.

SIX-MONTH REPORTING

Once a recipient who is subject to six-month reporting has applied for FS benefits in the new district, the new district shall be responsible for sending out and obtaining any reports necessary to determine eligibility in that district.

WMS INSTRUCTIONS

The new district may use WMS inquiry to determine the case status and individual status of the recipients in the former district. However, if the recipient states that this information is incorrect, the new district must contact the former district to ascertain the current status.

References	Related Items	TASB
387.9(a)	Eligibility of Residents	Chapter 22
01 ADM-1	(<u>FSSB</u>)	Chapter 22
97 ADM-4		
94 ADM-11	Date of Application	Chapter 22
86 ADM-40		
97 INF-6		
87 INF-29	Application Interview (<u>FSSB</u>)	
GIS Message (87 IM/DC023)		
96 LCM-83		
91 LCM-3		
90 LCM-75		
"All Commissioner" Letter - 7/15/86		

Citizenship and Alien Status

POLICY (97 ADM-25)

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, was signed into law by the President on August 22, 1996. Among its many provisions, PRWORA makes many non-citizens ineligible for Food Stamps even though they are currently in the United States legally.

Section 510 of the Omnibus Consolidated Appropriations Act (Title V, The Illegal Immigration Reform and Immigrant Responsibility Act of 1996), Public Law 104-208, postponed the implementation date of the alien provisions as they apply to recipients until April 1, 1997.

On August 5, 1997, the President signed into law the Balanced Budget Act of 1997, Public Law 105-33. This Act included a number of provisions which affected aliens seeking FS benefits. Specifically, the Act clarified certain provisions of PRWORA and added Cuban/Haitian Entrants and certain Amerasians to the groups of legal aliens who can qualify to participate in the food stamp program.

On June 23, 1998, President Clinton signed into law P. L. 105-85, the Agricultural Research, Extension and Education Reform Act (AREERA) of 1998. Among other provisions, this law amends the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) which specify that only certain non-citizens are potentially eligible for federal food stamps.

To be eligible to participate in the FS program, a person must be a citizen of the United States or be an eligible alien.

1. **AREERA Provisions** - Effective November 1, 1998 the following groups may be eligible for FS because of AREERA.

a. Certain Indians may be eligible for FS. These include:

- (1) American Indians born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (8 U.S.C. 1359) apply (i.e., born in Canada and at least 50% American Indian blood); or
- (2) Individuals who are a member of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(e)). This provision covers Native Americans who are entitled to cross the United States border into Canada or Mexico and includes, among others, members of the St. Regis Band of the Mohawk in New York State.

b. Hmong or Other Highland Laotian

- (1) A Hmong or other Highland Laotian who is not a U.S. citizen is eligible to receive Food Stamps if he/she meets the normal Food Stamp financial and work requirements, and:
 - (a) Is legally residing in the United States;
 - (b) Was born before 8/8/75;
 - (c) Was born in Laos or another country with Hmong or other Highland Laotian populations and can give a reasonable explanation as to why he/she was not born in Laos (the countries include Thailand, Cambodia, China, Vietnam, Indonesia, Hong Kong, Malaysia, and Singapore);
 - (d) Has refugee code RE1, RE2, RE3, RE6, RE7, R86, IC6, or IC7, or can give a reasonable explanation of his/her immigration to the U.S. (for example, sought asylum in another country and later immigrated to the U.S.);
 - (e) Entered the U.S. in April 1975 or later (or can give a reasonable explanation for having entered before that, such as came here as a student, for military training, to escape the war, and so on); and
 - (f) Signs an affidavit swearing under penalty of law that he/she was a member of a Hmong or Highland

Laotian tribe between 8/5/64 and 5/7/75. (If a Food Stamp worker has access to the Refugee Data Center (RDC) list of eligible Hmong and Highland Laotian refugees who entered the U.S. after 1979, and the name or alien number of the person claiming membership in a tribal group appears on the list, there is no need for the affidavit. However, the worker must not deny eligibility for Food Stamps simply because the RDC list is unavailable or the applicant's name or alien number does not appear on it.)

- (2) A member of a Hmong or Highland Laotian tribal member's family who is not a U.S. citizen is eligible for Food Stamps if he/she meets the regular Food Stamp work and financial eligibility requirements, and:
 - (a) Is also a tribal member; or
 - (b) Is the spouse, an unremarried widow or widower of a tribal member who has died, or unmarried dependent child of a tribal member, and verifies his/her status as a member of the tribal member's family.
 - (3) Divorced spouses do not qualify as family members. In addition, a member of the family of a tribal member who has died need not show that the tribal member was legally residing in the United States.
- c. An alien may be eligible for FS if that alien was lawfully in the U.S. on August 22, 1996 AND
 - (1) Was 65 years of age or older on August 22, 1996 (DOB of August 22, 1931 or earlier), OR
 - (2) Is under currently 18 years of age, OR
 - (3) Is disabled as defined by the Food Stamp Act (see FSSB section 5);

NOTE: To more easily identify such individuals, local districts can use the following guidelines:

- For current FAP recipients between age 18 and 59 (DOB between 10/31/38 and 11/1/80), an "X" in the A/D indicator field indicates disability status;
- For aliens in receipt of SSI who are under age 65, the receipt of SSI proves disability since persons cannot receive SSI based on age until age 65; or
- For aliens in receipt of SSI who became 65 after August 22, 1996 (DOB of 8/23/31 or later), districts must determine if SSI eligibility began before their 65th birthday. If SSI eligibility began before their 65th birthday, the alien can be considered to be disabled. If SSI eligibility began after their 65th birthday, disability status must be determined independently from SSI status.

2. **Ineligible Alien** (Department Regulation 387.1).

An ineligible alien is an alien who is not a citizen of the United States and does not meet the eligible alien. An alien who is a qualified alien, as set forth below, is not eligible to participate in the FS program unless otherwise provided for in subsection 3.

A qualified alien is an alien who at the time the alien applies for, receives or attempts to receive FS benefits, is:

- a. An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
- b. An alien who is granted asylum under section 208 of the Immigration and Nationality Act;
- c. A refugee who is admitted to the United States under section 207 of the Immigration and Nationality Act;
- d. An alien who is paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act for a period of at least one year;
- e. An alien whose deportation is being withheld under section 241(b)(3) or section 243(h) of the Immigration and Nationality Act;
- f. An alien who is granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980; or
- g. An alien who is a battered spouse and dependents of such battered spouse meeting the criteria of Section

431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

- h. An alien who is granted status as a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or
- i. An alien who is admitted to the United States as an Amerasian immigrant pursuant to sections 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended).

3. **Eligible Aliens** (Department Regulation 387.9(a)(2))

Only certain qualified aliens can be eligible to participate in the FS program. These eligible aliens, which are listed below, will be referred to as Specially Qualified Aliens.

a. **Aliens With Time-Limited Eligibility (seven years)**

(1) **Definition and Basic Policy**

Aliens with time-limited eligibility are eligible for participation in the FS program as Specially Qualified Aliens for a period of seven years after the date:

- (a) The alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;
- (b) The alien is granted asylum under section 208 of the Immigration and Nationality Act; or
- (c) The alien's deportation is withheld under section 241(b)(3) or section 243(h) of the Immigration and Nationality Act; or
- (d) The alien is granted status as a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or
- (e) The alien is admitted to the United States as an Amerasian immigrant pursuant to sections 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended).

After the seven year period expires, such aliens are ineligible for FS unless they become a United States citizen or meet the requirements of subsections b. (40 qualifying quarters) or C. (veteran).

The seven year period of FS eligibility continues even if the alien's status is adjusted to lawfully admitted for permanent residence (LAPR) status during the five year period. Such a change in alien status will usually be indicated on the alien's I-551, Resident Alien card.

EXAMPLES

- (a) An alien who provides documentation which indicates that asylee status was granted in March 1989 is not eligible for FS as an asylee because the 7 year period of eligibility expired at the end of February, 1996. This individual's application for food stamps would be immediately denied.
- (b) If the alien in Example (a) was a FS recipient in March 1997, the alien would become ineligible when the alien's certification period ends (between April 1, 1997 and August 22, 1997).
- (c) An alien classified as permanent resident applies for food stamps in March 1997. The alien documents entry into the United States as a refugee in November 1994. This alien's status was changed to LAPR in November 1996. This individual remains eligible for food stamps until the end of October 2001, seven years after entry into the United States as a refugee.

b **Qualified Aliens who are Battered, Parolees or Lawfully Admitted for Permanent Residence (LPR) into the United States (US)**

Aliens who have been determined to be in Qualified Status because of Battery or being Paroled into the United States for at least one year or being an LPR (holder of Green cards), must meet one of the following conditions to be eligible for food stamp benefits:

- Have lived in the US in a qualified status for 5 years, or
- Have 40 qualifying quarters of work, or
- Be in receipt of disability benefits as provided in the Food Stamp Act, or
- Be a child under 18 years of age, or
- Be on active duty in the U.S. Military or be a veteran who has served a minimum of two years in active duty and is honorably discharged from the U.S. military.

Below is an example of an alien who has been battered and applies for a food stamp benefit.

Example: Ms. Delina Lamoureux came into the agency on 3/22/06. Her husband is a Legal Permanent Resident (LPR). Ms. Lamoureux came to the U. S. on 8/10/05 on a V visa. Her husband previously filed an I-130 petition for her in August, 2000 which is currently pending. She was recently admitted to the hospital due to physical abuse by her husband. She has been forced to leave their joint residence and has found an apartment for herself and her infant child who is a US citizen. The rent is \$400 per month with heat included. She has used all of her resources to secure the apartment. As she is no longer receiving any support from her husband, she is applying for Temporary Assistance and Food Stamps for herself and her minor child. Ms. Lamoureux is screened on 3/22/06 and determined eligible for expedited processing of her Food Stamp application.

Ms. Lamoureux informed the eligibility worker or other designated agency worker that she has filed an I-360 self-petition and provides an I-797 (acknowledging receipt) as proof. The eligibility worker or other designated agency worker then determined that Ms. Lamoureux does not have qualified status without a determination of battery. As Ms. Lamoureux has not yet received a prima facie letter from the United States Citizenship and Immigration Services (USCIS) indicating a prima facie determination of battery, it is necessary for the Domestic Violence Liaison (DVL) to assess her credibility and determine battery. The DVL determined that she is a credible victim of battery. In addition to being battered, an alien must meet two other requirements to obtain qualified status. To be qualified, the eligibility worker or other designated agency worker must determine that Ms. Lamoureux is no longer residing in the same household as the abuser and that there is a substantial connection between the need for benefits and the battery. The eligibility worker determines that Ms. Lamoureux meets these requirements and is a qualified alien. The date Ms. Lamoureux obtained qualified status is considered the date of her Food Stamp application (3/22/06).

To be eligible for Food Stamp benefits, a qualified alien must be in a qualified status for 5 years or be in receipt of disability benefits as provided in the Food Stamp Act or be a child under 18 years of age or be credited with 40 qualifying quarters of work. As Ms. Lamoureux is not in receipt of disability benefits, is not a child and does not have 40 qualifying quarters of work, she must be in qualified status for 5 years before she can be eligible for Food Stamp benefits. If she remains in qualified status she may be eligible for Food Stamps as of 3/22/2011. However, as a citizen, her infant child may currently be eligible for Food Stamp benefits. If the child had not been a citizen, the child would have qualified alien status as a child of a battered parent and may have been eligible for Food Stamp benefits as a child under 18 years of age (Note-children under 18 years of age who are qualified aliens are not subject to the 5 year rule and may be currently eligible for Food Stamp benefits).

(3) Systems Support

To aid in tracking alien eligibility and the seven years of potential food stamp eligibility, WMS edits have been changed to allow entries in the following fields for Case Types 31 (NPA-FS), 32 (FS-MIX) and 60 (HEAP):

Citizenship Code, Alien Number, Date of Entry into United States, Nationality Code and Resettlement Agency Code.

a. Aliens Lawfully Admitted for Permanent Residence with Qualifying Quarters of Coverage**(1) Definition and Basic Policy**

A permanent resident alien is eligible to participate in the FS program as a Specially Qualified Alien if the alien:

- (a) Is lawfully admitted to the United States for permanent residence (LAPR) under the Immigration and Nationality Act Such aliens are called permanent resident aliens and possess what is commonly called a "green card"; and
- (b) Has earned 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters.

(2) Qualifying Quarters

In determining the number of qualifying quarters of coverage set forth in paragraph (1) above, an alien is credited with the following:

- (a) All qualifying quarters of coverage worked by the alien;
- (b) All qualifying quarters of coverage worked by a parent of such alien before the alien reached age 18; and
- (c) All qualifying quarters worked by the spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

However, no qualifying quarters of coverage may be credited to an alien for any period after December 31, 1996 if such alien, parents or spouse received any Federal means-tested public benefit (as defined in (5) below) during the period for which such qualifying quarter of coverage is credited.

Thus an alien may earn a qualifying quarter by either working or by being credited with a qualifying quarter worked by another. The same quarter can be credited to the person who worked as well as other family members eligible to be credited with such quarter.

(3) Who Can Be Credited With Work Quarters From Family Members

An alien can be credited with qualifying quarters earned by other family members. The following guidelines must be used to determine which family members can contribute qualifying quarters to the alien.

- (a) An alien who is married can be credited with work quarters actually worked, and any quarters worked by a spouse during the marriage. This applies so long as the alien remains married to or separated from the spouse, or, if the spouse is deceased, was married to the spouse at the time of the spouse's death.

The alien loses all of their spouse's work quarters when divorced. The loss of the spouse's quarters must be used to determine FS eligibility when eligibility is redetermined due to a reported change during the certification period but no later than the first recertification subsequent to the divorce.

- (b) An alien under age 18 can be credited with work quarters worked by both parents (including quarters earned prior to the child's birth), whether the parent is an alien or not, and any of the alien's own quarters worked.
- (c) An alien over age 18 can be credited with work quarters worked by both parents (including quarters earned prior to the child's birth) before that alien reached age 18, whether the parent is an alien or not, and any of the alien's own quarters worked.

(4) **Examples Of Crediting Quarters**

- (a) If an alien has earned 20 qualifying quarters, and his spouse has earned 20 qualifying quarters over the same time span, that alien can be credited with 40 qualifying quarters in as few as 5 years. If the spouse is also an alien, the spouse can also be credited with 40 qualifying quarters.
- (b) If a LAPR alien is divorced from her husband, she cannot be credited with any of the qualifying quarters her former husband may have earned while they were married or since the divorce. If she qualified for food stamps by being credited with qualifying quarters from her former spouse, she must have her eligibility based on alien status redetermined at the first recertification subsequent to the divorce.

If the LAPR is separated, she would be credited with all of the quarters her spouse earned during the marriage and since the separation.

(5) **Qualifying Quarters and Federal Means-Tested Public Benefit**

PRWORA established a special limitation on quarters worked after December 31, 1996. Quarters worked after December 31, 1996, do not count as qualifying quarters if the alien receives any Federal means-tested public benefits during that quarter.

- (a) Federal means-tested programs include only those programs which:
 - (2) Include federal dollars, and
 - (3) Establish eligibility for program benefits based on income or income and resources.
- (a) This definition limits this prohibition to aliens who received assistance from one of the following programs during the quarter in question:
 - (4) Federally participating public assistance (formerly ADC and EAF and now TANF and EAF),
 - (5) Federal food stamp benefits,
 - (6) Federally participating medical assistance, and
 - (7) SSI benefits.

- (a) Specifically excluded from the definition of Federal means-tested public benefits are:

medicaid for certain emergency care, short-term non-cash emergency disaster relief, school lunch assistance, WIC assistance, public health services for treatment of communicable diseases and immunizations, foster care and adoption assistance under IV-B and E of the Social Security Act if the foster/adoptive parent is a potentially eligible alien, certain programs providing assistance to students for educational purposes, Head Start benefits, JTPA benefits, and assistance which the United States Attorney General will designate.

(6) **Establishing Qualifying Work Quarters**

The Social Security Administration determines that a person has worked a qualifying quarter when that person earns a specified amount of money.

<u>Year</u>	<u>Quarter Amount</u>	<u>Annual Amount</u>
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for 1978 and earlier, \$50 or more in wages per quarter

1979	\$260	\$1040
1980	290	1160
1981	310	1240
1982	340	1360
1983	370	1480
1984	390	1560
1985	410	1640
1986	440	1760
1987	460	1840
1988	470	1880
1989	500	2000
1990	520	2080
1991	540	2160
1992	570	2280
1993	590	2360
1994	620	2480
1995	630	2520
1996	640	2560
1997	670	2680
1998	700	2800
1999	740	2960
2000	780	3120
2001	830	3320
2002	870	3480
2003	890	3560
2004	900	3600

- a. **Immigrants receiving disability assistance: Effective October 1, 2002**, any qualified alien who is otherwise eligible and who receives disability or blindness benefits, regardless of the date of entry into the U.S., is eligible for FS. The disability assistance or benefits must be predicated on a disability determination using criteria at least as stringent as the criteria used under title XVI of the Social Security Act. This includes qualified immigrants who receive Supplemental Security Income (SSI) or Social Security Disability (SDSD), or Medicaid if a disability determination has been made (WMS Individual Categorical Code 11 or 12.)
- b. **Immigrants in the United States for five years: Effective April 1, 2003**, any individual who has lived in the U.S. for at least five years as a qualified alien, beginning on the date of entry into the U.S., may receive FS if otherwise eligible. Districts participating in the Food Assistance Program (FAP) must re-code FAP recipients who become eligible for federal FS based on this provision effective April 1, 2003. In NYC, FAP participants whose date of entry is April 1, 1998 or earlier will be automatically recoded for federal FS in a mass rebudget for April 1, 2003. The April 1, 2003 change also eliminates the seven-year limit for refugees, asylees, Cuban/Haitian entrants, Amerasian immigrants and immigrants with deportation or removal withheld.
- c. **Immigrant children: Effective October 1, 2003**, any qualified alien who is otherwise eligible and is under 18 years of age, regardless of the date of entry into the U.S. is eligible for FS. In addition, this

provision eliminates the deeming requirements to count the income and assets of the immigrant's sponsor in determining food stamp eligibility and benefits for the immigrant's child.

a. Alien Victims of Severe Forms of Trafficking

Victims of severe forms of trafficking are eligible for FS benefits to the same extent as aliens admitted to the U.S. as refugees under Section 207 of the Immigration and Nationality Act (INA). Although P.L. 106-386 makes trafficking victims eligible for benefits and services to the same extent as refugees, it does not confer status to identified trafficking victims under immigration laws.

(1) There are two kinds of qualified victims:

- (a) Adults, who are certified by the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services; and
- (b) Children under 18 years of age, who do not have to be certified but who are issued a letter by ORR stating that the child is eligible for benefits as a victim of a severe form of trafficking in persons.

Samples of the ORR adult certification letter and ORR child eligibility letter are found in 03 ADM-1. These letters are for benefits eligibility purposes only. Certification and eligibility letters issued before November 6, 2001 had 8-month expiration dates. ORR recertified these victims with a recertification letter or new eligibility letter; these letters have a lower case "r" beside the HHS tracking number. Recertification letters do not have expiration dates.

Trafficking victims' eligibility for FS benefits is summarized as follows:

- (1) Eligible for first 7 years from date of entry (from the ORR certification or eligibility letter) in the U.S.
- (2) After 7 years in the U.S.: eligible for food stamp benefits if they meet one of the following criteria:
 - (a) In receipt of disability or blindness benefits, as described in 02 ADM-7 (effective October 1, 2002); or
 - (b) Effective April 1, 2003, they will be eligible because they have resided in the U.S. as a qualified alien for at least five years; or
 - (c) Lawfully admitted for permanent residence (LPR) with 40 qualifying quarters; or
 - (d) Lawfully residing in the U.S. on August 22, 1996, and
 - (1) Disabled according to Food Stamp Source Book (FSSB) Section 5, or
 - (2) 65 or older on 8/22/96 (i.e. born before 8/22/31), or
 - (3) Under 18.

NOTE: See GIS message (GIS03TA/DC012 For Claiming Information)

g. Aliens Who are Veterans or in Active Military Duty

- (1) Qualified aliens who are lawfully residing in the United States are eligible for participation in the Food Stamp program as Specially Qualified Aliens if the alien:

- (a) Is a veteran with a discharge characterized as an honorable discharge and not on account of alienage; or
- (b) Is on active duty, other than duty for training, in the Armed Forces of the United States; or
- (c) Is the spouse or unmarried dependent child of an individual described in (a) and (b) of this paragraph.

The eligibility of these Specially Qualified Aliens is not subject to any time limitation.

- (3) A veteran means a person who served in the active military, naval, or air service of the United States, and discharged or released therefrom under conditions other than dishonorable.

NOTE: A person who is discharged or released from a period of active duty before completing the shorter of (A) 24 months of continuous active duty, or (B) the full period for which such person was called or ordered to active duty, is not eligible by reason of such period of active duty for any benefit under Federal Law (other than this title or any other law administered by the Secretary), and no dependent or survivor of such person shall be eligible for any such benefit by reason of such period of active duty of such person.

- (4) Active duty in the Armed Forces of the United States means being on full-time duty in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.
- (5) Duty for training is temporary full-time duty in the Armed Forces performed by members of the Reserves, Army National Guard, or Air National Guard for training purposes. Active duty for training does not establish eligible alien status.

This provision applies to both aliens and citizens who are veterans or on active duty in the Armed Forces of the United States and to their alien spouses and alien unmarried dependent children.

- (6) A spouse is someone who is currently married under the laws of this State or whose marriage is recognized by this State as a legal marriage. This includes spouses who are residing apart regardless of whether or not a separation agreement is in effect.
- (7) An unmarried dependent child of a veteran or active duty member of the Armed Forces is a child who is:
 - (a) The child (biological or adopted) or the stepchild of a veteran or active duty member of the Armed Forces; and
 - (b) Not married; and
 - (c) Dependent on the veteran or active duty member (can be claimed as a deduction on his or her federal income tax return).

The eligibility of an unmarried dependent child is not affected by the marital status of the parents.

- (8) It should be noted that the definition of a Qualified Alien includes parolees, conditional entrants, and certain battered spouses. Documentation guidelines for these three groups are found in **ATTACHMENT D of 97 ADM-25**.
- (9) The DD-214 is the form provided to veterans by the Defense Department which documents the type of military discharge a veteran has been granted.

EXAMPLES:

If the spouse of a veteran is an alien, but the veteran is a citizen, the spouse would meet the alien eligibility criteria for food stamps.

If an alien veteran is divorced from his or her spouse, the veteran's unmarried dependent child would meet the alien eligibility criteria for food stamps, regardless of which parent the child lives with.

1. Documentation

Local districts must obtain appropriate documentation of alien status at application or recertification.

- a. Documentation of refugee and asylee status, including the date the status started, is found on INS forms I-94 or I-688B. Documentation of asylee status may also be found on an INS or U.S. Justice Department letter granting such status. Deportation withheld can be documented by a judge's order showing that deportation was withheld pursuant to section 243(h) of the Immigration and Nationality Act (INA). The date withheld is the date of the judge's order.
- b. Documentation of working quarters can be obtained by the individual from the Social Security Administration (SSA) by filing an SSA-7004, the Benefit Estimate form. However, the time it will take an individual to receive a response after filing an SSA-7004 form with SSA may be longer than the time frame allowed to process a food stamp application or recertification request. In addition, local districts are able to access the SSA 40 Quarter Data Exchange process and get information on the client's work history directly from SSA. (WMS Coordinator Letter 8/1/97 and GIS 97 TA/DC031).
- c. Alternate means of documenting a client's work history can include statements of work history from individuals in the community such as current or former employers or business partners, client records of pay or income tax, and even statements of the client or the client's friends or family, if the statements appear creditable to the worker. For more information see 97 ADM-25 Attachment C.

NOTE: For information regarding expired or lost immigration documents see 03 INF-19.

2. Income of Aliens Ineligible for FS Due to Alien Status

Current policy describes when the income of an alien who is ineligible to participate in the food stamp program due to alien status is budgeted to determine the household's FS benefits.

See FSSB Section V for instructions for determining household composition and Section 12 for instructions for budgeting the income of ineligible aliens. See FSSB Sections 10 for instructions for budgeting deductions for households with ineligible aliens.

- a. If the alien is a member of the food stamp household, that person's income must be prorated and a prorated share excluded as meeting the alien's needs and the balance budgeted as available to the food stamp household. This applies to aliens who are mandated household members (parents of minor children and spouses) and aliens who purchase and prepare food in common with the rest of the household.
- b. If the alien is not a member of the food stamp household, none of that alien's income is budgeted.
- c. The PRWORA made it possible for a FS household member who is an alien to be eligible for TA but ineligible for food stamps. In such situations, a prorata share of the household's TA income is excluded from food stamp income. The balance of the household's TA income is budgeted for FS purposes.
- d. In such situations, the household's FS benefits are calculated as follows:
 - (1) Divide the countable TA income evenly among the household members including the ineligible alien;
 - (2) Subtract the ineligible alien's share from the total TA income and use the remainder as the TA income input on the food stamp budget.
 - (3) Reduce the number of food stamp household members by the number of ineligible(s) living with the household.

EXAMPLES:

- a. Suppose a single mother who is a permanent resident has 2 children, both of whom are U.S. citizens. She applies for TA and FS for herself and her children. She entered the US as a permanent resident in March of 1993 and cannot be credited with 40 qualifying quarters.

The mother and children are eligible for TA and receive a TA grant of \$450 a month. However, only the children are eligible for food stamps.

To determine FS entitlement, the household's TA grant is prorated. One-third (\$150) is excluded as meeting the mother's needs and two-thirds (\$300) is budgeted in determining the FS benefits for the 2 FS eligible children.

- b. Suppose the mother's boyfriend who is also an ineligible alien moves in with the family. He is not the father of either child. He states that he does not purchase and prepare in common with the mother and her children and the district determines he is not part of the mother's FS household.

The boyfriend's income is not considered in determining the children's FS entitlement.

- c. Suppose the boyfriend in example #2 is the father of one of the children or states that he purchases and prepares food in common with the mother and the children. His income is then prorated and a prorated share is budgeted as available to the children.

If his countable income is \$400 a month, the district would divide his income by 4, the number of individuals in the household. His prorated share is \$100, the mother's share is \$100. The balance, \$200, is budgeted as available to the children.

10. Systems Support For Budgeting TA Only Cases

On Upstate ABEL, workers must remember, after using Function Key 8 from a TA budget, to:

- a. Reduce the number in the food stamp household by 1 (or however many ineligible aliens there are in the household) and
- b. Reduce the countable TA grant brought over to the food stamp Input screen by ABEL, by the alien's prorata share of the countable TA grant.

11. Systems Implications

Specific systems implications are addressed in the particular subsections of Section IV of this ADM to which they apply.

CNS language has been modified to reflect the alien provisions of PRWORA for the following food stamp individual reason codes:

- F92, Ineligible Alien, and
- F85 and F86, Failure to Verify Alien Status.

ABEL has been modified to support the budgeting of a prorated SUA for food stamp households which include an ineligible alien. Information on these procedures was provided in ABEL Transmittal 97-1.

12. Declaration of Citizenship/Immigration Status -

- a. One adult representative of a FS household must, as a condition of eligibility, attest to the citizenship/ alien status for all FS applicant/recipients.
 - (1) For applicants this declaration is found on page six, section twenty-two of the DSS-2921 - Application.
 - (2) For recipients this declaration is found on page fourteen, section thirty of the DSS-3174 - Recertification Application.
- b. Exemptions - The following are the only situations which do not require completion of a declaration.

- (1) An applicant/recipient (A/R) of MA or FS whose eligibility is established as a result of a separate determination process, and a completed declaration is already on file at the local district;
 - (2) An SSI A/R who has applied for FS at a Social Security Administration (SSA) Office using the national application for FS (form FNS-385(7-87)) since this application already includes the necessary declaration;
- c. Failure or Refusal to Sign - Since the declaration of citizenship/immigrant status is accomplished when the last page of the application is signed, failure to sign is synonymous with failure to sign an application for FS. The only exception to this is if the applicant had signed page one of the application establishing a filing date and then does not sign the last page of the application. In such cases the application is denied for failure to cooperate.

For TA/FS and mixed cases, individuals sanctioned from TA for failure to sign the declaration must be included in the FS household if otherwise eligible, if the general declaration on the last page of the application has been signed by any adult household member, or by an authorized representative.

13. Citizenship Status -

To be eligible to participate in the FS Program an individual must be a resident of the U.S. and a U.S. citizen, or an alien as specified in paragraph #3 below.

14. Alien Status - (Prior to PRWORA)

- a. An alien lawfully admitted for permanent residence as an immigrant pursuant to Section 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (INA).

NOTE: For eligibility of aliens lawfully admitted for permanent residence pursuant to Section 245A of the INA, see paragraphs g(1) and h below.

NOTE: North American Indians, who possess at least 50 percent of blood of the American Indian race, and who enter the United States from Canada under authority of 8 U.S. C. 1359 (8 C.F. R. 289) are lawfully admitted permanent residents as described in section 101(a)(20) of the Immigration and Nationality Act.

- b. An alien who entered the U.S. prior to January 1, 1972, or some later date as required by law; who has continuously lived in the U.S. since then who is not eligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the INA.
- c. An alien who is qualified for entry pursuant to Section 207 or 208 of the INA.

NOTE: Under a memorandum of Understanding (MOU) between the U.S. government and the Council of Jewish Federations and the Hebrew Immigrant Aid Society (CJF/HIAS), twenty percent of refugees admitted from the Soviet Union, under Section 207(c) of the INA, as amended, during the 1990 federal fiscal year will be designated by CJF/HIAS as "privately-funded refugees".

Under the terms of the MOU, CJF/HIAS and the local Jewish Community, acting as sponsoring entities, have agreed to ensure sufficient financial, social and medical support/services so that the "privately-funded refugees" do not need TA, MA, FS, Title XX or federally funded refugee-specific social services as benefits. This obligation continues for a period of two years after admission to the U.S. or until the refugee attains lawful permanent resident status. However, these refugees have legal alien status and are entitled to receive TA, MA, FS, Title XX or federally funded refugee-specific social services or benefits, if otherwise eligible.

Sponsoring agencies have indicated their willingness to meet their responsibilities to this group. Therefore, in assessing an applicant's eligibility for benefits, the agency listed on the I-94 should be contacted to ascertain the income/resources currently being provided or available to the household to meet the needs identified in the social services application. Refusal to access the

financial resources available from the sponsoring agency is not a reason for denying Food Stamps. For "Privately-Funded Refugee" acceptable documentation see FSSB Section 5-B-3.6.

- d. An alien granted asylum through an exercise of discretion by the Attorney General pursuant to section 208 of the INA.
- e. An alien lawfully present in the U.S. as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the INA or as a result of a grant of parole by the Attorney General.
- f. An alien living within the U.S. for whom the Attorney General has withheld deportation pursuant to Section 243 of the INA.
- g. Section 245A(b)(1) of the INA -
 - (1) Permanent Residence - An alien who is defined as aged, blind or disabled in accordance with section 1614(a)(1) of the Social Security Act and is considered to be lawfully admitted for permanent residence pursuant to section 245A(b)(1) of the INA. Such a aliens may obtain lawful permanent resident status under section 245(b)(1) of the INA no earlier than November 1, 1988.
 - (2) Temporary Residence - Aged, blind or disabled aliens who have been admitted for temporary residence under section 245A of the INA. They will likely posses an I-688 "Temporary Resident Card" which will indicate they were admitted under section 245A of the INA as lawful Temporary Residents (LTRs).

NOTE: Immigration and Naturalization (INS) will not make a determination as to whether the Resident Alien meets the SSI eligibility definition. This determination should, therefore, be made by the local district. In making this determination, the local district need not verify the alien's age, blindness or disability, unless it is questionable.

- h. An alien who is granted lawful temporary resident status pursuant to section 245A of the INA at least five years prior to applying for FS and who subsequently gained lawful permanent resident status pursuant to section 245A of the INA. Such aliens may obtain lawful temporary residence status no earlier than May 5, 1987 and may be eligible for FS no earlier than May 5, 1992.

NOTE: Eighteen months after attaining LTR status such aliens are eligible to apply for Permanent Resident status. Upon attaining Permanent Resident status, these aliens are issued INS form I-551, "Alien Registration Receipt Card" (Green Card). This card will have a registry number in the 90 million series and will be coded as either W16, W26 or W36 to verify the alien is admitted as a Permanent Resident Alien under Section 245A of the INA. Aliens attaining Permanent Resident status under Section 245A of the INA (except for those defined as aged, blind or disabled as explained in paragraph g. above) are not eligible to participate in the Food Stamp Program for a period of five years following the date they are granted L/TR status. The date the alien is granted L/TR status will be indicated on the fourth line on the reverse of the I-551. This line will read: "TEMP RES ADJ DATE-MM-DD-YY."

- i. Special Agricultural Workers (SAWS) - Aliens eligible to apply for LTR status in accordance with section 210 of the INA during the period of June 1, 1987 to November 30, 1988.
 - (1) (Group I - Those aliens who could prove that they have performed seasonal agricultural services for at least 90 man-days in each of the three twelve month periods preceding May 1, 1986 and who were among the first 350,000 SAWS with such prior seasonal agricultural work experience in the United States who applied for temporary resident status.

NOTE: Group I SAWs may apply for permanent resident status after remaining in L/TR status for one year. Upon attaining permanent status these aliens will be issued INS form I-551. Beginning in December 1989, these SAWs will have their I-551 card coded S-16 to verify permanent Resident Alien Status.

- (2) Group II - Those aliens who could prove that they performed seasonal agricultural work in the United States for at least 90-man days during the 12 month period ending may 1, 1986 and those

who would have been eligible for Group I status except that the 350,000 limit on Group I status had already been filled.

NOTE: Group II SAWs may apply for permanent resident status after remaining in LTR status these aliens will be issued INS form I-551. Beginning in December 1990 these SAWs will have their I-551 card coded S-26 to verify permanent resident alien status.

NOTE: Both SAWs groups are eligible to participate in the Food Stamp Program from the date they attain LTR status in accordance with Section 210 of the INA.

- j. Additional Special Agricultural Workers (ASAWs) - ASAWs, also referred to as Replenishment Agricultural Workers (RAWs), may be granted LTR status by INS during the period October 1, 1989 to September 30, 1993 after the Secretaries of Agriculture and Labor make a joint determination that a shortage of SAW workers exist.

Aliens granted LTR status as ASAWs must remain in Temporary Resident status for three years before they can be granted adjustment by INS to Lawful Permanent Resident status. Verification documents for this group have yet to be defined by INS.

Local districts will be advised when this information becomes available. As is the case with SAWs, ASAWs are eligible to participate in the FS Program upon attaining LTR status.

- k. A national of Poland, Uganda, Ethiopia or Afghanistan, who has resided continuously in the U.S. since prior to July 21, 1984.

NOTE: These nationals may apply for LTR status from INS between March 21, 1988 and December 22, 1989, will be treated in the same manner as other LTR's and are eligible for FS to the same extent as other LTRs adjusting under IRCA. (see paragraphs h. and j. above).

NOTE: Aliens admitted under the provisions of IRCA are listed in paragraphs b and g through k above.

NOTE: Aliens specified in g. through k. above must, when applying for FS benefits, present documentation to the local district such as, but not limited to, a letter, notice of eligibility, or identification card which clearly identifies that the aliens have been granted one of these legal statuses.

1. Documentation -

- a. PERMANENT RESIDENT ALIEN - Aliens in the categories specified in paragraphs a and b of **FSSB Section 5**, shall present INS form I-151 or I-551; Alien Registration Receipt Card; the Re-entry Permit; or a Passport Booklet for lawful permanent resident aliens.

NOTE: The validity of the Alien Registration (green) Cards issued prior to 1979 (I-151, AR-3, AR-103) will expire on March 20, 1996.

The expiration of the validity of INS documents may affect a person's TA, FS, or MA eligibility. Local districts should encourage Applicants/Recipients (A/R's) of FS benefits whose documentation of permanent resident alien status was issued prior to 1979 to apply for the I-551 (Resident Alien) card.

An A/R can find out how to apply for an I-551 by calling INS toll-free at 1-800-755-0777. Applicants for the I-551 who cannot afford the application fee may request a waiver of the fee from INS. Elderly and disabled persons unable to travel to an INS office may ask for special assistance.

If an individual with Lawful Permanent Resident (LPR) status applied for, but has not yet received a I-551 prior to March 21, 1996, potential FS eligibility is retained during the replacement application process. Local districts can identify applicants/recipients in LPR status who have applied for replacement of their green cards because these individuals retain Form I-151 during the replacement procedure, and will also be issued a receipt (INS Form 797-Notice of Action, or a fee-waived receipt)

which serves as evidence of a green card replacement application until the individual receives his or her new I-551 card.

NOTE: North American Indians who are not U.S. citizens who enter the United States from Canada must provide verification of status as any non-citizen must do to apply for FS. Such persons may verify their permanent residency as North American Indians of at least 50 percent American Indian blood admitted under 8 U.S.C. 1359 (8 C.F.R. 289) with birth records, affidavits, from tribal officials, INS forms I-151 and 551, or other documentation acceptable to the certification worker.

- b. **LAWFUL TEMPORARY RESIDENT ALIENS** - Aliens in the categories specified in paragraphs c. through e. of **FSSB Section 5**, shall present INS form I-94, Arrival-Departure Record.
- (1) **ACCEPTABLE ANNOTATION** - The local district shall accept the INS form I-94 as verification of eligible alien status only if the form is annotated with Section 207, 208, 212(d)(5), or 243(h) of the INA; or if the form is annotated with any of the following terms, or a combination of the following terms: refugee, parolee, paroled, or asylum.

The form is usually stamped "Employment Authorized".

NOTE: For "Privately-Funded Refugees" as described in paragraph 3 c., the Council of Jewish Federations and the Hebrew Immigrant Aid Society will be responsible for permanently affixing to the face of INS form I-94 of each "Privately-Funded Refugee" the following statement:

This refugee is sponsored by the Hebrew Immigrant Aid Society and ("Name of Local Jewish Organization"). Private resources are available. If TA is sought, please call ("Name of Local Agency") at ("Phone Number").

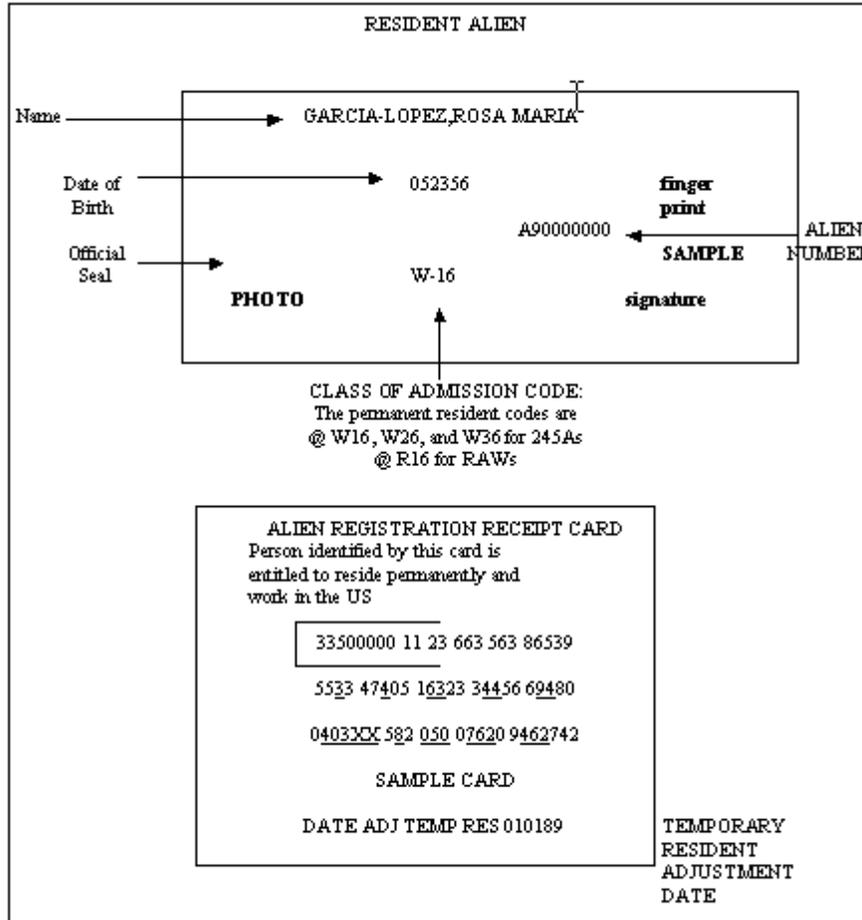
- (2) **UNACCEPTABLE ANNOTATION** - An INS form I-94 annotated with any one of the letters (A) through (L) shall be considered verification of ineligible alien status, unless the alien can provide other documentation from INS which indicates that the alien is eligible.
- c. **IRCA ALIENS** - Aliens in the categories specified in paragraphs b. and g. through k. of **FSSB Section 5**, shall present documentation which will consist of but not be limited to, a letter notice of eligibility, or identification card which clearly identifies the alien has been granted legal status.
- (1) **LAWFUL TEMPORARY RESIDENT ALIENS** -
- (a) Applicants for LTR status receive an "Employment Authorization Card" (Form I-688A) once they complete the first INS application review and interview procedures. This card conveys work authorization for a period of six months after issuance. Proof of legal authorization to work is required under IRCA.
- (b) Approximately one to six months after the I-688A is issued, INS should issue a "Temporary Resident" card (Form I-688) to the applicant. This card is issued after the Regional Processing Facility of INS completes a full investigation of the application. Form I-688 identifies the holder as an LTR; it is usually retroactive to the date of receipt of application payment by INS.

NOTE: The I-688, not the I-688A, is documentation of Lawful Temporary Resident status.

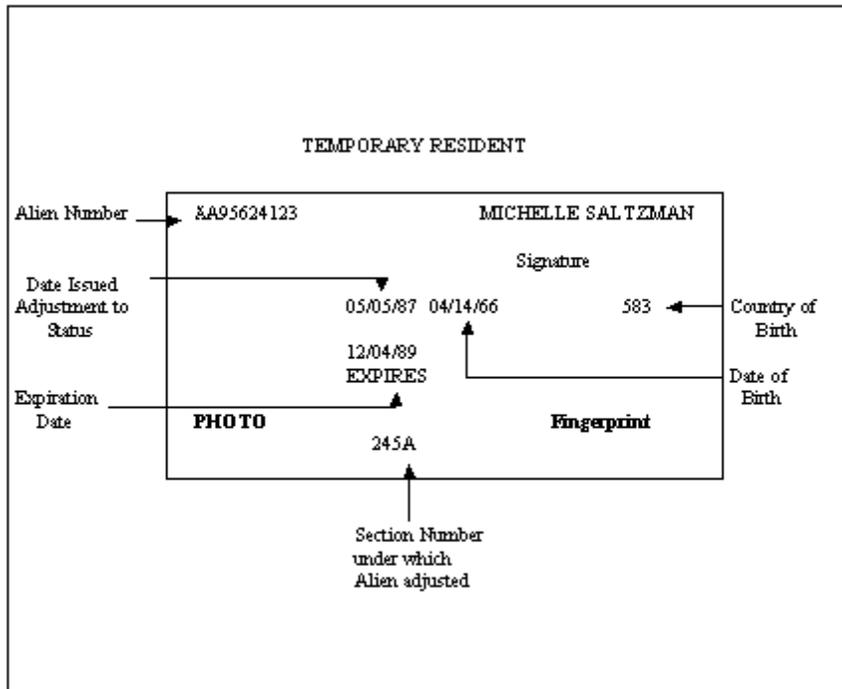
- (c) After receiving LTR status, and remaining in that status for a specified period of time, the temporary resident may apply for lawful permanent resident status. Once this procedure is complete, the individual receives an "Alien Registration Receipt Card," (Form I-551) commonly referred to as the "green card". Form I-551 is valid until it is surrendered or until the individual receives citizenship status. An I-551 with a registration number in the 90 million series indicates that the individual was granted lawful permanent resident status through IRCA.
- (2) **PERMANENT RESIDENT ALIENS** - Aliens adjusting through registry or through changing entrant status receive Form I-551 (the "Alien Registration Receipt Card") upon approval of their

application. This card conveys work authorization and verifies identity.

2. **Samples of Documentation** - Below are samples of documentation which an alien may present:
 - a. I-551 Resident Alien Card issued prior to September 1989:



b. I-551 Resident Alien Card issued after September 1989:



3. Lack of Documentation -

- a. APPLICATION FOR VERIFICATION - If the INS form I-94 does not bear any of the above annotations and the alien has no other verification of alien classification in his or her possession, the local district shall advise the alien to submit form G-641, Application for Verification of Information from Immigration and Naturalization Service Records, to INS. Local districts shall accept this form when presented by the alien and properly annotated at the bottom by an INS representative as evidence of lawful admission for permanent residence or parole for humanitarian reasons.
- b. CONTACTING INS - The alien shall also be advised that:
 - (1) Classification under Section 207, 208, 212(d)(5), or 243(h) of the Immigration and Nationality Act shall result in eligible status;
 - (2) He/she may be eligible if acceptable verification is obtained; and
 - (3) He/she may contact INS, as previously stated, or otherwise obtain the necessary verifications, or if the alien wishes and signs a written consent that the local district will contact INS to obtain clarification of the alien's status.
 - (4) If he/she does not wish to contact INS, the household may withdraw its application or participate without that member.
- c. OBTAINING OTHER ACCEPTABLE VERIFICATION - If an alien is unable to provide any INS document (not even an INS form I-94), then the local district has no responsibility to offer to contact INS on the alien's behalf.

The local district's responsibility exists only when the alien has an INS document that does not clearly indicate eligible or ineligible status. In any event, the local districts shall not contact INS to obtain information about the alien's correct status without the alien's written consent.

If the proper INS documentation is not available, the alien may state the reason and submit other conclusive verification. The local district shall accept other forms of documentation or corroboration from INS that the alien is classified pursuant to Section 101(a)(15), 101(a)(20), 207, 208, 212(d)(5), 243, or 249 of the INA, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the INA.

4. Status While Awaiting Verification -

While awaiting acceptable verification, as defined in **FSSB Section 5**, the alien whose status is questionable shall be ineligible. See **FSSB Sections 12 and 16** for the treatment of income and resources of an ineligible alien.

If verification of eligible alien status is subsequently received, the local district must act on the information as a reported change in household membership in accordance with timeliness prescribed in **FSSB Section 6**.

5. Ineligible Alien -

Unless listed above, aliens are ineligible to participate in the program as a member of any household. Among those ineligible to participate are aliens who are:

- a. Visitors;
- b. Tourists;
- c. Diplomats; and
- d. Students on a temporary visa with no intention of abandoning their residence in a foreign country.

6. Illegal Aliens -

The Welfare Reform Act of 1997 established that each local district must report to OTDA the name and address and other identifying information known to it with respect to any alien known to be unlawfully in the United States.

OTDA has identified two specific conditions which definitively establish that an alien is unlawfully present. Accordingly, your report of "Aliens Unlawfully in the United States" (97 ADM-23, Attachment IX) should only include aliens who meet either of the following two conditions:

- a. **Aliens with a final INS Order of Deportation outstanding.** An outstanding order of deportation is final when it is not subject to appeal, either because:
 - (1) The relevant statutory appeal period (10 days) has expired,
 - (2) There are no lawful grounds upon which an appeal may be based, or,
 - (3) The available administrative and/or judicial appeals have been exhausted and the order is not subject to review under the limited standards for reopening or reconsideration.
- b. **Aliens for which the SAVE response to a manually submitted INS G-845, (Document Verification Request) indicates that the person has submitted false immigration documents to the agency.**

When either of the above situations is applicable to an applicant or recipient of temporary assistance (FA or SNA), you should submit the name(s) and address(es) of the individual(s), along with identification of the documentation establishing their being unlawfully present in the U.S., including copies of the documentation when possible, to:

NYS Office of Temporary and Disability Assistance
 Division of Temporary Assistance - 11th Floor
 40 North Pearl Street, Albany, NY 12243

This information should be provided on a copy of the revised reporting form, "Aliens Unlawfully in the United States" (97 ADM-23 Attachment IX). You should submit the form within 10 days from the end of any month in which you identify "reportable" aliens.

NOTE: There are no reporting requirements for MA or FS. When an applicant is checked as being only for MA and/or FS, you should not include them on the report.

- c. Local districts should refer any alien requesting TA benefits who fails to furnish evidence that he or she is lawfully residing in the United States to the INS office, or the nearest consulate of the country of the applicant or recipient. Referral means informing the alien of the location of the nearest INS office or the nearest consulate and advising the alien that proper documentation should be secured. The proper documentation is required if you are to proceed with the processing of their TA application to determine what, if any, benefits the alien would be eligible to receive.

References

- 387.9(a)
- 03 ADM-1
- 02 ADM-7
- 97 ADM-25
- 92 ADM-10
- 88 ADM-22
- 03 INF-19
- 99 INF-17
- 99 INF-11
- 91 INF-48
- 90 INF-15
- 89 INF-40
- 89 INF-12
- 87 INF-18

Related Items

- Mandatory Items (FSSB)
- Income of Ineligible Individuals (FSSB)
- Resource Limits (FSSB)
- Changes During the Recertification Period (FSSB)
- Issuing Benefits (FSSB)

TA Source Book

Chapter 23

GIS Message (03TA/DC012)
GIS Message (98 TA/DC020)
GIS Message (97 TA/DC031)
GIS Message (96TA/DC039)
GIS Message (95ES/DC004)
GIS Message (94ES/DC041)
GIS Message (91IM/DC027)
GIS Message (90IM/DC039)
GIS Message (90 IM/DC019)
96 LCM-86

Students**POLICY**

1. DEFINITIONS -

- a. **STUDENT** - A student is any person 18 thru 49 years of age, physically and mentally fit, and enrolled at least half time in an institution of higher education excluding high school and on the job training programs.
- b. **INSTITUTION OF HIGHER EDUCATION** - Any institution which normally requires a high school diploma or equivalency certificate for enrollment including, but not limited to, colleges, universities, and vocational or technical schools at the post high school level.

2. **ELIGIBILITY CRITERIA** - In order to participate in the FS program a student must meet one of the following criteria:

- a. Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receive weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours;
- b. Participate in a State or Federally financed work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965 as amended) during the regular school year as follows:
 - (1) The work study must be approved at the time of application for FS or at the time that the individual becomes a student as defined by FS rules, and
 - (2) The work study must be approved for the school term; and
 - (3) The student must actually anticipate working during that time.

The qualifying exemption begins in the month that the school term begins or the month that the work study is approved, whichever is later. The qualifying exemption continues until the end of the school term or until the local district becomes aware that the student has refused an assignment.

The exemption does not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break. In order to be eligible for FS during a school break, an individual who is defined as a student by FS rules and is otherwise eligible must meet one of the other exemptions outlined in this section.

A household whose FS benefits are reduced or whose case is closed due to the change in the provisions of the work study exemption must be provided with an adequate and timely notice.

- c. Provide more than half the physical care for one or more dependent household members under the age of six or of an incapacitated person;
- d. Provide more than half the physical care of dependent household member who has reached the age of six but is under age 12 where adequate child care is not available to enable the individual to attend class and work 20 hours per week or participate in a state or Federally financed work study program;

NOTE: Eligibility criteria c and d above are limited to allowing only one person to claim primary responsibility for the care of the dependent in situations where more than one person shares such responsibility. Such responsibility includes care of the dependent during hours when the student is not in school.

- e. Enrolled full-time in an institution of higher education and is a single parent with responsibility for the care of a dependent child under age 12 (regardless of the availability of adequate child care).
- f. Receive benefits from Family Assistance (FA), Federally Funded SNA; or
- g. Be assigned to or placed in an institution of higher learning through:
 - (1) The Workforce Investment Act (WIA),

- (2) A Food Stamp Employment and Training (FSE&T) Program,
- (3) A Department of Labor program under Section 236 of the Trade Act of 1974; or
- (4) A SNA JOBS Program activity which is comparable to a FSE&T activity approved by this department in the annual FSE&T plan.

NOTE: A student who participates in a meal plan providing less than the majority of the student's monthly meals is not considered a resident of an institution (as defined in FSSB Section 5-D-1.1). If the student also meets the eligible student criteria and is otherwise eligible, the student is allowed to receive FS.

In situations where the number of meals to be consumed by the student is unclear due to the optional nature of the meal plan, the applicant must state the number of meals that are anticipated to be consumed on and off the meal plan. If the majority of meals stated are off the plan for the month, the student may be considered for participation on FS. In these cases, the student/FS recipient should be reminded of the obligation to report changes to the local district, particularly with regard to changes in the number of meals to be consumed on the plan.

3. INELIGIBLE STUDENT -

- a. For treatment of income of an ineligible student see **FSSB Section 12**.
- b. For treatment of resources of an ineligible student see **FSSB Section 16**.

4. EXCLUDED FROM MEETING ELIGIBILITY CRITERIA - The following students do NOT have to meet the eligibility criteria set forth above. Students who are:

- a. Under 18 or 50 years of age or over;
- b. Physically or mentally disabled;

NOTE: This means students who would be physically and mentally disabled for employment purposes.

- c. Attending high school;
- d. Participating in on-the-job training programs;
- e. Attending school less than half-time;
- f. Enrolled in schools and training programs which are not institutions of higher education; or
- g. Enrolled in correspondence schools where physical attendance is not required.

5. SCHOOL ENROLLMENT - The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation, and recess, unless the student graduates, is suspended or expelled, drops out or does not intend to register for the next school term (excluding summer school).

References	Related Item	TASB
387.4	Exemptions from Work	Chapter 8
387.16	Registration (FSSB)	
95 INF-22	Income of Ineligible	
GIS Message (96 TA/DC018)	Individuals (FSSB)	
GIS Message (92 IM/DC021)	Excluded Resources (FSSB)	
"All Commissioner" Letter - 06/24/86		
"All Commissioner" Letter - 07/15/86		

Employment Registration**POLICY**

Applicant/recipient household members, including migrant/seasonal laborers, are required to register for employment unless they are deemed to be exempt.

Reference**387.9**

Voluntary Employment Quit**POLICY**

When an applicant/recipient has quit his/her most recent job without good cause, the individual will be considered ineligible for participation in the FS program.

References**387.9****GIS Message (87 IM/DC005)**

Social Security Numbers**POLICY****1. REQUIREMENT FOR PARTICIPATION -**

- a. All households applying for or participating in the FS program shall provide the Social Security Number (SSN) of each household member or apply for one before certification. Disqualification of the individual from participation in the Program is a consequence of a refusal to apply for or to provide the SSN. Applying for or providing the SSN to the local district immediately brings the disqualified individual into compliance with this requirement.

NOTE: The timeframe for verifying SSNs can be found in FSSB Section 5-E-1.2 and 5-E-1.3.

NOTE: If individuals have more than one number, all numbers shall be required.

- b. FS household members who refuse to provide or apply for an SSN because of a valid religious belief are not to be disqualified from FS Program participation. They are to be included as FS household members if otherwise eligible. Documentation must clearly be recorded in the case file if household members indicate they refuse to provide or apply for an SSN because of a valid religious belief. This documentation may include obtaining written or verbal confirmation from the religious organization the individual is a member that providing of an SSN by its members is in conflict with its religious doctrine.
 - (1) TA regulations do not allow a waiver from the requirement to provide or apply for an SSN based on religious beliefs. Such TA households, if otherwise FS eligible, would be processed for FS as a mixed household including the non-TA SSN religious objector as a FS household member.
 - (2) Social Security Number Code "4 - SSN Not Applied For" is to be entered on the WMS case record for household members that refuse to provide or apply for an SSN because of religious beliefs.

2. OBTAINING SSN'S FOR FOOD STAMP HOUSEHOLD MEMBERS

- a. For those individuals who provide SSNs prior to certification, recertification or at any office contact, the local district shall record the number and verify it in accordance with FSSB Section 5-E-1.2 and 1.3.
- b. Those individuals who do not have an SSN; are unsure if they have one; or, are unable to find it may choose between applying for it through the local district or at the Social Security Administration (SSA) office.
 - (1) If an individual applies through the local district, the local district shall complete the application form, DSS-4000. The local district must document the verification of identity, age and citizenship or alien status as required by SSA and forward the application to their local SSA field office. Evidence of birth is no longer required when someone is applying for a duplicate SSN card.

NOTE: When a parent or other relative completes the DSS-4000 for the child, proof of identity for that individual must be submitted and indicated in the types of evidence field. The proof should be labeled as belonging to the parent or relative.

- (2) A manual or computerized log of the DSS-4000 transmitted to the local SSA field office must also be maintained. This log should, at a minimum, contain the individual's name, case number or CIN number and the date each DSS-4000 was sent.
- (3) If an individual wishes to apply at the SSA office, the local district shall inform the household where to apply and what information will be needed. The local district shall require proof of application.

SSA normally uses the Receipt for Application for a Social Security Number, Form SSA-5028 as evidence that an individual has applied for an SSN.

- c. Any person who is foreign born and applying for either a new Social Security card, or a replacement must be referred to SSA for enumeration.

NOTE: Local districts should not take an SS-5 or DSS-4000 or refer to SSA an illegal alien who will be denied benefits or whose benefits will be terminated.

- d. Any person who is 18 years of age or older and applying for an original SSN must be referred to SSA for enumeration.

NOTE: Requests for original SSNs for children under 18 by local districts are now excluded from Welfare Enumeration. Parents/caretakers must apply at the local SSA field office for an original SSN for children under 18.

3. ENUMERATION AT BIRTH PROGRAM - Many hospitals are participating in this program whereby the hospital files an SS-5 (Application for an SSN) for the newborn. A revised federal form SSA-2853, "Information About When You Will Receive Your Baby's Social Security Card" dated 6/89, when signed and dated by a hospital official, is acceptable verification that the household has applied for an SSN for the newborn, if the local district has other information that connects the child named to a member of the household, e.g., the name of the mother which may be obtained from the hospital, birth document, a birth certificate, or other reliable information.

NOTE: WMS report - WINR-5129 - Newborns With No Social Security Number on WMS - has been developed to serve as a reminder to workers to pursue a Social Security Number for each newborn listed.

The report will list any individual born in the previous month with no Social Security Number on WMS. The report will include a Local office page plus a Unit/Worker page.

In order to properly utilize this report as well as assure the most complete and accurate data, workers must be prompt in adding newborns to the FS household and entering them on WMS.

This report along with the WINR-5126 - Individuals With Incorrect or no Social Security Number on WMS - will insure that SSN's have been obtained and verified for all FS household members.

4. FAILURE TO COMPLY - If the local district determines that a household member(s) has refused to provide or apply for an SSN, then the individual without the SSN shall be ineligible to participate in the Program. The disqualification applies to the individual(s) for whom the SSN is not provided and not to the entire household.

The disqualified household member(s) may become eligible upon providing the local district with an SSN or proof of application for an SSN. The income and resources of an individual disqualified from the household for failure to comply with this requirement shall be handled as set forth in **FSSB Sections 12 and 16**.

NOTE: For information on refusal to cooperate in resolving a SSN validation discrepancy see FSSB Section 5.

5. USE OF SSN'S - The local district is authorized to use SSNs in the administration of the FS Program. Social Security numbers shall be used to:
 - a. Verify information regarding FS applicants and participants who receive SSI benefits. The State Data Exchange (SDX) shall be used to the greatest extent possible.
 - b. Prevent duplicate participation.
 - c. Facilitate mass changes in Federal benefits.
 - d. Determine the accuracy and/or reliability of information given by households.

References	Related Items	TASB
387.9(a)	Mandatory Items (<u>FSSB</u>)	Chapter 8
90 ADM-23	Ineligible Individuals (<u>FSSB</u>)	Chapter 9
89 ADM-12	Resource Limits (<u>FSSB</u>)	
99 INF-7		
GIS Message (98 TA/DC014)		
GIS Message (89IM/DC019)		
GIS Message (89IM/DC011)		
89 LCM-200		
May/June/July 1986 Consolidated Letter		

Validation of Social Security Number**POLICY (87 ADM-25)****BACKGROUND**

As part of the Deficit Reduction Act of 1984, the federal government has required states to develop an income and eligibility verification system. Since a correct social security number (SSN) is a critical element of such a system, there is now a requirement that all SSNs be validated through the Social Security Administration (SSA).

The Department's Office of Systems Development has developed the WMS SSN Validation Process. As a result, all SSNs entered on WMS with a Code 1 (SSN present) will be sent by the State Department of Social Services to SSA to match SSN information on a regular basis. When the results of the match are received from SSA, which takes approximately six weeks, WMS will be updated on the first available weekend. Reports for the local districts will be produced and mailed during the following week. The match will probably be run quarterly or semi-annually depending on the volume of cases.

1. **ACTIONS TO BE TAKEN AS A RESULT OF MATCHES** - The results of matches between the Department and SSA will be transmitted by the Department to local districts in two ways:
 - a. **SSN Is Validated** - If the SSN is validated via the match, WMS will automatically be updated and a new "Code 8 - SSA SSN Validation" will appear in the SSN field. No further action is needed on these cases.
 - b. **SSN Fails Validation** - If the SSN fails validation:
 - (1) "Code 9 - SSN Failed SSA Validation" will appear on the SSN field on WMS on appropriate inquiry screens.
 - (2) The Department will transmit a new report, WINR 9311, "The Social Security Number Validation Report" to local districts which will contain a list of cases that failed validation and the reasons for the discrepancies.
 - (3) Separate reports will be sent to each program area, TA, MA, FS and Services. It should be noted that only cases highest in the WMS case type hierarchy will be reported on the exception report when there is a multi-case involvement. The hierarchy is: TA, MA, FS and Services. For example, a TA/MA/FS case will be reported on the TA report, while an MA/FS case will be reported on the MA report. This will require coordination at the local level between program areas.
2. **RESOLVING ERROR MESSAGES** -
 - a. Upon receipt of the WINR 9311, local districts must examine the report and take appropriate action on each of the cases. The following error messages will be generated for SSN's which fail validation. These messages are stated specifically on the report in the "message" column.
 - (1) SSN is not on SSA file
 - (2) Name matches, date of birth (DOB) matches, sex code does not match
 - (3) Name matches, sex code matches, DOB does not match
 - (4) Name matches, DOB and sex codes do not match
 - (5) Name does not match, DOB and sex codes not checked
 - b. The local district shall be responsible for resolving any discrepancy by checking the information received from the applicant/recipient with the information on the WMS data base. This may require contacting the individual for additional information. After correcting the discrepancy, the worker must change the SSN Validation code field in the WMS data base (See **FSSB Section 5**) to Code 1 (SSN present) which will allow the SSN to be validated at the next update.
 - c. This review must be completed no later than the next client contact. (Next client contact includes mail-in recertifications.) Local districts should annotate the case record when there is a change made to the name, sex or DOB and the case is recorded as code 1. This will remind the worker what the original match data was in the event that the second validation match is returned with another discrepancy. This

procedure will avoid re-entering "bad" demographic data.

3. RESOLVING DISCREPANCIES - When resolving discrepancies, the following actions must also be taken in the situations outlined below:

- a. INCORRECT SSN - If the information on file at SSA is incorrect, a new SS-5 (Application for Social Security Number) must be completed as this is SSA's procedure for correcting information on their files. Additionally, if the error message indicates that the SSN is not on file at the SSA, a new SS-5 or DSS-4000 must be completed. A number that has been assigned by the enumeration process (Code 7) does not have to be validated again.
- b. NAME DOES NOT MATCH - If the message/error indicates that the name does not match and further investigation indicates that the name on file with SSA is not the same name known by social services, the worker must inform the applicant/recipient that he/she must use the same name for both programs. The individual has the right to decide which name he/she wants to be known by. If he/she chooses to change his/her name with SSA, a new SS-5 or DSS-4000 must be completed indicating the new name.
- c. MULTIPLE SSN'S - Occasionally, an individual will submit more than one SSN and indicate that they all belong to him/her. Such individuals should be referred to the local SSA office. SSA will cross-reference the multiple numbers and advise the applicant which SSN should be used. However, SSA cannot cancel a number that has been assigned.

4. REFUSAL TO COOPERATE IN COMPLETION OF AN SS-5 OR DSS-4000 TO RESOLVE AN SSN VALIDATION DISCREPANCY -

- a. Refusal of a FS household to cooperate in completion of an SS-5 or DSS-4000 to resolve an SSN validation discrepancy shall result in the FS case being terminated.

If one member of the household refuses to cooperate in the validation process, the local district must determine if there is another household member who is able and is willing to cooperate in resolving the discrepancy before terminating the household. Such households subject to termination are to be issued a timely notice of adverse action informing them that their FS benefits are being terminated for refusing to cooperate in furnishing correct information to enable the local district to verify a household member's SSN.

- b. A household that has been terminated for failing to cooperate in resolving an SSN validation discrepancy may reapply for FS but will not be eligible until they cooperate in resolving the SSN discrepancy.

5. WMS IMPLICATIONS - All active individuals on the WMS system with SSN Code "1 - SSN Present" will be selected for validation with SSA's automated validation/verification system. Two WMS SSN codes have been developed for this process. Code "8 - SSN SSA Validation" and Code "9 - SSN Failed SSA Validation". Both of these codes will be system-generated on WMS by the SSN Validation process.

- a. CODE 8 - SSN SSA VALIDATION - When the SSN entered on WMS matches SSA's record, and when the name, sex and date of birth similarly correspond to SSA's record, Code "8 - SSN SSA Validation" will be system-generated on the WMS case record, overlaying the current SSN code. Code 8 - SSN SSA Validation can be entered by the worker when it appears on the WMS Clearance Report and is used in conjunction with a CIN number at subsequent case openings and re-openings.

WMS Code 8 (SSN SSA Validation) satisfies the federal QC requirement for social security number validation. Code 8 in the SSN-CD field on screen 2 is sufficient documentation for QC purposes. Although no error will be cited when a number is coded 8, whenever available the local districts should keep a copy of the social security card in the permanent documentation file. At case openings and recertification eligibility workers should check to make sure the names and SSN's of applicants/recipients match those on WMS. This will ensure the accuracy of any automated matches.

- b. CODE 9 - SSN FAILED SSA VALIDATION - When either the SSN fails to match SSA's record, or the name, sex or date of birth associated with the SSN fails to correspond to SSA's record, Code "9 - SSN Failed SSA Validation" will be system-generated on the WMS case record, overlaying the current SSN

code.

NOTE: WMS prohibits a change to an SSN for an individual currently having an SSN Code of "8 - SSN Validation" and will require a change from an SSN Code of "9 - SSN Failed SSA Validation" to Code "1 - SSN Present" whenever a demographic change is made to name, sex, date of birth, or SSN.

6. WINR 9311 "THE SOCIAL SECURITY NUMBER VALIDATION REPORT" - This report is produced after each match with SSA and contains three parts:
- a. Part I - SSA Rejections - This part lists all the individuals whose SSN or demographics mismatch the SSA files.
 - b. Part II - WMS Rejections - This part lists any individuals who were unavailable for update on WMS, e.g. SSN was changed while the original SSN was being sent for SSA validation.
 - c. Part III - WMS Updates for SSN Validation - This part contains the total number of SSNs validated.

Reference	Related Items	TASB
90 ADM-23	Social Security Number (<u>FSSB</u>)	Chapter 8
87 ADM-25	Mandatory Items (<u>FSSB</u>)	Chapter 9
98 INF-14	Excluded for Failure to Provide	Chapter 12
GIS Message (91 IM/DC019)	or Apply for a Social Security Number (<u>FSSB</u>) Excluded Individuals (<u>FSSB</u>) Resource Limits (<u>FSSB</u>)	

Transfer of Resources

POLICY

Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamp benefits shall be disqualified from participation in the program.

See **FSSB Section 16** for specific provisions on the transfer of resources.

Reference

Related Item

387.9(a)

Transfer of Resources (FSSB)

Household Cooperation**POLICY**

HOUSEHOLD COOPERATION - A household applying for FS must cooperate in the eligibility determination process. The eligibility determination process requires that the application form be completed and signed, the household or its authorized representative be interviewed, and certain information on the application be verified. For the household to designate an authorized representative signatures must be obtained of both an adult member of the applicant household and the designated authorized representative on the application or recertification application.

1. If a household refuses to cooperate in completing the eligibility determination process, the application must be denied at the time of refusal. A household has refused to cooperate when the household is able to cooperate, but clearly demonstrates that it will not take actions that it can take and that are required to complete the application process. The failure of a household to appear at a scheduled interview does not constitute a refusal to cooperate unless the household has clearly refused to be interviewed. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household's application must not be denied.
2. A household's eligibility must be terminated if it refuses to cooperate with any subsequent review of its eligibility, including reviews generated by reported changes in circumstances and applications for recertification.
3. A household whose eligibility has been denied or terminated for refusal to cooperate may reapply for FS. Such household must not be determined eligible until it cooperates in completing the eligibility determination process.
 - a. A household receiving FS or reapplying for FS must cooperate with any quality control review of its current or previous FS eligibility. A household refusing to cooperate in a quality control review must be determined ineligible to receive FS.
4. A FS HH cannot be denied for failure to cooperate with a FEDs interview.
5. A household whose eligibility has been terminated for refusal to cooperate with a quality control review may reapply for FS. Such household must not be determined eligible until it cooperates in the quality control review, except as set forth in paragraph 5 below.
6. A household cannot be denied FS for its refusal to cooperate in a quality control review if:
 - a. The household was terminated for refusing to cooperate with a quality control review during the completed quality control review period; and
 - b. The household reapplied for FS more than 95 days after the end of the annual review period, if it was terminated for refusal to cooperate with a State quality control review, or more than seven months after the end of the annual review period, if it was terminated for refusal to cooperate with a federal quality control review; and
 - c. The household provides verification of its eligibility for FS in accordance with **FSSB Section 5**.
7. TA QC REVIEWS - Because a QC review of the TA case does not include a review of the same household's FS case, Department regulation 387.9(a)(7)(ii) will not support the closing of the FS case when the federal sample TA case is closed for failure to comply with QC.

The household's FS certification period must be shortened by sending the "Continuing Your Food Stamps" (DSS-3153) and the household must establish continuing eligibility for FS.

8. Automated Finger Imaging System (AFIS)
 - a. All adult members of a household (individuals 18 years of age and older and heads of households under 18) must be enrolled in AFIS as a condition of eligibility. Exceptions to this requirement must be made in accordance with the districts AFIS exemptions as approved by OTDA in their locally developed AFIS plan.
 - b. In addition, 18 NYCRR 351.2(a) authorizes local districts to require that public benefit applicants and

recipients establish their identities by means of finger images. **While USDA policy prohibits requiring finger imaging in the FS program as a means of identification, it does permit requiring finger imaging as a means to prevent duplicate program participation. Therefore, this Office has established AFIS enrollment as an eligibility requirement for TA/FS, NPA/FS and FAP (TA and NPA related) applicants/recipients.**

- c. Local districts are required to finger image public benefit applicants as part of the application process. Current recipients can be finger imaged as part of the regular recertification process or at the next face-to-face contact. Since finger imaging will be used as a condition of eligibility, applicants who decline to be finger imaged will be denied and recipients who decline to be finger imaged will lose their eligibility for assistance.
- d. For FS and FAP, a household required to provide finger images may not participate until such time as **all** household members required to provide finger images have done so.
- e. Finger imaging will prevent recipients from establishing more than one case within their home district or statewide and will establish positive identity for each client.

References	Related Item	TASB
387.9	Verification (FSSB)	Chapter 51
98 ADM-8		Chapter 9
95 ADM-10		
92 ADM-41		
GIS Message (95 ES/DC035)		

Financial Eligibility Standards

Income

POLICY

Income for household food stamp calculations, shall mean all income, earned and unearned, from whatever source, as provided for and explained in **FSSB Section 12**.

Reference	Related Item
387.10(b)	Determining Income (<u>FSSB</u>)

Resources**POLICY**

Available resources at the time the household is interviewed shall be used to determine the household's eligibility.

See Section 16 for complete resource provisions.

Reference

387.14(d)

Institutions**Eligibility Of Residents****POLICY**

DEFINITION - Residents of institutions are those individuals who are provided the majority of their meals (over 50% of three meals daily) as part of the institution's normal service.

NOTE: For information on the eligibility of students participating in meal plans see FSSB Section 5.

Residents of institutions cannot participate in the FS Program.

1. EXCEPTIONS -

- a. RESIDENTS OF HOUSING FOR THE ELDERLY - This is housing built under
- (1) Section 202, Housing Act of 1959 (provides housing for persons 62 years or older or handicapped),
 - (2) Section 236, National Housing Act (provides housing for lower-income families including, but not limited to, the elderly and handicapped).

NOTE: Any facility built after April 1, 1987 will not be authorized by Housing and Urban Development to provide mandatory meals. Therefore, these facilities will not be classified as institutions and residents will be eligible as regular FS applicants.

Only elderly people in these facilities (where 50% of meals are provided) are eligible to participate in the FS program. However, residents may not be required to use their FS to pay for their meals but may elect to do so or may be required to use cash.

- b. RESIDENTS OF DRUG ADDICTION OR ALCOHOLIC TREATMENT AND REHABILITATION FACILITY - Drug addiction or alcoholic treatment and rehabilitation facility is a facility operated by a private, non-profit organization or is a publicly operated community mental health center. Any drug addiction or alcoholic treatment facility must either be authorized as a retailer by the United States Department of Agriculture (USDA) or be eligible to receive funds under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) even if it does not actually receive such funding. Private, non-profit facilities must also be certified by the New York State Division of Alcoholism and Alcohol Abuse or the New York State Division of Substance Abuse Services.

Centers located on Indian reservations must be certified through the Federal Indian Health Services if they are not certified by NYS Division of Substance Abuse or NYS Division of Alcoholism and Alcohol Abuse. Only residents of facilities operating under Title XIX Part B of the Public Health Services Act are eligible to participate in the FS Program.

Program participation for these residents is voluntary for each individual.

NOTE: Residents of Halfway Houses certified by the Division of Alcoholism and Alcohol Abuse who receive TA payments at the Level II rate are eligible to participate in the Food Stamp Program. (Nov./Dec./Jan. '85-'86 Consolidated Letter).

- c. RESIDENTS OF A GROUP LIVING ARRANGEMENT - A group living arrangement means a public or private non-profit residential facilities that:
- (1) Serves no more than sixteen residents; and
 - (2) Is certified by the appropriate agency or agencies of the State.**

To be eligible for FS benefits, a resident of such a group living arrangement must be disabled as defined in FSSB Section 5.

Prior to certifying any Group Living Arrangement residents for FS, the local district shall verify that the treatment center is authorized by FNS as a retailer or is certified by the appropriate State agencies. The local district shall determine that the center is a non-profit organization.

- d. **RESIDENTS OF SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE** - These shelters are defined as public or private nonprofit residential facilities that serve victims of domestic violence. If such facilities serve other individuals, a portion of the facilities must be set aside on a long-term basis to serve only victims of domestic violence.

NOTE: Such persons temporarily residing in shelters for victims of domestic violence shall be considered individual household units for the purposes of applying for and participating in the program.

NOTE: Residents of residential programs for victims of domestic violence that receive TA have their FS case processed by the local district that is determined to be fiscally responsible for TA.

- e. Individuals who are residents of supervised/supportive apartments **certified or operated by New York State Office of Mental Health or Office of Mental Retardation and Developmental Disabilities.**
- f. **RESIDENTS OF SHELTERS FOR HOMELESS PERSONS** - A homeless household is one in which all members are homeless as defined in **FSSB Section 5.**

NOTE: A shelter for the homeless is a public or private facility which provides temporary living accommodations for homeless persons.

2. RESIDENTS RECEIVING TREATMENT AND/OR CARE -

- a. Persons who reside in a FS eligible facility as defined in paragraph 1 above, for the purpose of receiving treatment and/or care may receive FS if otherwise eligible (e.g., meet financial and resource requirements).
- b. Persons who reside in a FS eligible facility but are not receiving treatment and/or care are not eligible for FS if the facility provides the resident with two or more meals per day.
- c. For example, a parent and child are residing in a FS eligible Residential Treatment Center for Alcoholics which provides three meals a day. The parent is receiving treatment, the child is not. The parent can receive FS, the child cannot receive FS.

3. DETERMINING HOUSEHOLD COMPOSITION -

a. APPLYING THROUGH AUTHORIZED REPRESENTATIVE -

- (1) Residents that are enrolled in a treatment plan in a FS eligible Residential Treatment Center for Drug Addicts or Alcoholics (RTC) as defined in paragraph 1, b above, must apply through an authorized representative and be certified as one-person food stamp households except when children live with their parent(s) in a drug or alcoholic treatment center. See **FSSB Sections 4 and 5.**
- (2) Residents enrolled in a treatment plan in other FS eligible facilities who choose to apply for FS through the use of the facility's authorized representative must also be certified as one-person FS households.

NOTE: The household composition rule in paragraphs (1) and (2) above apply even if the resident resides at the facility with a parent, child, spouse or sibling who is also eligible for FS. For example, a parent and minor child both under treatment at the same RTC or other FS eligible facility receive FS as separate FS households regardless of the age of the minor child. See FSSB Sections 4 and 5.

- b. **NOT APPLYING THROUGH AUTHORIZED REPRESENTATIVE** - Residents in a FS eligible facility (as defined in paragraph 1 above) other than a drug/alcohol facility (RTC) who do not apply for FS through the facility's authorized representative must have their FS household's composition determined in consideration of the special household definition rules that appear in **FSSB Section 5.**

For example, a husband and wife enrolled in a treatment plan in a FS eligible facility (other than drug/alcohol facility) apply on their own for FS. They are a two person household for FS. See **FSSB Sections 4 and 5**.

4. **TEMPORARY ABSENCE** - If an individual(s) temporarily moves out of a FS individual household to receive care in a certified FS eligible facility and is anticipated to be absent from the FS household for a majority of the month following the move, the individual must be deleted from the FS household in accordance with procedures required for acting upon reported changes appearing in **FSSB Section 6**.
- a. Any income a FS household directly receives for shelter and fuel costs, either directly or in the form of restricted payment, for an individual who is temporarily absent from the household must be counted as FS income to the household.
 - b. However, any payments made directly to the facility where the temporarily absent individual resides are not counted as FS income to the FS household.

NOTE: For further information on the budgeting procedure for residents of FS eligible facilities see FSSB Section 10.

5. **PROCESSING STANDARDS** -

a. **NORMAL** -

- (1) When normal application processing standards apply, the local district must complete the verification and documentation requirements in accordance with **FSSB Section 5**.
- (2) It must process changes in household circumstances and recertification according to the standards applicable to all other participants found in **FSSB Section 6**.
- (3) Treatment center residents must be afforded the same rights to adverse action notices, to fair hearing, and to restoration of lost benefits accorded to all other participants.

b. **EXPEDITED** - When expedited application processing is indicated, the initial application must be processed on an expedited basis (within 5 calendar days) in accordance with **FSSB Section 4**.

6. **CERTIFICATION REQUIREMENTS** - The local district shall certify these residents using the same provisions that apply to all other households.

References

Related Items

387.1	Application Processing for Expedited
387.16	Service (FSSB)
94 ADM-15	Changes During the Certification
94 ADM-11	Period (FSSB)
90 ADM-18	Verification (FSSB)
Nov./Dec./Jan. '85-'86 Consolidated Letter	
"All Commissioner" Letter - 03/17/86	
91 LCM-3	

Local District Responsibility**POLICY****1. TREATMENT CENTERS AND/OR RESIDENTS -**

- a. Local districts must verify that the treatment center is certified by the appropriate State agency. In most cases this will be the New York State Division of Substance Abuse Services.
- b. Resident addicts and alcoholics shall have their eligibility determined as a one person household. See **FSSB Sections 4 and 5**.
- c. The local district shall promptly notify the Department when it has reason to believe that an organization or institution is missing food stamps in its possession.

The local district shall take no action prior to FNS action against the organization or institution, but shall establish a claim for overissuance of food stamps held on behalf of resident clients.

- d. Local districts must conduct periodic random on-site visits to the center to verify the accuracy of the resident list of program participants. Also, it must ensure that local district records are consistent and up to date.

2. RESIDENTS OF GROUP LIVING ARRANGEMENTS -

- a. If these residents apply through the use of the facility's authorized representative, their eligibility shall be determined as one-person households. See **FSSB Sections 5 and 4**.
- b. If the residents apply on their own behalf, the household size shall be in accordance with the definition in **FSSB Section 5**. See **FSSB Sections 4 and 5**
- c. Prior to certifying any residents for FS, the local district shall verify that the group living arrangement is authorized by FNS as a retailer or is certified by the appropriate agency or agencies of the State (as defined in **FSSB Section 5-D-1.2** including that agency's (or agencies') determination that the center is a non-profit organization.

(1) Verification that a facility is certified may be accomplished as follows:

- d. Obtain a copy of an operating certificate,
- e. **Verify that the facility is listed in the Congregate Care Directory (available through the DFA website), or**
- f. Contact Tom Hedderman of the Department at 1-518-486-6939 if steps (a) or (b) do not provide verification. Document this contact in the case record or other local district record.
 - (1) For Level I placements, it is necessary to verify both that the facility is certified and that the client is placed in the certified part of the facility. This can be done by obtaining a copy of the DMH form BPR-572 or using the SDX (see **FSSB Section 4**.) Note however that only SSI clients residing in Level I certified facilities receive SSI benefits at the Level I amount. Therefore, verifying that an individual at the facility address is receiving SSI benefits at the Level I amount provides verification that the facility is certified as well as that the individual is a resident of the facility. Another method must be used to verify resident status for an individual receiving RSDI only (not SSI).
 - (2) Verification of resident status at state operated community residences (OMH/OMRDD) may be established by attestation of such status by the facility or by the resource agency.
 - (3) Although there is a need to verify that each facility is certified, it is not necessary to obtain verification from each applicant residing at the facility.

3. SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE -

- a. Local districts shall determine that the shelters for victims of domestic violence meet the definition given in **FSSB Section 5**. It must also document the basis of this determination. Shelters having FNS authorization to redeem at wholesalers shall be considered as meeting the definition, and the local district is not required to make any further determination.

NOTE: It is strongly recommended that local districts maintain a list of shelters meeting the definition in order to facilitate the processing of residents' applications.

- b. Shelter residents who apply as separate households shall be certified:
- (1) Solely on the basis of their income and resources and the expenses for which they are responsible;
 - (2) Without regard to the income, resources, and expenses of their former household.
 - (3) For benefits from the date of the new application.
- See **FSSB Sections 4 and 5**.
- c. Jointly held resources shall be considered inaccessible in accordance with **FSSB Section 16**.
- d. Room payments made by the resident to the shelter shall be considered as shelter expenses.
- e. Any shelter residents eligible for expedited service shall be handled in accordance with **FSSB Section 14**.
- f. Residents of residential programs for victims of domestic violence that receive TA have their FS case processed by the local district that is determined to be fiscally responsible for TA.
- g. If residents of the shelter were previously members of a household which was in receipt of food stamps, the local district must take prompt action to ensure that the former household's composition.
- h. If the local district has sufficient information, it should redetermine the former households eligibility and benefit entitlement. If the former household is ineligible or eligible for a lesser amount, a Notice of Intent to Change Food Stamp Benefits DSS-3620 should be sent in accordance with **FSSB Section 7**.
- i. If the local district does not have enough information to redetermine the former household's eligibility or benefit level, it should shorten the certification by sending form DSS-3153, Continuing Your Food Stamps, as specified in FSSB Section 7.

(GIS-04 TA/DC 028)

Effective January 1, 2005 for rest of the State and on April 1, 2005 for NYC. Residents of Group Home participate in New York's federally approved group home pilot project which issues standardized benefits to residents.

The following group residents are exempt from participation in this pilot and thus still have individual budgets calculated to determine FS benefits:

- Domestic violence
- Homeless households

Reference

94 ADM-11

GIS 04 TA/DC 028

Institutional Responsibility**POLICY**

1. RESPONSIBILITIES OF DRUG ADDICT OR ALCOHOLIC TREATMENT CENTERS - All Residential Treatment/Rehabilitation Centers which participate in the Program, must enter into a formal written agreement with local districts assuring that the Center:

- a. Will cooperate so that local districts can meet their mandated responsibilities.
- b. Shall provide the local district with a monthly, certified list of currently participating residents.
- c. Shall provide a resident, upon leaving the Center, with his ID card and any unused benefits.
 - (1) If the household leaves the Center prior to the 16th day of the month, the Center shall provide the household with one-half of its monthly coupon allotment.
 - (2) After the household leaves the Treatment Center, the Center cannot act as the household's authorized representative. The household must be given a change report form and advised by the authorized representative to return the form within 10 days to the local district.
- d. Must notify the local district of changes in the household's income and other circumstances in accordance with required reporting rules, including the date a participant leaves the treatment center.
 - (1) The Treatment Center must return any FS received for households which no longer reside in the Centers.
 - (2) It must also return to the local district any benefits not provided to departing residents at the end of each month.
 - (3) These returned benefits shall include those not provided to departing residents because they left either prior to the 16th and the Center was unable to provide the individual with the benefits, or they left on or after the 16th of the month.
- e. Is responsible for any misrepresentation or fraud which it knowingly commits during the certification of center residents. As an authorized representative, the Center must know household circumstances. It must carefully review those circumstances with residents before applying on their behalf. The center will be strictly liable for all lost or misused Food Stamps held on behalf of resident's households, and for all overissuances which occur while the households are treatment center residents.
- f. May be penalized or disqualified if there is an administrative or judicial determination that food stamps were misappropriated or used for purchases that did not contribute to a certified household's meals. No penalties and/or disqualifications can be imposed on a treatment center without prior approval from USDA.

If a treatment center is disqualified as a retailer by FNS or no longer certified by responsible agencies of the State, its residents are no longer eligible to participate. The residents are not entitled to a notice of adverse action but shall receive a written notice explaining the termination and when it will become effective.

2. RESIDENTS OF GROUP LIVING ARRANGEMENTS -

- a. Each group living arrangement shall provide the local district with a list of currently participating residents. This list shall include a statement signed by a responsible center official attesting to the validity of the list. The local district shall require the list on a periodic basis.
- b. If the group living arrangement is acting as an authorized representative, the group living arrangement shall notify the local district of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement.

NOTE: If the resident has made application on his/her own behalf, the household is responsible for reporting changes to the local district.

- c. If a group of residents has been certified as one household and has returned the benefits to the facility to

use, the departing residents shall be given pro-rata share of one-half of the household's monthly coupon allotment if leaving prior to the 16th day of the month.

- d. Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative. The group living arrangement shall, if possible, provide the household with a change report form to report to the local district the individual's new address and other circumstances after leaving the group living arrangement and shall advise the household to return the form to the appropriate office of the local district within 30 days.
- e. If a resident of a group of residents applies on their own behalf and if they retain use of their own benefits, these individuals are entitled to keep the benefits when they leave.

If a group of residents have applied as one household a pro-rata share of the remaining benefits shall be provided to any departing household member. The group living arrangement shall, if possible, provide the household with a change report form to report to the local district the individual's new address and other circumstances after leaving the group living arrangement and shall advise the household to return the form to the appropriate office of the local district within 10 days. However, the household is responsible for reporting the changes in household circumstances.

- f. The same provisions applicable to Drug and Alcoholic Treatment Centers also apply to group living arrangements when acting as an authorized representative. These provisions, however, are not applicable if a resident has applied on his/her own behalf. The resident applying on his/her own behalf shall be responsible for overissuances as would any other household.
- g. The group living arrangement shall return any household's benefits to the local district if they are received after the household has left the group living arrangement, or if the coupons were not provided to the departing residents at the end of each month. These returned benefits shall include those not provided to departing residents because they left on or after the 16th of the month or they left prior to the 16th and the facility was unable to provide them with the benefits.
- h. When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application), shall provide residents with their ID cards. Also, the departing household shall receive its full allotment if no benefits have been spent on behalf of that individual household. These procedures are applicable any time during the month.

However, if the benefits have already been issued and any portion spent on behalf of the individual, and the household leaves the group living arrangement prior to the 16th day of the month, the facility shall provide the household with its ID card and one-half of its monthly coupon allotment.

If the household leaves after the 16th of the month and the benefits have already been issued and used, the household does not receive any benefits.

- i. The group living arrangement may purchase and prepare food to be consumed by eligible residents on a group basis if residents normally obtain their meals at a central location as part of the group living arrangement services or if meals are prepared at a central location for delivery to the individual residents.

If residents purchase and/or prepare food for home consumption, as opposed to communal dining, the group living arrangement shall ensure that each resident's food stamps are used for meals intended for that resident. If the resident retains use of his/her own coupon allotment, he/she may either use the coupons to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.

3. SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE -

- a. Many shelter residents have recently left a household containing the person who had abused them. Their former household may be certified for participation in the Program and its certification may be based on a household size that includes the women and children who had just left. Shelter residents who

are included in such certified households may nevertheless apply for and (if otherwise eligible) participate in the program as separate households if such certified household which includes them is the household containing the person who subjected them to abuse.

Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

- b. Residents of shelters for victims of domestic violence may use their benefits to purchase meals prepared especially for them at a shelter which is authorized by FNS to redeem at wholesalers, or which redeems at retailers as the authorized representative of participating households.

Verification**Mandatory Items****POLICY**

DEFINITION - Verification is the securing of information which establishes the accuracy of information stated by the applicant on the application.

MANDATORY VERIFICATION - Local districts must verify the following information prior to certifying households initially applying:

1. GROSS NON-EXEMPT INCOME - Gross non-exempt income must be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate and all other sources of verification are unavailable, the eligibility worker must determine an amount to be used for certification purposes based on the best available information.

NOTE: DSS-3707 "Employment Verification" may be mailed directly to an employer at the time of application, recertification, or when circumstances demand such verification. Six-Month reporting rules do not require households to report any changes, unless a change in gross income that does exceed limits for family size. Therefore for six month reporters, districts are not required to verify moderate changes in income, unless the income change brings the household near the gross income limit.

2. RECURRING LOANS - If the household receives payments on a regular or recurrent basis from the same source and claims the payments are loans, the local district must require that the provider of the loan sign an affidavit which states that repayments are being made or that payments will be made in accordance with an established repayment schedule.
3. BANK ACCOUNTS - Bank accounts identified by the household on the application which fall within the allowable resource limit.
4. ALIEN STATUS - Based on the application, the local district must determine if members identified as aliens are eligible aliens (as specified in **FSSB Section 5**) by requiring that the household present verification for each alien member. For required documentation see **FSSB Sections 5**.
5. HEATING/AIR CONDITIONING, UTILITY, AND TELEPHONE EXPENSES -
 - a. USE OF STANDARD ALLOWANCE(S) - For those households entitled to claim a standard heating/air conditioning, utility, and/or telephone allowance as specified in **FSSB Section 11**, the local district shall verify that the household actually incurs an expense although there is no need for the local district to verify the amount of the expense. The local district need not verify all expenses. Only those expenses necessary to determine entitlement to the appropriate standard(s) need to be verified. This verification is permitted on a one-time basis unless the household has moved or changed its utilities or unless questionable.
 - b. EXPENSES IN EXCESS OF THE STANDARD - If the household wishes to claim expenses in excess of a standard and the expense will actually result in a deduction, the local district must verify the household's actual expenses.

If the household's actual expenses cannot be verified before the 30-day processing period expires, the appropriate standard allowance(s) shall be used.
 - c. UNOCCUPIED HOMES - If the household wishes to claim expenses for an unoccupied home because of employment or training away from home, illness or abandonment caused by a natural disaster, or casualty loss, actual expenses must be verified as a standard allowance cannot be applied.

However, the local district is not required to assist the household in obtaining verification of expenses for unoccupied homes if verification would have to be obtained from a source outside of the local district.

6. **MEDICAL EXPENSES** - For those households with members who are eligible to claim a deduction for medical expenses (see **FSSB Section 11**) the amount of any allowable medical expenses (including the amount of reimbursements) shall be verified prior to allowing the deduction. As with other information which is verified at initial certification, the case record shall be documented as to the amount and the source of the medical expense.

Verification of other factors, such as the nature of the services provided or the eligibility of the person incurring the cost, shall be required only if questionable.

7. **SOCIAL SECURITY NUMBER** -

- a. An SSN can be verified through:
 - (1) BENDEX or SDX printouts,
 - (2) Completion of an SS-5 or DSS-4000 Form or,
 - (3) Observation of Social Security cards or other official documents containing the SSN.
- b. Households that have had their SSN's verified for ADC, HR/PG-ADC or other similar programs shall be considered as having complied for FS purposes. A verified SSN shall be reverified if the identity of the individual or the SSN becomes questionable.
- c. Certification of an otherwise eligible household cannot be delayed solely to verify any member's SSN even if the 30 day processing period has not expired. As soon as all other steps necessary to certify a household are completed, except for verification of an SSN, the local district shall certify the household.
- d. If verification of an already reported SSN is not completed at the time of or prior to the household's next recertification, individuals who refuse to complete an application for an SSN (SS-5 or DSS-4000) or otherwise verify an SSN at recertification shall be excluded in accordance with **FSSB Section 5**.
- e. Documentation must clearly be recorded in the case file if household members indicate they refuse to provide or apply for an SSN because of a valid religious belief. This documentation may include obtaining written or verbal confirmation from the religious organization the individual is a member that providing of an SSN by its members is in conflict with its religious doctrine. See **FSSB Section 5**.

8. **RESIDENCY** - The residency requirements specified in **FSSB Section 5** shall be verified except in unusual cases (such as some migrant farmworker households, some homeless households or, households newly arrived in a project area) where verification of residency cannot be reasonably accomplished. When verification is not accomplished, the local district must document efforts to obtain verification in the case file.

- a. **METHOD OF VERIFYING RESIDENCY** - Verification of residency should be accomplished to the extent possible in conjunction with the verification of other information such as, but not limited to, rent and mortgage payments, utility expenses and identity. If verification cannot be accomplished in conjunction with the verification of other information, then the local district shall use a collateral contact or other readily available documentary evidence.
- b. **SPECIFIC DOCUMENTS NOT REQUIRED** - Documents used to verify other factors of eligibility should normally suffice to verify residency as well. Any documents or collateral contacts, which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed. No durational residency shall be established.

9. **IDENTITY** - The identity of the person making application shall be verified.

- a. **APPLICATION BY AUTHORIZED REPRESENTATIVE** - Where an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified.
- b. **ACCEPTABLE DOCUMENTATION** - Identity may be verified through readily available documentary

evidence or if this is unavailable, through a collateral contact. Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to:

- (1) A driver's license;
- (2) A work or school ID;
- (3) An ID for health benefits or for another assistance or social services program;
- (4) Wage stubs; or
- (5) A birth certificate.

Any documents which reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document, such as a birth certificate, may be imposed.

10. CONTINUING SHELTER CHARGES - The local district shall verify those shelter charges specified in **FSSB Section 11** other than utilities, if allowing the expense could potentially result in a deduction.

This verification is permitted on a one-time basis unless the household has moved, reported shelter costs that would potentially affect the level of deduction (in which case only those changed individual costs would be verified) or unless questionable as defined in **FSSB Section 5**.

NOTE: DSS-3668 "Shelter Verification" may be used to verify shelter charges.

11. DEPENDENT CARE COSTS - For those households claiming dependent care costs as specified in **FSSB Section 11-C-4.1**, the local district shall verify that the household actually incurs the costs and the actual amount of the costs, if allowing the expense could potentially result in a deduction.

This verification is permitted on a one-time basis unless the provider has changed, the amount has changed and the change would potentially affect the level of the deduction or unless questionable as defined in **FSSB Section 5**.

12. HOUSEHOLD SIZE - Local districts shall verify household size.

- a. ACCEPTABLE DOCUMENTATION - Verification shall be accomplished through a collateral contact such as a landlord or readily available documentary evidence, such as school records, draft cards, census records, marriage records, or any documents which can be used to establish identity as listed in this Section.

NOTE: The DSS-3668 "Shelter Verification" may be used to verify household size.

- b. SPECIFIC DOCUMENT NOT REQUIRED - Any documents which reasonably establish household size must be accepted and no requirement for a specific type of document, such as a birth certificate, may be imposed.

NOTE: Factors involving household composition such as boarder status or whether or not a particular group of individuals customarily purchases and prepares meals together shall not be verified unless questionable in accordance with FSSB Section 5.

13. DATE OF BIRTH - Local districts shall verify the date of birth of all household members. Date of birth may be verified through readily available documentary evidence such as birth certificate, church or hospital record of birth, school record, insurance policy or any other record which shows the date of birth.

- a. AGE AND ELIGIBILITY - It is not the intent of this requirement to prevent eligible individuals from participating in the program but to aid local districts in proper eligibility and benefit level determination, particularly for the under 18 and 60 and over years of age population. The age of these individuals can affect eligibility or benefit amount because of such considerations as shelter costs and medical deductions, separate household status, student eligibility and work registration requirements.
- b. APPLYING FOR VERIFICATION - Verification of date of birth should be handled in the same manner as verification of SSN as set forth in this Section. If the individual has provided the date of birth, verification of this date or application for a birth certificate or other documentation must be completed by the household's next recertification. This is also true when a currently certified household reports the

addition of new members to the household.

NOTE: Since verification of date of birth is often difficult for migrant households, local districts shall not deny migrants FS participation for inability to verify date of birth.

NOTE: Some local districts have had difficulty in obtaining birth verification of applicants who claim to have been born in New Jersey. Due to an employment freeze and budget restrictions, New Jersey will no longer process birth verification requests from any local district office. The regional office of the Department of Health and Human Services has been alerted to this situation.

Until New Jersey changes its policy, requests for birth verification may be made of local municipalities. If the place of birth is provided, we will be able to provide the address and telephone number of the local registrar who can provide the verification.

Therefore, if your local district needs this information, please feel free to contact Mark Schaffer, at 1-800-343-8859, ext. 4-9346.

DEDUCTIBLE EXPENSES -

1. **DELAYED VERIFICATION** - If obtaining verification of a deductible expense may delay the household's certification, the local district shall advise the household that its eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense.

- a. This provision also applies to the allowance of medical expenses.
- b. Shelter cost would be computed without including the unverified components.
- c. The appropriate utility allowance(s) the household is entitled to claim shall be used if it has not verified higher actual costs.

If the expense cannot be verified within 30 days of the date of application, the local district shall determine the household's eligibility and benefit level without providing a deduction of the unverified expense.

2. **RECEIPT OF VERIFICATION** - If the household subsequently provides the missing verification, the local district shall redetermine the household's benefits and provide increased benefits, if any, in accordance with the timeliness standards in **FSSB Section 6** on reported changes.

The household shall be entitled to the restoration of benefits retroactive to the month of application, as a result of the disallowance of the expense, only if the reason that the expense could not be verified within the 30-day processing standard was because the local district failed to allow the household sufficient time, as defined in **FSSB Section 6**, to verify the expense.

NOTE: If the household would be ineligible unless the expense is allowed, the household's application shall be handled as provided in **FSSB Section 4.**

References

Related Items

387.1	Citizenship and Alien Status (FSSB)
387.8	Standard Allowances for Heating/ Cooling Utilities and
90 ADM-23	Telephone (FSSB)
88 ADM-22	Shelter Deduction (FSSB)
98 INF-14	Medical Deduction (FSSB)
95 INF-16	Voluntary Employment Quit (FSSB)
94 INF-17	

93 INF-2	Categorical Eligibility (<u>FSSB</u>)
87 INF-18	Questionable Information (<u>FSSB</u>)
GIS(95 ES/DC013)	Dependent Care Deduction (<u>FSSB</u>)
GIS(94 ES/DC001)	Local District Action (<u>FSSB</u>)
	Action on Delays Caused by the Household (<u>FSSB</u>)

Questionable Information**POLICY**

DEFINITION - Questionable information is information on the application which is inconsistent with statements made by the applicant, inconsistent with other information on the application or previous application. The local district shall determine if information is questionable based on the household's individual circumstances.

NOTE: Determination of questionable information shall not be based on race, religion, ethnic background or national origin. Local districts shall not target groups such as migrant farmworkers or American Indians for more intensive verification under this provision. The rationale for determining information questionable should be entered in the case file.

ITEMS TO BE VERIFIED WHEN QUESTIONABLE - Questionable items may include but are not limited to:

1. **EXPENSES WHICH EXCEED INCOME, INVESTIGATIVE INQUIRES (FEDS) AND COMPUTER MATCHES** - Households which report little or no income and are unable to adequately explain how they are managing expenses are by nature questionable. This is true also of households whose expenses consistently exceed their income. These circumstances shall not in and of themselves be grounds for denial. Through effective interviewing local districts should pursue the question of how these households are paying their bills and request verification until the questionable information is resolved. Districts may not deny applications for failure to cooperate with FEDs interview. Districts must consider all information provided from household and investigative sources in determining income and eventual outcome of application for Food Stamps. This includes information available from computer matches . If further clarification is needed (as a result of computer matches) due to some aspect of the information being questionable, that information must be pended until the next recertification interview or six month contact.
2. **HOUSEHOLD COMPOSITION** - Local districts shall verify factors affecting the composition of a household, if questionable. However, due to the difficulty in verifying whether or not a group of individuals customarily purchases and prepares meals together, the local district shall generally accept the household's statement regarding food preparation and purchasing.
 - a. **ELDERLY/DISABLED INDIVIDUALS** - Elderly, disabled individuals described in **FSSB Section 5** who wish to be a separate household even though they purchase and prepare meals together shall be responsible for obtaining the cooperation of the individuals with whom they reside in providing necessary information requested by the local district.
 - (1) **INCOME** - However, the income of the others with whom the elderly, disabled individual resides (excluding the income of the individual and spouses) does not have to be verified unless the information given is determined questionable by the local district as defined in this Section.
 - (2) **MEDICAL** - If requested by the local district, they shall provide a physician's statement that they cannot purchase and prepare their own meals. For any household member claiming a permanent disability (see **FSSB Section 18**) that is questionable (not apparent) to the local district, according to the definition of disabled in **FSSB Section 5**, the household shall provide, at the local district's request, a statement from a physician or licensed or certified psychologist to assist the local district in making a disability determination.
 - (3) **CITIZENSHIP** - When a household's statement that one or more of its members are U.S. citizens is questionable, the household must provide acceptable verification. Acceptable forms of verification include:
 - (a) Birth certificates
 - (b) Religious records
 - (c) Voter registration cards

- (d) Certificates of citizenship or naturalization provided by INS (INS form I-179 or I-199)
 - (e) U.S. passports
 - (f) Participation in the ADC program.
- (4) COLLATERAL CONTACT - If one of the above forms of verification is not available and the household can provide a reasonable explanation why, the local district shall accept a signed statement from someone who is a U.S. citizen declaring, under penalty of perjury, that the member in question is a U.S. citizen.

The statement form must contain a warning of the penalties for helping someone commit fraud, i.e., if you intentionally give false information to help this person get food stamps, you may be fined, imprisoned, or both.

- (5) STATUS PENDING VERIFICATION - The member whose citizenship is in question shall be ineligible to participate until proof of U.S. citizenship is obtained. Until proof of U.S. citizenship is obtained, the member whose citizenship is in question will have his or her income, and resources treated as specified in Sections 12-E and 16-B.

NOTE: Local districts cannot rely on a surname, accent, foreign appearance or lack of English speaking, reading or writing ability as grounds to question a claim of citizenship.

3. LOANS - A legally binding agreement is not required to verify a loan when questionable. A simple statement signed by both parties which indicates that the payment is a loan and must be repaid is sufficient.

Reference

387.8
01 ADM-8

Types of Verification**POLICY****1. DOCUMENTARY EVIDENCE -**

DEFINITION - Documentary evidence consists of a written confirmation of a household's circumstances.

a. **EXAMPLES** - Examples of documentary evidence include but are not limited to:

- (1) Wage stubs
- (2) Rent receipts
- (3) Utility bills
- (4) Birth certificates

b. **ACCEPTABLE** - Acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source.

NOTE: Local districts must use DSS-2642 to inform applicants/recipients of the specific eligibility factors which need to be verified, to provide a list of documents which are acceptable verification of these factors, and to indicate on the form the date by which any outstanding documents must be received.

Client informational books DSS-4148A and DSS-4148B fulfill the mandate that applicants/recipients be provided general information on verification requirements.

c. **USE OF** - Written documentary evidence is to be used as the primary source of verification of all items except residency and household size. Residency and household size may be verified either through readily available documentary evidence or through a collateral contact. See **FSSB Sections 5-E-1.3 through 1.5.**

d. **INSUFFICIENT** - Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the Eligibility Worker may require collateral contacts or home visits.

e. **RESPONSIBILITY FOR OBTAINING** -

- (1) **HOUSEHOLD** - The household has primary responsibility for providing documentary evidence to support its income statements and to resolve any questionable information. Households may supply documentary evidence in person, through the mail or through an authorized representative.
- (2) **LOCAL DISTRICT** - The local district shall accept any reasonable documentary evidence provided by the household. The local district's primary concern should be that the evidence adequately supports the application information.

If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner or the household has presented insufficient documentation, the local district shall either offer assistance to the household in obtaining the documentary evidence or shall use a collateral contact or home visit. The local district shall not require the household to present verification in person at the FS office.

2. COLLATERAL CONTACTS -

DEFINITION - A collateral contact is an oral confirmation of a household's circumstances by a person outside of the household and it may be made by telephone or in person.

a. **ACCEPTABLE CONTACTS** - An acceptable contact can be anyone able to provide an accurate third party verification of the household's statements.

EXAMPLE: Employers, community action groups, migrant service agencies and neighbors of the household.

NOTE: Systems of records to which the local district has routine access are not considered collateral contacts and therefore need not be designated by the household. Examples are the Beneficiary Data Exchange (BENDEX) and the State Data Exchange (SDX) and records of another agency where a routine access agreement exists (such as records from the State's unemployment compensation system).

a. RESPONSIBILITY FOR OBTAINING VERIFICATION -

- (1) HOUSEHOLD - The local district, generally, shall rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact.

NOTE: The local district is not required to use a collateral contact designated by the household if the contact cannot be expected to provide an accurate third party verification.

- (2) LOCAL DISTRICT - When the household fails to designate a collateral contact or the contact designated by the household is unacceptable, the local district shall either:
- (a) Designate another collateral contact;
 - (b) Ask the household to designate another collateral contact;
 - (c) Provide an alternative form of verification; or
 - (d) Substitute a home visit.

If the local district designates a collateral contact, the local district shall not make the contact without providing prior written or oral notice to the household. At the time of the notice, the local district shall inform the household that it has the following options:

- (a) Consent to the contact;
- (b) Provide acceptable verification in another form; or
- (c) Withdraw its application.

If the household refuses to choose one of these options, its application shall be denied for failure to verify information. The local district is responsible for obtaining verification from acceptable collateral contacts.

NOTE: FS benefits cannot be denied or terminated because a person outside of the household fails to cooperate with a verification request. Household members who are ineligible or disqualified (as specified in FSSB Section 5-A-4.1, paragraphs 1 through 5) are not considered as individuals outside of the household under this provision.

1. HOME VISITS - Home visits may be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility or benefit level or when documentary evidence cannot be obtained. The home visit must be scheduled in advance with the household.
2. STATE DATA EXCHANGE AND BENEFICIARY DATA EXCHANGE - The local district may verify SSI benefits through the SDX and Social Security benefit information through the BENDEX or through verification provided by the household.

The local district may use SDX and BENDEX data to verify other FS eligibility criteria. The local district may access this data without release statements from households. The household shall be given an opportunity to verify the information from another source if the SDX or BENDEX information is contradictory to the information provided by the household or is unavailable.

NOTE: Determination of the household's eligibility and benefit level shall not be delayed past the application processing time standards set forth in FSSB Section 4-H if SDX or BENDEX data is unavailable.

1. COMPUTER MATCHING OF IRS UNEARNED INCOME DATA - IRS unearned income information will be processed by the Department and provided to local districts for independent verification of the data.

a. REQUIRED ACTION -

- (1) SYSTEMS STAFF - Annual matches of TA and FS recipient files, and periodic matches of applicant files against IRS unearned income (1099) files, will generate a Cintrak Resource Report (DSS-3023) by individual. Upon receipt of the DSS-3023, designated workers at local districts shall verify the data, complete the DSS-3023 Local District Response Section, sign, detach and send the completed response portion of the form to this Department. In taking case actions in response to information provided through Cintrak, local districts shall follow the usual procedures for that type of information.
- (2) PROGRAM STAFF - The specific actions to be taken are described below:
 - (a) For all hits, including closed cases, review the information and compare it to the case record.
 - (b) If the case is a denied application, further investigation is not required, but the DSS-3023 Match Report response must be completed and returned.

For all other hits:

- If a six moth reporting household, Review data to determine if the information available indicates whether the household would exceed the 130% gross income limit?
 - If it appears the hosehold may be exceeding, a request for contact would be issued to clarify
- OR
- If it appear the household does not exceed the limit, indicate further clarification must be obtained at the next recertification interview or Six-Month contact point.
- (c) With a ten day reporting household if necessary, make collateral contacts to resolve discrepancies on all new or previously unverified information.
 - (d) If no action is necessary, make a notation in the case file.
 - (e) If benefits are to be reduced or terminated, send a timely and adequate notice within 45 days of the local district's receipt of the DSS-3023.
 - (f) If an indication of fraudulent action is detected, take appropriate action to initiate a fraud investigation.
 - (g) In all cases, the worker must complete the above stated actions. For administrative survey purposes, any cases completed after the 45 day period specified may be deemed as processed timely only if the reason for the delay is the non-receipt of requested verification from collateral contacts. This non-receipt must be documented in the case record. These actions must be completed promptly once verification from a collateral contact is received.
 - (h) For all hits, the DSS-3023 Match Report response must be completed and returned.

NOTE: The return information is not available until approximately September of the year following the calendar year for which it is collected and may contain reporting errors; accordingly, this information is considered a lead to possible underlying resources, and the DSS-3023 Match Report must be treated as undocumented information. That is, no action can be taken to terminate or reduce benefits without first contacting the recipient and completing an investigation verifying the income or resource amount, accessibility and period of accessibility to the household.

b. INTERVIEW PROCEDURES -

- (1) **DISCLOSURE OF IRS INFORMATION** - The IRS information cannot be revealed to anyone other than the taxpayer or the legal guardian of the taxpayer unless the taxpayer specifically authorizes in writing that the individual may receive the information. Existing penalties for the unauthorized disclosure of IRS data to anyone else apply to the data contained in the 1099 match reports. Local districts must strictly adhere to the instructions in this Section to prevent unauthorized disclosure and possible criminal liability.

NOTE: When the local districts receive the IRS 1099 data (DSS-3023) they also receive a central listing. Since these listings essentially contain the same information as the DSS-3023, they must be protected similarly.

If the authorized representative is not named in a limited power of attorney by the recipient, the worker cannot discuss the IRS data with that individual even if the recipient is also present for the discussion, although it would certainly be an opportune time to obtain an authorization. In the case of a minor, such authorization must be obtained from the parent or legal guardian.

If a limited power of attorney (see Paragraph (3)(b)(3) below) to discuss the 1099 report data cannot be obtained, careful interviewing is essential to avoid disclosure of specific information received from the 1099 report. The worker must advise the authorized representative that the local district has knowledge that the recipient may have income or may possess a resource which may affect the recipient's FS benefits.

- (2) **CLIENT CONTACT** - Whenever possible, a face-to-face contact should be made. For suggested formats for appointment letters, see 87 ADM-37. When a face-to-face contact cannot be made, and the recipient is unable or unwilling to send the verification in the mail, it will be necessary to verify the information through third party contacts. This may include contacting the reporting institution(s) involved.

(3) **PROCEDURES** -

- (a) Since only applicants and recipients will be included in the 1099 match, the applicant/recipient will be the taxpayer and, therefore, the worker may discuss the IRS data freely with the individual. If the recipient/taxpayer is a minor, the IRS data will be discussed with the legal guardian of that minor.
- (b) In certain situations, an authorized representative will be representing a household for the purpose of applying for or obtaining benefits. Since the authorized representative is not the taxpayer, additional consideration must be given to the discussion of the information (see the above paragraph on interview procedures). If the authorized representative is also an authorized individual (an individual to whom IRS data can be revealed), the worker may discuss the 1099 information freely. An authorized individual, as defined by IRS, includes the following individuals:
- (4) The taxpayer for whom the form 1099 or similar report was submitted; or
- (5) The legal guardian of the taxpayer for whom the form 1099 or similar report was submitted; or
- (6) An individual specifically authorized in writing by the taxpayer to receive the information. The "Limited Power of Attorney" form attached to 87 ADM-37 may be reworked to suit the local districts needs, or an equivalent form may be used. The local district must have the taxpayer sign and date a new limited power of attorney for each institution or individual to be contacted, and it must keep each original limited power of attorney in the file. A copy of the limited power of attorney is sent to the collateral contact with the request for data for that contact.

c. **REQUESTING EVIDENCE** -

- (1) When the recipient denies any knowledge of the income/resource, the worker must request that the reporting institution provide any identifying information available such as the taxpayer's address (to

verify the address shown on the report), date of birth and/or a copy of the taxpayer's signature. The worker should request that the reporting institution provide evidence from all listed sources.

- (2) If the taxpayer refuses to sign a limited power of attorney to contact a reporting institution, the worker must close the case, after appropriate notice is given, for failure to cooperate with ongoing eligibility investigation. The worker must still attempt to obtain the necessary verification from the reporting institution directly, in order to determine whether overpayments have occurred. The identifying information may be included in the bank inquiry form (DSS-760 or local equivalent).

Without the taxpayer's authorization, a non-financial institution (such as a brokerage house) is likely to be under no obligation to verify the data, but it must nonetheless be contacted.

d. VERIFICATION -

- (1) The amount of the income/resource and the period(s) in which the individual received the income or had the resource must be verified. In every case, the recipient must be afforded the opportunity to refute or explain the IRS information. If the case record indicates that the transaction (the financial activity reported to IRS on form 1099 or similar form) on the IRS report has been investigated and acted upon previously, reinvestigation is not necessary.
- (2) In many situations, the information contained on the IRS report will reflect a payment made in connection with an underlying resource (for example, a bank account upon which interest was paid). While the payment may constitute income, the presence of the resource may be a more significant issue.
- (3) Designated workers will not always be able to determine the type of resource involved, since only the payment is shown. Careful questioning of the recipient will be necessary in these cases to determine the type of resource. Be aware of situations in which the underlying resource, or a portion thereof, may not belong to the recipient or may be excluded, such as:

- (a) Joint Bank Accounts (TA/FS)

NOTE: To avoid a problem with confidentiality, when one of the owners of a joint bank account is a non-household member the matter should be pursued by using the account number and amount deposited without naming the non-household member. This approach is acceptable since it does not reveal any information about the non-household member. If the bank or other institution doesn't respond, as in other verification situations, it is the household's responsibility to resolve the discrepancy.

- (b) Funds set aside for burial (TA)
- (c) Property essential to self-support (FS)
- (d) New York Uniform Gifts to Minors Act (NYUGMA or UGMA)(TA/FS)

NOTE: An account established under the New York Uniform Gift to Minors Act is the property of the minor but is under control of the custodian and should not automatically be counted as a resource when the custodian is not part of the household. When the custodian is part of the household the account is presumed to be available to the household.

For FS purposes, an account which is not accessible to the household is excluded as a resource. The household is not required under the FS program to petition the court for access to the account. However, if the funds do become available to the household, then they must be counted toward the FS resource limit.

- (e) Trusts (TA/FS)

NOTE: An "in trust" account might be set up as "John Smith, In Trust for Baby Smith." The funds are the property of the individual setting up the account (i.e., John Smith), and the person for whom the funds are in trust has no rights to the account. The funds in the account will become

those of the beneficiary, only upon the death of the person in whose name the account has been set up. Consequently, the funds are considered available to the persons in whose name the account is set up and unavailable to the beneficiary.

(f) Cash within the allowable resource limit (TA/FS)

e. EVALUATING EVIDENCE -

- (1) The worker must evaluate the available evidence and document in the case record the information regarding the IRS data. If the evidence establishes that the income/resource does not belong to the recipient, no further investigation is necessary. The worker should advise the recipient to contact the reporting institution to change their records to avoid future erroneous matches and should assist the recipient where necessary.

NOTE: Where the local district verifies that the income/resource actually belongs to another party, or the client indicates they were put in his/her name to avoid taxes, the information should be forwarded to the Office of Audit and Quality Control for referral to IRS to the attention of:

**New York State Department of Social Services
Audit & Quality Control
40 North Pearl Street
Albany, NY 12243
ATTN: EDP Audit**

- (2) If the evidence establishes that the resource/income belongs to the recipient, the worker must determine if it is countable. The worker must advise the recipient that the evidence establishes ownership and must document in the case record that the recipient had been given the opportunity to refute the evidence. When necessary, the worker must then take appropriate action to reduce or terminate benefits.

NOTE: For FS purposes, the local district must provide the household with a timely Notice of Adverse Action (DSS-3620) to terminate benefits, based on the household's ineligibility due to resources in excess of the limit (\$2,000, or \$3,000 for an elderly household). The household's food stamp ineligibility begins with the month following the household's acquisition and retention of resources in excess of the limit and following expiration of timely notice.

- (3) If, as a result of the interview, there is an indication of recipient fraud, the case shall be referred for further investigation. At the same time, closing or rebudgeting actions should be taken.
 - (4) Once the fraud investigation has been completed for an open or closed case, the appropriate prosecution (Civil/Criminal), claims establishment and collection actions must be taken.
 - (5) For an open or closed case, collection/recoupment action may be postponed if the appropriate legal authority in the local district decides the collection/recoupment action would prejudice a prosecution.
- f. PROGRAM SPECIFIC INFORMATION - Each program area (TA and FS) has its own individual requirements regarding countable assets and allowable resource limits. Local districts must, therefore, carefully assess the impact that verified IRS information has on each individual program area for multi-program applicants/recipients.
- g. FOOD STAMPS - TA/FS and NPA/FS.
- (1) Verification - When contacting the household in writing to verify IRS information, the household shall be given ten days to respond. If the household fails to respond within this ten day period, the local district shall send the household a timely notice of adverse action to terminate benefits due to the household's failure to cooperate with verification.
 - (2) Overissuances - When the FS household is determined to have been overissued benefits based on unreported IRS information, the local district shall determine if the overpayment was caused by an inadvertent household error, administrative error or intentional program violation. Where indicated,

the case must be referred to the unit responsible for conducting fraud investigations.

If an intentional program violation is established, FS disqualification penalties must be imposed. Claims collection for determined overissuances shall be pursued in accordance with **FSSB Section 15**.

- (3) Categorically Eligible FS Households - IRS matching may reveal household resources in excess of the FS program limit. However, as long as a household remains categorically eligible for FS, the "excess" resources do not render the household ineligible for FS.
 - h. REPORTING REQUIREMENTS - Local districts are required to return the completed DSS-3023 Local District Response Sections, showing the disposition of each recipient match. Follow-up on matches must be completed within 45 days of the local district's receipt of the match reports. Districts are requested to send the report forms to the address shown on the top of the form.
2. CASE FILE DOCUMENTATION - The local district case file must be documented to support eligibility, ineligibility and benefit level determinations. The documentation shall be in sufficient detail to enable a reviewer to judge the reasonableness and accuracy of the determination.
- a. QUESTIONABLE INFORMATION - Where verification was required to resolve questionable information, the local district shall document why the information was considered questionable or, at a minimum, indicate where in the case file the inconsistency exists and what documentation was used to resolve the questionable information.
 - b. ALTERNATE SOURCES - The local district shall substantiate the reason why an alternate source of verification, such as a collateral contact or home visit, was needed. This is not necessary in cases where a collateral contact is used to verify residency or household size.
 - c. COLLATERAL CONTACTS - The local district shall also document the reason a collateral contact was rejected and an alternate requested.

EXAMPLE: Mr. Arnold works part-time at a service station. He is paid in cash and does not receive a statement of wages and hours. He gives the name of his co-worker, Mr. Murray, as a collateral contact to verify his wages and hours. The EW rejects the contact as someone not sufficiently knowledgeable and obtains the name of Mr. Arnold's employer, Mr. Dennis, the manager of the station, as the collateral contact.

References

387.8
93 ADM-20
87 ADM-37
88 INF-72
90 LCM-93
GIS Message (89 IM/DC017)

Expedited**POLICY**

The local district must use the following verification procedures for households qualified for expedited service.

1. **IDENTITY** - In all cases, the applicant's identity (i.e., the identity of the person making the application) shall be verified through a collateral contact or readily available documentary evidence.

NOTE: All possible sources of direct or collateral documentation must be explored, such as a telephone contact with shelters or community agencies, or a statement from a third party, or a notarized statement from the applicant.

The local district request form to send for a birth certificate, signed by the applicant, can be used as verification of identity if no other verification is available.

However, if no verification of identity is possible, then benefits cannot be issued.

2. **RESIDENCY, INCOME, RESOURCES, OTHER FACTORS** - All reasonable efforts shall be made to verify within the expedited processing standards, the household's residency, income statement (including a statement that the household has no income), liquid resources and all other factors required as specified in **FSSB Section 5** through collateral contacts or readily available documentary evidence.

However, benefits shall not be delayed beyond the delivery standards prescribed in **FSSB Section 14** solely because these eligibility factors have not been verified.

3. **ADDITIONAL VERIFICATION** - Local districts also may verify factors other than identity, residency and income provided that verification can be accomplished within expedited processing standards.

Local districts should attempt to obtain as much additional verification as possible during the interview, but should not delay the certification of households qualified for expedited service for the full timeframes specified in **FSSB Section 14** when the local district has determined it is unlikely that other verification can be obtained within these timeframes.

4. **SOCIAL SECURITY NUMBER** - Households qualified for expedited service shall be asked to furnish a SSN for each person or apply for one for each person before the first full month of participation.

Those households unable to provide the required SSN's or who do not have one prior to their next issuance shall be treated in accordance with **FSSB Section 5**.

5. **DISCREPANT INFORMATION WHEN PENDING VERIFICATION IS PROVIDED** - There is no IHE or IPV overpayment due to issuance of food stamp benefits under expedited processing with verification pending. This includes situations where the verification subsequently submitted substantiates a lower benefit level than was issued in the initial expedited payment period, even if it appears the household should have known verification would differ from the information they initially provided. There is a presumption of good faith on the part of the district and the client in determining the level of benefits to be issued during the expedited payment period. However, the district must act accurately on the information available. If the district makes an error and does not act accurately on the information available at the time of determining the benefit under expedited processing, it would still be considered an agency error with associated claim for overpayment. Part of the rationale for not establishing claims on benefits issued under expedited processing rules is that OTDA wants to avoid compliance issues that might arise if districts were held accountable for errors related to the accuracy of the information provided by the household. Districts might well be hesitant to fully comply with the expedited requirements as quickly as possible, thinking it best to instead attempt verification of the information. Additionally, due to the variations in circumstances surrounding the household's provision of information it believes correct to the best of its knowledge, attempts to distinguish between honest mistakes, inaccurate projections, and deliberate falsifications would make implementation of a uniform and fair policy on establishment of such claims very difficult and error-prone. **See FSSB Section 15** for more details, including several questions & answers illustrating this policy.

Reference	Related Items
387.8	Mandatory Items (<u>FSSB</u>)
88 INF-81	Issuing Benefits (<u>FSSB</u>)
	Social Security Number (<u>FSSB</u>)
	Certification Periods (<u>FSSB</u>)
	No Claims on Expedited Benefits (FSSB - Section 15)

Verification For Residents Of Group Living Arrangements**POLICY**

On applications filed by resource agents as authorized representatives all program verification requirements apply. However, presentation of the actual documents by the resource agent to the eligibility worker or local district is not mandated if:

1. The resource agent attests in writing that all required documentation is in his/her possession and that the contents are as stated. This documentation is to be itemized.
2. The resource agent further identifies the file in which such documentation is contained in and the location of this file.

NOTE: Questionable information always requires verification.

Strikers

POLICY

DEFINITION - A striker is anyone involved in a strike or concerted stoppage of work by employees, including stoppage by reason of the expiration of a collective bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees. Employees who are prevented from working by a strike but are not participating in a strike are considered non-strikers.

- 3. NON-STRIKERS - Non-strikers who are eligible for FS include, but are not limited to, the following:
 - a. Employees whose work place is closed by an employer in order to resist demands of employees, such as a lockout; or
 - b. Employees who are unable to work as a result of striking employees, such as truck drivers unable to deliver newspapers because striking newspaper pressmen prevent newspapers from being printed; or
 - c. Employees who are not part of the bargaining unit on strike who do not want to cross a picket line due to fear of personal injury or death; or
 - d. Employees who went on strike but who are exempt from work registration, the day prior to the strike, other than those who are exempt solely on the grounds that they are employed; or
 - e. Employees whose jobs are no longer available because permanent replacements have been hired by the company. However, the employees will be considered strikers until such time as their jobs are no longer available.
- 4. PARTICIPATION ELIGIBILITY - Households with striking members shall be ineligible to participate in the Program unless the household was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. However, such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household.

Pre-strike eligibility shall be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur.

- 5. ELIGIBILITY DETERMINATION AND INCOME CALCULATION - Eligibility at time of application shall be determined by comparing the striking member's income the day prior to the strike (as calculated according to paragraph 2 above) to the striker's current income and adding the higher of the two to the current income of non-striking members during the month of application. Eligibility and benefit level shall then be calculated for the month of application as for any other household.

References

TASB

- 387.1 Chapter 8
- 387.16
- 91 LCM-3

Reporting Changes**POLICY**

An applying household shall report all changes from the time of application related to its food stamp eligibility and benefits at the certification interview. Changes which occur after the interview but before the date of the notice of eligibility shall be reported by the household within 10 days of the date of the notice (Action Taken on Your Food Stamp Case, DSS-3152).

Qualifications For Expedited Service

POLICY

1. **HOUSEHOLDS QUALIFIED FOR EXPEDITED SERVICE** - The households described below are qualified for Expedited Service. Once a household qualifies for expedited service, a full eligibility interview must still be conducted in order to determine if the household is eligible for Food Stamp benefits. If eligible for benefits, the household must then be afforded the opportunity to participate in the Food Stamp program within the expedited timeframe of five calendar days following the application filing:

- a. Households with less than \$150 in monthly gross income provided their liquid resources (i.e., cash on hand, checking or savings accounts, savings certificates, and lump sum payments) do not exceed \$100;
- b. Migrant or seasonal farmworker households who are destitute as specified in paragraph 2, below, provided their liquid resources do not exceed \$100;
- c. Households whose combined monthly gross income and liquid resources in the month of application are less than the household's rent/mortgage plus heating/utilities (including telephone expenses).

In determining the household's heat and/or utility costs, the worker is to use the Standard Utility Allowance (SUA) level for which the household would qualify. This is the Heating/Cooling SUA if the household incurs any heating/cooling costs, received HEAP, or anticipates receipt of HEAP (see FSSB Section 11); or the Domestic Non-heating/cooling SUA if the household incurs non-heating/cooling utility costs; or the Phone SUA unless undomiciled.

NOTE: Property taxes and fire insurance are added to monthly mortgage payments and utilities for comparison against income plus resources.

NOTE: The applicant household does not have to be out of food, or declaring an emergency to be qualified for expedited processing.

EXAMPLE: Emily Smith is applying for FS for herself and her two children. She works part-time and grosses \$100 a week.

The household has no other income and no liquid resources. Emily lives in Albany County and pays \$600 a month for private rent. Heat and utilities are included in the rent and she received a HEAP payment for the current program year. Emily only has verification of her identity at the time of application. She has never received FS before.

To determine if Emily is qualified for expedited processing, the worker uses the DSS-3938 Food Stamp Application Expedited Processing Summary Sheet. The only criteria Emily may meet is the comparison of expenses to income and liquid resources.

EXAMPLE:

Income/Resources	Shelter Expenses
Monthly Income = \$975 (\$225 X 4.33)	Rent \$600
Liquid Resources = <u>\$0</u>	SUA <u>\$451</u>
TOTAL = \$433	TOTAL \$1051

Since Emily's monthly income and liquid resources are less than her shelter expenses, she is qualified for expedited processing.

2. **DESTITUTE HOUSEHOLDS** - Destitute households are households whose only income for the month of application:

- a. Was received prior to application and was from a source which has been terminated, or
- b. Is from a new source and no more than \$25 gross income from the new source will be received within

ten calendar days after the application date, or (387.1(k))

- c. A combination of a. and b.

NOTE: For destitute households qualified for expedited service, only income which is received between the first of the month and the date of application is counted. Income from a new source that is anticipated after the date of application is disregarded. See FSSB Section 12-I-2, paragraph 3.

3. INCOME FROM A TERMINATED SOURCE -

- a. Income must be considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month when it was normally received on a monthly or more frequent basis.
- b. When income was normally received less often than monthly, the non-receipt of income from the same source in the balance of the month of application or in the following month is inappropriate to determine whether or not the income is terminated.

EXAMPLE: The income shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received. If income is received on a quarterly basis (e.g., January 1, April 1, July 1, October 1) and the household applies in mid-January, the income should not be considered as coming from a terminated source merely because no further payments will be received in the balance of January or in February. The test for whether or not this income is terminated is whether the income is anticipated to be received in April.

4. INCOME FROM A NEW SOURCE -

- a. Income which is normally received on a monthly or more frequent basis must be considered to be from a new source if income of more than \$25 has not been received from that source within 30 days prior to the date the application was filed.
- b. Income which is normally received less often than monthly shall be considered to be from a new source if income of more than \$25 was not received within the last normal interval between payments.

EXAMPLE: If a household applies in early January and is expecting to be paid every 3 months starting in late January, the income shall be considered to be from a new source if no income of more than \$25 was received from the source during October or since that time.

5. INCOME FROM BOTH TERMINATED AND NEW SOURCES - Households may receive both income from a terminated source prior to the date of application and income from a new source after the date of application and still be considered destitute. However, they can receive no other income in the month of application from the terminated source and income of more than \$25 from the new source must not be received by the 10th calendar day after the date of application.

EXAMPLE: A seasonal farmworker applied as a one-person household on September 14. He/she had no liquid resources. He/she had previously been picking apples for the Smith grower. The farmworker received \$200 as his final check from that source on September 10. The household started to pick oranges for the Jones grower on September 11. The farmworker expects to be paid for picking oranges in the amount of \$400 on September 28. This farmworker is qualified for expedited service because the \$200 was received prior to application from a source which has been terminated and the \$400 from the new source was not received within 10 calendar days after the date of application. The \$400 is also disregarded as income because any income from a new source that is anticipated after the date of application is disregarded for destitute migrants and seasonal farmworker households.

September

<u>10th</u>	<u>14th</u>	<u>28th</u>	
\$200	Household	\$400	= \$200 countable
from	applied	from	income and
apples		oranges	expedited
			service

1. AVERAGED INCOME - Households whose income must be averaged on an annual basis, or averaged over the period the income is intended to cover (as in the case of most students), shall have the income averaged and assigned to the appropriate months of the certification period before determining whether a household is destitute. If the averaged income does not come from a new or terminated source and is assigned to the month of application, the household is not to be considered destitute.

a. SELF-EMPLOYED HOUSEHOLD - A self-employed household whose total annual income is received in a few months in the year is not to be considered destitute simply because it does not receive payments in those other months. However, if the income which must be averaged is itself from a new or terminated source, the receipt of the income in the month of application may result in a destitute determination.

The averaged monthly amount of self-employment income (gross income minus allowable self-employment cost exclusions) is used in the monthly gross income computation for purposes of determining entitlement to expedited service.

b. STUDENT HOUSEHOLD - A student with no other income for the month of application anticipates receipt of a deferred educational loan at the end of the month. After appropriate exclusions, the balance of the loan is averaged over the period it is intended to cover, including the month of application. The student may be destitute if it is from a new source and will not be received by the 10th day after the date of application. The portion of the loan for the month of application is disregarded as income because it is from a new source and is anticipated after the date of application.

2. CHANGES IN EMPLOYMENT -

- a. A household member who changes jobs but continues to work for the same employer must be considered as still receiving income from the same source.
- b. A self-employed household member who secures contracts or other work from different customers is still to be considered as receiving income from the same source.
- c. A migrant farmworker's source of income must be considered to be the grower for whom the migrant is working at a particular point in time, and not the crew chief. For example, if a person picks apples and mows and hays for the same grower but has different crew chiefs, his/her source of income is considered the same.

If a migrant travels with the same crew chief but moves from one grower to another, his/her source of income shall be considered to have moved from a terminated source to a new source.

3. TRAVEL ADVANCES - Receipt of travel advances will not affect the determination of when a household is destitute to the extent that these payments are excludable as reimbursement. However, if the travel advance is, by written contract, an advance on wages that will be subtracted from the wages later earned by the employee, rather than a reimbursement, the wage advance shall count as income when received.

Nevertheless, the receipt of a wage advance for the travel costs of a new employee shall not affect the determination of whether subsequent payments from the employer are from a new source of income, nor whether a household shall be considered destitute.

EXAMPLE: Mr. Jones applied on May 10th. On May 1 he had received a \$50 advance for travel from his new employer which by contract is an advance on wages. He will not start receiving any other wages from the employer until May 30. Therefore, Mr. Jones' household is considered destitute. If Mr. Jones is a migrant, the May 30 payment shall be

disregarded, but the wage advance received prior to the date of application must be counted as income.

WMS INSTRUCTIONS

When a TA/FS applicant household is qualified to expedited benefits, and the determination of TA eligibility is still pending, the local district may elect to issue a pre registered FS benefit. It should be noted that a FS Payment Line is allowed to be entered on a TA denial transaction (WMS Transaction Type Code 03) with a TA/FS Code of 91.

WMS report, WINR 3195, reflects the number and percentage of TA-FS cases and NPA-FS cases that have been authorized for expedited food stamps.

The report is produced quarterly and transmitted to local districts via BICS. The report contains unit and worker activity broken down by local office and unit, and includes a local district summary page.

The report can be used as a management tool by local districts to monitor expedited FS authorization processing activity within each local district. It should be noted that if an individual applied more than one time in a month, that application will only be counted once.

References	Related Item
387.1(k)	
387.8(a)	
95 INF-40	
94 INF-33	
88 INF-81	Residency (<u>FSSB</u>)
87 INF-29	
GIS Message 87 IM/DC029	
96 LCM - 83	
94 LCM-124	
91 LCM-3	

Identification Cards and Pins**POLICY**

IDENTIFICATION CARDS - The local district must ensure that a member of the household has a Common Benefit Identification Card (CBIC). If none of the household has a CBIC, the local district must issue a CBIC to the designated FS cardholder at the time of certification. The member of the household must sign the CBIC prior to use.

1. REPLACEMENT - ID cards will be replaced only when:
 - a. Lost;
 - b. Mutilated; or
 - c. Destroyed
2. SPECIALLY MARKED CARDS -
 - a. ID cards marked "M" must be issued to eligible households interested in using delivered meal services.
 - b. When a household does not choose an authorized representative, the local district must indicate on the card that no choice was made.

PERSONAL IDENTIFICATION NUMBERS (PINS)

The local district must ensure that the designated FS cardholder has a PIN. If the designated FS cardholder does not have a PIN, they must select one.

PIN SELECTION

Recipients must pick their PIN during a face to face interview at the local district using the PIN Selection Document (DSS-4164 (5-92)). The only exceptions are:

1. Recipients who are exempt from face to face interviews. In this case the PIN form can be included in the certification mail-in package.
2. Authorized reps. They may complete a PIN form for a recipient after providing documentation certifying they are the recipient's representative.

PINS may be selected by OMH/OMR acting as Authorized Representative for individuals in their group homes. The Department has provided OMH/OMR central office in Albany with PIN forms, and these will be distributed by OMH/OMR to their regional contacts. PIN forms submitted by mail by these contacts along with a cover letter on OMH or OMR letterhead will be processed by the local district.

COMPROMISED OR FORGOTTEN PINS

If the designated FS cardholder's cannot remember their PIN or if their PIN is compromised, they must come into the local district to pick a new PIN.

Information on security for PINs can be found in **FSSB Section 3**.

Related Item

84 ADM-3

92 LCM-122

Security, Control, and Processing of CBICs, PINs, DSS-104 or State
Approved Local Equivalent and State-Approved Local District
Notice of Change Form

Front End Detection System

POLICY (05 ADM-08)

BACKGROUND - Chapter 41 of the Laws of 1992 mandated that each local district establish a Front End Detection System (FEDS) for TA.

Local districts are authorized to establish an investigative process under the Front End Detection System (FEDS) for their Temporary Assistance (TA) caseload as a means of ensuring that only eligible households receive cash assistance. However, the district has the option of using FEDS to verify information on FS applications and must consider information derived from FEDS investigations of other benefit programs. Some important items to remember when using FEDS on Food Stamp cases include:

- FEDS referral/investigation does not exempt the district from processing the FS case in a timely manner including Expedited Processing and the 30-day time limit for ordinary eligibility determination. Failure to do so constitutes a Program Access Error.
- Purely FS households are not required to meet eligibility requirements for other than the FS program. For instance, a FS household may not be required to submit to a home visit.
- A FEDS referral is not a substitute for a comprehensive interview or ordinary documentation/verification efforts. Prior to an investigative referral, clients must be afforded the right to explain any information that would, absent that investigation, occasion a FEDS investigation.
- The Eligibility Worker (EW) and related supervisory staff are ultimately responsible for deciding to send a case for FEDS investigation and/or for determining whether any information resulting from a FEDS investigation impacts the household's FS eligibility.

Local Districts are limited to the populations and areas of investigation outlined in their state-approved FEDS Plan.

SECTION 6: Continuing Eligibility**Recertification****POLICY**

1. **RECERTIFICATION PROCESS** - The local district must:
 - a. Send to each household, including TA households, a written expiration notice as described in **FSSB Section 7**.
 - b. Complete the application process and approve or deny timely recertification applications (subsequently referred to in this section as Recertification) before the end of the household's current certification period.
 - c. Provide eligible households with an opportunity to participate by the household's regular issuance cycle in the month following receipt of a timely recertification. Not continue household benefits beyond the end of the certification period unless the household is recertified.
 - d. Provide each FS household with general information on verification requirements at application and recertification. Client informational books **LDSS-4148A**, **LDSS-4148B** and **LDSS-4148C** fulfill this requirement. For specific types of verification required see **FSSB Section 5**.
 - e. Provide client informational books DSS-4148A, DSS-4148B, and DSS-4148C in the manner described on **FSSB Section 6**.
 - f. Provide a local telephone number and either a toll-free number or a number at which collect calls will be accepted from households outside the local calling area. The number must be provided in writing at certification and recertification.
 - g. Face-to-face recertification interviews may no longer be conducted on a "first come, first served" basis. These interviews must be scheduled on a specific day and time so the household has at least 10 days after the interview to provide verification before their certification period expires.
 - h. FS Households, including those in receipt of TA, that submit a recertification application and fail to show for a scheduled recertification interview must be provided a missed interview notice and cannot be denied before the end of the certification period for missing a scheduled interview.
 - i. Face to face interview requirement may be waived in hardship situations.
2. **TIMELY RECERTIFICATION** -
 - a. Households do not have to submit a recertification or appear for an interview before the last month of its current certification period.
 - b. If a household receives an expiration notice at the time of certification, it has 15 days from the date the notice is received to file a timely recertification.
 - c. All households which submit an identifiable application by the 15th of the last month of their current certification period must be considered to have made timely application for recertification regardless of the interview date.
 - d. In cases where households consisting only of applicants or recipients of SSI apply for food stamp recertification at offices of the SSA, a recertification shall be considered filed for normal processing purposes when the signed application is received by SSA.
 - e. Jointly processed TA/FS cases need not receive a separate FS recert notice if they are recertified for FS at the same time as their TA redetermination.
3. **LOCAL DISTRICT ACTION ON TIMELY REAPPLICATIONS** - Benefits must not be interrupted if the household has reapplied in a timely fashion and been determined eligible.

Local districts must act on timely recertifications within the following time standards. The standards must be met even if the household has to receive an opportunity to participate outside of the regular issuance system.

 - a. If a household receives the expiration notice at the time of certification and recertifies in a timely fashion, it must be notified of its eligibility or ineligibility, and if eligible, receive an opportunity to participate, no

later than 30 days after the household's last issuance date.

- b. If a household files a recertification by the 15th of the last month of the current certification period, it must be notified of the district's decision by the end of the current certification period.
- c. Households filing applications within 30 days after the end of their certification period must have their application treated as an application for recertification (and if eligible, benefits are to be prorated from the date of re-application.)

The local district must provide eligible households with an opportunity to participate during the household's regular issuance cycle in the month after receipt of the timely recertification, i.e., the last month of the household's current certification period.

- d. Uninterrupted benefits must be provided to eligible households if the household appeared for a recertification interview during the last 15 days of the current certification period providing the recertification was filed prior to the 15th.
- e. A household must receive an immediate opportunity to participate if:
 - (1) The household reapplies in a timely fashion;
 - (2) The household is eligible;
 - (3) A local district error delays the eligibility determination; and
 - (4) The household does not receive FS benefits in the regular issuance for the following month because of the determination delay.

If necessary, the local district must provide an opportunity to participate outside the regular issuance cycle.

- 4. **VERIFICATION** - If verification is missing after a recertification interview, the recipient must be allowed ten days from the date of a written request for documentation to provide the missing documentation.
 - a. Any household not determined eligible in sufficient time to allow uninterrupted benefits due to this 10 day time period for submission of additional verification will, if eligible, receive a full month's benefit within five working days after the supplying the missing verification.
 - b. If missing verification is submitted within 60 days of a timely recertification application, the local district must process the case without requiring a new recertification application.
 - c. Benefits must be prorated if a household (other than seasonal/migrant farmworker) provides verification more than 30 days from the date of application for recertification.
- 5. **LOCAL DISTRICT FAILURE TO ACT** - It is an administrative error if the local district fails to meet the specified time standards when it provides an opportunity to participate to eligible households who filed timely recertifications. These households have a right to receive lost benefits if the households cannot participate in the month following the expiration of the certification period.
- 6. **HOUSEHOLD FAILS TO COMPLY** - If a household fails to appear for a scheduled interview, fails to file the recertification application prior to the required time period, or fails to provide missing verification by the end of the 10 day time period required in paragraph 4 above, the local district must deny the recertification application.
 - a. A recertification submitted later must be treated as an initial application and processed according to the timeliness standards specified in **FSSB Section 4**.
 - b. However, if the household submits an application for recertification after the 15th of the month but prior to the expiration of its current certification period and is found eligible for the first month following the end of the certification period, then that month's benefits must not be prorated.

For Example: A household's certification period is due to end on August 31st. A household submits their recertification application on August 15th and is requested in writing by the district to submit verification of a changed circumstance on that date. The household does not submit verification until September 17th.

The district would only accept the recertification, if otherwise eligible, and provide benefits from September 17th, the date the documentation was submitted. Conversely, had the household submitted the documentation by September 14th, the household would be eligible for benefits from September 1st, as they had submitted the documentation within thirty days from the original application for recertification.

- c. Households that fail to submit a recertification application before the end of their current certification period must receive prorated benefits for the first month of the new certification period. This does not apply to migrant and seasonal farm worker households, or when the break in certification is due to an agency error.

General Requirements: The Client Information Books **must** be provided at Recertification to all TA, MA and FS Recipients **at least once per year, except for households granted a 24 month certification period or NYSNIP households with 48 month certification periods.** In addition, when face-to-face recertifications are more frequent than yearly, the books **must** be provided **at each** face-to-face recertification.

The following outlines acceptable practices for specific actions at recertification:

ACTION	REQUIREMENTS
Recertification Application (LDSS-3174 or LDSS-4826) is mailed. Face-to-face interview scheduled to follow.	Books do not need to be mailed. Books must be provided at the face-to-face interview.
Recertification Application (LDSS-3174 or LDSS-4826) is mailed. No face-to-face interview is scheduled to follow. (This is an eligibility review at the six month interval between required once-a-year face- recertifications.)	Books do not need to be mailed to those whose eligibility is being reviewed by mail or by telephone contact between required once-a-year face-to-face recertifications. Books must be provided at the face-to-face interview.
Recertification Application (LDSS-3174 or LDSS-4826) is mailed. No once-a-year face-to-face interview is required (certain MA cases and FS cases with 24 month certification periods where all adult household members are elderly/ disabled and NYSNIP cases with 48 month certification periods.)	Books must be mailed with the recertification form.

References	Related Item	TASB
387.17 04 ADM 2 04 ADM 7 01 ADM-8 90 ADM-41 91 INF-60 96 LCM-83 GIS Message (97 TA/DC019) GIS Message (89 IM/DC017) "All Commissioner"	Action on Delays Caused by the Household (FSSB)	Chapter 5

Changes During the Recertification Period**Reporting Changes****POLICY**

1. **HOUSEHOLD RESPONSIBILITY** - Certified households must report changes in accordance with the change reporting rules outlined in Section 5. Household changes may be reported in person, by telephone or by mail. No other reporting requirements can be imposed upon the household.
2. **CHANGES WHICH MUST BE REPORTED ARE:**
 - a. Households with earned income that are assigned six-month or longer certification periods, are only required to report increases in their gross monthly income resulting in the household exceeding 130 percent of the monthly poverty income guideline for their household size during the six-month period.
3. For food stamp households subject to change reporting (within ten days for those households with only unearned income and outside of the new six-month reporting rules), the required reporting elements are:
 - a. Income increases equal to or greater than \$100
 - b. Household composition, e.g., the addition or loss of a household member;
 - c. Residence and the resulting change in shelter costs;
 - d. The acquisition of a licensed vehicle, not fully excludable as a resource, as per **FSSB Section 16-D-all**.
 - e. When cash on hand, stocks, bonds, and money in a bank account or savings institution reach or exceed the appropriate allowable resource limit;
 - f. Deductible medical expenses of more than \$25 per month.
 - g. ABAWDs must report to the local district when their work hours fall below 80 per month.

NOTE: Sponsored aliens must report changes regarding sponsor's income, resources or sponsorship status.

4. **NO ACTION ON CHANGES** - For cases with earned income, local districts must not act on changes that would result in a decrease in the FS benefits unless:
 - a. The household has voluntarily requested that its case be closed in writing or in the presence of an eligible worker; or
 - b. The local district has information about the household's circumstances considered verified upon receipt; or
 - c. There has been a change in the household's TA grant.
5. **REQUIREMENTS TO CLOSE CASES** - The local district must close a six-month reporting case with adequate notice (see FSSB Section 7 for definition/details of an adequate notice) when the household:
 - a. Reports in writing, or reports in person to an eligibility worker, an income that exceeds 130% of the monthly income guidelines for their household size or the household requests, in writing or in person, that the case be closed; or
 - b. Is on a certification period greater than six-months (due to the transition to the six month reporting system or is a Monroe Co. case) and they fail to verify income at the end of the 6th month; or
 - c. No longer resides in the state, or all household members are dead.
6. **TA/FS CASES**
 - a. TA reporting rules already require reporting any income changes as they occur. This means that the current TA reporting rules for reporting changes within ten days and reporting on a quarterly basis as well, will continue for TA cases.
 - b. However, should a TA/FS household fail to report a change as required by TA rules, and delays reporting that change until the next recertification, that change would not be considered an overpayment of FS benefits.

- c. Consequently, income changes or all other changes (excluding ABAWD requirements) experienced during the certification period that result in the household remaining under 130% poverty level are not subject to FS quality control errors.
 - d. The case circumstances as verified by the local district at the most recent certification interview are sufficient for continuing recurring benefits.
 - e. However, the household may voluntarily report changes that occur during the certification period. The household may report changes to meet TA reporting requirements. In those instances, the TA worker would act on the reported change to adjust the TA grant.
 - f. The TA/FS worker must consider these changes that are reported and take appropriate action to adjust benefits if the change is verified upon receipt and it results in a decrease or an increase in FS benefits.
 - g. If any TA case is discontinued for failure to comply with TA quarterly reporting rules, the food stamp portion of the case must be continued for the original length of the certification period, or longer if qualified for TBA (unless they become ineligible for other reasons).
 - h. FS certification periods may not be shortened for failure to comply with the TA quarterly report requirement.
7. DATE CHANGE IS REPORTED - A household change is considered reported on the date the local district receives the report delivered in person or by telephone. If the household's report is mailed, it is considered reported on the date the form is actually received. A report which is received by a local district worker other than the IM/FS worker is still considered received on that date.
8. FOOD STAMP CHANGE REPORT FORM (DSS-3151) -
- a. The local district must provide all households with a Change Report Form and pay the postage necessary to return the report form. The form is to be:
 - (1) Provided at the time of certification to newly certified households,
 - (2) Provided at recertification,
 - (3) Replaced whenever a household reports a change.

NOTE: The local district may, at their option, provide households with a Change Report Form more often.

- b. At a minimum, the following information must be sent to the household on the Change Report Form:
 - (1) A space for the household to report whether the change shall continue beyond the report month.
 - (2) The civil and criminal penalties for violations of the Food Stamp Act, written in understandable terms in prominent and bold face lettering.
 - (3) A reminder of the household's right to claim actual utility costs if the costs exceed the standard.

Reference	Related Items	TASB
04 ADM 02	Sponsored Aliens (<u>FSSB</u>)	Chapter 5
02 ADM 7	Licensed Vehicles (<u>FSSB</u>)	
01 ADM-9	Losing Exemption Status (<u>FSSB</u>)	
01 INF-05		
03 INF-33		
GIS Message (01 TA/DC010)		
GIS Message (2000 TA/DC012)		

Local District Action**POLICY**

1. DOCUMENTING REPORT - The local district shall document the date the change is reported, and take prompt action to determine if the reported change affects the household's eligibility or benefit level.

Household change reported by telephone or in person must be acted on in the same manner as those reported on the Change Reporting Form.

When the change does not alter the benefit level, the local district must:

- a. Document the information in the case file,
 - b. Send another change reporting form to the household, and
 - c. Notify the household of the change's effect on its eligibility or level of benefits.
2. INCREASING BENEFITS -
 - a. For changes which results in an increase in a household's benefit, other than changes described in item b. below, the local district must make the change effective not later than the first allotment issued 10 days after the date the change was reported to the local district.

EXAMPLE: A \$30 decrease in income reported on the 15th of May would increase the household's June allotment. If the same decrease were reported on May 28, and the household's normal issuance cycle was on June 1, the household's allotment would have to be increased by July.

- b. For changes which result in an increase in a household's benefits due to an addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, the local district shall make the change effective not later than the first allotment issued 10 days after the date the change was reported.

However, in no event shall these changes take effect any later than the month following the month in which the change is reported. Therefore, if the change is reported after the 20th of a month and it is too late for the local district to adjust the following month's allotment, the local district must issue supplementary benefits or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th day of the following month, or the household's normal issuance cycle in that month, whichever is later.

EXAMPLE: A household reporting a \$100 decrease in income at any time during May would have its June allotment increased. If the household reported the change after the 20th of May and it was too late for the local district to adjust the benefits normally issued on June 1, the local district should issue supplementary benefits for the amount of the increase by June 10.

3. VERIFYING CHANGES - The local district shall verify changes, reported during the certification period in accordance with the same verification procedures as apply at initial certification. However the local district shall not verify changes in income, total medical expenses or actual utility expenses which are unchanged or have changed by \$100 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. Districts will not reduce the deductions for child care, Medical or Excess shelter between recertification.
 - a. TIME ALLOWED TO PROVIDE VERIFICATION - The local district must allow the household 10 days from the date the change is reported to provide verification. The time frames shall run from the date the change was reported, not from the date of verification. If, however, the household fails to provide the required verification within 10 days after the change is reported but does provide the verification at a later date, then the time frames for taking action on changes shall run from the date verification is provided rather than from the date the change is reported.
 - b. REFUSAL TO COOPERATE - In cases where the local district has determined that a household has refused to cooperate, as defined in **FSSB Section 4**, the local district shall terminate the household's

eligibility following the notice of adverse action.

4. **RESTORING LOST BENEFITS** - If the local district fails to take action on a change which increases a household's benefit within the time limits specified above, all lost benefits shall be restored to the household as detailed in **FSSB Section 10**.
5. **DECREASING BENEFITS** - If during the certification period the household's benefit level decreases or the household becomes ineligible as a result of the change, the local district shall issue an adverse action notice to the household. This may be accomplished by using the Client Notice System on WMS or by mailing a Notice of Intent to Change FS Benefits (DSS-3620) within 10 days of the date the change was reported. The notice must be timely (mailed at least 10 days before the the date upon which the proposed action is to become effective). The notice of adverse action expires 10 days after it has been mailed.

The decrease or termination in the benefits must be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

Verification which is required must be obtained prior to recertification.

NOTE: Only an adequate (see FSSB Section 7 for a definition / details of an adequate notice) notice is required (it does not have to be timely, as indicated above) for a decrease or ineligibility as a result of a change in the first month of the household's certification period following recertification.

6. **FAILURE TO REPORT** - The local district must file a claim against the household when it discovers that a household failed to report a change as required and received benefits to which it was not entitled.

NOTE: Procedures for filing claims are detailed in FSSB Section 15.

If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are to be reduced.

- a. A household shall not be held liable for a claim because of a change in household circumstances which it is not required to report.
- b. Individuals cannot be terminated for failure to report a change, unless the individual is disqualified for intentional program violation.

References

02 ADM-7
387.17
91 INF-3

Related Items

Verification At Recertification ([FSSB](#))
Required Application Information ([FSSB](#))
Restoration of Lost Benefits ([FSSB](#))
Claims Against Households ([FSSB](#))

TASB

Chapter 5

Public Assistance Households**POLICY**

TA households must report changes for food stamp eligibility and benefits in the same manner as any other household certified for food stamps and may use the Change Report form. TA households which report a change to a TA EW must be considered to have reported the change for food stamp purposes as well.

1. CHANGE IN TA GRANT -

a. **SUFFICIENT INFORMATION TO DETERMINE FOOD STAMP ELIGIBILITY** - If a change reduces or terminates a household's TA grant during the food stamp certification period, and the local district has sufficient information to determine the effect on the food stamp eligibility and benefits, the local district must take the following action:

- (1) If both the TA grant and food stamp benefits are reduced or terminated, the local district should issue a single adverse action notice for both the TA and food stamp actions.
- (2) If the household requests a fair hearing within the period listed on the adverse action notice, the household's food stamp benefits must be continued on the strength of its most recent certification. The household must reapply for food stamp benefits if its certification period expires before the fair hearing process is completed.
- (3) If the household does not appeal the decision, the change must be made for the first regular issuance period after the expiration of the 10 day adverse action notice.
- (4) If the TA grant reduction or termination increases the household's food stamp benefits, the local district must issue the TA adverse notice. The household's food stamp benefits cannot be increased until it is known whether the household plans to appeal the adverse action.

If the household appeals and the TA grant is continued, the household's food stamp benefits must continue at the previous level.

- (5) If the household does not appeal, the local district must make the change effective for the first regular issuance period after the expiration of the TA adverse action notice.
- (6) Any benefits lost due to the local district's failure to act within the time limit must be restored to the household.

b. **INSUFFICIENT INFORMATION TO DETERMINE FOOD STAMP ELIGIBILITY** - Whenever a change terminates a household's TA grant during its food stamp certification period the household must be evaluated for TBA eligibility. If the household is TBA ineligible and sufficient information to determine the effect of the change on the household's food stamp eligibility and benefits is not available, the local district must take the following action:

- (1) When a TA adverse action notice has been sent, no action can be taken until the household's notice expires or the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its TA benefits continue pending the appeal, the household's food stamp benefits must continue without change.
- (2) If a TA adverse action is not necessary, or the household did not request a fair hearing and continuation of the TA grant, the household must be sent a food stamp expiration notice stating that the certification period will expire at the end of the month after the month in which the expiration notice is sent. The notice will explain that the household can reapply if it wishes to continue Food Stamp Program participation. Also, the notice will advise that the certification period is expiring because of household changes which may affect its food stamp eligibility and benefits.

Policy (01 ADM-16)**Transitional Benefit Alternative (TBA)**

TBA is the Federal provision that permits NYS to provide transitional food stamp benefits to households leaving TANF to further support welfare reform goals and transitional supports for working families. The process and benefit calculation are described in 01 ADM 16, 02 ADM 7 and ABEL Transmittals 01-5 and 02-05. The AutoTBA Food Stamp process is outlined in WMS/CNS letter dated 1/31/04.

Local districts must determine TBA eligibility when a TA case closes and provide 5 months of FS benefits. TBA is not available to households that at case closing;

1. fail to comply with certain FS program requirements, or
2. to households leaving Safety Net Assistance (SNA) or
3. converting from FA to SNA or
4. do not have an active FS case

1. Eligibility for TBA

- a. FS households that will be entitled to TBA are limited to recipients leaving FA (Case Type 11), including CAP recipients, and Federally Participating Safety Net recipients (Case Type 12). Eligible households will include those consisting of FA recipients and non-FA recipients (Upstate Food Stamp Mixed case type) whose FA cases are closing, as long as the households no longer receive TA benefits and the households meet all other TBA eligibility criteria.
- b. FA time-limit cases that are closing for failure to respond to a FA reassessment or SNA application call-in, or fail to sign a SNA repayment agreement or earnings assignment, will qualify for TBA unless they fall under the TBA exceptions listed below.
- c. Households that do not receive FS benefits at the time of FA case closing, but subsequently apply for food stamp benefits, are not eligible for TBA. Households leaving Safety Net cash (Case Type 16) or Safety Net Non-Cash (17) are not eligible for TBA.

2. Local districts must provide the TBA to all families who leave FA, except those noted below.

- a. Local districts must not provide the TBA to a household leaving FA if it includes a member who, at the time of the closing, has:
 - (1) Violated a TANF requirement and the local district is imposing a comparable FS sanction or closing, e.g., failed to provide a social security number or to recertify;
 - (2) Violated a FS work requirement;
 - (3) Committed a FA or FS intentional program violation (IPV); or
 - (4) Failed to comply with FS reporting requirements, e.g., the local district discovered unreported income or resources through computer matching, indicating noncompliance with FS reporting requirements. When evaluating TBA eligibility, local districts are reminded to consider whether a FA/food stamp case that is subject to six-month reporting requirements for FS has complied with FS reporting requirements, even if it has not complied with a higher standard of reporting requirements for FA.
- b. Households that have a member who incurred **and completed** a sanction or IPV disqualification prior to the closing of the FA case, if otherwise qualified, are eligible for the TBA. Local districts must ensure that TA staff carefully evaluate the TA category of assistance and reason for the FA closings to determine TBA eligibility.
- c. Households that are not eligible for the TBA may still be eligible for FS benefits. Local districts must determine their continued eligibility based on normal FS separate determination procedures. Local districts

are reminded that this must be accomplished without shortening the certification period or requiring households to report for an in-office interview. Instead, as instructed by 01 ADM 8, when information is needed during the certification period, local districts must send the LDSS-4753 "Request for Contact Notice" and allow households at least ten days to submit the required information. See FSSB Section 6.

3. Determining the TBA Amount

- a. All transitional FS benefits will be calculated by removing the TA income from the pre-TA closing FS budget. No other changes or budget comparisons will be made and transitional benefits remain frozen at the set level until the household recertifies. Transitional households are not required to report changes during the transition period. Households experiencing changes that would result in benefit increases may request to be recertified before the expiration of the five-month transitional period, thereby ending their transitional period early. Households will be notified that they may voluntarily report changes that may result in an increase in FS benefits, but that they must recertify to receive the increase and end their transitional benefit period.

The following rules apply to client-requested recertifications for transitional FS households:

- Households must be allowed to file a client-requested recertification at any time during the transition period.
- Unless conducted on the same day as the recertification filing date, client-requested interviews must be scheduled as soon as possible, but no later than 10 days prior to the end of the month following the month in which the recertification is requested. A transitional FS household that fails to show for a scheduled interview must have their transitional FS benefits continued until the end of the transition period.
- Only changes voluntarily reported and verified through a client-requested recertification that will result in an increase in food stamp benefits will "unfreeze" the FS benefit. These households will be recertified and the increased FS benefit will be issued for the new certification period that will begin with the month after the month in which the household completes all recertification requirements. A transitional FS household that requests an early recertification, but fails to provide required verification or reports changes that result in a decrease in benefits, will continue to receive its transitional FS benefits unchanged until the end of the transition period.

4. Determining the Transition Period

- a. Districts must authorize five months of transitional benefits for Family Assistance and Safety Net-Federally Participating leavers who are eligible for transitional benefits. The five months must be issued even if it results in extending a household's certification period beyond the 12-month limit imposed on most cases. WMS modifications will support the five-month transition period for households starting their transition period on October 1, 2002 or later.

Example: A Family Assistance (FA) household is certified from 10/1/02 to 09/30/03. The household closes FA effective 8/31/03 due to excess earned income. The household would receive transitional food stamp benefits from 9/1/03 to 1/1/04. The original TA/FS certification period is extended four months beyond the 12-month limit to allow five months of transitional food stamp benefits.

5. **Recertification** All transitional FS households must recertify in order to continue to receive FS after the five-month transitional period. In some instances, this will require districts to shorten the original FS certification period. The authority to shorten the FS certification period for transitional households only is the result of the statutory change in P.L. 107-171.

Example: A FA household is certified from 10/1/02 to 09/30/03. The household closes FA effective 11/30/02 due to excess earned income. The household qualifies for transitional FS benefits from 12/1/02 to 4/30/03 and the household must recertify to receive (non-transitional) FS benefits beyond 4/30/03.

6. Notification of TBA Eligibility

- a. Local districts must notify a household when it is determined to be eligible for TBA, and inform the household of its food stamp benefit amount, transition period, change reporting requirements through early recertification and that a return to TA would end the TBA. The WMS Auto TBA process in both Upstate and NYC, will system generate required notification. This can also be manually accomplished by using CNS codes for separately determining FS eligibility. For TA/food stamp cases the CNS Code J05 used with FS opening codes B18 or B19 (for FS Mixed cases, B20 or B21) CNS will generate the appropriate TBA language when a "T" is entered in the "SD" input field of the ABEL budget to calculate TBA benefits.

7. Reporting and Processing Changes During the Transition Period

- a. Households are not required to report changes during the TBA period. TBA households that are subject to six-month reporting rules are **not** required to during the TBA period even if their gross monthly income exceeds 130 percent of their poverty level.
- b. If the household requests to have its FS case closed during the TBA period, however, the local districts will close the case.
- c. TBA households are not subject to sanctions for instances of non-compliance with FS employment and training requirements that occur during the TBA period.
- d. When a TBA household moves to another local district during the TBA period, the "from" local district must continue the TBA case to the end of the TBA period. Changes reported and verified during the TBA period that will result in an increase in FS benefits must be processed by the "from" local district. When an active TBA household applies for FS benefits in a new local district, the WMS clearance report for Upstate local districts will reflect an active FS case. The presence of a "T" in the "SD" (Separate Determination) field of the ABEL FS budget will identify a case as TBA.

References

WMS CNS Letter 1/31/04
ABEL Transmittal 01-5, 02-5
02 ADM 7
01 ADM-16
01 ADM-8

Mixed Households**POLICY**

When a local district becomes aware that a TA household has become a mixed household due to the addition of a non-TA household member or the deletion of a member from the TA grant, the following procedures shall be follows:

1. If the local district has enough information to redetermine food stamp eligibility and benefit level, it must do so according to normal procedures for changes in household circumstances in currently certified cases.
2. If the local district does not have sufficient information to redetermine eligibility, it shall send the household a Request For Contact (RFC) with out shortening the households certification period. The households FS case must continue unless any new income would exceed the 6 month reporting income threshold.

References

01 ADM-8

01 ADM-9

Reconstituted Households

ISSUING BENEFITS - In the month an original food stamp household separates, no additional benefits may be issued to any leaving members applying separately on their own behalf (except as residents of shelters for battered women and children), since during the month those individuals participated as members of the original household.

The separated household members applying on their own behalf, if satisfying the definition of a food stamp household and otherwise eligible, shall, however, be entitled to benefits for the month following the month they separate from the original household. This is the case even if the separating members leave the original household at a time in the month where the local district issues a notice of adverse action to the original household. The notice, for example, would not expire until two months following the month the household members separated.

The separated household members in this instance are determined not to have participated as members of the original household in the month following the month they separated from the original household, even though benefits issued to the original household for this month are determined as if the separated members are still members of the original household.

This circumstance presents no basis for filing a claim of overissuance against the original household unless resulting from an untimely reporting of a change in household circumstance by the original household.

EXAMPLE:

Alice Jones and her two children reside with her sister Mary Smith and her two children. Together they comprise one food unit with Mrs. Jones designated as head of household for receipt of food stamp benefits.

On July 1, the Jones household receives its normal issuance of food stamp benefits. On July 22, Mrs. Smith and her children move out of the Jones household and apply as their own separate food stamp household. If otherwise eligible, benefits are issued to the new Smith food stamp household effective August 1, with the Smiths having already participated as members of the Jones household for the month of July.

The local district subsequently issues a notice of adverse action to the Jones household on July 22, reducing their benefits effective September 1. Since this reduction notice cannot expire prior to the August issuance date, the August allotment for the Jones household must be the same amount as in July even though this amount includes the Smith members. If otherwise eligible, the Smith household is then issued benefits separately for August and no overissuance has occurred.

Related Item

Certification ([FSSB](#))

Mass Changes**POLICY**

1. DEFINITION - A mass change is a change initiated by the State or Federal Government which affects the entire caseload or significant portions of the caseload. These changes include but are not limited to:
 - a. Adjustments to the gross or net income eligibility standards, the shelter and dependent care deductions, the Thrifty Food Plan and the standard deduction;
 - b. Adjustments to the Standard Utility allowances for heat, other utilities and telephone;
 - c. Periodic cost-of-living adjustments to Retirement, Survivors and Disability Insurance (RSDI), Supplemental Security Income (SSI) or other Federal benefits,
 - d. Adjustments to TA benefits;
 - e. Changes in eligibility and benefit criteria based on legislative or regulatory changes.
2. MASS CHANGES IN PUBLIC ASSISTANCE -
 - a. When there is at least 30 days advance knowledge of the TA adjustment amount, the local districts must change all TA/FS household FS benefits in the same month they make the general TA change.
 - b. When the local districts do not have 30 days notice of the TA adjustment amount, the FS benefit change must be effective no later than the month after the month in which the TA change was made.
3. MASS CHANGES IN FEDERAL BENEFITS (RSDI AND/OR SSI) -
 - a. Households which receive RSDI, SSI and/or veteran's assistance and which are not subject to quarterly reporting requirements are not responsible for reporting a cost of living increase to the local district. The FS benefit levels of such households are to be automatically adjusted effective the date of the increase. The exact amount of the new RSDI, SSI, and/or veteran's assistance benefits must be verified at the next client contact or the next regularly scheduled recertification interview. Readily available sources of documentation such as federal or state reports are to be used to verify the actual amount of the increase. Any difference between the flat computation and the actual increase will not be considered a Quality Control error until after first client contact.
 - b. The benefits of households subject to quarterly reporting which are affected by a cost of living increase in RSDI, SSI and/or VA must also be automatically adjusted effective in the appropriate month. However, households subject to quarterly reporting requirements are also required to report the change and provide verification of the change on the appropriate quarterly report.
4. NOTICE REQUIREMENTS - FS households must be notified of any increase, decrease or termination of benefits, which results from a mass change. For specific requirements see **FSSB Section 7**.
5. FAIR HEARINGS AND CONTINUATION OF BENEFITS - A household is entitled to a fair hearing as a result of a mass change to contest issues of improper computation of eligibility or benefits or misinterpretations of Federal law or regulation. The household is entitled to continued benefits at its previous level while awaiting the result of the fair hearing, if the appropriate time frame for requesting the hearing is observed and the household does not specifically waive its right to a continuation of benefits. Also see **FSSB Section 8**.

References**Related Items**

- | | |
|---------|---|
| 358-2 | Notice Requirements - Mass Change (FSSB) |
| 358-3.6 | Fair Hearings (FSSB) |

Verification At Recertification

POLICY

The local district shall use the initial certification period procedure to verify changes reported since the last recertification.

AT RECERTIFICATION THE LOCAL DISTRICT SHALL VERIFY THE FOLLOWING:

- Income, changes must be verified if the source or the amount has changed by more than \$50.00.
- Medical and utility expenses must be verified, if the source or the amount has changed by more than \$25.00.

NOTE: The local district shall not verify income, medical or utility expenses if the source has not changed or if the amount is unchanged or has changed \$50.00 or less for income and \$25.00 or less for medical and utility expenses **unless** the information is incomplete, inaccurate, inconsistent or outdated.

6. Newly obtained Social Security numbers (SSN) and/or SSNs that have not been verified previously.

NOTE: Individuals who refuse to verify their SSN shall be excluded from the Food Stamp Program.

7. The date of birth of new household members or dates of birth that have not been verified previously.
8. Changes in items other than income, medical expenses or actual utility expenses shall be subject to the same verification procedures as at initial certification. Some examples are:
 - a. Dependent care cost (unless questionable) may be reverified only if the care provider has changed, or the amount has changed and the change could potentially affect the level of the deduction.
 - b. Shelter costs, other than utilities, may (if not questionable) be reverified only if the household has moved, or has reported a change in the amount of shelter cost components and the change could potentially affect the level of deduction.

If the household reports a change in the cost of particular shelter components, only those components that have changed may be reverified.

- c. A household's eligibility to claim the standard utility allowance may be reverified (unless questionable) only if the household has moved or changed utilities.

NOTE: Unchanged information shall not be verified at recertification unless the information is incomplete, inaccurate, inconsistent or outdated.

NOTE: The rationale for verifying information, other than that which is required at recertification, must be documented in the case file.

Reference	Related Item	TASB
91 INF-3 02 ADM-7	Questionable Information (E SS B)	Chapter 5
CFR 273.2 (F) (8) (I)		

Reduction/Termination Of Benefits Of Households Containing Ineligible/Disqualified Individuals**POLICY**

REDUCTION OR TERMINATION OF BENEFITS WITHIN THE CERTIFICATION PERIOD - When an individual becomes ineligible or disqualified during the certification period, the eligibility of the remaining household members should be based to the extent possible on case file information.

1. INTENTIONAL PROGRAM VIOLATION - When a household's benefits are reduced or terminated within the certification period because a member has been disqualified, the local district must notify the remaining members of their eligibility and benefit level at the same time the disqualified individual(s) is notified of his/her disqualification, using "IPV Disqualification Notice for TA and FS Programs" (Attachment V of 93 ADM-8). See **FSSB Section 15**.

The household is not entitled to a notice of adverse action but it can request a fair hearing to contest the reduction or termination of benefits, unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing.

2. INELIGIBLE ALIEN/REFUSAL TO APPLY FOR OR PROVIDE AN SSN/FAILURE TO COMPLY WITH WORK REGISTRATION OR WORK REQUIREMENTS - If a household's benefits are reduced or terminated within the certification period, the local district shall issue a notice of adverse action (DSS-3260). The notice of adverse action shall:
 - a. Inform the household of the ineligibility/disqualification;
 - b. The reason for ineligibility/disqualification;
 - c. The eligibility and benefit level of the remaining members;
 - d. The actions the household must take to end the ineligibility/disqualification; and
 - e. Household's right to a fair hearing.

References

387.16
93 ADM-8
89 ADM-21

Disqualification for Intentional Program Violation

Overview

POLICY

This section describes the processes and procedures that must be followed when a FS recipient is accused of intentionally violating the requirements of the FS program in a fraudulent manner. If such a recipient is found to have committed an intentional program violation (IPV), the recipient may be disqualified from participation in such program for the periods of time set forth in **FSSB Section 6**.

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

Reference	Related Item	TASB
359.0 399.11	Penalties (<u>FSSB</u>)	Chapter 5

Definitions

POLICY

1. FS-IPV means the commission of one or more acts in violation of standards for the FS program. An FS-IPV occurs when an individual has intentionally:
 - a. Made a false or misleading statement, or misrepresented, concealed or withheld facts concerning the individual's eligibility for FS; or
 - b. Committed any act constituting a violation of the requirements of the FS program, including, but not limited to, acts constituting a fraudulent use, presentation, transfer, acquisition, receipt, possession or alteration of FS coupons, CBICs, or BINs or any other evidence of the individual's eligibility for FS.
2. ADMINISTRATIVE DISQUALIFICATION HEARING - Administrative disqualification hearing means a hearing scheduled by the Department, at the request of a local district, upon the submission by the local district of sufficient documentary evidence to establish that an individual has committed one or more acts in violation of program standards described in paragraph 1 above.
3. WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING - Waiver of administrative disqualification hearing means an election of an individual, in compliance with the provisions of **FSSB Section 6**, to accept the imposition of an appropriate penalty contained in **FSSB Section 6** without a hearing.
4. DISQUALIFICATION CONSENT AGREEMENT - Disqualification consent agreement (DCA) means a document signed by an accused individual in which an individual or any caretaker relative or head of household admits to committing an IPV and consents, as described in **FSSB Section 6**, to the imposition of an appropriate disqualification penalty, as set forth in **FSSB Section 6** without a trial.
5. HEAD OF HOUSEHOLD - The head of household is the member of the applicant household designated by the household to represent the household in all matters pertaining to its eligibility for and receipt of benefits. The head of household classification must not be used to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household, appear at the certification office to apply for benefits.

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

References	Related Item	TASB
359.1	399.1	Chapter 5
359.3	8-A-2	
399.11		

Responsibilities**POLICY**

1. **DUAL RESPONSIBILITY** - The Department and local districts have the responsibility for investigating the alleged commission of IPV and ensuring that the procedures set forth in this Section are followed.
2. **CHANGE IN REGULATION** - Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.
3. **ADMINISTRATIVE HEARINGS** - Administrative hearings for FS-IPV may be scheduled by the Department, provided that not more than six years have elapsed between the month an individual committed an IPV and the date on which the local district discovered the IPV, and the Department determines that there is evidence to substantiate that an IPV has occurred.
4. **INADVERTENT HOUSEHOLD ERROR** - Unless specifically granted written authorization to proceed directly on an FS-IPV by either a local official or his or her authorized representative or the appropriate district attorney, or by any other prosecutor authorized to act on the matter, on the grounds that to do otherwise would prejudice the prosecution of an FS-IPV allegation, a local district must initially treat the allegation as an inadvertent household error prior to either referring the case to the district attorney or processing the allegation for an administrative disqualification hearing. A local district's failure to comply with the provisions of this Section will not affect the Department's determination at a hearing or a court's determination when an allegation is referred by a local district to the appropriate district attorney or any other prosecutor for prosecution. Non-compliance with the provisions of this section will not affect the amount of any FS allotment reduction authorized in **FSSB Section 6** after a hearing decision is issued that an FS-IPV has occurred.
5. **Local District Investigation Unit Operations Plan** - Local Districts must file their Investigation Unit Plan with the Department by July 1, 1993. This plan must include:
 - a. A brief description of the organizational units responsible for the investigation and prosecution of allegations of client fraud;
 - b. A brief description of any claims establishment (recoupments) and collection activities for which this organizational unit may also be responsible;
 - c. An explanation of the coordination between the investigation units and the prosecutor, i.e. courts in which cases of alleged fraud are heard, referral process, etc.;
 - d. An explanation of how it is proven that the individual was advised on the record of the court of the disqualification provision prior to entering any plea; and
 - e. A copy of or a statement of the agreement with the District Attorney's office in accordance with Department Regulation 348.2(c).

All Plans must be submitted to:

**New York State Department of Social Services
Audit and Quality Control - Case Integrity Unit
40 North Pearl Street
Albany, NY 12243**

Local districts must report information on individuals who have been found to have committed IPV's in the FS program to the Department's Case Integrity Unit. The disqualification report form that should be used will be forwarded at a later date under separate cover.

6. Referral to the Investigation Unit - When an inconsistency in the facts of a FS case is discovered, the FS worker must document the inconsistency, including the amount of any over-issuance and determine whether it was the result of a potential IPV.
 - a. If the worker has reason to suspect an individual has committed an act which may be an IPV, the worker starts the recoupment.
 - b. For TA, a timely and adequate notice must be sent and if there is a FS impact, a repayment agreement must also be sent. This may be done concurrently with referring the case to the local district's Investigation Unit.
 - c. The procedures for making the referral must be established by the local district.
 - d. The Investigation Unit then conducts an investigation of the alleged/potential IPV. There does not have to be an actual overpayment and/or over-issuance to be an IPV.
 - e. If the Investigation Unit determines that the allegation is unfounded or that all the elements necessary to process the case further as an IPV are not present (e.g. unavailability of pieces of documentary evidence required to prove the intent of the client), no further action is taken and the eligibility worker is notified to begin the recovery of over-issuances if this has not already begun.

Reference	Related Item	TASB
359.2	399.2	Chapter 5
399.11		
93 ADM-8		

Referral To Prosecuting Authorities

POLICY

The local district must refer a case involving an FS-IPV in which it believes the facts warrant civil or criminal prosecution to the appropriate District Attorney (DA) or to any other prosecutor authorized to action the matter, and not to the Department for an administrative disqualification hearing. This will not apply in instances in which the local district has received prior notification from the DA, or other equivalent prosecutor that the amount of the overpayment or overissuance determined by the district to exist is less than the amount which the appropriate official has deemed sufficient for prosecution, provided that the local district has not been notified by any other prosecutor authorized to act on the matter that such prosecutor intends or desires to prosecute such matter. The Department may not reverse a determination following an administrative FS disqualification hearing for lack of compliance with this provision.

NOTE: Conviction of or a plea of guilty to violation of SSL 145.1 does NOT establish guilt of a Food Stamp Intentional Program Violation (IPV) since SSL 145.1 addresses public assistance or care and omits food stamps. NPA cases and the food stamp portion of TA cases, therefore, should NOT be prosecuted under SSL 145 and should not be treated as IPVs.

A conviction for the misuse of food stamps under SSL 147 or any section of the Penal Law should be categorized as an IPV.

1. DEFERRED ADJUDICATION - When a case is accepted for prosecution, the appropriate prosecutor may choose to settle the case or a court of appropriate jurisdiction hearing the case may issue an order, such as an order, adjourning the case in contemplation of dismissal provided that restitution is made. In such cases, the local district may use a DCA as described below.
2. DISQUALIFICATION CONSENT AGREEMENT (DCA) - A disqualification consent agreement is a document in which an individual and head of the household consent to the imposition of the appropriate disqualification penalty contained in **FSSB Section 6** without a trial. In cases of deferred adjudication, the local district may utilize a disqualification consent agreement under the following conditions:
 - a. Local districts which choose to use disqualification consent agreements must enter into a written agreement with the appropriate prosecutors which specifies that all households will be provided with advance written notification of the consequences of signing a disqualification consent to all households when deferred adjudication is offered.

Since each prosecutor's office may have its own requirements for an agreement, each local district should design its own format for the written agreement between the local district and the appropriate prosecutors. Once the written agreement is signed, a copy must be forwarded to the New York State Department of Social Services, Case Integrity Unit, as must all future agreements and modifications.

- b. Because no further administrative appeal is available to a client who has entered into a DCA, it is important that the local district do a complete and thorough investigation of the allegation.
 - (1) Additionally, an adequate screening and review process must be established to ensure that only appropriate cases are referred to the appropriate prosecutor. Evidence packages referred to the DA must sustain the local district's contention that an Intentional Program Violation has occurred.
 - (2) A DCA is to be used only when the appropriate prosecutor has determined that the elements necessary to pursue a prosecution are present and has accepted the case for prosecution.
- c. Unless a DCA is completed by the appropriate prosecutor's office directly, the DA must provide written delegation for each case in which the local district is being authorized to act on the appropriate prosecutor's behalf in obtaining a DCA. This delegation must state that the case has been accepted for prosecution by the appropriate prosecutor, but such prosecution will be deferred if the client enters into the DCA.
- d. In all DCA cases, the advance written notification of the consequences of entering into a DCA must be sent by the local district at least ten calendar days before the date of the scheduled interview to discuss signing the DCA. This advance notification appears on the front page of the DCA currently used by the

local districts.

In the past, this form was generally not provided to the client until the interview.

- (1) All local districts must now review their procedures to ensure that a copy of the DCA with the advance notice language is provided at least ten days before the client is required to meet with the county representative to discuss signing the DCA.
 - (2) The accused client's understanding of the consequences of entering into a DCA is evidenced by signing the consequences statement.
 - (3) If the accused client who signs the consequences statement is not the head of the household, the consequences statement must also be signed by the head of household.
- e. The form to be used in completing the DCA, which combines the advance notice, is Attachment I of 91 ADM-51. This form must be produced locally with no variations.
- f. A DCA must be in a format prescribed by the Department and must include:
- (1) Notification to the accused individual of the consequences of signing the agreement and consenting to a disqualification penalty;
 - (2) A statement for the accused individual to sign indicating that he or she understands the consequences of signing the agreement, along with a statement that any caretaker relative or head of household must also sign the agreement if the accused individual is not the caretaker relative or head of household;
 - (3) A statement that signing the agreement will result in disqualification of the accused individual and reduction or discontinuance of assistance or food stamps for the disqualification period, even if the accused individual was not found guilty of civil or criminal misrepresentation or fraud;
 - (4) A statement describing the disqualification period which will be imposed as a result of the accused individual's signing the agreement; and
 - (5) A statement that the remaining members of the household or assistance unit, if any, will be held responsible for repayment of the overpayment or over-issuance, unless the accused individual has already repaid the overpayment or over-issuance as a result of meeting the terms of any agreement with the prosecutor or any court order.
- g. The advance notice appointment letter must contain the information that the client is entitled to have a representative present when executing the DCA.

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

References	Related Items	TASB
359.4	SSL 147	Chapter 5
399.11	399.1	
93 ADM-8	399.3	
91 ADM-51	399.4	
	399.5	

Commencement Of The Administrative Disqualification Hearing Process**POLICY**

Upon discovering and determining that an IPV may have occurred, the local district must document the determination and reach a conclusion as to whether the documented acts constitute an IPV in accordance with the definitions described in **FSSB Section 6**.

1. If the local district concludes that the documented acts resulted in an IPV and that referral, in accordance with **FSSB Section 6**, to the appropriate prosecutor authorized to act on the matter, is not warranted or not possible due to the amount in issue, the local district may process the case for an administrative disqualification hearing.
2. If the local district refers an overpayment or over-issuance to the appropriate prosecutor authorized to act on the matter, and that prosecutor declines to prosecute or fails to take action on the referral within a reasonable period of time, and the local district elects to initiate the process for an administrative disqualification hearing, the local district must formally withdraw in writing the referral to the prosecutor before referring the case to the Department.

Failure to present evidence of such a formal written withdrawal either in its evidentiary transmittal to the Department or at the hearing may result in an administrative disqualification hearing decision adverse to the local district.

3. If the local district elects to process a case for an administrative disqualification hearing, it must assemble documentary evidence which the local district believes is sufficient on its face to support its determination of IPV and forward the evidence in the form of an evidentiary packet to the Office of Administrative Hearings, New York State Department of Social Services, with a request that the Department schedule an administrative disqualification hearing.
4. If the local district processes a case for an administrative disqualification hearing for a FS-IPV and the factual issues arise from the same or related circumstances as a case for an HR/PG-ADC-IPV or ADC-IPV, the cases must be consolidated and the local district must submit with the required evidentiary packet a statement of the particular IPV being alleged and the sanction sought to be imposed for each such IPV being alleged.
5. The evidentiary packet forwarded by the local district to the Department accompanying the local district's request for an administrative disqualification hearing must have consecutively numbered pages, must be submitted in three copies for each accused individual and must include, but not be limited to, the following:
 - a. The full name (including middle name), the complete address (including county of residence), the social security number, the case number and the date of birth of the person(s) charged and against whom a disqualification penalty is sought;
 - b. A list of the particular charge(s) and the individual or individuals against whom a disqualification is sought, together with any statement required by paragraph 4 above if cases are consolidated;
 - c. A summary of the evidence to be introduced;
 - d. A listing of the names, titles and phone numbers of all local district personnel and witnesses who will appear in support of the determination;
 - e. An itemized list of all the exhibits included in the packet with the page number(s) on which each exhibit is found;
 - f. Copies of all documents to be used in support of the local district's determination;
 - g. Information as to when and where the original evidence exhibits submitted in the case may be reviewed;
 - h. Information as to the availability of free legal services; and
 - i. A statement indicating whether the individual previously has been determined to have committed an IPV by either a court of competent jurisdiction or an administrative disqualification hearing decision or whether the individual previously has waived attendance at an administrative disqualification hearing or previously has signed a DCA. If the person previously has been determined to have committed an IPV or previously has waived attendance at an administrative disqualification hearing or previously has signed a

DCA, supporting documentation of such facts must be included in the evidentiary packet.

NOTE: Verification of actual benefits received is required when submitting the evidentiary packet.

6. Upon receipt of a local district's request for a hearing and accompanying evidentiary packet, the Department will review the packet to determine if it contains sufficient documentary evidence to substantiate that an individual has committed one or more IPV's in accordance with the definition described in **FSSB Section 6**. The Department also will determine whether the evidentiary packet satisfies the provisions of paragraph 5 above.
7. If the Department's review of the evidentiary packet indicates that there is either insufficient documentary evidence to establish that an IPV was committed or that the packet does not comply with the provisions of paragraph 5 above, the Department will return the packet to the local district and not schedule a hearing.

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

Reference	Related Items	TASB
359.5 399.11 399.7 93 ADM-8 94 INF-11	399.3	Chapter 5

Notification Of Administrative Disqualification Hearing**POLICY**

1. Following a determination that the evidentiary packet is sufficient, the Department must schedule an administrative disqualification hearing. The notice of administrative disqualification hearing which notifies the accused individual of the scheduled hearing must be mailed certified mail, return receipt requested, to the accused individual.
2. The hearing will be held at a time and place convenient to the accused as far as practicable, taking into account circumstances such as physical inability to travel to a regular hearing location.
3. When it mails the notice of administrative disqualification hearing to the accused individual, the Department must mail to the local district which requested the hearing a notification of the time, date and place of the hearing by regular mail.
4. A written notice of administrative disqualification hearing must be provided by the Department to an individual alleged to have committed an IPV in accordance with the definitions described in **FSSB Section 6**. This notice must be provided to the individual at least 30 days prior to the date of the administrative disqualification hearing. The notice must include:
 - a. The date, time, and place of the hearing;
 - b. The charge(s) against the individual;
 - c. A summary of the evidence and how and where the evidence may be examined;
 - d. A statement warning that the decision will be based solely on information provided by the local district if the individual fails to appear at the hearing;
 - e. A notification that the individual or the individual's representative may have an opportunity to examine all documents and records to be used at the hearing by calling an identified telephone number and making arrangements to examine the documents and records at a specified place, provided that confidential information, such as names of individuals who have disclosed information about the FS unit or the nature or status of pending criminal prosecutions, cannot be released;
 - f. Notification of the individual's right to:
 - (1) An adjournment, provided that such a request is made at least 10 days in advance of the scheduled hearing date. In addition, such notification must advise the individual that if an adjournment is requested less than 10 days prior to the scheduled hearing date, the individual must demonstrate good cause for requesting the adjournment;
 - (2) Present the case or be represented by legal counsel or other person;
 - (3) Bring witnesses;
 - (4) Advance arguments without undue interference;
 - (5) Question or refute any testimony or evidence;
 - (6) Confront and cross-examine adverse witnesses; and
 - (7) Submit evidence to establish all pertinent facts in the case;
 - g. Notification that the accused individual has the right to remain silent during the hearing process, but that inferences can be drawn from the silence of the individual;
 - h. A statement that upon request, a copy of Department Regulation 359 will be made available to the individual or his or her representative at the local district during normal business hours;
 - i. Copies of the sections of Department Regulation 359 relevant to the hearing process;
 - j. A citation of the Federal or State regulations governing the hearing and/or offense where appropriate;
 - k. A listing of legal aid and/or legal services organizations which are available to assist in the defense of the case;
 - l. A statement that the hearing does not preclude the State or Federal government from prosecuting the

individual for fraud in a civil or criminal court action, or from collecting an overpayment or recovering over-issuances of benefits;

- m. A statement that in order to receive a new hearing the individual or the individual's representative will have 10 days from the date of the scheduled hearing to present to the Department good cause reasons for failing to appear at the hearing;
- n. A description of the penalties that can result from a determination that the individual has committed an IPV and a statement of the penalty which is applicable to the individual; and
- o. An explanation that the individual may, in writing, waive his or her right to appear at an administrative disqualification hearing as provided in **FSSB Section 6**. This explanation must include:
 - (1) The date that the signed waiver must be received by the Department and a place in which the accused individual can sign his or her name. This explanation must also include:
 - (a) A statement that any caretaker relative or head of household must also sign the waiver if the accused individual is not the caretaker relative or head of household and a place in which such person can sign his or her name; and,
 - (b) The waiver statement must include an appropriately designated signature block in which such other individual can sign his or her name;
 - (1) A statement of the accused individual's right to remain silent concerning the charge(s), but that inferences can be drawn from the silence of the individual, and that anything said or signed by the individual concerning the charge(s) can be used against him or her in a court of law or at an administrative hearing;
 - (2) The fact that a waiver of an individual's right to appear at an administrative disqualification hearing may result in a disqualification penalty and a reduction or discontinuance of FS benefits for the appropriate period even if the accused individual does not admit to the facts as presented by the local district;
 - (3) An opportunity for the accused individual to specify whether or not he or she admits to the facts as presented by the local district;
 - (4) The telephone number and, if possible, the name of the Department employee to contact for additional information; and
 - (5) The fact that the remaining members, if any, of the household or assistance unit will be held responsible for the repayment of any overpayment or over-issuance.

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

Reference	Related Item	TASB
359.6 399.11 93 ADM-8	399.6	Chapter 5

Administrative Disqualification Hearings**POLICY**

Following a determination that the evidentiary packet is sufficient, the scheduling of an administrative disqualification hearing and the receipt of the notice required by **FSSB Section 6**, an administrative disqualification hearing will be conducted in accordance with the following requirements:

1. **CONSOLIDATED HEARING** - Where factual issues arise from the same or related circumstances, a consolidated administrative disqualification hearing will be held for an FS-IPV and an ADC-IPV or HR-IPV. All evidence, testimony and proof relating to the consolidated cases will be presented together, but separate findings will be made with respect to each separately alleged IPV.
2. **ADJOURNMENT** - An administrative disqualification hearing will be adjourned when:
 - a. The request for such adjournment is made at least 10 days in advance of the scheduled hearing date; or
 - b. The request for such adjournment is made less than 10 days prior to the scheduled hearing date and the individual demonstrates good cause for requesting the adjournment.

The hearing cannot be adjourned for more than a total of 30 days.

3. **RIGHTS IN THE ADMINISTRATIVE DISQUALIFICATION HEARING PROCESS** - The accused individual, or such individual's representative, must have adequate opportunity to:
 - a. Examine the contents of the individual's case file, and all documents and records to be used by the local district at the hearing, at a reasonable time before the date of the hearing and during the hearing;
 - b. Present the case himself or herself, or with the aid of an authorized representative;
 - c. Bring witnesses;
 - d. Establish all pertinent facts and circumstances;
 - e. Advance any arguments without undue influence; and
 - f. Question or refute any testimony or evidence including the opportunity to cross-examine adverse witnesses.
4. **CONDUCT OF AN ADMINISTRATIVE DISQUALIFICATION HEARING** -
 - a. The hearing officer must advise the accused individual that he or she may refuse to answer questions during the hearing.
 - b. The burden of proving that an accused individual has committed an IPV is on the local district.
 - c. All provisions in Department Regulation 358 and **FSSB Section 8-C-all** concerning the conduct of fair hearings which are not inconsistent with any of the specific provisions of this section are applicable to administrative disqualification hearings.
5. **DECISION AFTER AN ADMINISTRATIVE DISQUALIFICATION HEARING** -
 - a. The decision after an administrative disqualification hearing must be based exclusively on clear and convincing evidence and other material introduced at the hearing which demonstrates that an individual committed and intended to commit one or more IPV.
 - b. The decision after an administrative disqualification hearing must specify the reasons for the decision, identify the supporting evidence, identify the pertinent statutes or regulations and respond to reasoned arguments made by the individual or his or her representative.
 - c. The Department must conduct the hearing, arrive at a decision and forward the decision to the local district for implementing action within 90 days of the date of the notice of administrative disqualification hearing. In the event of a client-requested adjournment, this time limit will be extended by the number of days the hearing was postponed.
6. **DEFAULT OF AN ADMINISTRATIVE DISQUALIFICATION HEARING** -
 - a. If an accused individual cannot be located or fails to appear at a hearing scheduled pursuant to this section,

the opportunity to appear at the hearing may be considered to be defaulted by such individual unless the individual contacts the Department within 10 days after the date of the scheduled hearing and presents good cause reasons for the failure to appear. If such reasons exist, the hearing will be rescheduled. A determination that good cause exists must be entered into the record.

- b. If the opportunity to appear at a hearing has been defaulted by the accused individual in accordance with paragraph 6a above the hearing must be conducted without the accused individual being present. Even though the accused individual is not present, the hearing officer is required to consider the evidence carefully and determine if an IPV was committed based on clear and convincing evidence.
 - c. If an accused individual fails to appear at a scheduled administrative disqualification hearing and is found to have committed an IPV, but a hearing official later determines that the individual had good cause for not appearing, the previous decision will not remain valid and a new hearing will be scheduled and conducted. The hearing officer who presided originally at the hearing may conduct the new hearing.
7. ACCESS TO RECORD OF PROCEEDINGS - The transcript or recording of testimony, exhibits, or other official reports introduced at the hearing, together with all papers and requests filed in the proceeding, and the original or a true copy of the decision after an administrative disqualification hearing must be made available to the individual or to the individual's representative at a reasonable time and place.
8. REVIEW OF DISQUALIFICATION HEARING DECISIONS - A decision that an IPV has been committed cannot be reversed by a subsequent fair hearing. However, the disqualified individual is entitled to seek relief in a court having appropriate jurisdiction pursuant to article 78 of the Civil Practice Law and Rules. The period of disqualification may be subject to stay or other injunctive remedy ordered by such a court, but any period for which sanctions are imposed shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the sanctions were imposed is subsequently reversed by a court of appropriate jurisdiction.

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

Reference	Related Items	TASB
359.7	399.6	Chapter 5
399.11	399.7	
93 ADM-8	Fair Hearings (<u>FSSB</u>) Restoration of Lost Benefits (<u>FSSB</u>)	

Waiver Of An Administrative Disqualification Hearing

POLICY

1. An administrative disqualification hearing is waived when a waiver of administrative hearing document which is sent by the Department to an individual for whom the Department has scheduled an administrative disqualification hearing is properly executed by the individual or any caretaker relative or head of household, if the accused individual is not the caretaker relative or head of household, and received by the Department.
2. The Department will send written notification to the local district which had requested the hearing that it may impose the appropriate penalty contained in **PASB Section 5** upon sending a notice of disqualification to the individual, as described in **PASB Section 5**. A waiver of an administrative disqualification hearing must comply with the provisions of paragraph (o) of **PASB Section 5**.
3. A disqualification penalty which has been imposed following a waiver of an administrative disqualification hearing cannot be changed in a subsequent fair hearing. There is no right to appeal the penalty by a fair hearing.
4. Upon timely receipt of a properly executed waiver, the Department will notify the local district in writing of the cancellation of the scheduled administrative disqualification hearing and of the local district's responsibility to proceed with the recovery of any overpayment or over-issuance.
5. When an individual waives his or her right to appear at an administrative disqualification hearing, the disqualification and appropriate reduction or discontinuance of assistance must result regardless of whether the individual admits or denies the charges made by the local district.

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

Reference	Related Item	TASB
359.8	399.1	Chapter 5
399.11	399.8	
93 ADM-8		

Penalties**POLICY**

1. FS-IPV - Individuals found to have committed an FS-IPV, either through an administrative disqualification hearing or by a court of appropriate jurisdiction, or who have signed either a waiver of right to an administrative disqualification hearing or a DCA will be ineligible to participate in the Food Stamp program:
 - a. For a first non-drug or non-firearms or non-explosives related IPV, the disqualification periods are:

(1) First Offense	1 year
(2) Second Offense	2 years
(3) Third Offense	permanent
 - b. For a drug, firearms or explosives related IPV, the disqualification periods are:

(1) First finding by Court of controlled substance trafficking for coupons	2 years
(2) Second finding by Court of controlled substance trafficking for coupons	permanent
(3) First finding by Court of trading of firearms, ammunition or explosives for coupons.	permanent
2. COURT DETERMINES IPV - If a court of appropriate jurisdiction determines that an individual has engaged in conduct that would constitute an IPV in accordance with the definition described in **FSSB Section 6**, the local district must impose the penalties except as otherwise set forth below:
 - a. Notwithstanding the provisions of this section, an individual found guilty of an IPV must be disqualified from the FS program for the length of time specified by the court, if the court has imposed a disqualification period for such a violation.
 - b. With respect to an FS-IPV, if a court fails to impose a disqualification period, the local district must impose the disqualification penalties specified in paragraph #1 above, unless such imposition is contrary to the court order.
 - c. If disqualification is ordered by a court, but a date for initiating the disqualification period is not specified, the local district must initiate the disqualification period for currently eligible individuals within 45 days of the date the disqualification was ordered.
 - d. If disqualification is not ordered by a court, but disqualification must be imposed as the result of a criminal or civil court determination finding that an individual has engaged in conduct that constitutes an IPV, the local district must initiate the disqualification period for currently eligible individuals within 45 days of the date of the court determination.
3. DISQUALIFICATION - The local district must disqualify from the appropriate program(s) the individual(s) found to have committed an IPV, or who have signed a waiver of right to an administrative disqualification hearing or DCA in cases referred for prosecution, but not the entire assistance unit or household of such individual(s), except as provided in paragraph 5 below.
 - a. A disqualified individual is ineligible to participate in a program from which he or she is disqualified for the periods provided in paragraph 1.
 - b. If an individual signs a DCA, the period of disqualification will begin within 45 days of the date the individual signed the DCA unless the DCA is incorporated into a court determination issued at a later date or a court determination has specified the date for initiating the disqualification period, in which event the local district will disqualify the individual in accordance with the court order.

- c. If an individual signs a waiver of right to an administrative disqualification hearing or has been found to have committed an IPV through an administrative disqualification hearing, the period of disqualification will begin with the first month which follows the date the individual receives written notification of disqualification after having been found to have committed an FS-IPV, and must begin no later than the first day of the second month which follows the date of the notice of disqualification after having been found to have committed any other IPV.

The remaining members of the household which contained an individual who has been found to have committed an IPV must agree to make restitution within 10 days of the date that the local district's demand letter is mailed or the household's monthly allotment will be reduced. If the remaining members agree to make restitution but fail to do so, the local district must reduce the household's monthly allotment. Restitution must begin during the period of disqualification imposed by the local district or a court of law.

- d. If the individual continues to receive FS, because of the disqualification is not imposed and the unserved disqualification is later discovered, only the remaining sanction time can be imposed. For example, if a 12 month disqualification period is discovered 6 months after it was supposed to have started, only the remaining 6 months is imposed.
- e. When a disqualification due to an IPV is determined after an individual is no longer receiving FS. The imposition of the disqualification can no longer be postponed until the individual applies for and is determined eligible for benefits. Disqualification penalties are to be imposed as if all individuals are eligible to participate in the FS program at the time of the IPV determination.
- f. IPV disqualifications which are imposed while an individual is not participating in the FS program and which elapse before the individual reapplies, count toward the progressive disqualification count (i.e., 1st, 2nd or 3rd occurrence). Once a disqualification period is imposed, it continues uninterrupted until completed.
- g. Once a disqualification penalty has been imposed against a participating individual (including periods the local district mistakenly left the case open) it continues uninterrupted until completed, even if the case is closed prior to the end of the disqualification period.
- h. A disqualification counts towards the progressive disqualification penalties (1st, 2nd or 3rd occurrence) even if the individual never actually stops receiving FS because the disqualification is not imposed within the timeliness standards.
- i. Assistance paid to an individual during a period the individual should have been disqualified, but was not, is an overpayment. An appropriate claim - agency error, inadvertent household or IPV - must be established.

To establish the claim as an IPV, there must be signed waiver of ADH or a signed DCA, or it must be determined through a court or administrative disqualification hearing procedure that the individual deliberately withheld information about the pending disqualification.

If the individual did receive FS and therefore, the disqualification is considered imposed, it must be determined when the individual applies for assistance in New York, if there is any part of the disqualification period remaining to be served.

If the disqualification is not discovered at the time of application, the individual must be disqualified for any remaining unserved time when it is discovered. Also, it must be determined if any overpayment occurred in this state due to failure to start the disqualification at the time of application.

4. NOTICE TO BE SENT - If there is a determination that a member of the household or assistance unit has committed an IPV, the local district must take immediate action to send the individual a notice of disqualification as set forth in **FSSB Section 6**.
- a. In the case of an individual who is not currently in receipt of FS, the imposition of the disqualification can no longer be postponed until the individual applies for and is determined eligible for benefits. Disqualification penalties are to be imposed as if all individuals are eligible to participate in the FS program at the time of the IPV determination.

- b. Once a disqualification penalty has been imposed against a member of the household or assistance unit, the period of disqualification continues uninterrupted until completed regardless of the eligibility of the other members of the household or assistance unit. However, the disqualified member's household or assistance unit continues to be responsible for repayment of any overpayment or over-issuance which resulted from the disqualified member's IPV regardless of the household's or unit's eligibility for FS.
- 5. REPORTING - Local districts must report to the Department information on individuals who have been found to have committed an IPV by a hearing decision or a court or who have signed a waiver of hearing or a DCA. The following data must be submitted on each individual:
 - a. Full name;
 - b. Social security number;
 - c. Date of birth;
 - d. Number of disqualification(s) (1st, 2nd, 3rd, etc.);
 - e. Date disqualification took effect for a currently otherwise eligible individual; and
 - f. Length of disqualification imposed or to be imposed. This information is to be submitted no later than 20 days after the date the disqualification took effect, or would have taken effect for a currently ineligible individual, the imposition of whose disqualification penalty will not be imposed until the individual becomes eligible for assistance or benefits. This information is to be updated by local districts where appropriate.
 - g. The data must be forwarded to:

Case Integrity Unit
NYS Department of Social Services
Riverview Center
40 North Pearl Street
Albany, New York 12243

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

Reference	Related Items	TASB
359.9	399.9	Chapter 5
399.11	Claims Against the	
93 ADM-8	Household (<u>FSSB</u>)	
96 LCM-83		
GIS Message (96 TA/DC009)		
GIS Message (95 ES/DC001)		
GIS Message (92 IM/DC041)		
June/July 1985		
Consolidated Letter		

Notice of Disqualification**POLICY**

1. The local district will provide a written notice of disqualification to an individual who:
 - a. Has been found, after an administrative disqualification hearing, to have committed an IPV;
 - b. Has waived his or her right to appear at an administrative disqualification hearing in accordance with **FSSB Section 6**.
 - c. Has been determined by a court to have engaged in conduct that would constitute an IPV in accordance with paragraph 2 of **FSSB Section 6**.
2. A notice of disqualification must:
 - a. Inform the individual as to when any disqualification period will take effect and the date upon which it will end and the length of the disqualification period;
 - b. Inform the individual and any members of the household or assistance unit of the amount of payment or allotment, if any, that the unit will receive during the period of disqualification;
 - c. In the case of an individual who is not currently in receipt of FS, the imposition of the disqualification can no longer be postponed until the individual applies for and is determined eligible for benefits. Disqualification penalties are to be imposed as if all individuals are eligible to participate in the FS program at the time of the IPV determination;
 - d. In the case of an individual who has been found after an administrative disqualification hearing to have committed an IPV, inform such individual of the decision and the reason for the decision; and
 - e. Inform the individual to be disqualified and any members of the household or assistance unit of the right to request a fair hearing to contest:
 - (1) The amount of the overpayment or over-issuance, if such amount has not been established by an administrative disqualification hearing or court determination or set forth in a DCA or waiver of an administrative disqualification hearing;
 - (2) The amount of the TA or FS allotment to be provided to the remaining members of the household or assistance unit during the disqualification period; and
 - (3) The local district's failure to restore the disqualified individual to the household or assistance unit at the end of the disqualification period indicated in the written notice even though the individual has requested such restoration.
3. If the Department's decision confirms the local district's determination of IPV, the local district shall mail the household written notices in accordance with FSSB Section 15-C-all, prior to disqualification.

It is recommended that local districts coincide the certification period of any remaining household members with the end of the disqualification period. This will help assure the issuance of correct benefits, particularly if the disqualified individual is a mandatory member of the FS household.

NOTE: Except for matters involving fraud (acts committed prior to August 1, 1983) as defined in Department Regulation 399.1(a), the provisions of Department Regulation 399 are superseded by the provisions of Department Regulation 359. Any matters or procedures commenced pursuant to Department Regulation 399 prior to June 30, 1992 will be continued in accordance with the provisions of Department Regulation 359 as if the matter had been commenced in accordance with such provisions. Department Regulation 359 will apply to all further proceedings in pending matters initiated pursuant to Department Regulation 399, except to the extent that a hearing officer determines that application of Department Regulation 359 in a particular pending matter would not be feasible or create an injustice, in which event the procedures under Department Regulation 399 may be used. Proceedings held pursuant to the laws and regulations in existence prior to June 30, 1992 will not be impaired by Department Regulation 359.

Reference	Related Items	TASB
359.10	399.6	Chapter 5
399.11	399.7	
93 ADM-8		
89 ADM-21		

Ineligible Alien**POLICY**

An individual who does not meet the citizenship or eligible alien status set forth in **FSSB Section 5** shall be ineligible to participate in the Program.

Related Items

Ineligible Individuals (**FSSB**)
Citizenship and Alien Status (**FSSB**)

Disqualification For Failure To Provide Or Apply For a Social Security Number**POLICY**

If the local district determines that a household member(s) has refused to provide or apply for an SSN, then the individual without the SSN shall be ineligible to participate in the FS Program. The disqualification applies to the individual(s) for whom the SSN is not provided and not to the entire household.

The disqualified individual(s) may become eligible upon providing the local district with an SSN or proof of application for an SSN. The income and resources of an individual disqualified from the household for failure to comply with this requirement shall be handled as set forth in **FSSB Sections 12 and 16**.

Related Items

Income of Ineligible Individuals (FSSB)

Social Security Numbers (FSSB)

Resource Limits (FSSB)

Other Disqualifications**POLICY (96 LCM-83)**

1. Disqualification for Trafficking in FS

This provision **permanently** disqualifies persons **convicted of trafficking in FS benefits worth \$500 or more**. Trafficking includes the illegal use, transfer, acquisition, alteration, or possession of food stamps, authorization cards, or access devices.

2. Disqualification for Multiple Benefits

As of September 21, 1996, any applicants, recipients or former recipients found by a Department administrative disqualification hearing (ADH) or convicted by a court, of having made a fraudulent statement or misrepresentation of identity or residence in order to receive multiple FS benefits simultaneously, is ineligible to participate in the FS Program for ten years. A finding by the Department includes a disqualification consent agreement (DCA) or waiver of an ADH, in addition to the above ADH decision.

3. Disqualification for Fleeing Felons

Clients who are found to be fleeing to avoid prosecution, custody or confinement for a felony, or who are violating a condition of probation or parole are ineligible for food stamps.

If suspicion exists that an applicant or recipient may be a fleeing felon, local district workers must make an appropriate and reasonable inquiry in an attempt to determine whether or not an individual is a fleeing felon.

Reference

97 ADM-4
96 LCM-83

SECTION 7: DISCONTINUING ELIGIBILITY

TO BE DEVELOPED

SECTION 8: NOTICE OF AGENCY DECISION

Client Notices System (CNS)

All NTA/SNAP and TA/ SNAP/MA openings, closings, denials, undercare and recertification call-in notices may be generated by the Client Notices System (CNS). Automated CNS notices are designed to satisfy all requirements discussed in this section. Whenever an automated notice is available, it is generally always preferable to a manually produced notice as the chance of error is diminished. Manual notices should be used only when the CNS does not support the action or when CNS may be unavailable. CNS user manuals are available in local districts. Workers should refer to the CNS code and text catalog if unsure of the proper use of an individual or case level code.

However, this Section on notices will continue to be maintained as a source of information on the regulatory requirements of all notices whether generated by CNS or issued by other means. When using the SNAPSB, readers should also be aware that much of this chapter also relates to "Notice of Agency Decision" in the Temporary Assistance Source Book (TASB).

A. Definitions

1. Action Taken Notice - means a notice from a local district advising:
 - a. An applicant for SNAP benefits or a recipient of SNAP at recertification of the local district's determination to grant or deny SNAP benefits; or
 - b. A recipient of SNAP benefits of an increase in benefits
2. Adequate Notice - means any notice of action, adverse action notice or action taken notice that satisfies all the legal requirements as specified in regulation. These legal requirements are given throughout the remainder of SNAPSB Section 8, as each of these three types of notice is specifically addressed.
3. Adverse Action Notice - means a notice from a local district advising a recipient of SNAP benefits of its determination to discontinue, or reduce such recipient's SNAP benefits, within the SNAP certification period. These are often informally referred to as "Timely and Adequate" because they must be both, as defined in b. above and e. below.
4. Expiration Notice - means a notice sent by a local district which advises a household in receipt of SNAP benefits that its certification period is due to expire. The required elements of an expiration notice are detailed later in this section.
5. Timely Notice - means a notice which is mailed at least 10 days before the date upon which the proposed action is to become effective.

6. Dates -

- a. Notice Date - This is the date the worker completes the notice. On a timely and adequate notice, the date must be at least ten days before the effective date of the action. On adequate-only notices and notices given at application, the date may be less than ten days from the effective date of the action.
- b. Effective Date - This is the date the action or change will happen. Fair hearing regulations require that notice be given regarding when an action will take effect.
 - (1). Also, in situations which require timely and adequate notice of adverse action (i.e., discontinuance, reduction), this date is used to determine if aid continuing can be given, since in order for an appellant to have the right to aid-continuing, the fair hearing must be requested by the effective date. The effective date of a SNAP timely adverse action notice is the 10th day after the date the notice is mailed.
 - (2). In situations which require an adequate-only notice, the postmark date of the notice is used to determine whether the appellant is entitled to aid continuing (reinstatement) when a hearing is requested.

Reference: 358-2.1, 358-2.2, 358-2.3, 358-2.11, 358-2.23, 89-ADM-21, 94-INF-16, 88-INF-83

Related Items: Continuing Eligibility (SNAPSB Section 6)

TA Source Book: Adequate Notice

B. Adequate Notice

- 1. Basic Requirements** - The adequate notice must include:
 - a. The action the local district proposes to take or is taking, and
 - b. If a single notice is used for all affected assistance, benefits or services, the effect of such action, if any, on a recipient's other assistance, benefits or services.
 - c. Otherwise the notice shall state that there will be a separate notice for other affected assistance, benefits or services.

- 2. Additional Requirements** - In addition, the adequate notice must set forth the following:
 - a. A reduction of SNAP benefits - Both the dollar amount of benefits prior to the reduction and the reduced amount must be specified;
 - b. A recoupment - The total amount to be recouped and the rate of recoupment must be specified.
 - c. An acceptance of a SNAP application - The benefit level, including variations based on changes anticipated at the time of certification, the date of initial issuance of benefits and the dates covering the certification/eligibility period must be specified.
 - (1). In addition, if the initial allotment contains benefits for both the month of application and the current month, the notice must explain that the initial allotment includes more than one month's benefits, and,
 - (2). Must indicate the monthly allotment amount for the remainder of the certification period
 - (3). Must specify the date benefits may be accessed
 - (4). When an application is approved on an expedited basis without verification, the notice must explain that the household must provide the verification which was postponed and any special conditions applicable to the household if a normal certification period was assigned to such household
 - (5). When one application results in approval of benefits following initial denial (ineligibility) of benefits for the month of application, the notice must include the reason for the initial denial along with the subsequent approval information.
 - d. A denial of a SNAP application - When a household is potentially categorically eligible for SNAP benefits but is denied SNAP benefits, the notice must ask the applicant to inform the local district if the applicant is approved to receive FA, federally funded SNA or Supplemental Security Income benefits
 - e. An increase in SNAP benefits - Both the new amount of the grant or benefits and the former benefit amount must be specified
 - f. In all actions, except in the case of a denial, the effective date of the action
 - g. In all actions, except in the case of an acceptance of an application for SNAP, the specific reasons for the action

- h. The specific laws and/or regulations upon which the action is based
- i. The applicant's or recipient's right to request an agency conference and fair hearing
- j. The procedure for requesting an agency conference or fair hearing, including an address and telephone number where a request for a fair hearing may be made and the time limits within which the request for a fair hearing must be made
- k. An explanation that a request for a conference is not a request for a fair hearing and that a separate request for a fair hearing must be made. Furthermore, that a request for a conference does not entitle one to aid continuing, and that a right to aid continuing only arises pursuant to a request for a fair hearing.
- l. When the local district action or proposed action is a reduction, or discontinuance, of SNAP benefits, the circumstances under which
 - (1). SNAP benefits will be continued or reinstated until the fair hearing decision is issued; that a fair hearing must be requested separately from a conference, and
 - (2). A statement that when only an agency conference is requested and there is no specific request for a fair hearing, there is no right to continued SNAP benefits; and
 - (3). That participation in an agency conference does not affect the right to request a fair hearing and
- m. The right of the applicant or recipient to review the applicant's or recipient's case record and to obtain copies of documents which the local district will present into evidence at the hearing and other documents necessary for the applicant or recipient to prepare for the fair hearing at no cost. The notice must contain an address and telephone number where the applicant or recipient can obtain additional information about:
 - (1). The applicant's or recipient's case
 - (2). How to request a fair hearing
 - (3). Access to the case file, and/or
 - (4). Obtaining copies of documents
- n. The right to representation by legal counsel, a relative, friend or other person or to represent oneself, and the right to bring witnesses to the fair hearing and to question witnesses at the hearing
- o. The right to present written and oral evidence at the hearing
- p. The liability, if any, to repay continued or reinstated benefits, if the recipient loses the fair hearing
- q. Information concerning the availability of community legal services to assist an applicant or recipient at the conference and fair hearing; and
- r. A copy of the budget or the basis for the computation, in instances where the local district's determination is based upon a budget computation. Where appropriate, the ABEL Budget

Narrative should also be included. This does not apply to actions taken involving HEAP

- s. If a combined notice is used, the TA, SNAP and MA portions must always be completed

References: 358-2.2; 89-ADM-21; 88-INF-83; 89-LCM-177

Related Items: SNAPSB Section 6

TA Source Book: Adequate Notice

C. Action Taken Notice

- 1. Action To Accept, Deny, Increase, Change In Calculation** - When a local district accepts or denies an application for SNAP benefits or increases SNAP benefits, or changes the amount of one of the items used in the calculation of SNAP benefits although there is no change in the amount of the SNAP benefits, the applicant/recipient has the right to adequate notice.

References: 358-3.3, 88-INF-83

D. Adverse Action Notice

- 1. Action To Discontinue, Reduce Or Recoup** - Except as stated in this section, when a local district proposes to take any action to discontinue, or reduce SNAP benefits the applicant/recipient has the right to a timely and adequate notice.

References: 358-3.3(b); 88-INF-83

E. Expiration Notice

1. Uses

- a. The local district must provide each household with a notice of expiration, as defined in this section, prior to the start of the last month of the household's certification period. However, if the household was recertified for both TA and SNAP prior to the last month of the SNAP certification period, an expiration notice is not required
- b. For households with certification periods longer than one or two months the notice of expiration must be sent by the local district so that the household receives it no earlier than the first day of the second to the last month of the certification period and no later than one day before the last month of the certification period.
- c. Households certified for one month or two months must be sent the expiration notice at the time of certification.

2. Content - The expiration notice must contain:

- a. The consequences of failure to comply with the expiration notice
- b. The date the current certification period ends
- c. The date by which the recipient's household must reapply to receive uninterrupted benefits
- d. The date of any scheduled interview, and a statement that the recipient is responsible for rescheduling a missed interview
- e. The number of days the recipient has for submitting missing verification after the interview or after the recertification form is received by the local district if no interview is required
- f. The specific regulation upon which the action is based
- g. The household's right to request an application for SNAP benefits and the obligation of the local district to accept the application, provided that the application is signed and contains a legible name and address
- h. The address where the application must be filed
- i. The household's right to apply for SNAP benefits by mail or through an authorized representative
- j. Information that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for supplemental nutrition assistance program recertification at any office of the Social Security Administration (SSA); and
- k. The household's right to a fair hearing
- l. The procedure for requesting an agency conference or fair hearing, including an address and telephone number where a request for a fair hearing may be made and the time limits within which the request for a fair hearing must be made;

- m. The right of the recipient to review the recipient's case record. The notice must contain:
 - (1). An address and telephone number where the recipient can obtain additional information about the recipient's case
 - (2). How to request a fair hearing
 - (3). Access to the case file and/or
 - (4). Obtaining copies of documents
- n. The right to representation by legal counsel, a relative, friend or other person or to represent oneself, and the right to bring witnesses to the fair hearing and to question witnesses at the hearing; and
- o. The right to present written and oral evidence at the hearing

References: 358-2.11; 358-3.3; 88-INF-83

Related Item: SNAPSB Section 8 A

F. Exemptions From Adverse Action Notice

1. Applicant/Recipients are not entitled to an individual adverse action notice when:
 - a. Based on reliable information, the local district determines that all members of the household have died or that the household has moved from the local district or will not be residing in the local district and will be unable therefore to obtain its next SNAP allotment from such district; or
 - b. The certification period has expired, the applicant/recipient was previously informed of the expiration, and they have not reapplied for benefits; or
 - c. The household has been receiving an increased SNAP allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of the date when the increased SNAP allotment would terminate; or
 - d. The household's allotment of SNAP benefits varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was notified that the SNAP allotment would vary at the time of certification; or
 - e. The household applied jointly for TA and SNAP benefits and has been receiving supplemental nutrition assistance program benefits pending the approval of the TA grant and was notified at the time of SNAP certification that SNAP benefits would be reduced upon approval of the TA grant; or
 - f. A household member is disqualified from the SNAP Program for an intentional program violation in accordance with SNAPSB Section 16 and the SNAP benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member; or
 - g. The local district has elected to assign a longer certification period to the household which was certified on an expedited basis and for which verification was postponed. The household must have received written notice that in order to receive benefits past the month of application the household must provide the verification which was initially postponed and the local district may act on the verified information without further notice; or
 - h. A local district has converted the household from cash repayment of an intentional program violation claim to benefit reduction, as a result of the household's failure to make an agreed upon cash repayment; or
 - i. The applicant/recipient is a resident of a treatment center or group living arrangement which is determined to be ineligible for supplemental nutrition assistance program benefits because the facility has either lost its certification from the appropriate State agency/agencies or lost its status as an authorized representative due to its disqualification by the federal Food and Nutrition Service as a retailer. However, residents of group living arrangements applying on their own behalf may remain eligible to participate in the Supplemental Nutrition Assistance Program; or
 - j. The household voluntarily requests, in writing or in the presence of a local district employee, that its SNAP benefits be terminated. If the household does not provide a written request, the local district must send the household a letter confirming the voluntary withdrawal.

2. A recipient of SNAP benefits has the right to an adequate notice sent no later than the date of the proposed action when the local district actions result from information furnished on a quarterly report.

NOTE: If a recipient fails, without good cause to return a completed Six Month Periodic report by the tenth day of the process month (the month following the month the Six Month Periodic report was mailed to the household), the local district must send a timely and adequate notice of discontinuance.

References: 358-3.3, 387.20, 88-INF-83

Related Item: SNAPSB Section 7 B; SNAPSB, Section 14 A

G. Mass Changes

Supplemental nutrition assistance program households must be notified of any increase, decrease or termination of benefits, which results from a mass change.

- 1. Individual Notices** - The responsibility for providing notice is with the local district unless the Department has assumed responsibility for providing notice. Further, unless otherwise notified, the local district must issue an individual notice in accordance with procedures outlined in SNAPSB Section 7, this includes sending accompanying budget information.
- 2. General Notices** - Federal and State notice regulations specify that an individual notice is not required for an action that is the result of a mass change. This Department may for any mass SNAP change develop a general notice to be issued in place of individualized notices. These notices may be:
 - a. Provided to local districts to be both reproduced and sent to affected households; or
 - b. Printed by this Department and provided to local districts to be sent to affected households; or
 - c. Printed and sent to affected households by this Department.

Note: If the Department opts to develop a general notice, specific instructions will be issued to local districts. In lieu of such instructions, local districts continue to be responsible for issuance of individual notice to affected cases at mass change.

- 3. Publicizing Changes** - Local districts may, but are not required to, publicize mass changes through the news media or through posters displayed in certification sites, issuance locations or other sites frequented by certified households.

Related Items: SNAPSB Section 6 G; SNAPSB Section 8 C

H. Factors Common to All Notices

1. Heading

- a. Completion of all sections of the heading is required except for Office No., Unit No., Worker No. and the telephone number for the unit or worker. The unit or worker responsible for issuing the notice must be identified.
- b. Notice Date - This is the date the worker completes the notice.
- c. Telephone Numbers -
 - (1). Legal Assistance Information - In local districts where there is only one advocacy agency, the telephone number for that agency should be given. Local districts that have more than one advocacy agency should list a social services number where the client can receive information about advocacy agencies that represent clients residing in the local district.

Use of numbers which are not Department of Social Services numbers should be cleared first with the outside agency to assure they are correct and that the agency is able to handle the telephone inquiries that might result.
 - (2). Agency Conference, Fair Hearing Information and Assistance, Record Access - The notice is designed to give one general number or specific numbers for each type of information needed. If local districts opt to use a general telephone number, procedures must be in place to ensure that clients who call to request information in one or more of the above areas are directed to a person who has the knowledge and authority to respond to the specific need.
- d. CIN/RID (Client Identification Number/Recipient Identification Number) - The CIN/RID number is that of the head of household.

- 2. Client Rights Language** - The text on each notice is based on one prototype and the only substantive difference between the forms is in the aid continuing sections.

- 3. Distribution** - The State mandated manual notices are comprised of three-ply chemically carbonless paper. Two copies of the notice are to be sent to the client and the remaining copy is for the case record. For residents of group living arrangements as defined in SNAPSB Section 5, a Xerox copy of the notice must be sent to the resource agent (authorized representative). The CNS automated notice consists of a single copy that is mailed to the client. There is the capability of sending an additional copy to an authorized representative.

Reference: 89-ADM-21

Related Item: SNAPSB Section 5 U

I. Combined Manual Notices

Manual notices should only be used in those situations in which the Client Notices System (CNS) does not support the type or category of action being taken, or when CNS may be unavailable.

The notices below are sent to TA applicants and recipients. They describe the effect of the action on eligibility and/or benefit amounts of each of the three program areas - TA, SNAP, and MA. If a TA recipient is not receiving SNAP as part of the TA case (e.g., the household indicated it did not want SNAP, the household is receiving SNAP under another TA case or in a separate mixed household case), this must be written on the SNAP section of the combined TA notice.

1. LDSS- 4013A & B: Action Taken On Your Application: Temporary Assistance, Medical Assistance, Food Stamp Benefits (Adequate Only)(PART A AND B)

- a. TA Section - LDSS-4013A (LDSS-4013A NYC) - This notice is to be used to inform applicants of the decision made on their application for TA.

(1). The recoupment statement is a requirement under Department Regulation 358. If a TA application is accepted and a recoupment for past overpayments is taken, the box before the recoupment statement must be checked and a clear explanation of the reason for the recoupment provided.

(2). It is not a requirement under Department Regulation 358 that local districts provide notice when an application is withdrawn. It is, however, strongly recommended that local districts send a notification to the client that the application dated was withdrawn at the client's request and state the reason cited by the client. A copy should be kept in the case record. That notification can be provided by a letter to the applicant or by a form the local district has developed for that purpose.

- b. FS Section - LDSS-4013B (LDSS 4013B NYC) - This section is used to tell an applicant the disposition of the application - approved, denied or pended. Supplemental nutrition assistance program policy requires that clients be advised when benefits will be available on an automated system. The ACCEPTED box allows for this entry.

If an established claim is being recovered by allotment reduction, the OVERPAYMENT box must be checked or the overpayment information entered in CNS. However, a recoupment cannot be taken and this box checked unless all appropriate procedures and notices have been used regarding claims establishment. (See SNAPSB Section 16)

NOTE: If the TA applicant is not applying for SNAP as part of the TA application, the worker should make that notation in the FS section.

- c. MA Section - For MA instructions see 89-ADM-21.

2. LDSS- 4014A & B: Action Taken On Your Recertification: Public Assistance, Food Stamps, Medical Assistance Coverage And Services (PART A AND B) or the equivalent CNS notice. This notice is used to inform recipients of the result of their recertification.

- a. TA Section – LDSS 4014A (LDSS 4014A NYC) When the recertification results in a negative action for any of the programs, this notice must be postmarked at least 10 days prior to the effective date of the action.

In addition to the actions that result in change, the action to continue the regular monthly TA grant unchanged is included. Clients must be notified of the result of their recertification, even if there is no change in the grant amount.

If the client reports a change which results in a different budget calculation, even if it results in no change in the benefit amount, a copy of the budget and the ABEL budget narrative must be sent with the manual notice. CNS automatically includes the budget explanation as part of the notice.

The recoupment section, if applicable, must be completed.

- b. FS Section – LDSS 4014B (LDSS 4014B NYC) This section is used to tell an applicant the disposition of the application - approved, denied or pended. In addition, benefits may continue unchanged due to eligibility for Transitional Benefits.

If the benefits will continue unchanged, and recertification requirements for TA have not been met, the worker must complete the section regarding transitional benefits.

If an OVERPAYMENT is currently in place or is being established, the overpayment information must be entered on the notice.

When a household is not participating in the SNAP Program, a notation must be made in the denied section indicating why the household is not participating.

- c. MA Section - For MA instructions see 89-ADM-21.

3. LDSS- 4015A & B: Notice Of Intent To Change Benefits: Public Assistance, Food Stamps, Medical Assistance Coverage And Services (Timely And Adequate) (Part A & B) Or The Equivalent CNS Notice. This Notice Supersedes LDSS- 3514 - Notice of Intent to Change or Discontinue the Temporary Assistance Grant and Status of Medical Assistance Coverage.

This form is used to advise a TA recipient of changes to eligibility or benefit amount during the certification period - reductions, discontinuances, suspensions, increases, or continuation of assistance unchanged (when an action has been taken which did not affect the amount of the benefit).

- a. TA /FS Sections – LDSS 4015A (LDSS 4015A NYC), LDSS 4015B (LDSS 4015B NYC) This notice is used to provide timely notice to a recipient (i.e., notice at least ten days before the action will take effect) and must be used if the change requires timely notice for any program area covered by the notice.

EXAMPLE: An increase in the TA grant which does not require timely notice results in a decrease to SNAP.

This notice must be used because the adverse SNAP action requires timely notice. In this situation, the effective date of the TA change may be different (earlier) than the effective date of the SNAP change.

The recoupment/overpayment information must be entered if applicable.

When a household is not participating in the SNAP Program, a notation must be made indicating why the household is not participating.

- b. MA Section - For MA instructions see 89-ADM-21.

4. LDSS- 4016A & B: Notice Of Intent To Change Benefits: Public Assistance, Food Stamps, Medical Assistance Coverage And Services (Adequate Only) (PART A & B) (LDSS 4016A, LDSS 4016A NYC, LDSS 4016B, LDSS 4016B NYC) or the equivalent CNS notice.

- a. This notice is used to tell a recipient of changes to eligibility or benefit amounts during the certification period, when timely notice is not required.

TASB Chapter 8 specifies when an adequate only notice may be sent for TA.

- b. SNAP requirements permit adequate notice to be used when the change is the result of information reported on the periodic report. However, Federal Supplemental Nutrition Assistance Program requirements do permit situations in which no notice at all is required. These Supplemental Nutrition Assistance Program situations are specified elsewhere in this section.
- c. Based on the different program requirements this adequate - only notice can be used for TA households under the following circumstances:
 - (1). The conditions for adequate - only notice for TA and MA apply and no notice is required for SNAP. Even though notice is not required, the appropriate SNAP boxes on the combined notice or the SNAP section of the CNS notice must be completed to avoid confusing the recipients about their SNAP eligibility and benefits;
 - (2). The condition for adequate - only notice for TA and MA apply and the household does not receive TA/SNAP;
 - (3). The action being taken is based on information reported on a periodic report;
 - (4). The action being taken is an increase for both TA and SNAP or an increase in either program that does not adversely affect the other program.
- d. TA Section - This recoupment section, if applicable, must be completed.
- e. FS Section - If an overpayment is currently in place or is being established, then the information must be entered on the notice. See SNAPSB Section 16.
- f. MA Section - For MA instructions see 89-ADM-21.

5. LDSS- 3152: Action Taken On Your Food Stamp Case (LDSS- 3152 NYC) - Under certain circumstances this notice must be used by the TA worker for a TA household. See TASB Section 8 for information regarding when and how this notice is used for a TA case.

Reference: 89-ADM-21; 01- ADM-08; 91-INF-57; 01-INF-17; 03-INF-13 (this is revision to LDSS-4753 Notice of Missed Interview/Request for Contact); 03-INF-41; 04-INF-26

Related Items: Adequate Notice; Notice of Action; Requirements; Exceptions to Timely Notice

J. Supplemental Nutrition Assistance Program Only Notices

The notices below are sent to non-temporary assistance (NTA) supplemental nutrition assistance program households. Also, the LDSS-3152: "Action Taken on Your Food Stamp Case" (LDSS- 3152 NYC) and the LDSS-4753: "Food Stamps - Request for Contact/ Missed Interview" are used for TA recipients under certain circumstances.

1. DSS-3152: Action Taken On Your Food Stamp Case (LDSS- 3152 NYC)

- a. This notice is used to inform NTA/SNAP households of the decision made regarding an application or recertification for SNAP. It is also used when a household which is applying for TA and SNAP is determined eligible for SNAP before eligibility for TA is determined. This situation is most likely to occur when the household is entitled to expedited processing for SNAP.
- b. When the application is approved, the notice must indicate whether accepted under normal processing or expedited processing. It must also include:
 - (1). The authorization period
 - (2). The amount of initial issuance and the ongoing benefit
 - (3). Any pended verification if applicable
 - (4). When benefits may be accessed
- c. When the application is denied, the reason must be given.
- d. This notice informs the household that if the SNAP application is accepted before the amount of a TA grant is determined; the SNAP benefit may be changed without further notice. This is included because federal regulations state that no additional notice is required in this situation.
- e. However, this State's practice is to give as much information as possible to applicant/recipient households. Therefore, the Food Stamp section of the LDSS-4013 and LDSS-4013B combined TA/FS/MA notice must be completed even if this notice has previously been sent to a TA household.
- f. The Recoupment box is checked if a recoupment is going to be taken against SNAP when the case is opened. However, a recoupment cannot be taken and this box checked unless all appropriate procedures and notices have been used regarding claims establishment.

2. LDSS-2114: Continuing Your Public Assistance And/Or Food Stamp Benefits

- a. This notice is used to inform a household in receipt of SNAP benefits that the certification period is due to expire and that the household must take action as indicated in order to continue to receive SNAP and avoid interruption of benefits.
- b. If a household receives this notice and fails to fulfill the SNAP recertification requirements, no further notice is sent (i.e., no additional notification that benefits have been discontinued is required). However, if the TA case is being discontinued, the SNAP portion of the combined notice (LDSS-4014A and LDSS-4014B) must be completed to avoid confusing the recipient.

- 3. LDSS-3620: Notice Of Intent To Change Food Stamp Benefits (Timely And Adequate) (LDSS-3620 NYC)**
 - a. This notice is an adverse action notice used to inform a recipient of SNAP benefits of the determination to reduce, discontinue or suspend such recipient's SNAP benefits within the certification period.
 - b. If a recoupment is currently in place for SNAP, the worker should check the box indicating that a recoupment is being taken against SNAP benefits.

- 4. LDSS-3621: Notice Of Intent To Change Food Stamp Benefits (Adequate Only) (LDSS- 3621 NYC)**
 - a. This notice is used to inform a SNAP recipient of a change in his/her benefits, during the certification period, when timely notice is not required.
 - b. This notice includes the action INCREASE and the action CONTINUE. SNAP recipients must be provided adequate notice of any increases in benefits, or of any changes in the amount of one of the items used in the calculation of his/her SNAP benefits although there is no change in the amount of SNAP benefits.
 - c. Situations in which an adequate only notice would be used include when a reduction, suspension, or termination occurs as a result of information reported on a periodic report. A household that fails to recertify and is to be disqualified due to a voluntary quit shall also be notified by an adequate-only notice
 - d. The DISCONTINUE box may be used at local district option in situations where no notice is required under federal requirements. These situations are specified in this section of the SNAPSB.

- 5. LDSS-4753: Food Stamps - Request For Contact/Missed Interview**
 - a. This notice is used to notify the household of information/verification needed to determine eligibility. Typically it is used for non-six month reporting cases, but could be used to verify excess income situations where the information reported is questionable.
 - b. It is also used to notify the household of a missed interview appointment (application/recertification). It is required only when an application has been filed with the agency.

Reference: 89-ADM-21, 01-ADM-08, 03-INF-13

Related Item: Exemptions from Adverse Action Notice

K. ABEL Budget Narratives

Department regulations 358-2.2(n) and 358-3.3(b) states that, a timely and adequate notice as well as a SNAP budget, or the basis for the computation, must be sent when a local district proposes to discontinue or reduce a recipient household's SNAP benefits based on a budget calculation. An adequate notice and a SNAP budget must be sent when a local district accepts or denies a SNAP application or increases a recipient household's SNAP benefits based on a budget calculation. An adequate notice and a SNAP budget is also required when a change occurs in any factor in the calculation of a household's benefit even though there is no resulting change in the amount of the household's SNAP benefit.

NOTE: When CNS is used, the budget information/explanation is automatically included as part of the notice.

When a manual notice is sent, the SNAP budget to be sent in a majority of the cases will be the Automated Budgeting and Eligibility Logic (ABEL) budget. To promote applicant/recipient understanding of these budgets, the local district must also send an appropriate SNAP Budget Narrative.

The following narratives will be used as explanations with a manual notice:

1. DSS-3961 Food Stamp Budget Narrative - To be used when there is a reduction or increase in SNAP benefits, as well as when there is a change in the amount of a factor used in the calculation of a household's benefit even though there is no resulting change in the amount of the household's SNAP benefit.
2. DSS-3959 Food Stamp Excess Net Income Narrative - To be used when there is a denial, suspension or discontinuance of SNAP benefits due to excess net income.
3. DSS-3960 Food Stamp Excess Gross Income Narrative - To be used when there is a denial, suspension or discontinuance of SNAP benefits due to excess gross income.

References: 387.20, 02-INF-41

Related Item: Notice of Agency Decision

SECTION 9: Recipient / Applicant Rights

Right To Privacy

POLICY

The applicant's right to privacy must be protected during the interview. The size and layout of facilities must be adequate to preserve the privacy and confidentiality of the interview. At a minimum, the interview must be conducted as a private conversation between the applicant and the eligibility worker.

Reference

TASB

387.7

Chapter 7

Complaint Procedures**POLICY (03 LCM-3)**

1. CIVIL COMPLAINTS - Local districts shall not discriminate against any applicant or recipient in any aspect of program administration including, but not limited to, program access and delivery of services based on race, sex, age, color, religious creed, national origin, political beliefs or handicap.
 - a. COMPLAINANT RESPONSIBILITIES - Persons who believe they have been subject to discrimination as specified above may file their complaint within 180 days of the alleged discrimination by writing to the:

Secretary of Agriculture
Department of Agriculture
Washington, D.C. 20250

and/or the:

Office of Temporary & Disability Assistance
Division of Employment and Transitional Supports
Office of the Deputy Commissioner
40 N. Pearl Street - Room 11C
Albany, New York 12243

b. LOCAL DISTRICT RESPONSIBILITY -

- (1) Accepting Verbal Complaints - If an individual alleges discrimination but declines to write a complaint, the employee receiving the complaint must record it. If possible, the following information should be obtained.
 - (a) The complainant's name, address and phone number (or other means of contacting);
 - (b) The name and location of the organization or office accused of discriminatory practices;
 - (c) The circumstances which prompted the allegation;
 - (d) The nature of the alleged discrimination, i.e., race, sex, age, color, religious creed, national origin, political beliefs, or handicap;
 - (e) Names, titles (if appropriate), and address of individuals (witnesses) who may know of the discriminatory act;
 - (f) The date(s) on which the alleged discrimination occurred.
 - (g) In addition to logging in the actual complaint, districts are required to maintain copies of all pertinent records of the incident and the resolution of the complaint. These records are subject to both State and federal audit and, therefore, must be readily retrievable for a period of seven [7] years or until the audit is concluded.

(2) Review of Compliant

In order to meet the documentation requirements, local districts will now maintain a copy of the complaint form that has been referred to DTA along with any other materials related to the resolution of the complaint.

- (a) The Bureau of Equal Opportunity Development (EOD) Civil Rights Complaint Form [Attachment I 0703LCM-3] requires a preliminary review or investigation to determine merit and should be forwarded to FTA when this preliminary review or investigation is completed.
- (b) Those cases deemed to indicate a need for full investigation must be reported to DTA when the investigation is complete. EOD will send a formal notice to the contact person, receive all reports

of local determinations and full investigations and close the inquiry when the issue is resolved.

- (c) By completing and returning the attached Civil Right Compliance Agreement [Attachment II 0703 LCM-03], districts will designate a local contact person who will be responsible for coordinating local investigations, resolutions and an office telephone number that will be available for inquires. Once received by DTA, the agreement will be maintained on file by EOD. Local Districts must submit telephone number changes as they occur.

NOTE: FNS will accept all written complaints even if the above information is not complete. However, investigations will be conducted only if the written complaint contains the data listed in items (b), (c) and (d) above.

- (3) Publicity - Local districts must publicize the complaint procedures described in this section. The following non-discrimination posters must be displayed in all local FS offices:

(a) AND JUSTICE FOR ALL POSTER (USDA)
Form AD-475, December 1999

(b) FOOD STAMP RIGHTS POSTER
(USDA) FNS-183, original December 1978, reviewed and Approved for reprinting September 1998

(c) Food Stamp Complaint Procedures poster, LDSS-8036, April 2004 English/Spanish.

- (4) Information about non-discrimination laws, complaints, and participant rights must be provided to households within ten days of request. Client informational books **LDSS-4148A** and **LDSS-4148B** fulfill these requirements.

- (5) Obtain Racial/Ethnic Data on Complainants - Local districts must obtain data on households by racial/ethnic category, and report it to NYSDSS annually on Form FNS-101. Applicants should be requested to voluntarily identify their race or ethnicity on the application form. If the applicant does not volunteer the information requested, then alternate means of providing the data, such as observations during the interview, should be used. NYSDSS must report this racial/ethnic data on participating households to FNS. The ethnic categories are:

(a) American Indian or Alaska Native

(b) Asian or Pacific Islander

(c) Black (not of Hispanic origin)

(d) Hispanic

(e) White (not of Hispanic origin)

2. NON-CIVIL COMPLAINTS -

- a. **CRITERIA** - A non-civil complaint is any written or oral communication made to a local district or to the Department by or on behalf of an applicant for or recipient of FS benefits (other than a complaint for which there is a right to a fair hearing) alleging dissatisfaction with:

- (1) The action or failure to act in a particular case;
- (2) The manner in which the local district generally handles its cases;
- (3) The local district's facilities and/or services, or the manner in which it generally conducts business;
- (4) Other facilities or services used by the local district for providing care and services for its clients; or
- (5) Any other aspect of local district administration not mentioned above.

- b. **COMPLAINANT RESPONSIBILITIES** - Persons who believe any of the above, including processing standards and/or delivery of services, were provided unsatisfactorily and have not obtained a satisfactory resolution from the local FS office may also file a complaint with NYSDSS Food Stamp Bureau.

Complaints received by the Department should include:

- (1) Complainant's name;
- (2) Complainant's address;
- (3) Phone number (or other means of contacting complainant);
- (4) The county involved;
- (5) Complainant's case number if applicable;
- (6) All pertinent information concerning the allegation.

c. LOCAL DISTRICT RESPONSIBILITIES

- (1) Every complaint received must be promptly acknowledged.
- (2) The basis of the complaint must be reviewed and investigated to determine the validity of the complaint.
- (3) The local district is responsible for reviewing its own activity in order to determine what appropriate action is required.
- (4) When a complaint has been referred to the local district by the Department, a response must be submitted to the Department within 20 days covering all matters pertaining to the complaint, including:
 - (a) Facts gathered by the local district concerning the complaint; and
 - (b) Any action taken by the local district to resolve the issue and whether the complainant is satisfied with the explanation/action provided.
- (5) The Department will follow up on all FS complaints it receives. Corrective action will be taken where warranted in addition to responding to the complainant on the State agency's disposition of the complaint.

To help accommodate civil complaint reporting requirements, local districts are encouraged to develop and maintain a "complaint tracking system" that would identify:

- (a) Complainant's case number, name, address, and phone number;
 - (b) Date received;
 - (c) Type of complaint (i.e.; civil, non-civil);
 - (d) Reason for complaint;
 - (e) Who/where the complaint was referred for action (office/unit/worker);
 - (f) Resolution due date;
 - (g) Date resolved.
- (6) Local districts must publicize the complaint procedures above. The poster issued with 90 INF-53 must be displayed in all local Food Stamp Offices. Information on these procedures must be given upon request. Client informational book **DSS-4148A** fulfills this requirement.

Reference

03LCM-3
90 INF-53
90 ADM-41

TASB

Chapter 7

FAIR HEARINGS**Definitions**

1. AID CONTINUING - Aid continuing means the right to have FS benefits continued unchanged until the fair hearing decision is issued.
2. APPELLANT - Appellant means the party for whom the fair hearing is requested.
3. APPLICANT - Applicant means a person who has applied for food stamp benefits.
4. COMMISSIONER - Commissioner means the New York State Commissioner of the Office of Temporary & Disability Assistance or the Commissioner's designee.
5. DEPARTMENT - Department means the New York State Office of Temporary & Disability Assistance.
6. FAIR HEARING - Fair hearing means a formal procedure provided by the Department upon a request made for an applicant or recipient to determine whether an action taken or failure to act by a local district was correct.
7. HEARING OFFICER - Hearing officer means an attorney who is employed by the Department and designated and authorized by the Commissioner to preside at hearings.
8. LOCAL DISTRICT - Local district means the county Department of social services or the New York City Department of Social Services.
9. MASS CHANGE IN THE FOOD STAMP PROGRAM - Mass change in the food stamp program means changes initiated by the federal government or the Department which affect all food stamp households or a significant portion of all food stamp households. Mass changes may include, but are not limited to, adjustments to income eligibility standards, shelter and dependent care deductions; the thrifty food plan and the standard deduction; annual and seasonal adjustments to social security, Supplemental Security Income and other federal benefits.
10. PARTIES TO A FAIR HEARING - Parties to a fair hearing means the person for whom a fair hearing is requested and the local district or agencies whose decision, action or failure to act is subject to review at the fair hearing.
11. RECIPIENT - Recipient means a person who is, or has been, receiving FS benefits. Recipient includes a former recipient seeking to review a determination of a local district and who would have a right to a hearing under **FSSB Section 8** if such person were a current recipient.
12. WITNESS - Witness means a person, other than the applicant, recipient, or the representative thereof, who presents testimony and/or documentary evidence at a fair hearing.

References**Related Item****TASB**358-2
88 INF-83Right to a Fair Hearing (**FSSB**)

Chapter 7

RIGHT TO A FAIR HEARING

1. **REASONABLE PROMPTNESS** - An applicant or recipient has the right to challenge certain determinations or actions of a local district or a local district's failure to act with reasonable promptness or within the time periods required by requesting that the Department provide a fair hearing. The right to request a fair hearing cannot be limited or interfered with in any way.
2. **FAIR HEARING ISSUES** - An applicant or a recipient of FS benefits has a right to a fair hearing if:
 - a. An application has been denied by the local district or the applicant has agreed in writing that the application should be withdrawn but the applicant feels that he/she was given incorrect or incomplete information about their eligibility, or
 - b. A local district has failed to:
 - (1) Determine eligibility for FS with reasonable promptness or within the time periods required;
 - (2) Issue or adjust FS benefits; or
 - c. FS benefits have been discontinued, reduced, or increased; or
 - d. Although there has been no change in the amount of FS benefits, the applicant/recipient wishes to challenge the local district's determination that the amount of one of the items used in the calculation of FS benefits has changed; or
 - e. A request for restoration of any FS benefits lost less than one year prior to the request for restoration has been denied; or the applicant/recipient does not agree with the amount of FS benefits restored or any other action taken by the local district to restore such benefits; or
 - f. FS benefits have been reduced, suspended or cancelled as a result of an order issued by the United States Food and Nutrition Service to reduce allotments because the requirements of states participating in the Food Stamp Program will exceed appropriations. However, in such case the applicant/recipient has a right to a fair hearing only if he/she believes that the benefit level was computed incorrectly under federal rules, or that federal rules were misapplied or misinterpreted; or
 - g. The recipient is aggrieved by a mass change in the FS Program; or
 - h. Within a certification period, the amount of the FS benefits is inadequate and the recipient has made the request for a fair hearing within such certification period; or
 - i. An application for FS benefits has been denied or FS benefits have been reduced or discontinued due to a determination that the applicant/recipient is not exempt from FS Program work requirements or that the applicant/recipient has failed to comply with work registration or employment and training requirements. Applicant/recipients may request a fair hearing to review such determination including the determination of exemption status, the type of requirement imposed, or a local district's refusal to make a finding of good cause for failure to comply with such requirements if the applicant/recipient believes that the finding of failure to comply was improper; or
 - j. The applicant/recipient disagrees with the amount of a claim for the overissuance of FS benefits, except if the amount of such claim has already been decided by a hearing in accordance with **FSSB Section 6**.
3. **SPONSOR OF ALIEN** - The sponsor of an alien receiving FS benefits and for whom there has been an overissuance of benefits for which the sponsor is liable, has a right to a hearing to contest the following:
 - a. The determination that the sponsor was responsible for the incorrect information which was provided and which resulted in the overissuance; and
 - b. The amount of the overissuance for which the sponsor is liable.
4. **ISSUES WITHOUT FAIR HEARING RIGHTS** - Recipients of FS benefits do not have the right to a fair hearing to challenge the following:
 - a. An adverse decision in an administrative disqualification hearing; or
 - b. A disqualification penalty imposed after the applicant/recipient waived their rights to an administrative disqualification hearing.

References

TASB

358-3.1
88 INF-83

Chapter 71

PRIORITY HEARINGS

Priority in the scheduling of a hearing and determination will be provided when:

1. An applicant/recipient requests a fair hearing concerning their FS benefits and the household is planning to move away from the local district before the hearing decision would normally be issued; or
2. An applicant has a problem which is determined, in the Department's discretion, to be an appropriate subject for priority processing and which presents a crisis situation or a threat to the health and safety of the family.

References

358-3.2
88 INF-83
90 LCM-32

TASB

Chapter 7

APPELLANT RIGHTS

Appellants have the right to:

1. The continuation or reinstatement of FS benefits until the issuance of a decision in their fair hearing, to the extent authorized by **FSSB Section 8-C**. Recipients have the right to request that their benefits not be continued or reinstated until the fair hearing decision is issued;
2. Examine the case record and to receive copies of documents in the case record which are needed to prepare for the fair hearing, to the extent authorized by and within the time periods set forth in **FSSB Section 8**.
3. Examine and receive copies of all documents and records which will be submitted into evidence at the fair hearing by the local district, to the extent authorized by and within the time periods set forth in **FSSB Section 8**.
4. The rescheduling (adjournment) of the hearing, to the extent authorized by **FSSB Section 8**.
5. Be represented by an attorney or other representative at any conference and hearing, or to represent themselves;
6. Have an interpreter at any fair hearing, at no charge if the applicant/recipient does not speak English or if they are deaf. Applicants/Recipients should advise the Department prior to the date of the fair hearing if they will need an interpreter;
7. Appear and participate at the conference and fair hearing, to explain their situation, to offer documents, to ask questions of witnesses, to offer evidence in opposition to the evidence presented by the local district and to examine any documents offered by the local district;
8. Bring witnesses to present written and oral evidence at any conference or fair hearing;
9. Make a request to the local district to receive necessary transportation or transportation expenses to and from the fair hearing for the applicant/recipient and their representatives and witnesses and to receive payment for their necessary child care costs and for any other necessary costs and expenditures related to their fair hearing;
10. Have the fair hearing held at a time and place convenient to the applicant/recipient as far as practicable, taking into account circumstances such as their physical inability to travel to the regular hearing location; and
11. Decision review by a court if the decision is not in the appellant's favor.
12. Request the removal of the hearing officer in accordance with **FSSB Section 8**.

References**Related Item****TASB**

358-3.4
88 INF-83
91 LCM-89

Aid Continuing (**FSSB**)
Examination of Case Record (**FSSB**)
Department Responsibilities (**FSSB**)

Chapter 7

REQUESTS

REQUESTS FOR A FAIR HEARING. A fair hearing may be requested in writing, by telephone, or in person.

1. **90 DAY LIMIT** - A request for a fair hearing to complain about any action by the local district affecting FS benefits, including a loss of FS benefits, must be made within 90 days after the determination, action or failure to act about which the applicant/recipient is complaining. Action includes a denial of a request for restoration of any benefits lost more than 90 days but less than one year prior to the request for restoration. Where the local district's action is the result of a mass change, a request for a fair hearing must be made within 90 days after the changed level of benefits become available to the recipients.
2. **DURING CERTIFICATION PERIOD** - A request for a fair hearing to dispute the current level of FS benefits granted to a household must be made during the FS certification period.
3. **HOLIDAY OR WEEKEND EXTENSION** - If the last day for requesting a fair hearing falls on a weekend or holiday, a hearing request postmarked or received by the Department on the day after the weekend or holiday will be considered as timely received.

References

358-3.5
88 INF-83
90 LCM-192

TASB

Chapter 7

AID CONTINUING

1. **RIGHT TO AID CONTINUING** - For FS households, including households in receipt of both FS and TA, the right to aid continuing exists as follows:
 - a. Recipients have the right to have their FS benefits continue at the same level as they have been receiving until the fair hearing decision is issued only where the proposed adverse action is to take place during the certification period of their FS authorization and their request for a hearing is made prior to the effective date contained in a timely notice for their case closing or authorization reduction. The effective date of a FS timely adverse action notice is the 10th day after the date the notice is mailed.
 - b. If a recipient's FS benefits have been reduced or discontinued by the local district and they have made a timely hearing request by the effective date contained in the notice, their FS benefits must be restored by the local district as soon as possible but no later than five business days after notification from the Department that they are entitled to have their benefits continue unchanged.
 - c. When the action being taken is the result of a mass change, the effective date of the action is deemed to be 10 days after the date the changed level of benefits become available to the recipient.
 - d. If the effective date of the proposed action falls on a weekend or holiday, a hearing request postmarked or received by the Department on the day after the weekend or holiday will be considered timely.
2. **NO RIGHT TO AID CONTINUING** - There is no right to aid continuing where:
 - a. The Department has determined that the sole issue is one of federal law or regulation and the recipient claims that their benefits were improperly computed or the law or regulation was misapplied or misinterpreted is invalid; or
 - b. The recipient's FS benefits have been reduced, suspended or cancelled as a result of an order to reduce allotments issued by the Food and Nutrition Service because the requirements of states participating in the Food Stamp Program will exceed appropriations.
3. **GOOD CAUSE FOR LATE REQUEST** - When FS benefits are reduced or terminated because the recipient fails to make the request for a hearing within the required period stated in the notice, upon their request for a fair hearing their FS benefits will be reinstated if they establish that their failure to request a hearing in a timely manner was for a good cause. If the Department determines that they have the right to have their food stamp benefits reinstated, the local district must reinstate their food stamp benefits as soon as possible but no later than five business days after being advised by the Department of such determination.
4. **MASS CHANGES** - When benefits are reduced or terminated due to a mass change, the recipient's benefits will be reinstated only if the issue being contested is that:
 - a. FS eligibility or benefits were improperly computed; or
 - b. Federal law or regulation is being misapplied or misinterpreted by the Department or by the local district. If the Department determines that the recipient has the right to have FS benefits reinstated, the local district must reinstate their FS benefits as soon as possible but no later than five business days after being advised by the Department of such determination.
5. **RECERTIFICATION** - If the action proposed in the notice results from a regularly scheduled recertification of the recipient's FS authorization, their level of participation in the Food Stamp Program will be continued at the level determined at their recertification. Recipients do not have the right to have their level of benefits continued at the prior benefits level unless and until the fair hearing decision is issued requiring such benefit level.
6. **NO CHANGE OF BENEFITS PRIOR TO FAIR HEARING DECISION** - Once benefits are continued or reinstated, the benefits should continue without change until the hearing decision unless:
 - a. The certification period expires, in which case the recipient may reapply and may be determined eligible for a new certification period; or
 - b. A change affecting the household's eligibility for FS or the basis of issuance of food stamp benefits occurs before the hearing decision is issued and the recipient fails to make a request for a fair hearing regarding a subsequent notice of adverse action; or

- c. Before the hearing decision is issued a mass change occurs which affects the household's eligibility for FS or basis of issuance.
7. RECOVERY OF AID CONTINUING - If the recipient's FS benefits are continued until a fair hearing decision is issued and they lose the fair hearing, the local district may recover the benefits which should not have been received. This does not apply to fair hearings to review the imposition of an employment sanction because the employment sanction is imposed in its entirety after the district is upheld in the fair hearing.

References

358-3.6
94 INF-16
88 INF-83
90 LCM-192

TASB

Chapter 7

EXAMINATION OF CASE RECORD

1. **RIGHT TO EXAMINE CASE RECORD** - At any reasonable time before the date of the fair hearing and also at the fair hearing, the applicant/recipient or their authorized representative has the right to examine the contents of their case record and all documents and records to be used by the local district at the fair hearing.
2. **EXCEPTIONS** - Except as provided in paragraph 3 below the only exceptions to access to the case record are:
 - a. Those materials to which access is governed by separate statutes, such as records regarding child welfare, foster care, adoption or child abuse or neglect or any records maintained for the purposes of the Child Care Review Service; and
 - b. Those materials being maintained separately from TA files for the purposes of criminal prosecution and referral to the district attorney's office. This exception applies only to records which are part of an active and ongoing investigatory action; and
 - c. The county attorney or county welfare attorney's files.
3. **COMMISSION FOR THE VISUALLY HANDICAPPED RECORDS** - Case records secured by the Commission for the Visually Handicapped or by a local rehabilitation agency acting on behalf of such Commission will not ordinarily be made available for examination since they contain information secured from outside sources. However, particular extracts will be furnished to the applicant/recipient or his/her authorized representative when provision of such information will be beneficial. The case record, or any part thereof, admitted as evidence in a fair hearing shall be available for review by the applicant/recipient or his/her authorized representative.
4. **COPIES OF DOCUMENTS** - Upon request, you have a right to be provided at a reasonable time before the date of the hearing, at no charge, with copies of all documents which the social services agency will present at the fair hearing in support of its determination. If the request for copies of documents which the social services agency will present at the hearing is made less than five business days before the hearing, the social services agency must provide you with such copies no later than at the time of the hearing. If you or your representative request that such documentation must be mailed within a reasonable time from the date of the request; provided however, if there is insufficient time for such documents to be mailed and received before the scheduled date of the hearing such documents may be presented at the hearing instead of being mailed.
5. **COPIES OF ADDITIONAL DOCUMENTS** - Upon request, you have the right to be provided at a reasonable time before the date of the hearing, at no charge, with copies of any additional documents which you identify and request for purposes of preparing for your fair hearing. If the request for copies of documents is made less than five business days before the hearing, the social services agency must provide you with such copies no later than at the time of the hearing. If you or your representative request that such documents be mailed, such documents must be mailed within a reasonable time from the date of the request; provided however, if there is insufficient time for such documents to be mailed and received before the scheduled date of the hearing such documents may be presented at the hearing instead of being mailed.

References**TASB**

358-3.7
88 INF-83

Chapter 7

AUTHORIZATION REPRESENTATIVE

1. **WRITTEN AUTHORIZATION** - Except where impracticable to execute a written authorization, an individual or organization seeking to represent the applicant/recipient, other than an attorney or an employee of an attorney, must have a written authorization to represent the applicant/recipient at any conference or fair hearing and to review the applicant/recipient's case record. An employee of an attorney will be considered an authorized representative if such employee presents written authorization from the applicant/recipient's attorney or if such attorney advises the local district by telephone of such employee's authorization.
2. **COPIES OF ALL CORRESPONDENCE** - Once a local district and the Department have been notified that a person or organization has been authorized to represent the applicant/recipient at the fair hearing, such representative will receive copies of all correspondence to the applicant/recipient from the local district and the Department relating to the conference and fair hearing.

References

358-3.9
88 INF-83

TASB

Chapter 7

LOCAL DISTRICT RESPONSIBILITIES**1. PROPOSED ACTIONS -**

- a. **APPROVE, DENY, DISCONTINUE, REDUCE OR INCREASE** - A local district proposing to approve, deny, discontinue, or reduce FS benefits, or to increase FS benefits, or to change the amount of one of the items used in the calculation of FS benefits, must review or cause to be reviewed the intended action to determine whether the intended action is correct on the basis of the available evidence included in the applicant's or recipient's case record.
- b. **NOTICE** - Where it is determined that the intended action is correct after review, the local district must send to the applicant/recipient a notice which meets the requirements of **FSSB Section 7**.

2. PRE-HEARING RESPONSIBILITIES -

- a. **PROVIDE ASSISTANCE** - When requested, the local district must provide assistance to applicants and recipients in making a request for a fair hearing.
- b. **AID CONTINUING** -
 - (1) Upon notification by the Department that a fair hearing has been requested and that the appellant's FS benefits must be continued or reinstated in accordance with **FSSB Section 8** until the fair hearing decision is issued, the local district, except as provided in **FSSB Section 8**, must take immediate action to assure that the appellant's FS benefits continue unchanged until the fair hearing decision is issued.
 - (2) Upon receipt of such notification, if FS benefits already have been discontinued, or reduced, the local district must take whatever action is necessary to restore the appellant's FS benefits to their previous level. Such action must be taken as soon as possible but no later than five business days from notification that the appellant's FS benefits must continue or be reinstated.
- c. **COPIES OF DOCUMENTS TO BE PRESENTED** - Upon oral or written request, including request by telephone, the local district must provide to the appellant or appellant's representative copies of the documents to be presented at the fair hearing. Such copies must be provided within the time-frames set forth in **FSSB Section 8**. Such documents must be provided without charge, and must be provided to the appellant or the appellant's representative by mail, if so requested.
- d. **COPIES FROM CASE RECORD** - Upon oral or written request, including request by telephone, the local district must provide to the appellant or appellant's authorized representative copies of any documents from appellant's case file which the appellant requests for purposes of hearing preparation. Such copies must be provided within the time-frames set forth in **FSSB Section 8**. Such documents must be provided without charge, and must be provided to the appellant or the appellant's representative by mail, if so requested.
- e. **ENCOURAGE AGENCY CONFERENCES** - Encourage the use of agency conferences as specified in **FSSB Section 8**.
- f. **TELEPHONE CONFERENCES** - Local districts may provide telephone conferences upon prior approval of the Office of Administrative Hearings of the Department. The Office of Administrative Hearings may approve such requests in its discretion, where holding an in-person conference is not feasible.
- g. **COPIES OF ALL CORRESPONDENCE TO AUTHORIZED REPRESENTATIVE** - The local district must send copies of all correspondence relating to the conference and fair hearing to the authorized representative of the appellant.

3. RESPONSIBILITIES AND RIGHTS IN THE FAIR HEARING PROCESS -

- a. **PROVIDE DOCUMENTARY EVIDENCE** - The local district must provide complete copies of its documentary evidence to the hearing officer at the fair hearing and also to the appellant or appellant's authorized representative, where such documents were not provided previously to the appellant or appellant's authorized representative in accordance with **FSSB Sections 8**. Such documents must be provided without charge.
- b. **ATTENDANCE AND DOCUMENTARY AT THE HEARING** - Except as provided in **FSSB Section 8**,

a representative of the local district must appear at the hearing along with the case record and a written summary of the case. Such representative must:

- (1) Have reviewed the case; and
 - (2) Be prepared to present evidence in support of the action, including:
 - (a) The case number;
 - (b) The applicable FS benefits involved;
 - (c) The names, addresses, relationships and ages of persons affected;
 - (d) The determination regarding which the hearing request was made;
 - (e) A brief description of the facts, evidence and reasons supporting such determination, including identification of the specific provisions of law, Department regulations and approved local policies which support the action;
 - (f) The relevant budget or budgets prepared by the local district for the appellant or the household of such appellant including printouts of relevant budgets produced on the Welfare Management System (WMS); and
 - (g) A copy of the applicable action taken notice, adverse action notice, expiration notice or notice of action, including any notices produced on the Client Notices System.
 - (3) Have the authority to make binding decisions at the hearing on behalf of the local district, including the authority to withdraw the action or otherwise settle the case.
- c. **APPEAR ON PAPER ONLY** - No later than five calendar days before the hearing date, the local district may make application to the Office of Administrative Hearings of the Department to appear at a hearing on papers only.
- (1) The Office of Administrative Hearings may approve such application in its discretion where the rights of the appellant can be protected and the personal appearance of the local district is neither feasible nor necessary.
 - (2) A hearing officer may require the appearance of a representative of the local district where such appearance is necessary to protect the due process rights of the appellant.
- d. **TRANSPORTATION REQUEST** - Upon request of the appellant, the local district must provide necessary transportation and transportation expenses to and from the fair hearing for the appellant and appellant's representatives and witnesses and payment for appellant's necessary child care costs and for any other necessary costs and expenditures related to the fair hearing.
- e. Local districts have those hearing rights which appellants have as found in **FSSB Section 8**.

References	Related Items	TASB
358-4.1	Requirements (<u>FSSB</u>)	Chapter 7
358-4.2	Aid Continuing (<u>FSSB</u>)	
358-4.3	Examination of Case Record (<u>FSSB</u>)	
88 INF-83	Agency Conferences (<u>FSSB</u>)	
89 LCM-215	Appellant Rights (<u>FSSB</u>)	

DEPARTMENT RESPONSIBILITIES**1. NOTICE OF FAIR HEARING -**

- a. Notice - Except for hearings which are given priority in scheduling in accordance with **FSSB Section 8**, at least 10 calendar days prior to the date of the fair hearing, a written notice of the fair hearing will be sent by the Department to the appellant, appellant's authorized representative and to the local district.
- b. INCLUDED IN THE NOTICE - The fair hearing notice will state the following:
 - (1) The date, time, and place of the fair hearing and an explanation of how and when a change in the date and place of the fair hearing may be requested, and under what circumstances a hearing will be rescheduled if neither the appellant nor the appellant's representative appears at the hearing; and
 - (2) Whether FS benefits must be continued unchanged; and
 - (3) The appellant's right upon request to necessary transportation or to transportation expenses to and from the fair hearing for the appellant and the appellant's authorized representatives and witnesses and for payment of the appellant's necessary child care costs and for any other necessary costs and expenditures related to the fair hearing; and
 - (4) The appellant's right to be represented at the fair hearing by legal counsel, a relative, friend or other person or to represent oneself, and the right to bring witnesses to the fair hearing and to question witnesses at the hearing; and
 - (5) The right to present written and oral evidence at the hearing; and
 - (6) That the appellant should bring the notice of fair hearing to the hearing as well as all evidence that has a bearing on the case such as books, records and other forms of written evidence, and witnesses, if any; and
 - (7) The appellant's right to review appellant's case record prior to and at the fair hearing; and
 - (8) The appellant's right upon request to obtain copies of documents which the local district will present at the fair hearing and copies of other additional documents for the purpose of preparing for the fair hearing; and
 - (9) The right of a deaf or non-English speaking appellant to interpreter services at the fair hearing at no charge.

2. SCHEDULING -

- a. CONVENIENT TIME AND LOCATION - The fair hearing will be held at a time and place convenient to the appellant as far as practicable. In scheduling the hearing, the Department will consider such things as the physical inability of the appellant to travel to the regular hearing location.
- b. PRIORITY - A fair hearing which is subject to priority processing pursuant to **FSSB Section 8** must be scheduled as soon practicable after the request is made. In determining the date for which the hearing will be scheduled, consideration must be given to the nature and urgency of the appellant's situation, including any date before which the decision must be issued to allow for meaningful resolution of the issue under review.
- c. APPELLANT INTENDS TO LEAVE LOCAL DISTRICT - When a hearing is requested and the FS household intends to move from the local district before the decision normally would be issued, priority will be given to the scheduling of the hearing, taking into account any date before which the hearing must be scheduled to allow for the appellant to receive the decision while still in the local district.
- d. PRIORITY DETERMINATION - After a hearing which was scheduled on a priority basis, the decision must be issued as soon as practicable. In determining the date by which the decision will be issued, consideration must be given to the nature and urgency of the appellant's situation, including any date before which the decision must be issued to allow for meaningful resolution of the issue under review.
- e. ENDING PRIORITY PROCESSING - If, at the conclusion of a hearing which was scheduled on a priority basis, the hearing officer determines that the issues do not warrant continued priority processing, the hearing officer will inform the parties that the issuance of the decision will not receive priority processing.

3. ADJOURNING THE FAIR HEARING -
 - a. REQUEST TO DELAY - Upon request of either the appellant or a local district, the fair hearing may be rescheduled, upon a showing of good cause for requesting the delay.
 - b. ADJOURNING OR RESCHEDULING THE FAIR HEARING - When in the judgment of the Department or the hearing officer the parties' due process rights would best be served by adjourning the fair hearing, or if there are special circumstances which make proceeding with the case fundamentally unfair, the Department or the hearing officer may reschedule the fair hearing.
 - c. REQUEST TO ADJOURN - Requests to adjourn a fair hearing must be made in accordance with the instructions in the notice of fair hearing.
 - d. ADJOURNED PER APPELLANT'S REQUEST - If a fair hearing is adjourned based upon a request by the appellant, the time limit set forth in **FSSB Section 8** will be extended by the number of days the fair hearing has been postponed.
 - e. BENEFITS CONTINUED FOR RESCHEDULED HEARING - If FS benefits are continued in accordance with **FSSB Section 8** and the fair hearing is rescheduled for the reasons set forth above, an appellant has the right to have FS benefits continued until the fair hearing decision is issued.
4. WITHDRAWAL OF A REQUEST FOR A FAIR HEARING -
 - a. WITHDRAWAL REQUIREMENT - The Department will consider a hearing request to be withdrawn under the following circumstances:
 - (1) The Department has received a written statement from the appellant or appellant's authorized representative stating that the request for a fair hearing is withdrawn; or
 - (2) The appellant or appellant's authorized representative has made a statement withdrawing the request to the hearing officer on the record at the hearing.
 - b. INSUFFICIENT REQUEST - An oral statement by telephone or in person to a local district employee that an appellant is withdrawing a request for a fair hearing is insufficient to withdraw a fair hearing request.
5. ABANDONMENT OF A REQUEST FOR A FAIR HEARING -
 - a. REQUEST ABANDONED - The Department will consider a fair hearing request abandoned if neither the appellant nor appellant's authorized representative appears at the fair hearing unless either the appellant or appellant's authorized representative has:
 - (1) Contacted the Department within 15 days of the scheduled date of the fair hearing to request that the fair hearing be rescheduled; and
 - (2) Provided the Department with a good cause reason for failing to appear at the fair hearing on the scheduled date; or
 - (3) Contacted the Department within 45 days of the scheduled date of the hearing and establishes that the appellant did not receive the notice of fair hearing prior to the scheduled hearing date.
 - b. CASE RESTORED TO CALENDAR - The Department will restore a case to the calendar if the appellant or appellant's authorized representative has met the requirements above.
6. HEARING OFFICER -
 - a. IMPARTIAL HEARING OFFICER - The hearing shall be conducted by an impartial hearing officer employed by the Department, who has not been involved in any way with the action in question.
 - b. RESPONSIBILITIES OF THE HEARING OFFICER - To ensure a complete record at the hearing, the hearing officer must:
 - (1) Preside over the fair hearing and regulate the conduct and course of the fair hearing, including at the hearing officer's discretion, requiring sworn testimony, and administering the necessary oaths; and
 - (2) Make an opening statement explaining the nature of the proceeding, the issues to be heard and the manner in which the fair hearing will be conducted; and
 - (3) Elicit documents and testimony, including questioning the parties and witnesses, if necessary,

particularly where the appellant demonstrates difficulty or inability to question a witness; however, the hearing officer will not act as a party's representative; and

- (4) Where the hearing officer considers independent medical assessment necessary, require that an independent medical assessment be made part of the record when the fair hearing involves medical issues such as a diagnosis, an examining physician's report, or a medical review team's decision; and
 - (5) Adjourn the fair hearing to another time on the hearing officer's own motion or on the request of either party, to the extent allowable in **FSSB Section 8**; and
 - (6) Adjourn the fair hearing when in the judgment of the hearing officer it would be prejudicial to the due process rights of the parties to go forward with the hearing on the scheduled hearing date; and
 - (7) Review and evaluate the evidence, rule on the admissibility of evidence, determine the credibility of witnesses, make findings of fact relevant to the issues of the hearing which will be binding upon the Commissioner unless such person has read a complete transcript of the hearing or has listened to the electronic recording of the fair hearing; and
 - (8) At the hearing officer's discretion, where necessary to develop a complete evidentiary record, issue subpoenas, and/or require the attendance of witnesses and the production of books and records; and
 - (9) Prepare an official report containing the substance of what transpired at the fair hearing and including a recommended decision to the Commissioner.
- c. **REMOVAL OF A HEARING OFFICER** - A party to a hearing may make a request to a hearing officer that the hearing officer remove himself or herself from presiding at the hearing.
- (1) The grounds for removing a hearing officer are that such hearing officer has:
 - (a) Previously dealt in any way with the substance of the matter which is the subject of the hearing except in the capacity of hearing officer; or
 - (b) Any interest in the matter, financial or otherwise, direct or indirect, which will impair the independent judgment of the hearing officer; or
 - (c) Displayed bias or partiality to any party to the hearing.
 - (2) The hearing officer may independently determine to remove himself or herself from presiding at a hearing on the grounds set forth in paragraph (1) above.
 - (3) The request for removal made by a party must:
 - (d) Be made in good faith; and
 - (e) Be made at the hearing in writing or orally on the record; and
 - (f) Describe in detail the grounds for requesting that the hearing officer be removed.
 - (4) Upon receipt of a request for removal, the hearing officer must determine on the record whether to remove himself or herself from the hearing.
 - (5) If the hearing officer determines not to remove himself or herself from presiding at the hearing, the hearing officer must advise the party requesting removal that the hearing will continue but the request for removal will automatically be reviewed by the general counsel or the general counsel's designee.
 - (6) The determination of the hearing officer not to remove himself or herself will be reviewed by the general counsel or the general counsel's designee. Such review will include review of written documents submitted by the parties and the transcript of the hearing.
 - (7) The general counsel or the general counsel's designee must issue a written determination of whether the hearing officer should be removed from presiding at the hearing within 15 business days of the close of the hearing.
 - (8) The written determination of the general counsel or the general counsel's designee will be made part of the record.

7. WHO MAY BE PRESENT AT THE FAIR HEARING - The following persons may be present at a fair hearing:
 - a. The appellant who has requested the fair hearing; and
 - b. The appellant's representative; and
 - c. Counsel or other representatives of the local district; and
 - d. Witnesses of either party and any who may be called by the hearing officer; and
 - e. An interpreter; and
 - f. Any other person admitted at the hearing officer's discretion, with the consent of the appellant.
8. MEDIA ADMISSION TO FAIR HEARING -
 - a. WAIVER OF APPELLANT'S RIGHT TO CONFIDENTIALITY - The media may be admitted to a fair hearing where the appellant has made a specific waiver of appellant's right to confidentiality both in writing and on the record and has clearly and unequivocally confirmed on the record that the appellant desires and consents to the presence of the media. The waiver must be unqualified, complete, and made with full knowledge of the ramifications of the waiver, including that the waiver is irrevocable.
 - b. EXTENT OF ACCESS - Where a waiver has been secured, the extent of any access to be granted to the media is to be determined at the discretion of the hearing officer. In determining the extent of such access, the hearing officer will consider the following:
 - (1) Maintenance of proper hearing decorum; and
 - (2) Potential disruption to the proceedings; and
 - (3) Adverse effect on witnesses; and
 - (4) Impediments to the making of a proper and accurate record; and
 - (5) The physical space and conditions of the hearing room; and
 - (6) Potential disruption to the hearing officer, including impediments to the hearing officer's ability to discharge responsibilities; and
 - (7) Any other factor which, in the discretion of the hearing officer, is necessary to ensure the orderly and proper conduct of the hearing and the creation of a complete and accurate hearing record or which is necessary in order to protect confidential information where confidentiality cannot be waived by the appellant.
9. FAIR HEARING PROCEDURES -
 - a. PROCEDURES -
 - (1) At a fair hearing concerning the denial of an application for or the adequacy of FS benefits, the appellant must establish that the local district's denial of assistance or benefits was not correct or that the appellant is eligible for a greater amount of benefits.
 - (2) Except where otherwise established by law or regulation, in fair hearings concerning the discontinuance, reduction or suspension of food stamp benefits, the local district must establish that its actions were correct.
 - b. DECISION - The fair hearing decision must be supported by and in accordance with substantial evidence.
 - c. RULES OF EVIDENCE - Technical rules of evidence followed by a court of law need not be applied. Irrelevant or unduly repetitious evidence and/or cross-examination may be excluded at the discretion of the hearing officer. Privileges recognized by law will be given effect.
 - d. REPRODUCTION OR COPY OF ORIGINAL MATERIAL - Any written record or document or part thereof to be offered as evidence may be offered in the form of a reproduction or copy where such reproduction or copy is identified satisfactorily as a complete and accurate reproduction or copy of the original material.

10. CONSOLIDATED FAIR HEARINGS -

- a. BASIS - The Department may consolidate fair hearings where two or more persons request fair hearings in which the individual issues of fact are not disputed and the sole issue in each request is an objection to:
 - (1) Federal or State law or regulation, or local policy; or
 - (2) A change in federal or State law.
- b. PRESENTING THE CASE - Each person whose case has been consolidated with another person's case has the right to:
 - (1) Present one's own case or have one's case presented by a representative; and
 - (2) Withdraw from the consolidated fair hearing and have an individual fair hearing.

11. THE HEARING RECORD -

- a. CONTENTS OF THE RECORD - A written transcript or recording of the fair hearing testimony, the fair hearing exhibits, the hearing officer's official report including the recommended decision of the hearing officer, all papers and requests filed in the proceeding prior to the close of the fair hearing, and the fair hearing decision constitute the complete and exclusive record of the fair hearing. Where a decision without hearing is issued in accordance with **FSSB Section 8**, the documents submitted by the appellant and the local district constitute the complete and exclusive record of the fair hearing.
- b. REVIEW OF RECORD - The exclusive record of the fair hearing is confidential; however, the exclusive record may be examined by either party or their authorized representative at the Office of Administrative Hearings, or upon request at some other location subject to the approval of the Office of Administrative Hearings.

References

Related Items

TASB

358-5
 88 INF-83
 91 LCM-89
 90 LCM-32

Priority Hearing ([FSSB](#))
 Decision and Compliance ([FSSB](#))
 Aid Continuing ([FSSB](#))

Chapter 7

DECISION AND COMPLIANCE

1. ALL DECISIONS -
 - a. DECISION CONTENT - The fair hearing decision issued by the Commissioner:
 - (1) Must be based exclusively on the fair hearing record, or in the case of a decision without hearing, on the documents submitted by the appellant and the local district.
 - (2) Must be in writing and must set forth the fair hearing issues, the relevant facts, and the applicable law, regulations, and approved policy, if any, upon which the decision is based.
 - (3) Must make findings of fact, determine the issues and state reasons for the determinations and when appropriate, direct specific action to be taken by the local district.
 - (4) May address the violation of any provision of **FSSB Section 8** by the local district, including but not limited to, violations of regulations concerning notice, aid continuing and provision of documents and records and set forth appropriate relief for such violations.
 - b. FINAL AND BINDING - Upon issuance, the decision is final and binding upon local districts and must be complied with in accordance with this Section.
 - c. NOTIFICATION - A copy of the decision, accompanied by written notice to the appellant of the right to judicial review, will be sent to each of the parties and to their representatives, if any. In addition, such notice will advise the appellant that the appellant or the appellant's authorized representative may request the Department's assistance in obtaining compliance with the decision.
2. DECISION WITHOUT HEARING -
 - a. BASIS - Upon the Commissioner's own motion or upon request of an appellant in cases in which there is no material issue of fact to be resolved, a decision may be issued without a hearing. The determination to issue a decision without a hearing rests solely within the discretion of the Commissioner.
 - b. REQUEST FOR DECISION WITHOUT A HEARING - A request for a decision without a hearing must be accompanied by sufficient information to enable the Commissioner to ascertain whether any unresolved material issue of fact exists, and should contain a full and clear statement of the issues and of the appellant's position on these issues.
 - c. LOCAL DISTRICT RESPONSIBILITIES - When the Commissioner determines that a decision without hearing is appropriate, the Commissioner will send the request for a decision without hearing, or the request for a hearing, along with any supporting documents to the local district involved. Within 10 business days of receipt of these documents, the local district must forward to the Commissioner, the appellant, and the appellant's representative, a response containing sufficient information to ensure resolution of the dispute.
 - d. COMMENTS OR REBUTTAL BY APPELLANT - Within 10 business days of the receipt of the documents submitted by the local district, the appellant or authorized representative may submit comments or rebuttal to the Commissioner with copies to the other parties.
 - e. RESCHEDULE FAIR HEARING - At any point after a request for a decision without a hearing has been made, if it appears that there is a material and unresolved issue of fact relating to the issue or issues upon which the hearing was requested, the appellant and the local district will be informed that a fair hearing will be scheduled upon notice to all parties.
 - f. DECISION - A decision without a hearing will be issued by the Commissioner based upon the papers submitted in accordance with this Section.
3. DIRECTION RELATIVE TO SIMILAR CASES - When a fair hearing decision indicates that a local district has misapplied provisions of law, Department regulations, or such local district's own State-approved policy, the Commissioner's letter transmitting such decision to such local district may contain a direction to the local district to review other cases with similar facts for conformity with the principles and findings in the decision.
4. COMPLIANCE -
 - a. 60 DAYS OR LESS -

- (1) For all cases involving FS issues only the decision must be issued and the parties notified of the decision within 60 days of receipt of the request for the fair hearing by the Department.
 - (2) If the decision will result in an increase in household food stamp benefits, local districts must reflect such increase in the coupon allotment within 10 days of the receipt of the hearing decision; however, the increase may occur later than 10 days after the decision if the local district decides to make the decision effective in the household's normal issuance cycle and the issuance will occur within 60 days from the household's request for a hearing.
 - (3) Decisions which result in a decrease in household benefits must be reflected on the next scheduled issuance following receipt of the fair hearing decision.
- b. APPELLANT PLANS TO LEAVE DISTRICT - Benefits must be restored to households which are leaving the local district before departure, whenever possible. If benefits are not restored prior to the household's departure, the local district must forward an authorization for FS benefits to the household or to the new local district, if this is known. The new local district must accept an authorization and issue the appropriate benefits whether the notice is presented by the household or received directly from another local district.
- c. COMPLAINT - Upon receipt of a complaint that a local district has not complied with the fair hearing decision, the Department will secure compliance by whatever means is deemed necessary and appropriate under the circumstances of the case.
5. COMPLIANCE WITH DIRECTION RELATIVE TO SIMILAR CASES - When a direction has been given to a local district to correct a misapplication of law, Department regulations or such district's own State-approved policy in all cases similar to the one in which a decision has been issued, such local district must report the actions it has taken to comply with such direction to the Department within 30 days after receipt of the direction. The local district must make such additional reports as the Department may require.
6. CORRECTED DECISIONS AND REOPENED HEARINGS -
- a. CORRECTED DECISIONS - The Commissioner may review an issued fair hearing decision for purposes of correcting any error found in such decision.
 - (1) After review, the Commissioner may correct any error occurring in the production of an issued fair hearing decision including, but not limited to, typographical and spelling errors.
 - (2) After review, on notice to the parties, the Commissioner may correct any error of law or fact which is substantiated by the fair hearing record.
 - (3) During the pendency of any review of an issued fair hearing decision, the original decision is binding and must be complied with by the local district in accordance with the provisions of this Section.
 - b. REOPENED HEARINGS - On notice to all parties, the Commissioner may reopen a previously closed fair hearing record for purposes of completing such record. If such reopening occurs subsequent to the issuance of a fair hearing decision, the provisions of paragraph 3 above apply.

References

Related Item

TASB

358-6
 387.21
 88 INF-83

Local District
 Responsibility (FSSB)

Chapter 7

AGENCY CONFERENCES

1. **DEFINITION** - Agency conference means an informal meeting at which an applicant or recipient may have any decision of a local district concerning the applicant's or recipient's food stamp benefits, reviewed or may have any other aspect of the applicant's or recipient's case reviewed by an employee of the local district who has the authority to change the decision with which the applicant or recipient disagrees.
2. **CONFERENCE BEFORE THE FAIR HEARING** - At any reasonable time before the date of the fair hearing, the applicant/recipient may request that the local district schedule an agency conference before the appellant's fair hearing to review the local district's decision for which the appellant has requested the fair hearing.
3. **CONFERENCE WITHOUT A FAIR HEARING REQUEST** - Even though the applicant/recipient has not requested a fair hearing, the applicant/recipient may request an agency conference to review any action on their case.
4. **ENCOURAGE AGENCY CONFERENCES** - The local district must encourage the use of agency conferences to settle disputes and complaints concerning actions regarding an applicant's or recipient's food stamp benefits, so as to eliminate the need to hold fair hearings wherever the dispute can be resolved by scrutiny of documents and/or thorough investigation.
5. **HOLDING AGENCY CONFERENCE** - The local district must hold agency conferences when such conference is requested as provided for in this Section. The conference may not be used to inhibit the appellant's right to a fair hearing. Agency conferences must be scheduled before the date of the fair hearing. If the appellant is contesting a denial of expedited participation, the conference must be scheduled within two business days of the conference request, unless the appellant requests a later date.
6. **NECESSARY INFORMATION AND DOCUMENTATION** - The local district must bring the necessary information and documentation to any agency conference, including a telephone conference, to explain the reason for the agency determination and to provide a meaningful opportunity to resolve the problem.
7. **REPRESENTATIVE MUST ATTEND** - Except for telephone agency conferences approved according to paragraph (8) below, a representative of the local district must appear with the case record at the agency conference. Such representative must have reviewed the case and must have the authority to make binding decisions on behalf of the local district, including the authority to withdraw the intended action.
8. **TELEPHONE CONFERENCES** - Local districts may provide telephone conferences upon prior approval of the Office of Administrative Hearings of the Department. The Office of Administrative Hearings may approve such requests in its discretion, where holding an in-person conference is not feasible.

NOTE: This approval is not intended to require a local district to request Department permission in order to have day to day discussions of a case with a client by telephone. Nor was it intended to cover the situation where a client formally requests an agency conference and for reasons such as disability, the client requests that the conference be conducted by telephone.

The telephone conference is meant to apply to situations where a local district has found that it would not be feasible to offer in-person conferences to a particular group of clients or for a particular class of actions it intends to take. In such situations application for approval of telephone conferences should be sent to the Office of Administrative Hearings pursuant to Dept. Reg. 358-4.2(i).

9. **COPIES OF CORRESPONDENCE** - The local district must send copies of all correspondence relating to the conference and fair hearing to the authorized representative of the appellant.

References**TASB**

358-2.4

Chapter 7

RIGHT TO USE FOOD STAMPS TO PURCHASE DELIVERED MEALS

1. **PERSONS ELIGIBLE** - Eligible household members and their spouses who are 60 years of age or older, or members who are homebound, feeble, physically handicapped or otherwise disabled to the extent that they are unable to adequately prepare all their meals, may use all or any part of their monthly allotment to purchase meals from a non-profit meal delivery service (Meals-on-Wheels). The delivery service must be authorized by FNS to accept food stamps.
2. **TYPES OF SERVICES** - Meal delivery services include:
 - a. A local agency which delivers meals to those specified in paragraph 1, above.
 - b. A private non-profit organization which delivers meals to those specified in paragraph 1, above.

RIGHT TO USE FOOD STAMPS AT COMMUNAL DINING

1. **PERSONS ELIGIBLE** - Eligible household members and their spouses who are 60 years of age or older, or who are recipients of SSI, may use all or any part of their monthly allotment to purchase meals at a communal dining facility. The facility must be authorized by FNS to accept food stamps.
2. **TYPES OF FACILITIES** - Communal dining facilities include:
 - a. Senior citizens' center,
 - b. Apartment buildings occupied primarily by elderly persons or SSI households,
 - c. Public or private non-profit establishments (eating or otherwise) that feed elderly persons or SSI recipients,
 - d. Federally-subsidized housing for the elderly at which meals are prepared and serviced to residents.

FOOD STAMP RESTAURANT MEALS PROGRAM FOR THE ELDERLY, DISABLED & HOMELESS

FOOD STAMP RESTAURANT MEALS PROGRAM FOR THE ELDERLY, DISABLED & HOMELESS

The Food Stamp Restaurant Meals Program For The Elderly and Disabled has been terminated.

For Information on the Homeless Meal Provider Program see next page.

HOMELESS MEAL PROVIDER PROGRAM

Non-profit or publicly operated facilities such as shelters for the homeless and soup kitchens which provide prepared meals to homeless persons may be authorized to receive FS in payment for the meals provided. In order to receive FS the facility must first obtain certification from the Department (Application for approval as a Homeless Meal Provider - DSS-3839 must be used) that it provides meals to the homeless (homeless meal provider). It then must be authorized by the United States Department of Agriculture (USDA) as a retailer eligible to accept FS.

1. **PROVIDER RESPONSIBILITIES** - The following applies to the use of FS to pay for meals from a homeless meal provider:
 - a. The provider may only include cost of food purchased when determining the cost of the meal. Such things as a value of donated foods, the cost of food preparation and serving, storage or administrative costs may not be factored in when determining the cost of the meal.
 - b. The provider may not require payment from persons who are eligible to pay with FS while providing free meals to other people. If there is a meal charge, it must apply equally to all people served. However, FS recipients may voluntarily contribute FS if the meal provided is free.
 - c. The provider may receive FS in payment for meals only from homeless persons. Persons who are not homeless may not use their FS to buy meals from a homeless meal provider.
 - d. The provider may redeem FS through authorized food wholesalers and retailers but not through financial institutions (banks).
 - e. Neither the homeless meal provider nor any employee designated by the homeless meal provider can be an authorized representative for a homeless FS applicant/recipient.
 - f. The provider must comply with all USDA rules and procedures regarding handling of food coupons such as change making security, reporting and redemptions.
2. **LOCAL DISTRICT RESPONSIBILITIES** - Local districts have no direct responsibility for certifying homeless meal providers or monitoring the use of FS in these facilities. This is done by the Department and the USDA. However, the local district may not allow a homeless meal provider to act as the authorized representative for a homeless person who receives meals in the provider's facility.
3. **List of Authorized Homeless Meal Providers** - A list of facilities authorized for the Homeless Meal Provider Program in New York State is available on the Electronic Library. It can be accessed by issuing the following direct command: ELIB - FSR001 - FSREST.

References

387.1
387.16

SECTION 10: EMPLOYMENT/WORK REQUIREMENTS

For employment/work requirements, please refer to the Employment Policy Manual.

SECTION 11: Budgetary Method

Determining Income Eligibility and Benefit Levels

NOTE: Much of the following represents the logic behind the calculation of Food Stamp Benefits and is done automatically by the WMS budget process. It is important however, to understand the mechanics of budgeting in order for workers to know the correct input to the budget in those instances where independent decisions are required.

1. DETERMINING APPROPRIATE INCOME ELIGIBILITY LIMIT -

- a. Households which contain an elderly or disabled member (as defined in **FSSB Section 5**) shall meet the net income eligibility standards only.
- b. Households which contain a member who will be at least sixty years old by the last day in the month of application shall meet the net income standard only.
- c. Households which do not contain an elderly or disabled member shall meet both the net and the gross income eligibility standards.
- d. Categorically eligible FS households do not have to meet the net or gross income eligibility standards. (See **FSSB Section 5**.)
- e. A change to include or exclude the gross income eligibility standard must be applied only when the local district has to adjust a household's eligibility, benefit level or certification period, or at recertification, whichever occurs first.

2. CALCULATING GROSS INCOME -

To calculate gross income (for households which do not contain an elderly or disabled member) the local district must add the gross monthly income earned by all household members, and the total monthly unearned income of all household members, minus all income exclusions. Compare this total to the current gross income limits for the correct family size. If the household is at or under the limit, calculate net income to determine benefit level.

3. NET MONTHLY INCOME -

- a. To determine a net monthly income for a household which does not contain an elderly or disabled member the local district must:
 - (1) Calculate the household's total gross earned income. This is the total gross monthly income earned by all household members minus any earned income exclusions as specified in **FSSB Sections 12**.
 - (2) Multiply this figure by 20%. Subtract that amount from the total gross monthly earned income to determine the net monthly earned income.

NOTE: As of September 21, 1996, the twenty percent earned income deduction is not allowed for any portion of the income earned under a work supplementation or support program that is attributable to TA. **The twenty percent earned income deduction will be allowed for any amount over and above the diverted grant paid by the employer to the client.**

- (3) Add to the net monthly earned income the total monthly unearned income of all household members minus any income exclusions.
- (4) Subtract the standard deduction.
- (5) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed.
- (6) Subtract the monthly legally obligated child support paid. See **FSSB Section 11**.
- (7) Total the allowable shelter expenses (as specified in **FSSB Section 11**).
 - (a) Subtract from the total shelter costs 50% of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost.
 - (b) If there is no excess shelter cost, the net monthly income has been determined.

(c) If there is excess shelter cost, compute the shelter deduction by subtracting the excess shelter cost up to the maximum amount allowed as specified in **FSSB Section 18**. The household's net monthly income has been determined.

b. To determine net monthly income for a household which contains at least one member who is elderly or disabled as defined in **FSSB Section 5**, the local district must:

- (1) Follow the normal budget calculation procedures described above through the point at which the standard deduction is allowed.
- (2) Subtract from the resultant figure that portion of the household's total monthly medical expenses (i.e., the total of all allowable medical expenses for all household members who are eligible for the medical deduction) which exceeds \$35.
- (3) Subtract from this figure any allowable dependent care costs which do not qualify as a medical deduction.
- (4) Subtract the monthly legally obligated child support paid. **See FSSB Section 11** The remaining Figure is the household's adjusted income.
- (5) Total all allowable shelter costs, subtract from the total shelter costs 50% of the household's adjusted income to determine the household's excess shelter costs.
- (6) Subtract from the adjusted income the household's excess shelter costs (if any) to determine the household's net monthly income.

NOTE: When households receiving FS while pending SSI are determined eligible for SSI, the household is entitled to a FS uncapped shelter deduction and/or medical deduction, retroactive to the FS application date or SSI eligibility date, whichever is later.

c. DISQUALIFIED/INELIGIBLE INDIVIDUAL -

- (1) An ineligible individual shall not be included when determining household size for the purpose of comparing the household's monthly income with the income eligibility standards.
- (2) The income and resources of the disqualified individual, but not his or her needs, must be considered in determining the remaining case members' eligibility and benefit level of FS.
- (3) If a household contains an individual disqualified for Intentional Program Violation, fleeing felon disqualification or failure to comply with work requirements, all of the household's allowable deductions shall continue to apply to the remaining household members.
- (4) If a household contains an individual who is ineligible for being an ineligible alien or disqualified for refusal to apply for or provide a SSN, allowable shelter and dependent care expenses paid by or billed to the ineligible/disqualified individual shall be divided evenly among the household members including the ineligible/disqualified individual(s). All but the ineligible/disqualified individual's share is counted as a deductible shelter expense for the remaining household members.

d. ROUNDING - The cents amount associated with each income and allowable expenses shall be utilized throughout the computation of the net monthly income.

e. NET AND GROSS INCOME TEST - All households which are not categorically eligible household must have their net incomes compared to the monthly net income eligibility standards for the appropriate household size to determine eligibility for the month. In addition to meeting the net income eligibility standards, households which are not categorically eligible household and do not contain an elderly or disabled member also must have their gross incomes compared to the gross monthly income standards for the appropriate household size to determine eligibility for the month.

NOTE: Categorically eligible FS households do not have to meet the net or gross eligibility standards. (See FSSB Section 5)

4. MONTHLY BENEFIT - To determine a household's FS entitlement, once eligibility has been established, multiply the FS net income by 30%. Any result ending in cents shall be rounded up to the nearest higher dollar. Subtract this figure from the appropriate coupon allotment for the

household size. The final figure is the household's FS entitlement. Basis of Coupon Issuance Tables provided by the Department may be used in lieu of the calculation. Coupon Issuance Tables are available upon request from the Department.

5. MINIMUM BENEFIT LEVELS -

- a. If calculation of benefits in accordance with **FSSB Section 10** for the initial month would yield an allotment of less than \$10 for the household, no benefit shall be issued to the household in that initial month.
- b. Except during an initial month, all eligible one-and-two-person households shall receive minimum monthly allotments of \$10. All eligible households with three or more members which are entitled to \$1, \$3, and \$5 allotments shall receive allotments of \$2, \$4 and \$6 respectively.

6. ANTICIPATED CHANGES - Due to anticipated changes a household may be:

- a. Eligible for FS benefits for the month of application even if those benefits are not issued until the subsequent month.
- b. Ineligible for the month of application but eligible in the subsequent month. The same application shall be used for the denial for the month of application and the determination of eligibility for subsequent months.
- c. Entitled to an allotment in the month of application which differs from the allotment in subsequent months.

NOTE: Excluded members of a household shall not be included when determining the household's size for the purposes of assigning a benefit level to the household.

References	Related Items	TASB
387.15	Elderly/Disabled Members (FSSB)	Chapter 12
93 ADM-8		
98 LCM-21		
GIS Message (88 IM/DC007)	Income Exclusions (FSSB)	Chapter 12
January 1983	Income Exclusions (Specific) (FSSB)	
Consolidated Letter	Shelter Deduction (FSSB)	
	Ineligible Individuals (FSSB)	
	Proration Methodology (FSSB)	

Budgeting Residents of Facilities

Standardized Food Stamp Benefits for Group Home Residents

New York State secured federal approval to implement a standardized Food Stamp benefit. This resulted in a statewide pilot project to pay a standard benefit to group home participants. For this pilot (effective January 1, 2005) benefits have been calculated based on the statewide past participation record and averaged the results to develop cost-neutral, standardized benefits. These benefits are arrayed in the matrix displayed below by geographic region, shelter type and household income source. Generally, the group home residents are one-person households. They are individual recipients whose benefits are given to group home "authorized representatives" who apply on their behalf. Most of the program participants are either disabled and/or in substance abuse rehabilitation. Homeless shelter residents and domestic violence shelter residents are not included in this project.

[Click Here For Group Home Standardized Benefit Chart](#)

These standardized benefits will be adjusted once each calendar year to accommodate changes in both the Thrifty Food Plan (TFP) and in SSI/SSA COLA income increases.

As this change is fully supported by the current ABEL shelter and income source codes, the implementation was accomplished by a mass change during the weekend of the November 13, 2004 migration for the entire population of recipients in the following shelter types:

- 10 - Congregate Care Level II Drug/Alcohol Treatment Facility
- 12 - Non-Level II Alcohol Treatment Facility
- 13 - State Operated Community Residence
- 15 - Congregate Care Level I - Family Care
- 16 - Congregate Care Level II - Not Drug /Alcohol Treatment or "Apartment Like"
- 17 - Congregate Care Level II - "Apartment Like" (OMH/OMRDD Supportive/Supervised Apartments; DSS Enriched Housing)

NOTE: Participants in the Enriched Housing Program (EHP) with SUA cost will receive The Thrifty Food Plan amount for one person.

Reference

GIS04TA/DC028

Transitional Housing Benefits for Homeless and Domestic Violence Shelter Residents

The term transitional housing means a living accommodation which is intended to provide shelter to homeless households for a short period of time until permanent regular housing, such as an apartment or house, can be obtained by the household. Such living accommodations may contain cooking and/or refrigeration facilities.

For FS purposes, transitional housing is hotel/motels, Tier II Shelters, Non-tier II Shelters and Shelters for Victims of Domestic Violence. The income and shelter costs for recipients residing in transitional housing shall be determined according to the procedures described below:

1. TA RECIPIENT WITH ONLY TA AS INCOME -

- a. DETERMINING COUNTABLE FS INCOME - TA payments below or equal to the maximum TA shelter allowance paid directly to a housing provider for transitional housing for a homeless household must be counted as income for FS purposes. Amounts of the payment that exceed the applicable TA shelter maximum with heat for the family size are excluded as food stamp income. However, the entire amount of the vendor payments made to a domestic violence shelter (shelter types 22 and 37) is considered to be non-recurring emergency payments and is therefore exempt for FS income purposes.
- b. DETERMINING SHELTER COSTS - The TA payment below or equal to the TA shelter allowance is a FS shelter expense deduction. No FS shelter expense deduction is permitted for any shelter expense that is paid by monies that are excluded as FS income. TA/FS households which have the total cost of shelter paid by vendor payments, have no shelter cost expense included in the excess shelter cost deduction determination.
- c. EXAMPLE TA/FS case with only TA income

A homeless individual residing in a hotel/motel has a TA monthly shelter vendor payment (paid directly to the motel operator) of \$700. The household's countable TA income is as follows:

Countable as FS income

\$112.00	Basic allowance
\$ 64.00	Restaurant allowance
\$ 14.00	HEA (Home Energy Allowance)
\$ 11.00	SHEA (Supplemental Home Energy Allowance)
\$184.00	Albany County Shelter Maximum with heat for household of 1.

Allowable shelter cost

\$184.00	Allowed as Shelter cost Albany County Shelter maximum with heat for household of 1.
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Not counted as income

\$516	(\$700 minus \$184 Amount of TA payment over the shelter maximum)
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Example 2: TA/FS case with TA and Other income

A homeless individual residing in a hotel/motel has \$800 in unearned income. The individual is eligible for a \$184 TA grant that is a vendor payment to the landlord. The monthly motel rent is \$700.00. The household's income is treated as follows:

\$182	TA vendor shelter payment is counted as income equal to Albany County shelter maximum with heat for household of 1
\$700.00	Monthly motel rent
<u>-\$184.00</u>	Amount by TA as vendor payment (allowed as shelter expense)
\$516.00	Out of pocket payment from recipient's unearned income to landlord also allowed as a shelter expense.

2. RECIPIENT WITH INCOME IN ADDITION TO TA -

- a. DETERMINING COUNTABLE FS INCOME - Homeless households may pay some part of a transitional

housing cost out of income other than TA income. There is no exclusion for income other than TA income.

- b. DETERMINING SHELTER COSTS - Any part of a transitional housing cost paid by income other than TA is allowed as shelter cost when calculating the household's FS excess shelter deduction. (see example 2 above).
3. NPA RECIPIENT - NPA cases must be budgeted with the procedures used for persons living in the community.
- a. DETERMINING COUNTABLE FS INCOME - All normal procedures for determining food stamp income must be applied toward the residents of these shelters.
 - b. DETERMINING SHELTER COSTS - The amount that the resident pays to the operator of the shelter must be entered in the Shelter amount field on the FS Input screen. (If the resident pays nothing to the shelter operator, enter \$0.00 in the Shelter amount field.)

Systems Impact

As of September 23, 1996 Upstate ABEL will include the applicable shelter maximum when calculating the TA grant amount and display it as the FS shelter amount. When ABEL cannot determine the appropriate amounts, "999999" will be displayed in both the grant amount and shelter amount fields. The worker must enter in the FS Actual Shelter Amount any vendor payment amounts up to the appropriate shelter allowance plus any amount paid by the client. When entering the TA Grant Amount, the worker must exclude any vendor payment in excess of the TA shelter allowance.

References

Related Items

PASB

387.11	ABEL Transmittal 87-1	Section 13-D-5.3
97 ADM-4		
95 ADM-15		Section 13-D-8.1
92 ADM-9		
88 INF-81		
96 LCM-83		
ABEL Transmittal 91-3		
ABEL Transmittal 91-2		
ABEL Transmittal 89-1		
ABEL Transmittal 88-2		
ABEL Transmittal 87-2		

Budgeting Essential Person (EPS)**1. EP INCLUDED IN FS HOUSEHOLD -**

- a. **INCOME** - If the EP is included in the FS household, then his/her portion of the FA grant (including the Home Energy Assistance and Supplemental Home Energy Allowance) must be budgeted as income received by the FS household.
- b. **SHELTER DEDUCTION** - The household's FS shelter deduction shall be determined based on the total shelter expense incurred by the entire TA household including the EP.

2. EP NOT INCLUDED IN FS HOUSEHOLD -

- a. **INCOME** - If the EP is not a member of the FA FS household, and is not a member of another FS household then his/her portion of the FA allowances, must be excluded as income to the FS household of which he is not a member. The TA shelter and fuel allowance are counted in their entirety as income to the FS household and the HEA & SHEA. These exclusions apply whether his grant is issued separately or in the FA grant.

The following portions of the FA grant are excluded as FS income when the FA EP is not a member of the FS household:

- (1) The EP's portion of the basic (pre-add) allowance.
- (2) The EP's portion of any other TA allowances issued for the entire FA case. However, the TA shelter and fuel allowances are counted in their entirety as income to the FS household.
- (3) The total amount of any TA allowance which is given for the EP only.
- (4) In addition, any NPA income received by the EP who is not a member of the FS household must be excluded as FS income for that TA/FS household.

An exception to these budgeting procedures would occur if the EP is making voluntary contributions from the above-excluded income sources to the TA/FS household of which he is not a member. These contributions would be budgeted as FS income for the remaining TA/FS household. Also see **FSSB Section 12**.

- b. **SHELTER DEDUCTION** - The FS household without the EP shall have their FS shelter deduction determined based on the total shelter expenses incurred by the TA household which shall include the EP's portion of the TA shelter and fuel allowances.

3. EP IS MEMBER OF SEPARATE FS HOUSEHOLD -

- a. **INCOME** - If the FA-EP is not a member of the FA FS household, but is a member of a separate FS household, then the following budgeting procedures must be used:

- (1) The EP's portion of TA allowances issued for the entire FA case, including the pre-add, HEA & SHEA shelter, and fuel allowance, is excluded as FS income for the FA household's FS case.

The EP's portion of these TA allowances is, however, budgeted as income received by the EP's FS household.

- b. **SHELTER DEDUCTION** - The FS household without the EP shall have their FS shelter deduction determined based on the total shelter expenses incurred by the FA members except for the EP's incurred shelter expenses. The EP's portion of the TA shelter and fuel allowances are therefore not counted toward the household's total FS shelter costs.

The FS shelter deduction of the EP's FS household shall be determined based on the total shelter expenses incurred by the EP's FS household. The EP's portion of the TA shelter and fuel allowances shall therefore be counted toward the EP's FS household's total FS shelter costs.

NOTE: If the FA FS household and the EP's FS household are sharing shelter expenses for heating/air conditioning/utilities, or phone, they may only be entitled to a prorated share of the appropriate FS standard allowances for these expenses.

Reference

Related Items

87 ADM-46

Non-Household Individuals (FSSB)
General Household Definition (FSSB)

Determining Deductions

POLICY

1. ALLOWING DEDUCTIONS - Only specific deductions as given in **FSSB Section 11** shall be used in the FS Program.

- a. Expenses shall only be deducted if the service is provided by someone outside of the household and the household makes a money payment for the service.

NOTE: Deductions may not be taken for services, such as child care, provided by another household member, regardless of any cash payment made by the household for the service.

- b. A deduction shall be allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. However, for households entitled to the medical deduction, the non-reimbursable portion shall be considered at the time the amount of reimbursement is received or can otherwise be verified.

NOTE: Amounts carried forward from past billing periods are not deductible even if included in the most recent billing period and actually paid.

A particular expense may be deducted only once.

- c. Fluctuating expenses may be averaged forward when used as a deduction.

NOTE: Households may choose to have expenses which are billed less than monthly average forward over the time between scheduled billings. If the next bill is not scheduled, the expense may be averaged over the period it is intended to cover.

EXAMPLE: Paroil Company makes a 3-month delivery of fuel to the Macpherson household in February. The expense may be averaged over the months of February, March, and April if the household would rather do that than have the entire amount deducted in February.

NOTE: Households may choose to have one-time only expenses averaged over the certification period in which they are billed.

- d. A household's expenses shall be calculated based on the expenses the household expects to be billed for during the certification period. Anticipation of the expense shall be based on the most recent month's bills unless the household is reasonably certain a change will occur.

NOTE: If the household is using actual utility costs, the local district can anticipate changes during the certification period based on bills from the same period last year, updated by overall price changes. If only the most recent bill is available, utility cost changes for the next certification period can be based on utility company estimates for the type of dwelling and utilities.

NOTE: Past expenses cannot be averaged to anticipate costs during the certification period.

2. DISALLOWED DEDUCTIONS - Deductions cannot be allowed for expenses covered by excluded income such as excluded reimbursements or vendor payments.

- a. If a portion of rent is covered by an excluded vendor payment, that portion cannot be calculated as a part of the household's shelter cost.
- b. Dependent child care costs which are met by a direct payment or reimbursement cannot be also allowed as a FS dependent care deduction. The actual dependent care cost including fees which exceed the amount the household receives as a Child Care payment, can be applied as a dependent care deduction. For example, if a household receives a Child Care payment or reimbursement, the amount of the payment or reimbursement is excluded as income. Actual costs which exceed the payment or reimbursement amount can be allowed as a deduction up to \$200 per month per dependent, under 2 and up to \$175 per month, per dependent age 2 and up.

3. DEDUCTIONS FOR HOUSEHOLDS WITH INELIGIBLE INDIVIDUALS -

- a. **INDIVIDUALS INELIGIBLE DUE TO INTENTIONAL PROGRAM VIOLATION OR FAILURE TO COMPLY WITH WORK REGISTRATION OR WORK REQUIREMENTS** - Households containing such ineligible individuals shall have the entire household's deductions (earned income, utility, medical, dependent care, excess shelter, and other allowable deductions) prorated to the eligible household members, and the ineligible household members who contribute to the expense.
- b. **INDIVIDUALS INELIGIBLE DUE TO BEING AN INELIGIBLE ALIEN OR FOR REFUSAL TO APPLY FOR OR PROVIDE AN SSN** - Households containing such an ineligible individual shall have deductions budgeted as follows:
- (1) The earned income deduction shall apply to the prorated income earned by the ineligible individual that is attributed to the participating household members. The ineligible individual is counted as a contributor to the expense.
 - (2) Allowable shelter (rent, mortgage, etc.), and/or dependent care expenses paid by or billed to the ineligible individual shall be divided evenly among the household members including the ineligible individual(s). All but the ineligible individual's share is counted as a deductible shelter and/or dependent care expense for the participating household members.
 - (3) The participating household members are entitled to the full un-prorated appropriate standard utility allowance.

EXAMPLE: There is a 4 person household and one person is ineligible, leaving a participating household of 3 persons. Although the shelter (rent, mortgage, etc.) expenses are prorated the 3 person participating household is entitled to the full, un-prorated appropriate standard allowance.

- c. **INELIGIBLE STUDENTS WHO WOULD BE A MEMBER OF THE FS HOUSEHOLD IF ELIGIBLE** - Households containing such an ineligible individual shall have deductions budgeted as follows:
- (1) Only the participating household's actual payments or contributions can be deducted as a household expense. If the payments cannot be identified, the expenses must be prorated evenly among persons actually paying or contributing to the expense. Only the participating household's prorated share can be deducted as a household expense.
 - (2) However, the participating household members are entitled to the full prorated appropriate standard allowance. The participating household members' prorated share of the standard allowance(s) is determined by dividing the full standard allowance(s) by the number of individuals in the household (including the ineligible student) and subtracting the ineligible student's portion from the local district's full standard allowance(s). See example in paragraph 3, b, (3) above. See example in paragraph 3, b, (3) above.

4. **DEDUCTIONS, NON-HOUSEHOLD INDIVIDUALS AND INELIGIBLE STUDENTS WHO WOULD NOT BE A MEMBER OF THE FS HOUSEHOLD, IF ELIGIBLE** - Households sharing expenses with such individuals shall be budgeted as follows:
- a. Only the participating household's actual payment or contribution can be deducted as a household expense. If the payments or contributions cannot be identified, the expenses must be prorated evenly among persons actually paying or contributing to the expense. Only the participating household's prorated share can be deducted as a household expense.
 - b. The participating household is entitled to the full un-prorated appropriate standard allowance.

EXAMPLE: Three non-household individuals (comprising one food unit) share expenses with a FS household of 2. The participating household is entitled to the full un-prorated appropriate standard allowance.

NOTE: For information on allowable shelter expenses, see FSSB Section 11. For information on standard allowances, see FSSB Section 11.

References	Related Item	TASB
387.14 97 ADM-17	Income Deductions (FSSB)	Section 12
90 ADM-31 91 INF-3	Standard Allowances (FSSB)	

Proration Methodology

1. **PRORATING** - A household's benefit level for the initial month of certification is based on the day of the month it applies for benefits. A household must receive benefits prorated from the day of application to the end of the initial month.

A household's eligibility is determined for the month of application by considering the household's circumstances for the entire calendar month in which the household filed its application.

NOTE: To determine the day and month of application for Jointly Processed households see FSSB Section 4.

2. **INITIAL MONTH** - Initial month means:
 - a. The first month for which the household is certified for participation in the FS Program following any period during which the household was not certified for participation, and
 - b. In the case of a migrant or seasonal farmworker household, the first month for which a household is certified for participation in the FS program provided such household applies following a period of more than 30 days in which the household was not certified for participation.
3. **MIGRANT OR SEASONAL FARMWORKERS** - An applicant migrant or seasonal farmworker household must be issued the full (not prorated) FS allotment for the month of application if the household participated in the FS program within 30 days prior to their application date.
4. **DETERMINING PRORATED BENEFITS** - Prorating of a household's benefits for the initial month of certification shall be accomplished in the following manner:
 - a. The household's full month's benefits shall be determined using the method set forth in FSSB Section 10.
 - b. The household's full month's benefits shall then be prorated by either:
 - (1) Using the FS Allotment Table; or
 - (2) Using the following formula: full month's benefits x (31-date of application) = prorated amount 30
 - c. Prorated benefits are rounded to the next lower dollar value, thus \$25.99 would be rounded to \$25.

NOTE: When using the formula, a household applying on the 31st shall be treated as though it applied on the 30th.

- d. The household shall then be issued the prorated allotment for the initial month of eligibility within 30 days of filing the application. For subsequent months of eligibility, the household shall be issued the regular full monthly allotment.
- e. If the proration computation results in an allotment of less than \$10, then no issuance shall be made for the initial month. This includes one and two person households that are eligible for the \$10 minimum benefit in subsequent months.
- f. In instances when a household will be eligible for ongoing benefits but due to proration will not be entitled to benefits for the initial month, the local district shall:
 - (1) Establish a normal certification period beginning with the month of application based on the household's circumstances;
 - (2) Issue no benefits for the initial month of eligibility; and
 - (3) Issue the regular full monthly allotment for the months of the certification period. The local district shall not deny an application solely because the household is not entitled to benefits in the initial month due to prorating.
- g. In cases where verification is provided after the 30 day processing time, benefits shall be prorated from the date the local district receives the verification. For these cases, the initial month is the month verification is received by the local district and benefits shall be prorated from the date verification is received.

References

TASB

387.14
97 ADM 4
95 ADM-15
GIS Message (88 IM/DC023)

Chapter 12

Reductions/Suspension/Cancellation

In the event that the Secretary of Agriculture mandates that FS be reduced, suspended, or cancelled, the following procedure must be followed:

1. REDUCTION/REQUIRED ACTION

a. DESCRIPTION - Reduction will be accomplished by reducing the Thrifty Food Plan amount for each household size by the same percentage and same dollar amount.

(1) All one and two person households affected by the reduction shall be guaranteed a minimum benefit of \$10 unless the action is a cancellation of benefits, a suspension of benefits or a reduction of benefits of 90% or more of the total amount of benefits projected to be issued in the affected month.

(2) The exact percentage of the reduction will be specified by the Food and Nutrition Service (FNS). For example, if a 25% reduction in the Thrifty Food Plan is to be made for all four person households, the reduction would be calculated as follows:

(a) The Thrifty Food Plan allotment for a four person household is \$375 (October 1993). A reduction of 25% would bring that allotment down to \$281. Updated budget.

(b) Then, 30% of a net FS income of \$200 (30% of \$200 equals \$60) would be deducted from the reduced Thrifty Food Plan amount of \$281, reducing the allotment to \$221 (\$281 minus \$60 equals \$221).

b. STATE DSS RESPONSIBILITIES

(1) NOTIFICATION - Local districts will be notified by the Department of:

(a) The date the reduction is to take effect,

(b) The percentage the Thrifty Food Plan amounts for each household size are to be reduced, and

(c) The dollar amount by which the Thrifty Food Plan will be reduced.

(2) AUTOMATED BUDGET ELIGIBILITY LOGIC (ABEL) - The WMS FS Budget Logic shall be programmed to:

(a) Calculate the benefit reduction, and

(b) Allow for a minimum benefit of \$10 for one and two person households,

(c) Provide for the rounding of benefit levels of \$1, \$3, and \$5 to \$2, \$4, or \$6 respectively,

(d) Compute a household's normal benefit. (This must be retained as a record in the event that FNS orders any restoration of benefits.)

(3) ISSUANCE TABLES - The Department will have available revised issuance tables reflecting the percentage of reductions to be made in the Thrifty Food Plan amounts and reduced Thrifty Food Plan levels.

NOTE: More specific instructions will be issued to the local districts in the event that a reduction in allotment is deemed necessary.

c. LOCAL DISTRICT RESPONSIBILITIES

(1) The reduced allotment amount must also be entered on the authorization/change document.

(2) If a benefit reduction is ordered, local districts shall reduce the Thrifty Food Plan amounts for each household size by the percentage ordered in the Department's notice on benefit reductions,

(a) Multiply the amounts by the percentage specified,

(b) Round any result ending in cents up to the nearest higher dollar, and

(c) Subtract the result from the normal Thrifty Food Plan amount.

NOTE: In calculating benefits, the reduced Thrifty Food Plan amount will be substituted for the normal Thrifty Food Plan amount.

2. **SUSPENSION AND CANCELLATION/REQUIRED ACTION** - If a decision is made to suspend or cancel the distribution of FS benefits in a given month:
 - a. The Department will notify local districts of the date the cancellation or suspension is to take effect.
 - b. The provision of the \$10 minimum benefit for households with one or two members only shall be disregarded and all households shall have their benefits suspended or cancelled.
 - c. Upon receiving notice of a suspension or cancellation in benefits, local districts shall notify issuance agents and personnel.
 - d. Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month would not be reduced, suspended, or cancelled even though they are issued during an affected month.
 - e. Local districts shall notify households of reductions, suspensions and cancellations of allotments in accordance with the notice provisions of **FSSB Section 6**. Notices of Adverse Action shall not be provided to affected households.
 - f. Households whose allotments are reduced or cancelled as a result of these procedures are not entitled to a restoration of lost benefits at a future date. However, if there is a surplus of funds as a result of reduction or cancellation of benefits and the Secretary of Agriculture determines that such a restoration is practicable, the Department will direct local districts to provide affected households with restored benefits.
 - g. Upon being notified by the Department that a suspension of benefits is over, local districts shall act immediately to resume issuing benefits to certified households and shall resume benefit issuance as soon as practicable.
3. **MAINTENANCE OF RECORDS** - Local districts must be able to submit to the Department, upon request, a listing of the amount of benefits each household receives during a month in which the reduction is in effect along with a listing of the amount of benefits each household would have received had full monthly allotments been given.
 - a. If allotments are cancelled, local districts must be able to submit to the Department, upon request, a listing of the amount of benefits each household would have received had the monthly allotments been distributed.
 - b. These listings will be used in the event that restored benefits are directed.
4. **EFFECTS ON CERTIFICATION OF ELIGIBLE HOUSEHOLDS** -
 - a. Determination of the eligibility of applicant households shall not be affected by a reduction, cancellation or suspension of benefits.
 - b. Local districts shall accept and process applications during a month(s) in which a reduction, suspension or cancellation is in effect.
 - c. If a reduction is in effect, applicants eligible for benefits shall have the amount of their benefits calculated by reducing the Thrifty Food Plan amount by the appropriate percentage for the household size and then deduction 30% of the household's net FS income from the reduced Thrifty Food Plan.
 - d. If a suspension or cancellation is in effect, no benefits shall be issued to the applicant.
 - e. Reduction, suspension or cancellation of benefits shall have no effect on the certification periods assigned to households.
 - f. Those households whose certification periods expire during a month in which allotments have been reduced, suspended, or cancelled, shall be recertified according to existing procedures.
 - g. Households found eligible to participate during such a period shall have certification periods assigned in accordance with existing procedures.
5. **EXPEDITED SERVICE** - Households eligible to receive expedited processing, who apply for

program benefits during months in which reductions or suspensions are in effect, shall have their cases processed in accordance with the normal expedited processing provisions and timeliness standards set forth in **FSSB Section 5**.

- a. **REDUCTIONS IN EFFECT** - Those households that receive expedited service in months in which reductions are in effect and that are determined to be eligible shall be issued allotments that are reduced in accordance with the reduction in effect. These reduced allotments shall be made available to the households within the benefit delivery timeframe specified in **FSSB Section 14**.
 - b. **SUSPENSIONS IN EFFECT** - Those households that receive expedited service in months in which suspensions are in effect and that are determined to be eligible shall have benefits issued to them within the timeframe specified in **FSSB Section 14**. However, if the suspension is still in effect at the time issuance is to be made, the issuance shall be suspended until the suspension is ended.
 - c. **CANCELLATIONS IN EFFECT** - Households eligible to receive expedited processing who apply for program benefits during months in which cancellations are in effect shall receive expedited service. However, the deadline for completing the processing of such cases shall be five calendar days or the end of the month of application, whichever date is later. All other rules pertaining to expedited service shall be applicable to these cases.
6. **FAIR HEARINGS** - Any household that has its allotment reduced, suspended, or cancelled, as a result of an order issued by FNS, may request a fair hearing if it believes that its benefit level was computed incorrectly under the rules set forth in this Section or that these rules were misapplied or misinterpreted. Fair hearings shall be denied to those households who are merely disputing the fact that a reduction, suspension or cancellation was ordered. Households do not have a right to a continuation of benefits pending the fair hearing. A household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by which the local district was directed to reduce benefits.
 7. **ISSUANCE SERVICES** - Local districts must assure that issuance services are available to serve households receiving restored or retroactive benefits for a prior, unaffected month.
 8. **FAILURE TO COMPLY** - Failure of a local district to comply may result in the cancellation of 100% of the district's share of administrative costs for the affected month(s) and the Department may bill the local district for all over-issuances which result from the non-compliance.

Reference

GIS Message (88 IM/DC024)

Replacements Of Food

1. REPLACEMENT OF FOOD - An issuance to replace food which was purchased but subsequently destroyed in a household misfortune must be made provided that:
 - a. The household reports the loss within 10 days of the date of the misfortune; and
 - b. The household returns, within time limits of paragraph 8 b (3) of this section, a signed statement, (DSS-2291) Statement of Non-Receipt of Food Stamp Benefits.

Examples of household misfortunes resulting in food loss include a fire, a flood, an extended power outage, shut-offs or an equipment (refrigerator or freezer) failure. No limit is placed on the frequency of replacement issuances for food destroyed in a household misfortune.

2. PROCEDURES FOR ISSUING REPLACEMENTS -

- a. TIMELY REPORTS - Prior to issuing a replacement, the local district must determine that the household has reported the loss in a household misfortune or non-receipt of FS benefit orally or in writing within time limits. The report is "timely" if it is received by the local district:

- (1) Within 10 days of the date food purchased is destroyed in a household misfortune, or;
- (2) Within the period of intended use for a claim of non-receipt of a FS benefit. The period of intended use is the issuance month, except that for issuances on or after the 20th of the month the period of intended use expires at the end of the following month.

- b. STATEMENTS -

- (1) The local district must obtain, from a member of the household or its authorized representative, a signed statement (DSS-2291: "Statement of Non-Receipt of Food Stamp Benefits", or State-approved local district equivalent) when:

- (a) Food purchased, was destroyed in a household misfortune;
- (b) A claim has been made by a household of non-receipt of FS benefits when the computer issuance record indicates that benefits have been issued to the household for the time period in question.

- (2) Upon receipt of an oral or written report of destruction or coupons lost in a household misfortune, the loss of food the local district must immediately make the form DSS-2291 or state approved local equivalent available for the household to sign. The form must be mailed to households which are unable to come in to the office because of age, handicap or distance and are unable to appoint an authorized representative.

- (3) The household must return the signed statement, DSS-2291 Statement of Non-Receipt of Food Stamp Benefits, within 10 days of the date of report in order to receive a replacement issuance. If the 10th day falls on a weekend or holiday, a statement received the day after the weekend or holiday is timely received.

- (4) The local district may choose to retain the signed DSS-2291 or state approved local equivalent in a secure file other than the case folder, such as in an accounting office or other central storage point, so long as it is completely and accurately documented in the record that a replacement was provided and the statement remains readily retrievable for the purposes of case review.

- c. INVESTIGATION OF REPLACEMENT REQUESTS - The fact that food purchased was destroyed in a household misfortune must be verified through an assessment of information provided by the client, by obtaining clarification from a collateral contact, through documentation from a community agency including, but not limited to:

- (1) The fire department or,
- (2) The Red Cross.

- d. TIME LIMIT FOR ISSUING REPLACEMENTS -

- (1) The local district must provide replacement issuances within 10 days after receiving the household's

report of the household misfortune or within two working days of receiving the signed statement, whichever is later.

- (2) The local district must deny replacement issuances in cases in which available evidence indicates that the household's replacement request is fraudulent. Issuance may be delayed if further investigation is needed to assure that the request is not fraudulent.
- (3) Households whose replacement requests are denied or delayed must be informed of their right to a fair hearing. Households who request a fair hearing must not have replacements issued pending the outcome of the hearing decision.

e. AMOUNT OF REPLACEMENT ISSUANCES - Replacements must be provided in the amount of the household's loss, but not more than the amount of the month's allotment most recently issued to the household. However, in situations involving restored benefits, the amount of a household's loss, but not more than the amount of the original restored issuance must be replaced.

f. FURTHER ACTIONS ON REPLACEMENT ISSUANCES - For each household request for a replacement issuance, local districts must document in the household's case record the date and reason for the request, whether or not the replacement was issued, and whether or not the replacement was countable.

NOTE: For loss of benefits through the Electronic Benefit Transfer (EBT) system see Section 14.

References

Related Item

TA Source Book

387.16
 91 ADM-41
 93 INF-10
 92 INF-22

Appendix (FSSB)

Chapter 10
 Chapter 18
 Chapter 24

Restoration Of Lost Benefits

1. ENTITLEMENT - Households shall have their benefits restored whenever:
 - a. The loss was caused by an administrative error;
 - b. The loss was caused by an administrative disqualification for intentional program violation which was subsequently reversed;
 - c. The FSSB specifically states that the household is entitled to a restoration of lost benefits; or
 - d. The loss was due to an error caused by the local district or SSA through Joint Processing.

NOTE: Such an error would include (but is not limited to) the loss of a household's FS application after it has been filed with the SSA.

2. TWELVE MONTH LIMITATION

- a. GENERAL - Benefits shall be restored, even if the household is currently ineligible, for not more than twelve months prior to whichever of the following occurred first:
 - (1) The date the local district receives a request for restoration from a household.
 - (2) The date the local district is notified or otherwise discovers that a loss to the household has occurred.
- b. JUDICIAL ACTION - The local district shall restore to households benefits which were found by any judicial action to have been wrongfully withheld.
 - (1) If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits shall be restored for a period of not more than twelve months from the date the court action was initiated.
 - (2) When the judicial action is a review of a local district action, the benefits shall be restored for a period of not more than twelve months from the first of the following dates:
 - (a) The date the local district receives a request for restoration;
 - (b) If no request for restoration is received, the date the fair hearing action was initiated; but
 - (c) Never more than one year from when the local district is notified of or discovers the loss.
- c. ERRORS DISCOVERED BY THE LOCAL DISTRICT - If the local district determines that a benefit loss not caused by the household has occurred, the local district shall automatically act to restore any lost benefits. Action by the household is not necessary. Lost benefits must be restored for a period up to but not to exceed 12 months prior to either:
 - (1) The month the local district discovers the loss; or
 - (2) The month the local district receives written or oral notice of a possible loss to a specific household.

3. NOTIFICATION - The local district must notify the household of the following:

- a. The household's entitlement,
- b. The amount of restored benefits,
- c. Any offsetting that was calculated,
- d. The method of restoration, and
- e. The right to request a fair hearing if the household disagrees with any aspect of the benefit restoration.

4. DISPUTED BENEFITS

- a. The local district may determine that a household should receive restored lost benefits. However, the household may not agree with either the restored amount calculated by the local district or any other action the local district takes to restore lost benefits.

If so, the household can request a fair hearing within 90 days of the date the household is notified of its entitlement to restored lost benefits. If a fair hearing is requested before or during the time the lost benefits

are restored, the household must receive the lost benefits calculated by the local district pending the result of the fair hearing. If the fair hearing decision favors the household, the local district must restore the lost benefits according to that decision.

- b. If a household believes it should receive restored lost benefits but the local district reviews the case file and disagrees, the household has 90 days from the date of the local district determination to request a fair hearing. The local district must restore lost benefits to the household only if the fair hearing decision favors the household. Benefits lost more than 12 months before the date the local district was first informed of the household's possible entitlement must not be restored.

5. COMPUTING THE AMOUNT TO BE RESTORED - When a household is entitled to lost benefits, the local district must:

- a. First, correct the loss for future months.
- b. Then, after excluding from calculation those months prior to the 12-month time limit described in paragraphs 2 and 4 of this Section, the local district must calculate the amount of restored lost benefits as follows:

- (1) INCORRECT ALLOTMENT - If an incorrect allotment causes the loss for the eligible household, the benefit loss shall be calculated only for those months the household participated.
- (2) INCORRECT DELAY, DENIAL OR BENEFIT TERMINATION - If an incorrect delay, denial or benefit termination causes the loss, the affected months must be calculated as follows:
 - (a) DENIAL - If an eligible household's application was erroneously denied, the month the loss initially occurred shall begin with the month of application. For an eligible household filing a timely application, the month the loss initially occurred shall begin with the month following the expiration of its certification period.
 - (b) DELAY - If an eligible household's application was delayed, the months for which benefits may be lost shall be calculated in accordance with procedures in **FSSB Section 14**.
 - (c) TERMINATION - If a household's benefits were erroneously terminated, the month the loss initially occurred shall begin with the first month benefits were not received as a result of the erroneous action.
 - (d) PROCEDURE - After determining the month the loss initially occurred the loss shall be calculated for each month subsequent to that date until either:
 - (1) The first month the error is corrected, or
 - (2) The first month the household is found ineligible.
- (3) ELIGIBILITY - For each month benefits were lost, the local district shall determine if the household was eligible. In cases where there is no information in the household's case file to document that the household was actually eligible, the local district must advise the household of the necessary information that must be provided to determine eligibility for these months.
- (4) ALLOTMENT - The local district must calculate the allotment that the household should have received during the months it was eligible. If the household received an allotment smaller than it was eligible to receive, the difference between the allotment issued and the correct allotment is the amount to be restored.

NOTE: For purposes of calculating restored benefits over a period of time, the ABEL Manual Appendix, page ii-2.2 contains a listing of significant ABEL budget "from" dates.

- (5) CLAIMING - Before the payment of lost benefits, the local district must determine if there is a claim against the household which is either unpaid, held in suspense, or terminated. If there is a claim, the restored amount must be offset against the claim amount before the household can receive the balance, if any.

In cases where a household is certified and receives its initial allotment after the normal processing period, this is not considered as lost benefits even if the initial allotment is paid retroactively. In such situations, the initial allotment shall not be reduced to offset the amount due on the claim.

6. SSI HOUSEHOLDS -

- a. A FS household pending SSI that purchases and prepares food separately from non-minor children or siblings is denied separate household status because the household is not elderly or disabled must be permitted retroactive separate status if determined eligible for SSI. The household must be rebudgeted as a separate FS household with an uncapped excess shelter deduction and/or an excess medical deduction back to the household's SSI eligibility date, FS application date or date separate household status was requested, whichever is later.

NOTE: It is recommended that local districts inform all pending SSI applicant households either denied FS, denied separate household status, or determined initially eligible for FS as a non-elderly disabled FS household, that they maintain verifiable records of all factors which may qualify them for restored FS benefits as a retroactively determined categorically eligible FS household.

- b. The amount of restored FS benefits is calculated by subtracting the benefits received by the single FS household from the total amount of benefits that would have been issued for two separate FS households. The total restored FS benefit amount is issued to the SSI FS household.

NOTE: In rebudgeting the FS case for the months covered by the retro SSI payment the monthly SSI amount cannot be budgeted as income because when the benefits were issued, the SSI had not yet been received.

7. LOST BENEFITS TO INDIVIDUALS DISQUALIFIED FOR INTENTIONAL PROGRAM VIOLATION -

- a. **DEFINITION** - Individuals disqualified for Intentional Program Violation are entitled to restoration of any benefits lost during the months that they were disqualified, only if the decision which resulted in disqualification is subsequently reversed. Benefits shall be restored for a period not to exceed twelve months prior to the date of local district notification. An individual cannot receive restored benefits for the period he/she was disqualified based solely on the fact that a criminal conviction could not be obtained. The individual must successfully challenge the disqualification in a separate court action to be eligible for the restoration of lost benefits.
- b. **CALCULATION** - For each month the individual was disqualified, not to exceed twelve months prior to local district notification, the amount to be restored shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller amount than it should have received, the difference equals the amount to be restored. Participation in an administrative disqualification hearing in which the household contests the local district assertion of fraud shall be considered notification that the household is requesting restored benefits.

8. METHOD OF RESTORATION -

- a. **STANDARD METHOD** - The local district must restore lost benefits due a household regardless of whether the household is currently eligible or ineligible. Lost benefits shall be restored by issuing an allotment in a lump sum equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment a currently eligible household is receiving.

EXAMPLE: A household receiving \$170 in FS each month is entitled to restoration of lost benefits. Assuming the household is entitled to \$200 in lost benefits, it would receive \$370 in FS during the month restoration is made.

- b. **EXCEPTION** - The local district must honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears that the:

- (1) Excess FS may be stolen; or
- (2) Amount to be restored is more than it can use in a reasonable period of time.

NOTE: A WMS Edit prevents the authorization of receiving restored benefits in order to spread out the large payment. Portions of the restored benefits may be authorized as monthly single issuances until the entire amount is paid.

A large restored benefit may be spread out into a number of smaller payments only if the recipient agrees to such a payment method.

- c. **RECIPIENTS WHO HAVE MOVED TO ANOTHER COUNTY** - A local district may not issue FS benefits to households which are not residents of that local district. Therefore, when a household moves to another local district, restored benefits, to which the household is or becomes eligible for from the former county of residence, must be issued by the current county of residence. Upon inquiry by recipients the county of former residence:
- (1) Must advise the client that the restored benefits will be issued by the current county of residence;
 - (2) Immediately provide the current county of residence with documentation verifying the household's entitlement to restored benefits.

Documentation must be provided to out-of-state agencies at the request of the agency or the household.

NOTE: Under no circumstances is documentation to be given to the recipient. Documentation must be sent directly from the county of former residence to the new county or state.

9. **CHANGES IN HOUSEHOLD COMPOSITION** - Whenever lost benefits are due a household where the membership has changed, the local district must restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the local district cannot locate or determine the household which contains a majority of household members, the local district must restore lost benefits to the household containing the head of the household at the time the loss occurred.
10. **ACCOUNTING PROCEDURES** - Each local district must maintain an accounting system to document a household's entitlement to the restoration of lost benefits and to record the balance of lost benefits owed to the household. Each local district must develop a procedure that, at a minimum, documents how the restored amount was calculated and the reason lost benefits must be restored. Also, the accounting system must be designed to identify situations where an existing claim against a household can offset the amount to be restored.

References

TA Source Book

387.18
88 INF-81
88 INF-50

Chapter 19

SECTION 12: Standards and Deductions**A. Income Eligibility Standards**

1. The monthly gross income eligibility standard is 130% of the annual federal income poverty level divided by 12.
2. The monthly net income eligibility standard is 100% of the annual federal income poverty level divided by 12.

Periodically, as mandated by USDA, the monthly income eligibility standards will be adjusted to reflect the federal income poverty levels as provided in the Community Services Block Grant Act. . The applicable income eligibility standards (or limits) are automatically used by the Welfare Management System Automated Budgeting and Eligibility Logic (WMS ABEL), to correspond with the effective FROM date of the budgeting period.

The adjustments to these standards are normally announced to local districts through a General Information System (GIS) message in August of each year, with the effective date of the adjustment being October 1st to coincide with the start of the Federal fiscal year. [Click here to see latest FS STANDARDS.](#)

B. THRIFTY FOOD PLAN

The Thrifty Food Plan is one of four Federal government food plans designed to provide basic nutritional requirements for an average family of four. The Thrifty Food Plan family consists of a man and a woman, both between the ages of 20 through 50, and two children, one who is 6 through 8 years old and the other who is 9 through 11 years old, determined in accordance with the United States Secretary of Agriculture's calculations. The cost of such diet will be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary of Agriculture will make household size adjustments in the Thrifty Food Plan taking into account economics of scale.

The Thrifty Food Plan is the lowest cost diet necessary to feed the typical four-person family. Through a nationwide survey, USDA calculates the purchase price for the items in the Thrifty Food Plan. The survey calculation is the basis for computing food stamp benefits. Benefits are adjusted to actual family size.

The Thrifty Food Plan (also known as the "Maximum Food Stamp Allotment") is updated periodically as mandated by USDA to reflect changes in the price of food. [Click here to see latest FS STANDARDS.](#)

NOTE: The FS STANDARDS are also available by accessing the desk guide section of either Centerport or the Division of Temporary Assistance (DTA) intranet page. Prior years' standards may be viewed by accessing one of the previous years' GIS messages available through Centraport or the DTA intranet page: 2003 - GIS 03TA/DC020; 2002 - GIS 02TA/DC018; 2001 - GIS 01TA/DC029.

Reference

387.1

C. INCOME DEDUCTIONS

1. Standard Deduction

USDA will specify a permissible, standard, monthly household deduction.

In order to keep allowable deductions realistic and up to date, cost of living adjustments must be made to certain mandated deductions. The adjustments will be made as mandated by USDA. [Click here to see latest FS STANDARDS.](#)

NOTE: The FS STANDARDS are also available by accessing the desk guide section of either Centerport or the Division of Temporary Assistance (DTA) intranet page. Prior years' standards may be viewed by accessing one of the previous years' GIS messages available through Centerport or the DTA intranet page: 2003 - GIS 03TA/DC020; 2002 - GIS 02TA/DC018; 2001 - GIS 01TA/DC029.

2. Earned Income Deduction

The Earned Income Deduction is twenty percent of gross earnings as defined in **FSSB Section 12**. Earnings, excluded in **FSSB Sections 12** shall not be included in gross earned income for purposes of computing the earned income deduction.

This deduction is intended to compensate for work-related expenses, union dues, taxes, etc.

NOTE: Sometimes, earned income deductions may need to be prorated. If a FS household includes an individual who would be disqualified for failure to obtain or provide a Social Security Number (SSN) or who is an ineligible alien, and who is also an ineligible student (as described in **FSSB Section 5**), the SSN-disqualified/illegal alien budgeting rules take precedence.

According to these rules, ineligible individual's income is pro-rated as described in **FSSB Section 12**; deductions for earned income, shelter costs and dependent care expenses are pro-rated (**FSSB section 12**); and the individual's resources are counted in their entirety (**FSSB Section 16**).

NOTE: The 20% earned income deduction is not allowed when calculating the overissuance amount for FS cases when a household fails to report earned income in a timely manner regardless of the reason for failure to timely report. The 20% earned income deduction is not applied to the unreported income. However, the reported earned income is eligible for the 20% reduction.

NOTE: Districts should keep in mind that the majority of Food Stamp households are subject to Six Month Reporting rules, and do not have to report changes in income or deductions during the certification period if total monthly gross income remains less than 130% of poverty. (see **FSSB section 13**)

Reference	Related Items	TASB
97 ADM-4	Earned Income (FSSB)	Chapter 16
89 INF-70	Income Exclusions (FSSB)	Chapter 16
96 LCM-83	Self-Employment Other than Farming (FSSB) Boarders (FSSB)	Chapter 16

D. MEDICAL DEDUCTIONS

1. **ELIGIBILITY CRITERIA** - Any household that has at least one member who is elderly or disabled, as defined in **FSSB Section 5**, is eligible for a deduction of medical expenses in excess of \$35 per month (per household) which are not reimbursed by third party insurers or under Title XVIII (Medicare) or XIX (Medicaid). Other household members, spouses or other persons receiving benefits as a dependent of the SSI or disability recipient cannot claim their medical costs. Persons receiving emergency SSI benefits based on presumptive eligibility shall be allowed this deduction.

NOTE: Households receiving FS while pending SSI, if determined eligible for SSI, are entitled to a FS uncapped shelter deduction and/or excess medical deduction, retroactive to the FS application date or SSI eligibility date, whichever is later. Benefits will be restored according to FSSB Section 10.

NOTE: Per the Food Stamp Reauthorization Act of 2002, districts will not reduce medical deductions between recertification. Increases that are reported and verified must continue to be processed between certifications.

2. **ALLOWABLE MEDICAL COSTS** -

- a. Health and hospitalization insurance policy premiums. Not deductible are the costs of health and accident policies, such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies, such as those that continue mortgage or loan payments while the beneficiary is disabled;
- b. Medicare premiums paid by the FS recipient and related to coverage under Title XVIII of the Social Security Act; any cost sharing or spend-down expenses incurred by Medicaid recipients; For information on Medicare premiums paid by Medicaid see #2 under Disallowed Expenses.
- c. Prescription drugs when prescribed by a licensed practitioner authorized under State Law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional. In addition, costs of medical supplies, sickroom equipment (including rental), or other prescribed equipment are deductible; including the cost of delivery charges by mail order pharmacies to deliver such medications and equipment.
- d. Hospitalization or outpatient treatment, nursing care (including nursing care in the community), and nursing home care, including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home facility recognized by the State;
- e. Medical and dental care, including psychotherapy and rehabilitation services, provided by a licensed practitioner authorized by State Law or other qualified health professional;
- f. Dentures, hearing aids, and prosthetics;
- g. Securing and maintaining a seeing eye, hearing, or service dog, including the cost of dog food and veterinarian bills;

NOTE: Grants of Assistance for Guide Dogs are a reimbursement and are excluded as income. When they are excluded as income, they cannot be allowed as a deduction. However, if the FS client can verify that the cost of maintaining the guide dog exceeds the grant, the amount over and above the grant can be added to the client's medical deductions.

- h. Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;
- i. Reasonable cost of transportation and lodging to obtain medical treatment or services;
- j. Maintaining an attendant, homemaker, home health aide, or dependent care services, housekeeping necessary due to age, infirmity or illness. In addition, an amount equal to the one person coupon allotment shall be considered a medical expense if the household furnishes the majority of the attendant's meals. The allotment for this meal related deduction shall be that in effect at the time of initial certification. It is only required to update the allotment amount at the next scheduled recertification; however, at its option, the agency may do so earlier. When attendant care costs qualify under both the medical deduction and the

dependent care deduction, the cost shall be treated as a medical expense.

NOTE: The cost of special diets is not allowed as a medical deduction.

NOTE: Dependent care costs which qualify as a medical expense must be claimed as such and cannot be claimed as a Dependent Care Deduction. Only the portion of the medical/Dependent Care expense above \$35 will be allowed as a deduction. The \$35 cannot then be allowed as a Dependent Care Deduction.

- k. Payments made on a loan when the loan is used to pay a one-time-only medical expense. Loan expenses, such as interest, are not allowable as part of the medical expense. Medical expenses are an exception to the policy that allowable expenses can only be deducted when they are due.
- l. Past-due medical bills that have not previously been allowed as medical deductions can be allowed at next certification or recertification.
 1. At certification, unpaid medical bills can be considered when determining a household's monthly medical deduction for the certification period.
 2. The household can voluntarily report medical expenses that come due during the certification period and have them considered in determining the monthly medical deduction for the remainder of the certification period, but it cannot be required to do so.
 3. The household may also report at recertification the medical expenses that occurred during its certification and have them considered in determining the monthly medical deduction for the new certification period.
- m. As a temporary measure for drug discounts and credits given to households during 2004 and 2005 through enrollment in these card programs, USDA directed states to provide an enhancement to medical expense deductions. During 2005 certification or recertification interviews, workers must ask households with any Medicare members, if anyone has enrolled in a Medicare-Approved Prescription Drug Discount Card Program. Households may also voluntarily report enrollment at times other than initial certification or recertification, and if so, reporting must also be budgeted according to these rules. Cardholders need only present a drug discount card with a seal containing the words "Medicare-Approved" to show they are enrolled. If a district became aware of an individual's enrollment during 2004, the individual was entitled to 24 months of the enhanced budgeting. For example, an individual first budgeted with the enhanced medical deduction for the benefit month of December 2004, was entitled to the enhanced budgeting through November 2006. If a district first becomes aware of an individual's enrollment during 2005, the worker will have to determine the number of months the individual will be entitled to enhance budgeting, as described below. All cardholders are to have the discount and the credit considered as medical expenses (even if there are no other out-of-pocket expenses), and budgeted as a FS medical deduction according to the following rules. ABEL will allow only the portion of the expenses in excess of the household \$35 threshold as the excess medical deduction.

Workers should identify the period for which the individual will have the enhanced medical deduction and note the last month for later action when the enhanced deduction is to be discontinued. Upstate workers should use newly developed Anticipated Future Action (AFA) code 230 – "End of Medicare Prescription Drug Discount/Credit" ("ENDMEDPR"), for this purpose. The enhanced budgeting period is 24 months if the district is informed of the enrollment in 2004. During January, February or March 2005, individuals informing the district of their enrollment can be assumed to be entitled to 12 months of enhanced budgeting. However, due to the reductions in the credit for enrollment after March 2005, if the district is informed of the enrollment after March 2005 workers will need to compute the number of months for which the individual is entitled to enhanced budgeting. For these individuals, the period of enhanced budgeting is affected by the amount of the 2005 credit, with the number of months determined by dividing \$50 per month into the credit. For example, if the individual enrolled in June 2005, the credit would be \$450.00 and the period of enhanced budgeting would be 9 months (\$450 divided by \$50 per month equals 9 months). If the card itself does not show an enrollment date and outside documentation is available, such as an approval notice from the card company, these cardholders should also provide a copy of the outside documentation showing when they enrolled in the program. However, if outside documentation regarding

the date of enrollment is unavailable, a statement from the household itself indicating when they enrolled is sufficient to establish the time of enrollment. Individuals who were enrolled in 2004 subsequent to certification for Food Stamps, but did not voluntarily report the enrollment to the district as a change during the course of their certification period until 2005, should receive the enhanced budgeting for only 12 months, representing only the 2005 credit ($\$600$ divided by $\$50$ per month equals 12 months).

E. DISALLOWED EXPENSES -

1. Only that portion of an allowable medical expense which is not reimbursed by third party insurers (except as noted above under Medicare Approved Prescription Drug Cards) or under Titles XVIII or XIX of the Social Security Act shall be counted as part of the household's medical expenses. Entitled households shall have the non-reimbursable portion deducted in the month that the reimbursement is received or can otherwise be verified. (See **FSSB Section 6**)
2. A FS recipient who is elderly or disabled and who has MA pay his or her own Medicare premiums, deductibles and co-insurance can not claim these costs toward a FS excess medical expense deduction.
 - a. Local districts must establish internal procedures to ensure that TA and/or FS staff are notified when a FS recipient's Medicare costs begin to be paid by MA. Upon receipt of this report, TA or FS staff should make a notation to remove these expenses from the recipient's FS medical deduction computation at the next recertification.
 - b. Any on-going MA payments (deductibles and co-insurance) for a FS recipient's Medicare expenses are excluded, as reimbursements, when determining FS eligibility and benefit amounts. Retroactive MA reimbursements are excluded, for FS, as lump sums.

3. **AVERAGING EXPENSES** - Households who report one-time-only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of their certification period. Averaging would begin the month the change would become effective. The eligibility worker should help the client in choosing the option which is most beneficial to him. For example, if the one-time medical expense is the only expense and averaging would bring it to less than \$35 per month, it would be more advantageous to the client if he took a one-time deduction.

- a. The method of budgeting a medical expense may be changed in the middle of a certification period if the action does not cause a medical expense to be allowed as a deduction more than once and does not reduce the medical expense deduction already budgeted.

For example, a household incurs an expense of \$1800 and chooses to have it averaged over the 6-month certification period of January through June. Four months later, the household asks that the remaining balance of \$600 be allowed in May. The worker may make the budgeting change.

- b. In Medicaid spenddown cases, the spenddown amount may be averaged over the months it is intended to cover or, if the household has a history of meeting the spenddown in the first month, it may all be allowed in one month.

An MA case has a six month spenddown period. The case is re-approved for MA in January with a spenddown of \$300. The household has a history of meeting that amount.

EXAMPLE: The \$300 spenddown may be averaged over the six month FS certification period beginning in January or, if the household has a history of meeting the spenddown in the first month, it may all be allowed in January.

4. **CONVERSION OF DEDUCTIONS** - The income conversion procedure, stated in **FSSB Section 12**, shall also apply to expenses billed on a weekly or bi-weekly basis.
5. **CHANGE REPORTING REQUIREMENTS** - Households are not required to report changes in their medical expenses during their certification period. Additionally, if a household does report and verify a decrease in medical expenses, the excess medical deduction should not be *reduced* between recertifications. All reported and verified *increases* in deductible expenses must continue to be processed between recertifications and all changes in deductions must be processed at recertification.
6. **RENEGOTIATED AGREEMENT** -
 - a. Medical expenses may be allowed as a deduction in accordance with a renegotiated repayment agreement.

EXAMPLE: A household made an agreement in January to pay \$100 a month for 10 months. The household made timely payments for January and February. Due to a change in

circumstances, the household was unable to make payments in March and April. In May, the household renegotiated the payments with the same provider to pay the balance of \$800 in equal amounts of \$80 over the next 10 months. The renegotiated amount may be allowed as a deduction, as long as no amount of the expense is allowed twice. Assume the worker continued to allow the \$100 deduction during March and April. In May the worker would consider a remaining balance of \$600 rather than \$800 and allow an \$80 a month deduction until the \$600 is paid.

- b. A medical expense would not continue to be allowed as a deduction if the balance is paid earlier than specified in the initial agreement.

A household made an agreement in January to pay \$100 a month for 10 months. The household makes regular payments. In June, the household receives extra money and decides to pay the remaining balance of \$500. The worker must cease the deduction at the next recertification.

7. **REASONABLE ESTIMATES** - Households eligible for the excess medical deduction must be allowed at certification to give a reasonable estimate of the medical expenses they expect to incur during the course of the certification period.

In order to receive the medical expense deduction, households are required to report and verify all medical expenses at the time of certification and recertification. The household's monthly medical deduction for its certification period is based on the information reported by the household.

- a. This includes any anticipated changes that can be reasonably anticipated based on available information about the member's medical condition, public or private medical insurance coverage and reimbursements, and the current verified medical expenses incurred by the member.
- b. If the household reports a medical expense at certification or recertification but cannot verify the expense at that time, and if the amount of the expense cannot be reasonably anticipated based on the available information, the expense is considered at the time the amount of the expense is verified.

The following should be considered when dealing with medical deductions for the purpose of FS eligibility:

Households are not required to report any changes in medical expenses during the certification period.

- (1) Households may choose to report any changes in medical expenses during the certification period. If the household voluntarily reports a change in medical expenses, the local district must take appropriate action to increase benefits, if verification is obtained. If the change decreases benefits, the reduction must not be made during the certification period. A change reported medical expense resulting in a decrease must be made at recertification even if it is not verified (see **FSSB Section 6**).
- (2) When a change in medical expenses is reported from a source other than the FS household, the local district must take the action to increase benefits, only if the action can be taken without contacting the household for further information or verification. The household must be informed about the changes in the FS benefit in accordance with the notice requirements in **FSSB Section 7**.
- (3) Those changes learned from a source other than the household which are not verified upon receipt and therefore necessitate contact with the household for verification purposes, are not acted upon until the household voluntarily reports or is recertified by the local district.
- (4) When a change in medical expenses that would increase benefits is voluntarily reported on the Periodic Report and the household provides no proof of the change, then the household must meet the verification requirements outlined in **FSSB Section 6**. The household is advised of the additional verification requirement and that failure to provide the verification will result in medical deductions remaining at the current allotment.
- (5) Medical expense changes reported on the Periodic Report that would decrease benefits are not acted on until the next recertification. The household must meet the normal verification requirements at recertification as outlined in **FSSB Section 6**. Any medical expense changes that go unreported on

the Periodic Report do not result in over/under payments to FS cases.

References**Related Items****TASB**

387.12

Elderly/Disabled Members (FSSB)

Chapter 24

387.14

Income Only In Month Received (FSSB)

87 ADM-5

Restoration of Lost Benefits (FSSB)

02 ADM-7

Determining Deductions (FSSB)

04 ADM-7

03 INF-43

94 INF-58

94 INF-23

88 INF-50

GIS Message (88 IM/DC007)

90 LCM-1 USDA Regional Letter 02-06

F. DEPENDENT CARE DEDUCTIONS

1. Dependent Care Deductions are payments for the actual costs for the care of a child or other dependents (including an incapacitated adult) when necessary for a household member to accept or continue employment, seek employment in compliance with the job search criteria (or an equivalent effort by those not subject to job search), or attend training or pursue education which is preparatory to employment.

The total of each for child care or other dependent care deduction cannot exceed the maximum amount specified according to the age of the dependent, except when it is claimed as a medical expense as described elsewhere in this section of the FSSB. The maximum dependent care deduction is \$200.00 for children under 2 years of age, and \$175.00 for dependents 2 years of age or older.

NOTE: Only actual unreimbursed costs for dependent care itself can be allowed. The cost of transporting children to a babysitter, even if the child care is free or otherwise paid, is not allowable as a dependent care deduction.

NOTE: Sometimes, dependent care deductions may need to be prorated. If a FS household includes an individual who would be disqualified for failure to obtain or provide a Social Security Number (SSN) or who is an ineligible alien, and who is also an ineligible student (as described in FSSB Section 5), the SSN-disqualified/illegal alien budgeting rules take precedence.

NOTE: According to these rules, the ineligible individual's income is pro-rated as described in FSSB Section 12; deductions for earned income, shelter costs and dependent care expenses are pro-rated (FSSB section 11); and the individual's resources are counted in their entirety (FSSB Section 16).

NOTE: Per the Food Stamp Reauthorization Act of 2002, districts will not reduce dependent care deductions between recertifications. Increases that are reported and verified must continue to be processed between certifications.

References	Related Item	TASB
387.12(d)	Medical Deductions (<u>FSSB</u>)	Chapter 16
89 INF-70		Chapter 16
88 INF-8		
02 ADM-71		

G SHELTER DEDUCTIONS

1. **DEFINITION** - Shelter Deduction is the monthly shelter expenses in excess of 50 percent of the household's income after all other deductions have been allowed. The shelter deduction shall not exceed the maximum limit specified by USDA. This is applicable unless the household contains a member who is elderly or disabled as defined in **FSSB Section 5**. Such households shall receive an excess shelter allowance for the monthly cost that exceeds 50 percent of the household's monthly income after all applicable deductions.

NOTE: While there is no limit on the amount of excess shelter costs which can be claimed by a household which contains a member who is elderly or disabled, dependent care costs remain subject to the fixed maximum amount specified elsewhere in this section under "Dependent Care Deductions."

Households receiving FS while pending SSI, if determined eligible for SSI, are entitled to receive a FS uncapped shelter deduction and/or excess medical deduction, retroactive to the FS application date or SSI eligibility date, whichever is later. Benefits will be restored according to **FSSB** Section 10.

The maximum shelter deduction will be adjusted periodically by USDA to reflect changes in the shelter (exclusive of home ownership costs), fuel and utility components of the urban Consumer Price Index.

Click here to see latest **FS STANDARDS** for the latest maximum excess shelter amount.

NOTE: The FS STANDARDS are also available by accessing the desk guide section of either Centerport or the Division of Temporary Assistance (DTA) intranet page. Prior years' standards may be viewed by accessing one of the previous years' GIS messages available through Centerport or the DTA intranet page: 2003 - GIS 03TA/DC020; 2002 - GIS 02TA/DC018; 2001 - GIS 01TA/DC029.

NOTE: If a FS household includes an individual who would be disqualified for failure to obtain or provide a Social Security Number (SSN) or who is an ineligible alien, and who is also an ineligible student (as described in **FSSB Section 5), the SSN-disqualified/illegal alien budgeting rules take precedence.**

The ineligible individual's income is pro-rated as described in **FSSB** Section 12; deductions for earned income, shelter costs and dependent care expenses are pro-rated (**FSSB** section 11); and the individual's resources are counted in their entirety (**FSSB** Section 16).

2. **SHELTER COSTS** - Shelter expenses shall include only the following:

a. Recurring charges. These include,

- (1) Rent (also see **FSSB** Section 11),

NOTE: HUD rent payments made directly to a landlord by HUD are excluded as food stamp income. When such payments are made directly to a landlord, they are also not allowed as a food stamp shelter cost. The household's out of pocket rent expense is allowable as a food stamp shelter cost. This includes Welfare-to-Work vouchers.

(2) Mortgage, or

(3) Other recurring charges leading to the ownership of the shelter, e.g., loan repayments for the purchase of a mobile home, including interest on such payments,

(4) Loan repayments where the home is the security or collateral for the loan, e.g., second mortgages or home equity loans.

NOTE: Penalty fees for being late in making payments on utilities, mortgages and/or property taxes are not to be included as a shelter cost and are not allowable as deductions for FS purposes.

b. Property taxes, assessments and insurance on the structure itself,

NOTE: Insurance costs for insuring furniture or personal belongings are not included.

To estimate what portion of a homeowner's policy premium is attributable to insurance on the structure, a standard figure of 55% of the total premium may be used when the actual cost cannot be determined.

- c. Cost of heating and cooking fuel,
- d. Cooling and electricity,
- e. Water, sewage, garbage and trash collection,
- f. Basic fee for one telephone, including the tax on the basic fee,
- g. Fees charged by the utility provider (including telephones) for initial installation,

NOTE: The local district will use the standard utility allowances established by the Department. (See FSSB Section 11 and 18.)

NOTE: One-time deposits shall not be included as shelter costs.

- h. Costs of home temporarily NOT occupied. The shelter costs of a home which the household does not occupy because of distant employment or illness or abandonment caused by a natural disaster or casualty loss.

In order to include the costs of a vacated home in the household's shelter costs, the household must:

- (1) Intend to reoccupy the home;
- (2) The current occupant of the home, if any, is not permitted to claim the shelter costs for food stamp purposes; and
- (3) The home must not be leased or rented during the household's absence.

NOTE: To claim a shelter deduction for an unoccupied home, the household is responsible for providing verification of any other shelter costs which are questionable and which would result in a deduction. The local district is not required to assist households in obtaining verification of these expenses if the source of verification would have to be obtained outside of their district. See FSSB Section 5 on verification of questionable information.

- i. Charges for repair of the home which was substantially damaged or destroyed due to a natural disaster such as fire or flood excluding those repair costs that are subject to reimbursement by private or public relief agencies, insurance or any other source.
 - j. Car payments can be budgeted as a shelter cost for a homeless household who is living in their car.
3. TA SHELTER ALLOWANCE BEING WITHHELD - The following are FS budgeting procedures for a household whose TA shelter allowance is withheld pending a landlord's correction of building code deficiencies.
- a. For a TA household whose TA shelter allowance is restricted (whether voluntarily or due to past money mismanagement), but the local district withholds the restricted shelter payments from the landlord until the landlord makes required repairs:
 - (1) The TA shelter allowance is excluded as inaccessible income; and
 - (2) The FS shelter expense is the amount, if any, by which the actual rent exceeds the (withheld) TA shelter maximum. In other words, the household is still allowed as a FS shelter cost their portion of the rental expense which exceeds the maximum TA shelter allowance and which the household owes the landlord from non-excluded income.

For example, the Miller household's rent is \$400 per month. Their maximum TA shelter allowance, \$384, is restricted and is currently withheld by the local district pending the landlord's completion of required repairs. Consequently, the \$384 TA shelter allowance is subtracted from the countable TA income in the FS budget. Only the \$16 monthly excess shelter (which the Millers normally pay out of their TA pre-add allowance) is allowed as a FS shelter expense. This expense is allowed because it is incurred regardless of whether or not the household withholds it from the landlord.

When the building repairs are completed and the local district pays the previously-withheld shelter allowances to the landlord, this payment is excluded income for FS purposes as a lump sum payment.

- b. For a TA household whose TA shelter allowance is not restricted (i.e., the household continues to receive the shelter allowance directly), the household may choose to withhold rent payment from their landlord.

However, because they continue to receive the TA shelter allowance, this continues to be counted as FS income. This household is also entitled to a FS shelter expense equal to the total shelter cost which they continue to incur, regardless of whether they withhold rent payments from their landlord. For example, the Greens' rent is \$400 per month. Their TA grant includes a \$384 shelter allowance (unrestricted). Their FS budget includes the \$384 TA shelter allowance as countable income, and includes the \$400 shelter expense. If the Greens subsequently withhold rent payments from their landlord, their FS budget will not be affected.

- 4. HOMELESS INCOME DEDUCTION - A standard estimate of shelter expenses must be used when determining the amount of FS benefits for homeless households which do not reside in a homeless shelter or receive free shelter for the entire month.

- a. The homeless income deduction is found in FSSB Section 18.
- b. A homeless household must actually incur or anticipate incurring an expense, no matter how small, to be entitled to this deduction. Almost every such homeless household incurs some shelter or shelter related expenses. Therefore, the worker may assume costs are being incurred and is not required to document in the case record why a standard homeless shelter deduction is being allowed.

However, if based on statements from the household or information from other sources, the worker determines the household is not incurring any expenses, it must be documented in the case record why the deduction is not being allowed.

- c. Actual expenses must be used as the shelter deduction for homeless households which verify incurred expenses which exceed the standard deduction.

- 5. SHELTER DEDUCTION WHEN RENTAL COSTS ARE PAID IN ADVANCE- The FS shelter deduction is given when an allowable shelter expense becomes due. When a household occupies a residence that has a monthly rent structure, the monthly amount of rent should be taken into consideration each month when the shelter deduction is determined without regard to when the rent is actually paid. Therefore, households electing to pay their rental costs in advance would still be eligible to receive the FS shelter deduction for the months that are covered by the advance payment.

References	Related Items	TASB
387.12	Elderly/Disabled Members	Chapter 13
91 ADM-25	(FSSB)	Chapter 14
99 INF-16	Questionable Information (FSSB)	
89 INF-70		
88 INF-81	Standard Allowances (FSSB)	
88 INF-50		
GIS Message (96TA/DC-037)		
GIS Message (92 IM/DC006)	Restoration of Lost Benefits (FSSB)	
GIS Message (88 IM/DC007)		

H. PAYMENTS OF CHILD SUPPORT

Beginning in October 2002, a new law authorized states to treat child support as an income exclusion rather than a deduction - please see FSSB Section 12 for details. Prior to October 2002, the Mickey Leland Hunger Relief Act provides for the deduction of legally obligated Child Support Payments made to persons outside the FS household. The policy below is applicable prior to October, 2002.

1. Legal Obligation

a. Legally obligated means that the payment is being made as a result of:

- (1) A legally-enforceable separation agreement,
- (2) An agreement or order that would be upheld in a court of law, or
- (3) An enforcement through an administrative process (income execution).

b. Both direct payments and indirect payments as a result of a legal obligation for child support are considered in determining the child support deduction. Some examples are:

- (1) Direct payments of child support
- (2) Payments made to obtain health insurance coverage for the child,
- (3) Payments to a landlord for rent,
- (4) Amounts paid for arrearages, if being paid as a result of a legally enforceable order to administrative action.

c. Amounts paid for alimony or spousal support are not allowable deductions, even if they are required by the legal order or agreement.

2. Verification

a. Both amount of the legal obligation and the amount that is actually being paid must be verified. The usual sources for verifying the amount of the legal obligation are:

- (1) Information on N.Y.'s Child Support Management System (CSMS),
- (2) The orders and agreements themselves.

b. The usual sources for verifying the actual amount paid are:

- (1) Payment records on CSMS,
- (2) Wage withholding statements,
- (3) Statements from the custodial parent or other receiver of the payment, and
- (4) Cancelled checks (back and front).

I. SIX MONTH REPORTING

- a. The Six-Month mailer system has been revised so that once the support payment has been put into the budget, the household will report the amounts of support actually being paid using the mailer.
- b. It is anticipated that most households which pay child support have income and are already filing a report. Those who don't have earned income will become part of the process after the deduction is added to the budget.
- c. A case may not be closed if the only failure is not reporting and/or verifying child support payments. Instead, the deduction must be removed from the budget. If removing the deduction makes the household ineligible, the case must be closed.
- d. For both and regular change reporting households, the average monthly amount of child support is determined by using the payments made for the most recent four calendar weeks in the report month. Amounts paid more frequently than monthly must be converted to monthly by using the appropriate conversion factor.

J. SYSTEM IMPLICATIONS

ABEL Transmittal 02-5, Information #2 "2002 Food Stamp Program Reauthorizat on Changes" explained that effective October 1, 2002, ABEL applies this expense as an exclusion to income. This results in the expense reducing income prior to the Gross Income Test, even though the position of the Child Support field on the budget screen has not changed. Please see FSSB, Section 12 for more details on treatment of child support as an income exclusion. ABEL transmittal 95-2 explained that effective 6/25/95, ABEL allowed an entry for support for budgets with a "FROM" date of 10/1/95 or later. ABEL will take this deduction prior to the calculation of FS Excess Shelter. The monthly amount of the support payment must be calculated off-line. For example, if the payment is made weekly, you will need to multiply the average weekly amount by 4.333333.

References

02 ADM-7
96 LCM-83

Related Item

Child Support Payments as an Income Exclusion
Suspended Claims (FSSB)
Methods (FSSB)
Disqualification Notices (FSSB)
Repayment Agreement (FSSB)

K. STANDARD ALLOWANCES FOR HEATING/COOLING, UTILITIES AND TELEPHONE

K. STANDARD ALLOWANCES FOR HEATING/COOLING, UTILITIES AND TELEPHONE

The Department has established Standard Utility Allowances (SUA) for heating/cooling and utilities for each local district's use in budgeting household shelter expenses. In addition, there is a statewide telephone standard allowance. See FSSB Section 18-3.2 for the SUA.

The Department shall review and adjust the SUA annually to determine changes in costs.

Please click **FS STANDARDS** to see the latest standards.

NOTE: The FS STANDARDS are also available by accessing the desk guide section of either Centerport or the Division of Temporary Assistance (DTA) intranet page. Prior years' standards may be viewed by accessing one of the previous years' GIS messages available through Centerport or the DTA intranet page: 2003 - GIS 03TA/DC020; 2002 - GIS 02TA/DC018; 2001 - GIS 01TA/DC029.

1. Standard Utilities Allowances (SUA) -

a. UTILITIES - Includes all utility costs other than heating/cooling. It includes telephone, electricity, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water, and rental fee for a propane tank. It is available to households:

- (1) Billed separately from rent or mortgage for one or more of these utilities and
- (2) Which do not incur a cost for heating and/or cooling separate and apart from rent, or mortgage, and
- (3) Which have not received and do not reasonably anticipate receiving, a HEAP payment within 12 months. No separate inquiry regarding whether the household incurs a cost for telephone is required.

b. HEATING/COOLING - Covers heating/cooling, utilities and telephone costs. It is available to households who have received a HEAP payment within the past 12 months, or households whose application for and receipt of HEAP is reasonably anticipated within 12 months, or households billed separately from rent or mortgage on a regular basis for heating, and/or cooling their residence.

- (1) SUPPLEMENTAL HEATING COSTS - Utility costs for the operation of a space heater, electric blanket, heat lamp, a cooking stove, and the like when used as a supplemental heating source do not qualify a household for the SUA. The cost of an electric blower for an oil or gas furnace also does not qualify a household for the SUA. Households that are not entitled to the SUA can claim actual expenses for such utility costs.
- (2) WOOD FOR HEATING - Households which incur a cost for wood as their primary heat source are entitled to the Heat/AC SUA. However, such a cost must be incurred for the wood itself, not for the costs of processing the wood. Therefore, a household which heats primarily by wood which it receives free is not entitled to the Heat/AC SUA, even if it incurs costs for such expenses as a power saw, transporting the wood or for a cutting permit. Such charges are also not allowable as FS shelter costs separately. (Aug./Sept./Oct.1985 Consolidated Letter)
- (3) COOLING COSTS - The operation of devices used to air condition (i.e. to filter air and regulate its humidity and temperature) are considered cooling expenses for purposes of this SUA.

Costs for the operation of a fan are not considered cooling expenses for purposes of this SUA. No separate inquiry regarding whether the household incurs utility and/or telephone expenses is required.

c. STANDARD TELEPHONE ALLOWANCE - This covers the cost of basic service plus tax for one telephone.

Households which do not pay for heating and/or cooling or utilities separate and apart from rent and are not eligible for HEAP may use the SUA for telephone if a cost for a telephone, separate and apart from rent, is incurred.

K. STANDARD ALLOWANCES FOR HEATING/COOLING, UTILITIES AND TELEPHONE**2. HEAP ELIGIBILITY -**

- a. Effective October 1, 2000, a FS household must either pay for heating or air conditioning separately from shelter costs; OR receive, or reasonably anticipate applying and receiving HEAP within 12 months in order to be eligible for the HT/AC SUA.
- b. FS recipients who receive, or reasonably anticipate receiving, HEAP are eligible for the HT/AC SUA for a twelve (12) month period. Recipients who move from the dwelling unit remain eligible for the HT/AC SUA as long as there is reasonable anticipation the household will receive HEAP within 12 months. This requires that the household resides in a HEAP eligible dwelling unit.

Those households who pay separately for heat or air conditioning continue to receive the SUA based on incurrence of these expenses.

EXAMPLES:

John Smith lives in an apartment with heat and utilities included. He receives a HEAP renter's benefit in March 1998 and the worker rebudgets his FS case with a HT/AC SUA beginning in April 1998.

In July, John moves into another apartment where heat is included but he pays for his own utilities. John remains eligible for the HT/AC SUA because he still lives in a HEAP eligible living situation.

In September 1998, John moves again, this time into subsidized housing with heat included. He does pay his own utilities. The FS budget is now changed to remove the HT/AC SUA because this is not a HEAP eligible living situation. John may be eligible for the HT/AC SUA if he incurs costs for air conditioning, or if he receives an emergency HEAP payment due to a heat related Utility Emergency. He can receive the utility SUA because he does incur costs for this expense.

If John should move back into a HEAP eligible living situation, he could again receive the HT/AC SUA, based on a reasonable anticipation he will receive HEAP.

- c. The criteria for HEAP eligibility are established each year and, therefore, may change in the future. If changes to HEAP eligibility which effect FS SUA policy are made, a FS policy directive will be issued. However, it is recommended that FS program managers also keep up-to-date on HEAP program and policy directives.

3. INCLUDING A HEATING/COOLING SUA IN THE FS BUDGET -

- a. A heating/cooling SUA is automatically generated on ABEL budgets for NYC households residing in their own homes, paying private rent, living permanently in a hotel/motel, living in a commercial rooming house or receiving a rent supplement.
- b. Workers in local districts outside New York City must collect and code into WMS information regarding shelter type and fuel type.

4. HOUSEHOLDS NOT ELIGIBLE FOR HEAP -

- a. The worker must still obtain information about incurring utilities or telephone expenses to determine eligibility for the utility SUA or the telephone SUA for households which do not pay heating and/or cooling separate and apart from rent and which are not eligible for HEAP. See FSSB Sections V-E-1 and XI-D-7-8 regarding case processing and verification for these types of households.
- b. The worker will need to indicate on the ABEL budget that the utility or telephone SUA is applicable to the case.
- c. It is particularly important to review households residing in public or subsidized housing where heat is included in rent to determine if utility or telephone costs are incurred to determine eligibility for the utility or telephone SUA
- d. The criteria for HEAP eligibility are established each year and, therefore, may change in the future. If changes to HEAP eligibility which effect FS SUA policy are made, a FS policy directive will be issued. However, it is recommended that FS program managers also keep up-to-date on HEAP program and policy directives.

K. STANDARD ALLOWANCES FOR HEATING/COOLING, UTILITIES AND TELEPHONE

- e. There is another situation in which a household not eligible for HEAP may be eligible for a heating/cooling SUA. Persons who reside in an OMH/OMRDD support/supervised apartment are entitled to use this SUA if costs for heating or air conditioning are incurred. These households are not eligible for HEAP. There are very few of these type households in the state.

5. SIMPLIFIED STANDARD UTILITY ALLOWANCE:

Three changes are related to the Standard Utility Allowance (SUA). These changes will be implemented for current recipients in the mass rebudgeting for October 1, 2002. Districts must apply these policies for applicants and recipients beginning October 1, 2002:

- a. The SUAs for Heat/Air conditioning (H/AC), Non-H/AC Utilities, or telephone, as applicable to household circumstances, are mandated. Actual expenses will no longer be used in calculation of the excess shelter deduction, even in the unlikely event that they exceed the mandated standard.
- b. Households in shared living arrangements are now entitled to the full applicable level of SUA. Formerly the SUA was prorated based on the number of households residing in the shared living situation, regardless of their participation in the food stamp program
- c. Households consisting of FS-eligible members and other individuals who are not participating only because they are ineligible (ineligible aliens, ineligible students, and individuals prohibited from participation for failure to provide or apply for a social security number) now are entitled to the full applicable level of SUA. The SUA was formerly prorated on an individual basis with the ineligible individual's share withheld.
- d. Residents of public or subsidized housing with shared meters, who formerly received allowance only for the actual amounts of excess charges, are now entitled to the applicable SUA. For example, a tenant of public housing with heat included in the rent and who pays a monthly excess charge for air conditioning is now entitled to the H/AC SUA. This includes Privately Owned subsidized housing such as "Section 8" homes that can provide a statement of additional utility billing from the landlords.

6. HUD AND FMHA UTILITY PAYMENTS - HUD and FMHA utility payments are excluded as FS income.

- a. Households that pay their own heat/cooling or utilities are entitled to claim such costs as FS shelter expenses.
- b. Households billed separately and regularly by their landlord for actual usage of heat/cooling or utilities are entitled to the appropriate standard heating/cooling and/or utility allowance(s).
- c. Households billed only for excess costs are entitled to claim only the excess costs as a shelter expense.

WMS IMPLICATIONS**WMS SHELTER TYPE CODES OUTSIDE NYC****HEAP Eligible Shelter Types**

- | | |
|----|--------------------------------------|
| 01 | Rent Private (Including Trailer Lot) |
| 03 | Own Home (Including Trailer) |
| 05 | Hotel/Motel Permanent |
| 20 | Rental Supplement |
- (code 01 is used for roomer in a commercial rooming house)

HEAP Eligible If Incurring Heating Expense

- | | |
|----|---|
| 02 | Rent Public |
| 38 | Subsidized Housing (Non-Certificate) |
| 39 | HUD Certificate Program, Without Earnings |
| 40 | HUD Certificate Program, With Earnings |

K. STANDARD ALLOWANCES FOR HEATING/COOLING, UTILITIES AND TELEPHONE

HEAP Ineligible Shelter Types

- *04 Room & Board
 - 06 Hotel/Motel Temporary
 - 07 Migrant Labor Camp
 - *09 Medical Facility (\$40 PNA only)
 - 10 Congregate Care Level II - Drug/Alcohol Treatment Facilities (Residential Treatment Center)
 - 11 Room Only (non-commercial)
 - 12 Non-Level II Alcohol Treatment Facility
 - 15 Congregate Care Level I - Family Care
 - 16 Congregate Care Level II - Not Drug/Alcohol or Apartment Like
 - 17 Congregate Care Level II - Apartment Like OMH/OMRDD Supportive/Supervised Apartments; DSS Enriched Housing
 - 19 Tier II Family Shelter (3 Meals/Day)
 - 21 Shelter for Homeless (3 Meals/Day)
 - 22 Residential Program for Victims of Domestic Violence (3 Meals/Day)
 - 23 Undomiciled
 - 33 Homeless Shelter Tier II (Less Than 3 Meals/Day)
 - 36 Shelter for Homeless (Less Than 3 Meals/Day)
 - 37 Residential Program for Victims of Domestic Violence (Less Than 3 Meals/Day)
- * TA code only. Not eligible for Food Stamps.

WMS SHELTER TYPE CODES NYC**HEAP Eligible Shelter Types**

- 01 Unfurnished Apartment or Room
- 03 Own Home
- 20 Rental Supplement
- 25 Rented Private Home
- 26 Furnished Apartment or Room
- 41 Jiggetts Cases

(code 01 is used for roomer in a commercial rooming house)
HEAP Eligible If Incurring Heating Expense

- 08 Subsidized Housing - Certificate Program
- 24 NYCHA Apartment - Utilities Not Included
- 38 Subsidized Housing - Voucher Program/Project Based Section 8/Section 236
- 99 Unknown

HEAP Ineligible Shelter Types

- 02 NYCHA Apartment - Utilities Included
- *04 Room and Board
- 06 Hotel Motel Temporary
- 11 Roomer Only (non-commercial)
- 13 Residential Programs for Victims of Domestic Violence - less than 3 meals per day
- 14 Residential Programs for Victims of Domestic Violence - 3 meals per day
- 15 Congregate Care Level I - NYC, Nassau, Suffolk and Westchester
- 16 Congregate Care Level II - State certified - NYC, Nassau, Suffolk and Westchester

K. STANDARD ALLOWANCES FOR HEATING/COOLING, UTILITIES AND TELEPHONE

17	Congregate Care Level II - State Operated (NPA/FS Only)
*19	Approved Medical Facilities - Non Hospital
23	Undomiciled
27	Residential Treatment Center - Non Level II Private Facility
28	Congregate Care Level I - Rest of State
29	Congregate Care Level II - State Certified - Rest of State
31	Residential Treatment Center - Level II Facility - NYC, Nassau, Suffolk, and Westchester
32	Residential Treatment Center - Level II Facility - Rest of State
33	Homeless Shelter - Tier II or Tier I (Less Than 3 Meals Per Day)
34	Homeless Shelter - Tier II (Three Meals Per Day)
35	Homeless Shelter - Non Tier I or II

* TA code only. Not eligible for Food Stamps.

References	Related Item	TASB
387.12 02 ADM-7 92 ADM-47 00 INF-18 GIS Message (98 TA/DC002) GIS Message (96 TA/DC051) GIS Message (94 ES/DC039) GIS Message (94 ES/DC029) GIS Message (94 ES/DC027) GIS Message (94 ES/DC026) GIS Message (94 ES/DC004) 91 ADM-25 Aug./Sept./Oct. 1985 Consolidated Letter "All Commissioner" Letter (7/15/86)	Determining Deductions (<u>FSSB</u>)	Chapter 14

L. TELEPHONE DISCOUNT: THE LIFE LINE PROGRAM**BACKGROUND**

In August 1983, the first New York Telephone Life Line proposal was submitted to the Public Service Commission. In June 1985, the Life Line Discount Program became effective. The Home Energy Assistance Program (HEAP) was added as a Life Line eligible program in April 1987. At the direction of the Public Service Commission, New York Telephone is now offering two Life Line programs.

1. TYPES OF LIFE LINE SERVICE - The Life Line Program consists of the following components:
 - a. Basic Life Line Service -
 - (1) Costs \$1 per month, plus tax and surcharge (customer saves \$9.10 per month).
 - (2) Customer pays Message Rate charges for all outgoing calls.
 - (3) Customer does not pay FCC line charge (\$3.50).
 - b. Flat Rate Life Line Service (where available) -
 - (1) Customer receives \$8.10 off the Flat Rate Service.
 - (2) Flat Rate Service allows the customer to make an unlimited number of calls within the primary calling area.
 - (3) Monthly rate for Flat Rate Life Line Service ranges from \$7.97 to \$19.23.
2. ADDITIONAL LIFE LINE BENEFITS -
 - a. There are reduced service connection charges when a new customer to Life Line applies for new telephone service.
 - (1) Customer pays \$10 if no installer visit is required.
 - (2) Customer pays \$126.28 if installer visit is required (covers 1 jack only).
 - b. Connection charges can be paid off in 2-12 monthly installments.
 - c. In most cases no security deposit is required.
3. ELIGIBILITY - The phone companies will make all decisions on the eligibility for the Life Line Program. In order to benefit from this program an applicant must:
 - a. Contact the phone company to apply for the Life Line Service. The applicant can call the residence service representative whose number appears on the New York Telephone Details of Current Charges page of the phone bill. The telephone number can also be found in the Customer Guide Section of the local White Pages directory under Service Representatives (1-800-555-5000).
 - b. Forward the application and a copy of their proof of eligibility to the telephone company.
 - c. Demonstrate receipt of:
 - (1) ADC
 - (2) HR
 - (3) HEAP
 - (4) MA
 - (5) SSI
 - (6) NPA Food Stamps
 - (7) Veteran's Disability or Surviving Spouse Pension (non-service related disability)

NOTE: In addition, the phone must be in the name of the benefit recipient.

4. DOCUMENTATION - In order to demonstrate receipt of the programs in paragraph c, the applicant must provide the following:
 - a. A CIN or RIN number:

- (1) For upstate cases the CIN (Client Identification Number) appears on both the client's MA card and the CBIC card.
- (2) For NYC cases the RIN (Recipient Identification Number) appears on the MA card and the CBIC card.
- b. For HEAP only cases, either a copy of the HEAP Notice of Final Action or a copy of a fuel/utility bill which shows a HEAP credit, or a letter on the local department of social services or local office for the aging letterhead certifying eligibility.

If the client cannot provide the above eligibility documentation (such as those upstate clients receiving NPA Food Stamps), the client will contact the local district to obtain that information.

NOTE: The above is a general procedure developed by the Department and New York Telephone.

5. LOCAL DISTRICT RESPONSIBILITY -

- a. Since many clients will be contacting the local districts to obtain the CIN, RIN or proof of HEAP eligibility, local districts may want to consider establishing a focal point within the local district to handle these requests.
- b. The Department is working with New York Telephone so that other phone companies may use the New York Telephone verification system. However, in the interim period, we are asking local districts to cooperate with local phone companies in developing mutually satisfactory procedures that will guarantee client confidentiality and provide the client with Lifeline benefits.
- c. Clients complaints pertaining to application decisions, billing errors, etc. should be referred to the phone company.

References

Related Items

87 INF-30
GIS Message (85 IM/DC018)
"All Commissioner" Letter - (6/6/85)
"All IM Director" Letter - (10/28/87)

SECTION 13: Determining Income**Definition**

DEFINITION - For the purpose of determining Food Stamp eligibility the following definition applies:

INCOME - Household income includes all income earned and unearned from whatever source, excluding only those items specified in this Section.

Reference

387.10

EARNED INCOME**POLICY**

Earned Income shall include:

1. **EARNINGS AS AN EMPLOYEE -**
 - a. All wages and salaries for services performed as an employee.
 - b. Additional funds provided for work related expenses, if not excluded as reimbursement, as described in FSSB Section 12. For household members who are employed in the armed forces, the countable military earnings include the Basic Allowance for Housing (BAH), if received.
2. **SELF-EMPLOYMENT INCOME -**
 - a. The total gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, but excluding the costs of doing business as described in FSSB Section 12.
 - b. Payments from a roomer or boarder.
 - c. Income derived from ownership of rental property is considered earned income from a self-employment enterprise if a member of the household is actively engaged in the management of the property a minimum average of 20 hours a week. If management of the property entails less than 20 hours a week, the rental income is considered unearned income.
3. **TRAINING ALLOWANCES -** Training allowances from vocational and rehabilitation programs recognized by Federal, State or local governments, to the extent that they are not a reimbursement.
4. **WORKFORCE INVESTMENT ACT (WIA) -** Earnings to individuals who are participating in on-the-job training programs under the Workforce Investment Act. These earnings include money paid under the WIA and money paid by the employer. However, WIA on-the-job-training earnings received by household members under 19 years of age who are under the parental control of another adult household member, regardless of school attendance and/or enrollment, are excluded as set forth in FSSB Section 12.
5. **YOUTH OPPORTUNITY PROGRAM -** Payments under the Youth Opportunity Program administered by the New York State Office of Mental Retardation and Developmental Disabilities, to the extent that they are not a reimbursement. However, the earned income of certain children is excluded as specified in FSSB Section 12.
6. **SNA Plan of Self-Support -** Earned income disregarded for TA purposes under a SNA Plan of Self-Support is counted as earned income for FS purposes.

Reference	Related Items	TASB
387.10 89 ADM-4	Income Exclusion (FSSB) Self Employment - Other Than Farming (FSSB) Income Exclusions (Specific) (FSSB)	Section 18

UNEARNED INCOME**POLICY**

Unearned Income includes, but is not limited to -

1. Assistance payments:

- a. From Federal or federally aided programs, such as supplemental security income (SSI) or Family Assistance (FA), payments, or other assistance programs based on need, such as Safety Net Assistance (SNA) or Family Subsistence Supplemental Allowance Payments (FSSA) paid by the Armed Forces. Also counted as unearned income from assistance payments is income from a Work Supplementation Program (TEAP).

NOTE: The "visitor's allowance" (See TASB Chapter 13) paid to a parent whose FS household does not include the child is not counted as TA income to that parent's FS case.

A once-only special assistance payment, however, is excluded for FS budgeting purposes if the payment meets one of the following criteria:

- (1) The payment is a TANF diversion payment, which are nonrecurrent, short-term benefits that are designed to deal with a specific crisis situation or episode of need, are not intended to meet recurrent or ongoing needs, will not extend beyond four months, and the family did not receive a regular TANF payment in the current or prior month; or
 - (2) The payment is a reimbursement for past or future expenses, to the extent that it does not exceed actual expenses, is provided for a specific purpose other than normal living expenses and is used for the purpose intended; or
 - (3) The payment is a non-recurring lump sum, such as a retroactive TA payment. For Food Stamp eligibility and budgeting purposes, a lump sum is excluded as income, but counted as a resource in the month received.
- b. Derived from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments.
 - c. An out-of-state TA payment that was intended to meet basic needs must be counted as unearned income when determining a household's FS benefit amount for the month in which the TA payment was received.
2. Annuities, pensions, retirement, veterans' or disability benefits, workers' or unemployment compensation, old-age, survivors, or Social Security benefits, strike benefits.
3. Gross income (minus the cost of doing business) derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

NOTE: For treatment of foster care payments see FSSB Section 12.

4. Support or alimony payments:

- a. Made to the household by non-household members.
- b. The first \$50 of child support payments made to IV-D and then returned to the recipient is countable as income for FS purposes

Only the IV-D child support pass-through which was received by the household within normal processing time frames is countable as income. The pass-through payment is counted as food stamp income in the month following the month in which the household receives the pass-through. Any additional pass-through payments which represent support collections for previous months are excluded as income because they are lump sum payments. However, these support payments for previous months are counted as resources for food stamp purposes. (89 LCM-39)

5. Military pay, excluding additional pay based on deployment to a combat zone, that is made available to a

household by a service person who is not a member of the FS household.

6. veterans' educational benefits for general living expenses.
7. Payments from:
 - a. Government Sponsored Programs, including, but not limited to:

The Dairy Termination Program encourages dairy producers to terminate milk production and dispose of their whole herds of milk cows. The program offers an incentive to terminate production in the form of four or five annual payments depending upon the option chosen by the dairy producer.

Under this program, the producers will receive a payment at about the same time each year for five years, except for those who opt to receive no payment the first year. They will have payments at the same time each year for four years. Therefore, for FS purposes the contract payment received each year should be prorated over the 12-month period that the payment is intended to cover, starting with the month of the payment. Amounts prorated in the months prior to certification for FS will not be counted under prospective eligibility.

- b. Dividends, except dividends from insurance policies;
 - c. Interest, except interest from funeral agreements or accounts;
 - d. Royalties.
8. Monies which are withdrawn or dividends which are or could be received by a household from trust funds considered to be excludable resources. Such trust withdrawals shall be considered income unless otherwise exempt under FSSB Section 12.

Dividends which the household has the option of either receiving as income or reinvesting in the trust are to be considered as income in the month they become available to the household, unless otherwise exempt.

9. FEMA payments to homeless people to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency.
10. All other direct money payments from any source which can be considered a gain or benefit. This includes income that is legally obligated to the household, but diverted by the household. For example, Social Security benefits that are diverted by the recipient into a Supplemental Needs Trust account remain countable as income to the household.

References

387.10
02 ADM-07
01 ADM-07
00 INF-16
94 INF-45
89 LCM-39
"All Commissioner" Letter (06/24/86)
Feb./March 1985 Consolidated Letter

Related Items

Income Exclusions (FSSB)
Income Exclusions (Specific) (FSSB)

INCOME OF INELIGIBLE INDIVIDUALS

POLICY

1. **INTENTIONAL PROGRAM VIOLATION, INDIVIDUAL SANCTIONED FOR FAILURE TO COMPLY WITH WORK REQUIREMENTS OR FLEEING FELON** - The earned or unearned income of an individual determined ineligible because of disqualification for Intentional Program Violation, for failing to comply with a FS work requirement or because of fleeing felon status must be counted in its entirety to the remaining household members.
2. **AN INELIGIBLE ALIEN, INELIGIBLE ABAWD OR AN INDIVIDUAL WHO REFUSES TO APPLY FOR OR PROVIDE A SOCIAL SECURITY NUMBER** - A prorata share of the earned or unearned income of an individual determined ineligible for being an ineligible alien or for refusal to apply for or provide an SSN shall be counted as income to the remaining household members. This prorata share is calculated as follows:
 - a. Subtract allowable income exclusions from the ineligible individuals' income;
 - b. Divide the remaining countable income evenly among the household members including the ineligible individuals;
 - c. Subtract the ineligible individuals' share; and
 - d. Count all but the ineligible individuals' share as income to the remaining household members.
3. **INELIGIBLE STUDENT** - The earned or unearned income of an individual determined ineligible as an ineligible student cannot be considered available in determining household eligibility or benefit levels.

NOTE: Cash payments to a participating household by an ineligible student or work registration sanctioned individual are considered income.

NOTE: If a FS household includes an individual who would be disqualified according to paragraph 2, above and who is also an ineligible student (as described in FSSB Section 5), the budgeting rules described in paragraph 2, above take precedence.

The ineligible individual's income is pro-rated, deductions for earned income, shelter costs and dependent care expenses are pro-rated (FSSB Sections 11); and the individual's resources are counted in their entirety (FSSB Section 16).

Reference	Related Item
387.10	Resource Limits (FSSB)
387.16	Students (FSSB)
89 INF-70	Earned Income Deduction (FSSB)
	Dependent Care Deduction (FSSB)
	Shelter Deduction (FSSB)

SPONSORED ALIENS AND INCOME DEEMING**POLICY**

With some exceptions, the income and resources of an alien's sponsor (and the sponsor's spouse) who has signed a legally binding affidavit of support are required to be counted as belonging to the alien (or deemed), when determining the sponsored alien's eligibility and benefit amount for food stamps.

1. Which aliens are subject to sponsor deeming requirements?

The deeming requirements apply only to an eligible LPR whose sponsor has signed a legally binding affidavit of support (known as 213A affidavits-Form I-864 or I-864A) on or after December 19, 1997. The only qualified aliens with legally enforceable affidavits are family-sponsored LPRs, including immediate relatives, and a few employment-based LPRs who came to the United States to work for relatives or in companies partially owned (more than five percent) by relatives AND who have filed for a visa application or applied for an adjustment to LPR status on or after December 19, 1997.

NOTE: Some family-based aliens who became LPRs after December 19, 1997 do not have binding affidavits of support, and therefore are not subject to deeming, because their application for LPR status was filed before that date.

2. Which aliens are exempt from sponsor deeming requirements?

The following groups are not subject to deeming rules:

- **Alien whose sponsor has not signed a legally binding affidavit of support** discussed in the preceding question. Aliens, such as refugees, who are sponsored by an organization or group also fall into this category.
- **Aliens without sponsors.** In general, qualified aliens who enter the country under provisions of immigration law other than the family-sponsored categories do not have sponsors of the type that incur a liability when the alien obtains means-tested benefits. Included in this group are refugees, asylees, persons granted withholding of deportation, Amerasians, and Cuban or Haitian entrants
- **Indigent Exception.** If the sum of the alien's household's own income and any cash or in-kind assistance provided by the sponsor or others is less than 130 percent of the poverty level for the alien's household, the alien is considered indigent. The amount of the income and resources deemed to an indigent alien cannot exceed the amount actually provided for up to a 12-month period. Each indigence determination is effective for 12 months and may be renewed for additional 12-month periods.
- **Battered Spouse or Child Exception.** Deeming also does not apply during any 12-month period if the alien is a battered spouse, battered child or parent, or child of a battered person providing the battered alien lives in a separate household from the person responsible for the battery. The exemption can be extended for additional 12-month periods if the alien demonstrates that the battery is recognized by a court, administrative order, or by the BCIS and if the district determines that the battery has a substantial connection to the need for benefits.
- **Sponsor in same food stamp household.** If the sponsor lives in the same household as the alien, deeming does not apply because the sponsor's income and resources are already OTDA (Rev. 8/2001) 11 counted. There is, however, no deeming exemption if the sponsor receives food stamp benefits in another household.
- **Ineligible Member.** If the sponsored alien is ineligible for food stamp benefits because of immigration status (e.g., is not a qualified alien or is an LPR without five years of residency), the sponsor's income is not deemed to other eligible members of the alien's household.
- **Children.** Beginning on October 1, 2003, sponsor deeming is eliminated for children who are under age 18 regardless of when they entered the United States.

- **Alien whose deeming period has ended.**

3. How long sponsor deeming lasts?

Deeming of the sponsor's income and resources to the sponsored alien lasts until the sponsored alien:

- Becomes a naturalized citizen;
- Can be credited with 40 qualifying quarters of work;
- Is no longer an LPR and leaves the US;
- Meets one of the exceptions listed in the preceding question; or
- Dies or the sponsor dies.

4. How much of the sponsor's resources are deemed to the alien?

If deeming applies, all but \$1,500 of the amount of resources (as defined according to regular food stamp rules) of the sponsor and the sponsor's spouse are deemed to the sponsored alien.

5. How much of the sponsor's income is deemed to the sponsored alien?

The amount of the sponsor's income attributed to the sponsored alien is the total monthly earned and unearned income of the sponsor and sponsor's spouse, minus 20 percent of their earned income and minus 130 percent of the poverty level for a household equal in size to the sponsor's household: sponsor, sponsor's spouse if living with the sponsor, and any other person who is a dependent or receives support from the sponsor or sponsor's spouse. If the sponsor signs an affidavit of support for more than one alien, the sponsor's income is prorated among the sponsored aliens. Income is defined according to regular food stamp rules.

6. When the alien's sponsor refuses to provide information

Aliens who are exempt from deeming do not need to provide information about the sponsor's income and resources. An eligible alien who is subject to deeming and is receiving support from a sponsor, however, is responsible for obtaining the cooperation of the sponsor and for providing the district with the information and documentation necessary to calculate deemed income and resources at the time of application and recertification. The district must assist the household in obtaining the necessary verification. Districts are reminded that indigent aliens need to verify only the amount of the income and resources actually provided by their sponsors. Districts must not deny an alien's application for food stamp benefits on the basis of the sponsor's non-cooperation, if it can be determined that the sponsor is providing zero support to the alien.

7. Sponsor liability

A sponsor who has signed a legally binding affidavit of support on or after December 19, 1997 for an alien they sponsor may be liable for the value of food stamp benefits received by that sponsored alien during the period of time the affidavit of support is in effect. The sponsor or the sponsor's estate is liable to repay the cost of these benefits for ten years after benefits were last received, but is not liable for benefits received by the sponsored alien during any period of time that the sponsor receives food stamp benefits.

8. District's responsibility to enforce sponsor liability

Districts must request reimbursement from sponsors who have signed legally binding affidavits of support on or after December 19, 1997 for any food stamp benefits received by the alien during the period of time the affidavit is in effect (until the alien becomes a citizen, permanently leaves the country, or can be credited with 40 qualifying quarters of work or until the sponsor dies). The district may verify whether an alien has a sponsor who has signed a binding affidavit of support by submitting to USCIS the "Document Verification Request and Supplement (USCIS Form G-845 and G-845 Supplement) and requesting completion of block #7 - Affidavit of Support. Information provided by the BCIS includes the name, social security number, and address of the alien's sponsor.

Prior to pursuing a request for reimbursement, the district must first verify that the alien's sponsor is subject to a liability by determining, for example, if the sponsor signed a binding affidavit of support, if the sponsor received food stamps while the sponsorship agreement was in effect, or if the affidavit-of-support period has ended. If the liability is not paid, however, New York State districts do not pursue legal action against the sponsor in federal or State courts. In addition, benefits issued correctly to sponsored aliens cannot be considered as food stamp overpayments under the Food Stamp Act. Districts may not keep any portion of liabilities recouped from sponsors.

Pending verification, the district cannot delay, deny, reduce or terminate the individual's eligibility for benefits on the basis of the individual's immigration status.

9. OVERISSUANCE DUE TO INCORRECT SPONSOR INFORMATION -

- a. **RESPONSIBILITY FOR REPAYMENT** - A sponsor of an alien and the alien shall be jointly and separately liable for the repayment of any overissuance as a result of incorrect information provided by the sponsor. However, if the alien's sponsor has good cause or is without fault for supplying the incorrect information, the alien's household shall be solely liable for repayment of the overissuance.
- b. **ALIEN'S SPONSOR HAS GOOD CAUSE** - Good cause on the part of the alien's sponsor could include, but would not be limited to, the following:
 - (1) **USCIS FAILURE TO ADVISE** - USCIS failing to have advised sponsors of their requirements and responsibilities at the time the sponsor executes an affidavit of support or similar agreement on behalf of an alien.
 - (2) **ALIEN REPORTS INFORMATION INACCURATELY OR UNTIMELY** -The sponsor provides the alien with information and the alien reports the information to the local district, either inaccurately, in an untimely manner, or not at all.
 - (3) **ALIEN MISINFORMS SPONSOR** - Information required to be provided by the sponsor is incomplete, inaccurate, or unreported due to the alien misinforming the sponsor of what he/she considers necessary to properly determine his/her eligibility and benefit level, despite the alien having been informed of his responsibility by the district.
- c. **LOCAL DISTRICT RESPONSIBILITY WHEN THE SPONSOR DOES NOT HAVE GOOD CAUSE**
 - (1) The local district shall decide whether to establish a claim for the overissuance against the sponsor or the alien's household, or both.
 - (2) The local district may choose to establish claims against both parties at the same time or to establish a claim against the party it deems most likely to repay first.
 - (3) If a claim is established against the alien's sponsor first, the local district shall ensure that a claim is established against the alien's household whenever the sponsor fails to respond to the local district's demand letter within 30 days of receipt.
 - (4) The local district shall return to the alien's sponsor and/or the alien's household any amounts repaid in excess of the total amount of the claim.

NOTE: The method of establishing and collecting claims is described in FSSB Section 15.

- d. **SPONSOR'S FAIR HEARING ENTITLEMENT** - The sponsor is entitled to a fair hearing to contest the amount of a claim or to contest a local district's determination that incorrect information was provided and that the sponsor was at fault for providing incorrect information.

10. District's responsibility for reporting when it determines an alien "indigent"

Households that the district has determined indigent should be informed that the names and addresses of the indigent sponsored alien and the sponsor will be provided to the NYS OTDA, for reporting to USCIS. Districts should send the written notice, which should include the reference, "Determinations under 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996", to:

New York State Office of Temporary and Disability Assistance
Division of Temporary Assistance
40 North Pearl Street, 11th floor
Albany, NY 12243

References

387.10
97 ADM-25
99 ADM-2
02 ADM-07
03 INF-14

Related Items

Income Exclusions (FSSB)
Reporting Changes (FSSB)
Claims Against Households (FSSB)

NON-HOUSEHOLD INDIVIDUALS**POLICY**

The income of non-household individual(s) as described in FSSB Section 5 must not be considered available to the household to determine household eligibility and benefit levels.

Cash payments to a participating household by non-household individuals, however, are considered income.

For example, when an individual is away from the household for military assignment all or part of the absent person's pay will be sent directly to the family (or direct-deposited in their bank account) by the military. Any income paid directly to the household by the absent person or sent to the household by the military is FS unearned income. Such income cannot be counted in determining eligibility or benefit levels until it is determined when and what amount will be received.

However, effective October 1, 2004, federal law excludes from consideration as income in the Food Stamp Program additional pay received by military service persons as a result of deployment to a combat zone.

If the amount of military pay that the combat-duty service person is making available is equal to or less than the amount the household was receiving from the service person prior to deployment to a combat zone, all of the available military pay would be counted as income to the FS household. Any portion of the amount that exceeds the amount the household was receiving prior to deployment of the military person to a combat zone must be excluded when determining the household's income for food stamp purposes.

The exclusion of combat pay is effective through September 30, 2005. Any FS household that had an increase in income as a result of a military service person's combat zone deployment that was counted in their food stamp case as of October 1, 2004, is entitled to restoration of lost benefits. Districts should make such a determination at the household's next recertification, unless the household requests a review of its case prior to that time. A household that was denied because excludable income was counted would also be entitled to a restoration of lost benefits. Any income excluded under the legislation remains excluded for the duration of the service person's combat deployment and, in the event the legislation is not renewed for federal fiscal year 2006, until the household's next recertification after September 30, 2005.

INCOME EARNED BY HOUSEHOLD AND NON-HOUSEHOLD MEMBERS - When the earned income of one or more household members and the earned income of a non-household individual(s) are combined into one wage, the income of the household members shall be determined as follows:

1. If the household's share can be identified, the local district shall count that portion due to the household as earned income.
2. If the household's share cannot be identified the local district must prorate the earned income among all those jointly receiving the wage and count that prorated portion to the household.

NOTE: For determining deductions see FSSB Section 10.

References

387.16
GIS Messages
(05TA/DC002)
(90IM/DC035)

Related Item

Nonhousehold Members (FSSB)
Determining Deductions (FSSB)

INCOME EXCLUSIONS**POLICY**

Only the following items shall be excluded from household income:

1. **MONIES WITHHELD OR RETURNED TO REPAY PRIOR OVERPAYMENTS FROM THE SAME INCOME SOURCE-** These include monies withheld from an assistance payment.

NOTE: However, TA recoupments of overpayments resulting from intentional program violation (IPV) are NOT excluded. TA IPV is defined for this purpose as conviction by a court, or recipient admission of fraudulent receipt of TA benefits.

NOTE: Money recouped from a TA grant to recover advances (e.g., to prevent utility shut offs) shall not be excluded since the advance is excluded when made.

- a. Earned income, or
- b. Other income source, or

This provision regarding monies withheld or returned (voluntarily or involuntarily) to repay prior overpayments applies only if the overpayment was not otherwise excluded.

2. **CHILD SUPPORT PAYMENTS -**

- a. Payments received by TA recipients which must be transferred to the Title IV-D agency to maintain TA eligibility.

NOTE: The first \$50 of child support payments made to IV-D and then returned to the recipient is countable as income for FS purposes. Only the IV-D child support pass-through which was received by the household within normal processing time frames is countable as income. The pass-through payment is counted as food stamp income in the month following the month in which the household receives the pass-through. Any additional pass-through payments which represent support collections for previous months are excluded as income because they are lump sum payments.

- b. Legally obligated child support payments (current and arrearage) made by a FS household to or for non-household members will be treated as income exclusions rather than deductions from income. Local districts will continue to enter total gross income received and amounts of child support paid by FS households into the ABEL input screens, but ABEL will subtract the child support payments from total household gross monthly income before comparing income to the applicable gross and net income limits.

In joint custody cases, when the child support payer pays legally obligated child support to a non-household beneficiary, even if the children are members of the payer's food stamp household, the child support payments are excluded from the payer's household's food stamp income. The child support payer whose food stamp household includes the children is allowed this income exclusion whether or not the beneficiary of the support payments also receives food stamp benefits, as long as the beneficiary is not a member of the payer's food stamp household. Districts also are reminded that, in joint custody situations, only one of the parents or guardians can have the children included in their food stamp household for a given month.

3. **IN-KIND BENEFITS -** Any non-monetary gain or benefit received by the household, regardless of source. Some examples of in-kind benefits are meals, clothing, housing, and produce from a garden.
4. **VENDOR PAYMENTS -** Money payments that are not paid (or payable) directly to the household but which are paid to a third party by someone outside the household for an expense incurred by the household. This vendor payment can be made by an individual or an organization outside of the household to the applicant/ recipient household's creditors or those providing a service. To be excluded, the vendor payment must not be money that is legally obligated to the household, but diverted by the payer to a third party for a

household expense. Some examples of excluded vendor payments are:

- a. Payments made directly to the landlord by a relative or friend outside the household for the household's rent.
- b. Rent or mortgage payments made to a landlord or mortgagee by the Department of Housing and Urban Development (HUD), or by other housing authorities. When such payments are made directly to a landlord, they are also not allowed as a FS shelter cost. The household's out of pocket rent expense is allowable as a FS shelter cost.
- c. Housing provided to an employee by an employer.
- d. TA payments, over and above the normal grant, made to a third party (even if the household is given the option to receive cash), such as emergency payments or "special grants" for moving.

NOTE: TA payments for excess shelter costs which a local district adds on a recurring, non-expiring basis to the state-approved standard of need are not excludable, even if the payments are made to a third party. However, emergency shelter allowances for persons with AIDS, or HIV-related illnesses are exempt as income.

- e. Payments specified by court order, or other legally binding agreement, to be made directly to a third party rather than to the household are excluded as income to the household which would otherwise have received payments.
- f. Payments made by an insurance company to a hospital for care of a household member.
- g. TA restaurant allowances which are paid by voucher or directly to the vendor by any other means.

NOTE: Restaurant allowances paid directly to recipients in a separate check are not excluded as FS income.

- h. The amount of a TA payment which is over and above the maximum TA shelter allowance for the family size paid directly to a third party for the cost of providing a homeless transitional housing.
- i. The entire amount of the TA shelter payment paid to a domestic violence shelter for victims of domestic violence. The FS shelter expense of a TA household residing in a domestic violence shelter is only their out-of-pocket cost, if any, that they are required to pay from other income.
- j. Any Emergency TA vendor payment to a third party made on behalf of a migrant or seasonal farmworker household while the household is in the job stream. Examples are emergency vendor payments for housing or transportation.

NOTE: Payments made for a household expense, by a person or organization outside the household, with funds that would have been paid to the household are not considered vendor payments and, therefore, are counted as income. That is, the money is legally obligated and otherwise payable to the household but is diverted by the provider of the payment to a third party for a household expense. Some examples of payments which are counted as income, even though money is not received directly by the household, are:

(1) Wages garnished by an employer.

(2) Money deducted from a court-ordered support or alimony payment to a third party for a household expense, when deducted or diverted by the payee or payor.

5. INCOME FROM PRIVATE NON-PROFIT CHARITABLE ORGANIZATIONS - Cash donations based on need received from one or more private non-profit charitable organizations to the extent that such payments do not exceed a total of \$300 in a federal fiscal year quarter.

NOTE: For this purpose the quarter year period is defined as a quarter of a federal fiscal year, which starts in October.

6. IRREGULAR INCOME - Any income in the certification period which is received too infrequently or too irregularly to be reasonably anticipated, but not in excess of \$20 per month.

7. EDUCATIONAL INCOME - Educational grants, loans and scholarships (other than veterans' educational benefits that are paid for normal living expenses).
8. LOANS - All loans, including loans from private individuals as well as commercial institutions.
9. REIMBURSEMENTS - Reimbursements for past or future expenses that do not exceed actual expenses and are not a gain or benefit to the household.
 - a. OTHER THAN NORMAL LIVING EXPENSES - To be excluded, the payments must be provided specifically for an identified expense, other than normal living expenses, and used for the purpose intended.

NOTE: Reimbursements for normal household living expenses such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit and, therefore, are not excluded.

- b. MULTIPLE EXPENSES - When a reimbursement, including a flat allowance, covers multiple expenses, it is not necessary to identify each expense separately provided none of the reimbursement covers normal living expenses. The amount by which a reimbursement exceeds the actual expenses is counted as income. However, reimbursement must not be considered to exceed actual expenses unless the provider or the household states the amount is excessive.
- c. EXAMPLES - Reimbursements for the following type of expenses are excluded:
 - (1) Job or training related expenses such as travel, per diem, uniforms, and transportation to and from the job or training site.
 - (a) Travel expenses incurred by migrant workers.
 - (b) Expenses of TA participants of work experience programs or community service programs if they are not included in the TA budget as an item of need.
 - (2) Out-of-pocket expenses of volunteers incurred in the course of their work. This includes HIV Peer Education Stipends.
 - (3) Medical or dependent care reimbursements. Child Care reimbursements are excluded as income whether paid as direct payment or vendor payment by the local district. For information on Child Day Care payments and the dependent care deduction see FSSB Section 10.

NOTE: In mixed FS households where the TA members are issued a special TA allowance for day care and the day care is provided by a non-TA member of the FS household, the allowance is counted as earned income to the day care provider. The allowance is considered excludable income to the TA members by being a reimbursement. Any dependent care costs the TA members pay to the day care provider above the special allowance are not allowable as a dependent care deduction because the provider is a FS household member.

- (4) Title XX Services (387.11)
- (5) Adoption subsidy payments
- (6) Foster Care payments, including foster care payments for individuals included in the FS household.
- (7) TA refrigerator rental allowance for homeless TA families in hotels/motels.
- (8) Payments made to operators of family type homes for adults to enable payment for certain special needs of residents of such facilities.
- (9) Payments under P.L. 93-288, Section 312(d), the Disaster Relief Act of 1974, as amended by P.L. 100-707, Section 105(i), the Disaster Relief and Emergency Assistance Amendments of 1988, 11/23/88. This exclusion applies to Federal Assistance provided to persons directly affected, such as Disaster Unemployment Assistance, and to comparable disaster assistance provided by States, local governments, and disaster assistance organizations.

Also excluded are Federal Emergency Management Assistance (FEMA) subsidies to households to pay for temporary housing after a disaster.

NOTE: Monies that exceed the cost of the housing that are not returned to FEMA would be income. However, payments made to homeless people to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency is not excluded under this provision.

- (10) Grants of Assistance for Guide Dogs. However, if a FS client can verify that the cost of maintaining the guide dog exceeds the grant, the amount over and above the grant can be added to the client's medical deductions as explained in FSSB Section 11.
- (11) Aid and attendance benefits and housebound benefits received from the Veterans Administration. Only the un-reimbursed portion of an elderly or disabled household member's costs for maintaining an attendant, homemaker, home health aide or housekeeper needed due to age, infirmity or illness would be allowed as a medical deduction, as described in FSSB Section 11.

10. **THIRD-PARTY BENEFICIARY** - Monies received and used for the care and maintenance of a third-party beneficiary who is not a household member.

If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member shall be excluded.

If the non-household member's portion cannot be easily identified, the payment shall be evenly prorated among intended beneficiaries; the non-household member's prorated share or the amount actually used for the non-household member's care and maintenance, whichever is less, shall be excluded.

NOTE: The "visitor's allowance" paid to the parent whose FS household does not include the child is not counted as TA income to that parent's FS case.

NOTE: When a TA essential person is not a member of an TA-FS household, and is not a member of another FS household then his/her portion of the TA allowances other than TA shelter and fuel allowances must be excluded as income to the FS household of which he is not a member. These exclusions apply whether his portion of the grant is issued separately or in the TA grant.

11. **EARNED INCOME OF STUDENTS** - The earned income of students who are members of the household, and are enrolled as elementary or high school students, including persons pursuing a high school equivalency diploma (GED) at least half-time, and are less than 18 years old. This exclusion runs through the end of the month in which the student turns 18. The exclusion will continue during semester or vacation breaks provided the child's enrollment resumes following the break. If the child's earnings or amount of work performed cannot be separated from that of other household members, the total earnings shall be prorated equally among the working members and the student's prorata share excluded. This specifically relates to migrant workers.
12. **NON-RECURRING LUMP SUM PAYMENTS** - This includes but is not limited to the following:
- a. Income tax refunds, rebates or credits,
 - b. Retroactive lump sum Social Security, SSI, TA, Railroad Retirement benefits, or other payments, or
 - c. Retroactive lump-sum insurance settlements.

NOTE: These payments count as resources in the month received unless specifically excluded from consideration as a resource.

13. **FEDERAL AND STATE EARNED INCOME TAX CREDITS (EITC)** - Advance payments of Federal EITC are excluded in the month received. Federal and State EITC paid in the form of a lump sum at the end of the year also are excluded.
14. **INDIVIDUAL DEVELOPMENT ACCOUNTS (IDAs)** - Contributions made by a local district or a nonprofit organization to an individual development account to enable a FS household member to save for postsecondary education, first home purchase or business capitalization are excluded. Withdrawals from an IDA for purposes other than postsecondary education, home purchase or business capitalization are

counted, less any penalties assessed, as unearned income in the month withdrawn, and any remaining balance in the account would be considered an available resource.

15. HOUSING AND URBAN DEVELOPMENT (HUD) COMMUNITY DEVELOPMENT BLOCK GRANTS are excluded.
16. GERMAN REPARATION PAYMENTS (from the Federal Republic of Germany) AND AUSTRIAN GENERAL SOCIAL INSURANCE PAYMENTS are excluded.
17. DISASTER RELIEF EMPLOYMENT income received under the National Emergency Grant program is excluded.
18. REIMBURSEMENTS FROM THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICY ACT of 1970 (P.L. 91-646, Section 216) are excluded.
19. DOMESTIC VOLUNTEER SERVICES ACT OF 1973 (P.L. 93-113), TITLE I payments to volunteers (including payments from such Title I programs as VISTA, University Year for Action, and Urban Crime Prevention Program) are excluded for households that already were receiving food stamps or temporary assistance before they joined the Title I program. Temporary interruptions in food stamp participation will not alter the exclusion, but new applicants who are Title I volunteers before they apply for food stamps and/or temporary assistance will have the Title I payments counted as earned income.
20. DOMESTIC VOLUNTEER SERVICES ACT OF 1973, TITLE II payments to volunteers (RSVP, Foster Grandparents, Senior Companion and senior health aide programs) of the Domestic Volunteer Services Act of 1973 (P.L. 93-113), as amended, are excluded.
21. DOMESTIC VOLUNTEER SERVICES ACT OF 1973, TITLE III Payments under the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE) programs are excluded.
22. NATIONAL COMMUNITY SERVICE ACT FUNDS - All allowances, earnings and payments to individuals participating under Title I of the National Community Service Act of 1990 (P.L. 101-610) are excluded as income for FS purposes. Title I of this Act pertains to the National and Community Service State Grant Program, which includes Americorps USA and Americorps NCCC. Projects under this program are subject to the same treatment as most benefits under the Job Training Partnership Act. The types of activities are broadly defined. Participants may perform any educational, human, environmental, or public safety service that will benefit the community.
23. SCSEP - Any funds received by individuals 55 and older under the Senior Community Service Employment Program (SCSEP), (Title V of P.L. 100-175, the Older Americans Act of 1987) are excluded. Community Services Employment Programs are administered in New York State by the NY State Office for Aging, the National Council on Aging, American Association of Retired Persons, the National Urban League, Green Thumb, and the National Council of Senior Citizens, Senior Aids Program, U.S. Forest Service, National Association for Spanish Speaking Elderly, National Council on Black Aging. However, this list of agencies may not be all inclusive there is a question as to whether an income is Title V SCSEP income, the local district should contact its local area office on aging.
24. ENERGY ASSISTANCE - Payments or allowances made under any Federal, State or local laws for the purpose of energy assistance. These payments must be clearly identified as energy assistance by the legislative body authorizing the program or providing the funds. Among the Federal payments that would be excluded are:
 - Energy assistance payments provided through the Department of Health and Human Services' Low Income Energy Assistance Program and the Crisis Intervention Program,
 - Vendor payments or Emergency Aid to Families (EAF) or Emergency Home Relief (EHR) made by local districts to assist TA households which exceed the normal TA fuel allowance (SA-6a and SA-6b), and
 - EAF for fuel paid to Non-TA and SSI households.
25. CHILD NUTRITION BENEFITS received under P.L. 89-642, Section 11(b) of the Child Nutrition Act of 1966, This includes the Women, Infants and Children (WIC) program and school meals. Also excluded

are coupons issued under WIC Demonstration projects (P.L. 100-435, section 401), which may be exchanged for food at farmers' markets.

26. FEE FOR REP PAYEE - A qualified organization may collect a fee for acting as the representative payee for an individual receiving benefits in the SSI and/or Social Security Disability programs. The organization may take its fee out of funds it handles as representative payee.

The monthly fee collected by the organization representative payee is legally obligated to the payee rather than to the household by virtue of the statute and as such is not countable. To qualify to collect a fee as representative payee an organization must be a community based non-profit social service agency which is bonded or licensed in the State. A qualified organization may not collect from an individual a total monetary fee for expenses of more than the lesser of 10 percent of the monthly benefit or \$59.00 per month for persons determined to have a drug abuse or alcoholism problem (DA&A), \$31 for all other individuals.

27. PASS - Income of SSI recipients necessary for the fulfillment of a Plan to Achieve Self-Support (PASS) under Title XVI of the Social Security Act. The income exclusion for PASS accounts is effective December 13, 1991 unless the local district had information that a household member had a PASS account (in such cases the effective date is October 1, 1990), or there was a fair hearing on the subject of denied PASS income exclusion (in such cases the effective date would be the date of the fair hearing).
28. SUPPLEMENTAL NEEDS TRUSTS (SNTs) - interest accruing to the trust would be excluded as income for Food Stamps. Any cash disbursements, however, must be evaluated under normal FS budgeting rules. Disbursements from a SNT may be excludable from household income if they are reimbursements for past or future expenses that do not exceed actual expenses and are not a gain or benefit to the household. To be excluded, reimbursements must be for an identified expense other than normal living expenses. Disbursements made directly to Food Stamp household for normal household living expenses, such as rent or mortgage, personal clothing, or food eaten at home are a gain or benefit and, therefore, are counted as income. A SNT disbursement that is not payable to the household, but is instead directed to a third party would be excluded from countable income as a vendor payment. To the extent that the vendor payment meets expenses that would otherwise be allowed as deductions such as shelter, medical costs or childcare, however, the expense would not be allowed as a deduction.

Income that is legally obligated to a household and countable as FS income, but is diverted by the household into a SNT account is NOT excluded from FS income.

29. REVERSE ANNUITY MORTGAGE (RAM) - Recurring or lump sum payments received on a reverse annuity mortgage which can be determined to be a loan are excluded as income. If repayment on the reverse annuity mortgage is made, either by the client repaying the loan directly or by the property reverting to the bank, it meets the acceptable definition of a loan. Documentation that the income from the reverse mortgage is a loan, such as a copy of the loan document signed by both parties, should be retained in the case record. Accumulated proceeds from a RAM loan, however, must be counted as a resource for Food Stamps.
30. INCOME OF NON-HOUSEHOLD MEMBERS - The income of non-household members, other than disqualified individuals.
31. COSTS OF PRODUCING SELF-EMPLOYMENT INCOME - Detailed in FSSB Section 12.
32. Workforce Investment Act (WIA) -
- a. Earnings for work experience, compensation in lieu of wages, payments for supportive services, allowances for training-related expenses and other payments other than TA grants received by participants in WIA programs as a result of such participation.

NOTE: Earnings from OJT programs received by individuals participating in programs under Section 204(5), Title II of WIA are budgeted for determination of FS eligibility and benefit amounts as earned income, with the exception in paragraph (b) below.

- b. The earnings of household members under 19 years of age participating in an on-the-job training program under WIA, including OJT programs under Section 204(5), Title II of WIA, providing the member is under the parental control of another adult household member.

NOTE: Perkins Loans distributed by WIA offices are not WIA monies. They are a source of Title IV education income.

33. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended. For example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration are excluded.

Also excluded are Federal Emergency Management Assistance (FEMA) subsidies to households to pay for temporary housing after a disaster. However, monies that exceed the cost of housing that are not returned to FEMA would be income.

Payments made to homeless people to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are NOT excluded under this provision.

34. ESCROW ACCOUNTS - Set up under the Family Self-sufficiency Program (FSS) which is administered by HUD for residents of Section 8 or public housing.
35. Service provided to a public housing resident under P.L. 101-625 section 22(i) of the Cranston - Gonzales National Affordable Housing Act. This exclusion applies to services such as child care, employment training and counseling, literacy training, computer skills training, assistance in the attainment of certificates of high school equivalency and other services. It does not apply to wages or stipends.
36. DIVIDENDS from insurance policies
37. INTEREST from bona fide funeral agreements or funds
38. GIBILL WITHHOLDING - The mandatory deduction from the paycheck of all military service personnel used to fund the GI Bill.
39. EXCLUDED SPECIFICALLY BY LAW - Any income specifically excluded from determining FS eligibility by the following laws:
- a. INDIVIDUALS OF JAPANESE ANCESTRY - Payments to individuals of Japanese ancestry and permanent resident Japanese aliens or their survivors in restitution for wartime relocation and internment (P.L. 100-383, Section 105).
 - b. ALEUTS - Payments to natives of the Aleutian or Pribilof Islands in restitution for wartime relocation and internment (P.L. 100-383, Section 206).
 - c. COMPENSATION PAID BY AN ELIGIBLE CRIME VICTIM COMPENSATION PROGRAM (P.L. 103-322).
 - d. AGENT ORANGE PAYMENTS -
 - (1) The Agent Orange Settlement Fund; and
 - (2) Any other fund established pursuant to the settlement In re Agent Orange Product Liability litigation.

NOTE: Benefits must be restored to any household which reports and documents that it was denied or under issued FS benefits due to the receipt of Agent Orange payments back to January 1, 1989.

NOTE: P.L. 102-4, Agent Orange Act of 1991, 2/6/91, authorized veterans' benefits to some veterans with service connected disabilities resulting from exposure to agent orange. These VA payments are not excluded by law.

- e. SPINA BIFIDA PAYMENTS paid to children of Vietnam veterans under P.L. 104-204 are excluded.
- f. PAYMENTS TO INDIANS - Certain payments to Indians are excluded under federal law. Usually a law will specify payments to members of a tribe or band, and the law will apply to the Indians enrolled in the tribe or band wherever they live. The Indians should have documentation showing where the payments originate.)
 - (1) ALASKA NATIVE CLAIM SETTLEMENT payments received under P.L. 92-203, Section 21(a).

This includes all compensation such as cash, stock, partnership interest, land, interest in land, and other benefits received under this Act.

- (2) SUBMARGINAL U.S. LAND - Income derived from certain submarginal US land held in trust for certain Indian tribes (P.L. 94-114, Section 6).
- (3) PAYMENTS BY THE INDIAN CLAIMS COMMISSION to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (P.L. 95-443).
- (4) THE FIRST \$2,000 OF FUNDS DISTRIBUTED by the Indian Claims Commissioner pursuant to P.L. 93-134 as amended by P.L. 97-458. P.L. 98-64 extended the exclusion to cover per capita payments from funds which are held in trust by the Secretary of Interior (trust fund distributions).
- (5) MAINE INDIANS - Payments to the Passamaquoddy Tribe, the Penobscot Nation and the Harlton Band of Maliseet or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420, Section 5).
- (6) NAVAJO AND HOPI TRIBES - Payments of relocation assistance to members of the Navajo and Hopi tribes under P.L. 93-531, section 22.
- (7) P.L. 94-540 - Payments from the disposition to funds to the Grand River Band of Ottawa Indians.
- (8) P.L. 97-403 - Payments to the Turtle Mountain Band of Chippewas, Arizona.
- (9) P.L. 97-408 - Payments to the Blackfeet Grosventre, and Assiniboine tribes (Montana) and the Papago (Arizona).
- (10) P.L. 98-124, Section 5 - Per capita and interest payments made to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana).
- (11) P.L. 98-123, Section 3, 10/13/83 - Per capita and interest payments made to the Red Lake Band of Chippewas.
- (12) P.L. 99-346, Section 6(b)(2) - Payments to the Saginaw Chippewa Indian Tribe of Michigan.
- (13) P.L. 99-377, Section 4(b), 8/8/86 - Per capita payments to the Chippewas of Mississippi.
- (14) P.L. 101-426, Section 6(h)(2), the Radiation Exposure Compensation Act, dated October 15, 1990.
- (15) The first \$2000 of payments made under P.L. 98-500, Section 8, 10/17/84, Old Age Assistance Claims Settlement Act, to heirs of deceased Indians.
- (16) P.L. 99-146, Section 6(b), 11/11/85 - Funds distributed per capita or held in trust for members of the Chippewas of Lake Superior.
- (17) P.L. 99-264, White Earth Reservation Land Settlement Act of 1985, 3/24/86, Section 16. This Act involves members of the White Earth Band of Chippewa Indians in Minnesota.
- (18) SENECA NATION SETTLEMENT ACT - Under Public Law 101-503 and the memorandum of understanding between the Seneca Nation and the State, Settlement Act monies are exempt from consideration in determining eligibility or benefits for any State or federally funded social services program. These monies must not be counted as income or resources now or at any later point in time.

References

387.11
02 ADM-7
02 ADM-1
97 ADM-17
97 ADM-4
95 ADM-15
92 ADM-9
92 ADM-6

Related Items

85 ADM-46

Self-Employment Other
Than Farming (FSSB)

TASB

Section 16-F-all

Section 16
Section 16

	Educational Income (FSSB)	Section 16
91 ADM-25		
91 ADM-6		
90 ADM-31		
90 ADM-12		
90 ADM-8		
89 ADM-10		
88 ADM-49		
88 ADM-40		
01 INF-8		
95 INF-35		
95 INF-30		
94 INF-45		
93 INF-8		
92 INF-45		
92 INF-16		
90 INF-33		
96 LCM-83		
92 LCM-120		
89 LCM-39		
GIS Message (05 TA/DC006)		
GIS Message (05 TA/DC004)		
GIS Message (05 TA/DC002)		
GIS Message (98 TA/DC018)		
GIS Message (92 IM/DC016)		
GIS Message (92 IM/DC015)		
GIS Message (88 IM/DC037)		
GIS Message (88 IM/DC023)		
GIS Message (88 IM/DC019)		
GIS Message (88 IM/DC014)		
GIS Message (88 IM/DC008)		
GIS Message (87 IM/DC018)		
ABEL Transmittal 91-3		
ABEL Transmittal 91-2		
ABEL Transmittal 86-7		
ABEL Transmittal 85-3		

Self-Employment Other Than Farming**POLICY**

Self-employment income provisions are for all households receiving self-employment income, including those households that own and operate a commercial boarding house. For households that receive income from boarders but do not own and operate a commercial boarding house, see FSSB Section 12.

DEFINITION - Self-employment income is the total gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business. Payments from a roomer or boarder are self-employment income and are counted as earned income.

Payments from rental income are self-employment income and are counted as earned income if the property is managed by a household member at least 20 hours per week. If the rental property is managed less than 20 hours per week, the rental income is counted as unearned income. However, the cost of producing self-employment income is excluded.

1. DETERMINING MONTHLY SELF-EMPLOYMENT INCOME -

- a. **CALCULATING INCOME BY AVERAGING** - Add all gross self-employment income (including capital gains), exclude the cost of producing the self-employment income, and divide the self-employment income by the number of months over which the income will be averaged.
- b. **CALCULATING ANTICIPATED INCOME** - When self-employment household income is anticipated, rather than averaged, the local district must:
 - (1) Add any anticipated capital gains for the next 12 months, starting from the application date.
 - (2) Divide this amount by 12. This amount shall be used in successive certification periods during the next 12 months, except that a new average monthly amount shall be calculated over this 12-month period if the anticipated amount of capital gains changes.
 - (3) Add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income.
 - (4) Subtract the cost of producing the self-employment income. The cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income.

NOTE: A household may have zero net self-employment income indefinitely, if gross proceeds are sufficient to sustain the household, even if the business (on paper) shows a loss. However, if visible gross income is insufficient to cover household expenses but the household expenses are paid, then the household must be requested to explain these questionable circumstances.

2. **DETERMINING MONTHLY NET INCOME** - To determine the monthly net income of the household:
 - a. Add the monthly net self-employment income to any other earned income received by the household.
 - b. Subtract the 20 percent earned income deduction.
 - c. Then add to this figure all the monthly unearned income.
 - d. The standard deduction, dependent care, and shelter costs will be computed as for any other household and subtracted to determine the monthly net income of the household.
3. **CHILD CARE FOOD PROGRAM** - The Child Care Food Program (CCFP) payments to meal providers is designed to assure nutritious meals for children up to age 12 and handicapped children up to age 15 who participate in a non-profit, licensed or approved day care program.
4. Self-employed households in receipt of CCFP income may apply for FS. These households would most likely be operating family day care or after school programs in their own homes/apartments. In determining the amount of CCFP income used to calculate FS benefits the following steps are taken:
 - a. Establish the gross CCFP payment(s) to the provider.

- b. Subtract from the established CCFP gross payment the total allowable self employment costs to establish the net self-employment income. The cost of producing self-employment income from child care is the actual costs, the amount of the CCFP payments, or \$5.00 per day per child in care (not including the provider's own children), whichever is greater.
- c. Apply 20 percent earned income deduction to the net self-employment income.

CCFP payments given to the provider for meals served to the provider's own children are treated the same as CCFP payments given to the provider for meals served to other children.

5. DETERMINING BENEFIT LEVEL - To determine the benefit level, the local district may elect to offer the household the option of:
- a. Using the same net income which was used to determine eligibility, or
 - b. Unevenly prorating the household's total net income over the period for which the household's self-employment income was averaged to more closely approximate the time when the income is actually received.

If income is prorated, the net income assigned in any month cannot exceed the maximum monthly income eligibility standards for the household size.

6. ANNUALIZED SELF-EMPLOYMENT INCOME - Self-employment income which represents a household's annual support shall be spread over a 12-month period, even if the income is received in only a short period of time.

Self-employment income received by a household shall be averaged over a 12-month period, if the income is intended to support the household on an annual basis. This self-employment income shall be annualized even if the household received income from other sources in addition to self-employment. ++

- a. ANNUAL INCOME PAID ON A MONTHLY BASIS - Self-employment income, which is received on a monthly basis, but which represents a household's annual support will normally be averaged over a 12-month period. If, however, the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial business increase or decrease in business, self-employment income will be calculated based on anticipated earnings. Self-employment income must not be calculated on the basis of prior income (e.g., income tax returns) when the household has experienced an increase or decrease in business as determined by the local district.

NOTE: If a self-employed household's income tax returns for last year reveal a substantial, unreported increase in average monthly income and the increase is not expected to continue, it cannot be used in budgeting for the following year.

- b. SELF-EMPLOYMENT INCOME AS PART OF ANNUAL SUPPORT - When the self-employment income is only part of a household's annual income, it must be averaged over the time period the income is intended to cover.

EXAMPLE: Self-employed vendors may work only in the summer and may supplement their income from other sources during the balance of the year. They must have their self-employment income averaged over the summer months rather than the 12-month period. It is then added to any other income during that period.

- c. SELF-EMPLOYMENT INCOME FROM ENTERPRISES EXISTING FOR LESS THAN ONE YEAR - For business enterprises in operation less than a year, the self-employment income is averaged over the time period the business has been in operation. The monthly amount is projected for the coming year. If the business has been in operation for such a short time that there is no data to make a reasonable projection, the household must be certified for less than a year until the business has been operating long enough to make the longer projection.

7. RE-ANNUALIZING SELF-EMPLOYMENT INCOME - A FS household with self-employment income which has been annualized over a 12 month period may unexpectedly experience a considerable change in the amount of self-employed income they were anticipated to receive for the coming year. Such households

would be entitled to have their self-employment income re-annualized with taking into account this unexpected change for the remainder of the year.

NOTE: Before making the budget change, the local district should determine that the annual income has actually changed, and that it is not just a monthly fluctuation in self-employment income.

8. **CAPITAL GAINS ARE SELF-EMPLOYMENT INCOME** - The proceeds from the sale of capital goods or equipment must be calculated in the same manner as a capital gain for Federal Income Tax purposes. For Federal income tax purposes, capital gains are generally computed by comparing the sales price to the "cost or other basis." If the sales price is greater, there is a gain. If the costs are greater, there is a loss. The "cost or other basis" in general is the cost of the property, purchase commissions, improvements and sales expenses such as broker's fees and commissions minus depreciation, amortization and depletion. The full amount of the capital gain, if any, is counted as income for FS purposes.
9. **THE COST OF PRODUCING SELF-EMPLOYMENT INCOME IS AN INCOME ADJUSTMENT-**
- a. **ALLOWABLE COSTS** - The allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw materials, seed and fertilizer, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods, interest paid to purchase income-producing property, insurance premiums, and taxes paid on income-producing property.
- b. For FS households with self employment income derived from providing in-home child care, a standard deduction of \$5 per day per child in care (not including the provider's own children), or the amount of the CCFP can be deducted from the child care earnings without documentation of specific cost of doing business expenses. The following conditions apply: However
- (1) Eligible households must be provided the standard, or actual costs if higher.
 - (2) Eligibility staff must inform households of the option to verify actual costs if they exceed the \$5 standard expense.
- c. **APPLICANT'S/RECIPIENT'S RESIDENCE IN INCOME PRODUCING MULTI-UNIT PROPERTY** - (Such income producing property includes owner occupied rental property, income from roomers, as well as other self-employment enterprises located in the applicant's/recipient's home.) An applicant or recipient who derives income from a multi-unit building in which he resides is entitled to have the portion of the building expenses that are related to the cost of producing the income disregarded from the gross income received. Examples of such expenses are mortgage interest, property taxes, heating, utilities, and insurance.

The portion of the building costs which are for the applicant's/recipient's own living unit may not be disregarded from the gross business income, but are allowed as shelter costs.

Determination of how to treat business expenses is as follows:

- (1) In most cases, past income tax records will be sufficient to indicate what portion of the expenses are considered business income and therefore disregarded from the gross income for FS purposes.
- (2) In the absence of past income tax records the portion of the income to be disregarded will have to be determined. Any expense which is totally for the income producing part of the property would be fully excluded.

EXAMPLE: Heat or utility expenses which are metered separately.

- (3) If the applicant/recipient can document through the use of existing business records the break-out of any shared expense this client documented amount is used. In the absence of such records, the worker must determine an amount by prorating the expense among the units.

EXAMPLE: If a building contained three units, two rented and one occupied by the applicant/recipient, two-thirds of the shared expense would be excluded. The one-third remaining expense is a shelter cost to the applicant/recipient.

d. APPLICANT/RECIPIENT RENTS ROOM(S) IN HIS SINGLE UNIT DWELLING - When a FS applicant/recipient rents one or more rooms in his house any reasonable approach to determine what portion of the expenses incurred by the applicant/recipient can be attributed to producing the self-employment income may be utilized.

One approach would be to determine a pro-prorata share of expenses such as mortgage interest, property taxes, heating, utility and insurance based on the total number of rooms in the home (excluding bathrooms) divided by the number of rooms occupied by the roomer. For example, if a house had 3 bedrooms, a living room, dining room, kitchen and two baths, the owner rented out one bedroom, the pro-prorata share of the expenses related to the cost of producing the income would be 1/6.

10. DETERMINING NON-ALLOWABLE SELF-EMPLOYMENT INCOME ADJUSTMENTS - Local districts shall not allow the following items as the cost of business when determining a self-employed household's net income:

- a. Net losses from previous periods.
- b. 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 accounted for by the 20% earned income deduction specified in FSSB Section 11.
- c. Depreciation.
- d. Garnishments have no effect on the treatment of self-employment income, i.e., the total gross amount is counted as the income computation. The amount garnished is not an income exclusion.

References

387.16
 01 INF-21
 90 INF-4
 88 INF-49
 GIS Message (96 TA/DC023)
 GIS Message (92 IM/DC003)
 GIS Message (86 IM/FS001)
 ABEL Transmittal 86-7
 ABEL Transmittal 86-4
 "All Commissioner" Letter (3/17/86)
 May/June/July 1986 Consolidated Letter

Related Items

Boarders (FSSB)

 Earned Income Deduction
 (FSSB)

TASB

Section 16-C-1-all

 Section 16-C-3-all

SELF-EMPLOYMENT FARMING**POLICY**

Self-employed farmers are subject to the same eligibility and processing requirements as all other households unless otherwise specified in this section.

1. DEFINITIONS -

- a. **SELF-EMPLOYED FARMER** - An individual who receives or anticipates receiving annual gross proceeds of \$1,000 or more from the farming enterprise.
- b. **SOLE PROPRIETORSHIP** - An unincorporated business that has no existence apart from the owner. The business liabilities are personal liabilities of the single owner.
- c. **PARTNERSHIP** - Two or more individuals jointly owning a business.
- d. **INDEPENDENT CONTRACTOR** - An individual who pays the costs of doing business and receives a portion of the net income in exchange for labor.

2. DETERMINING SELF-EMPLOYMENT - To be a self-employed farmer the person must have direct involvement in farming operations. Farming operations may involve livestock, dairy, fruits, vegetables, ranches, nurseries, the production and sale of maple products, Christmas trees and beeswax. A person who rents his land to another individual to raise a crop is not a self-employed farmer if he/she is not directly involved in the growing/harvesting of the crop. Each situation must be reviewed on a case-by-case basis to determine if a person is a self-employed farmer or a farm employee.

- a. Farm self-employment income generally consists of earnings derived by an individual as the sole proprietor of his farm.
- b. There may also be some self-employment income situations which involve a partnership. In such cases there should be an oral or written agreement. Generally, a partner's share of income, gain, loss, deductions or credits is determined by the partnership agreement. In any matter not addressed by a written agreement the provision of local law are considered to be part of the agreement.
- c. Other self-employment situations for FS purposes include independent contractors who pay the farm expenses and persons who do not have a direct employer/employee relationship. In determining if the person is an independent contractor, determine if a household operates a separate (perhaps more specialized) business than the owner of the land or proprietor of the main business. In determining if there is an employer and employee relationship, consider such things as whether the person has an established work schedule and specified wages, whether the employer withholds social security and income taxes from earnings, etc. A sharecropper who pays the costs of doing business and receives a portion of the net income in exchange for his labor is a self-employed farmer. A sharecropper who does not pay the costs of doing business is not a self-employed farmer.
- d. An owner or employee of a closely held (just a few shareholders) or other corporation is not a self-employed person. If the person receives a salary from the corporation, he is considered an employee of the corporation. Shareholders who only receive dividends are entitled to neither the costs of producing self-employment income nor the earned income deduction. The dividends are counted as income. Corporations are separate legal entities, and the corporation is responsible for its debts and obligations.

3. DETERMINING INCOME - In addition to the income provisions outlined in FSSB Sections 12 the following also apply to self-employed farmers:**a. COUNTABLE INCOME -**

- (1) Federal drought assistance payments are counted as earned self-employment income regardless of whether they are made in one payment or several. Drought payments must be prorated over the same period as other self employment income. In essence, the payments are substitutes for monies that were lost as a result of the drought and that had already been calculated in the determination of FS benefits.
- (2) Commodity Credit Corporation Payments: Under the PIK program, farmers receive commodities

from the U.S. Department of Agriculture, Commodity Credit Corporation (CCC). No income is received by the household until the gain is sold. If the commodities are expected to be sold during the year, the anticipated income must be included for FS purposes. The CCC may also pay farmers in the form of commodity certificates for land diversion or acreage reduction. The certificates may later be surrendered to the CCC for cash or for commodities, or the farmer may sell the certificate to someone else, usually for a profit. The certificates are valued in dollars based on the price of the commodity at the time of the agreement with the CCC and the number of bushels of the commodity the farmer will lose through land diversion or acreage reduction. When the certificates are used, the farmer receives cash or commodities based on the price of the commodity at the time the certificate is used. The cash received under this program is counted as income in the year it is expected to be received. It is annualized like other self-employment farm income. The value of any commodity which the household intends to use for feed or seed is excluded from income. If the farmer intends to retain the certificate or the commodity longer than 12 months, the value thereof is counted as a resource.

In some cases farmers will sell commodities they own to the CCC and receive them back from CCC as PIK commodities. Farmers are paid by CCC for the commodities with the payment being used to repay price support loans previously extended to the farmer by CCC. These sales and loan payments should be treated as completely separate transactions from the receipt of CCC certificates or PIK commodities and should be handled in the same manner as any other sale of commodities and repayment of a price support loan.

- (3) Payments received in cash from agricultural stabilization and conservation programs are counted as income.
- (4) Patronage dividends are reported on tax forms. They are paid by cooperatives in cash or shares of stock. These dividends are similar to rebates paid based on the amount of goods brought or services used for the self-employment enterprise. Cash dividends are counted as income.

NOTE: Dividends in the form of stock are counted as a resource.

- (5) Dairy Termination Program - See FSSB Section 12.
- b. For ANNUALIZING SELF-EMPLOYMENT FARMING INCOME - See FSSB Section 12.
- c. COSTS OF DOING BUSINESS - Self-employed farmers are given special income treatment because they incur costs in producing their income which must be deducted in order to equate their income with income from sources in which there are no production costs.
- (1) ALLOWABLE COSTS - In addition to the allowable costs of producing self-employment income found in FSSB Section 12, the following costs are excluded when determining a self-employed household's net income:
 - (a) Privilege taxes such as licensing fees and gross receipts and general excise taxes that must be paid in order to earn self-employment income;
 - (b) Business transportation costs such as costs of carrying grain to an elevator, trips to obtain needed supplies, etc.
 - (c) Rental payments on income-producing equipment. If a farmer is renting equipment with an option to buy, the rent payments are considered allowable costs of producing self-employment income until the purchase is made;
 - (d) Costs of repairs and maintenance of equipment; and
 - (e) Storage and warehousing charges.
 - (f) Shelter Portion of Farm - Where a farm mortgage does not separately identify the business and home portions of the property, the local district may use reasonable means of identifying the separate costs through proration. Proration may be based on information from sources such as

the mortgage lender, real estate tax records, Farmer's Home Administration documents, insurance premium notices, or other available information. The prorated portion of the mortgage principal,

taxes and interest which are attributed to the home are allowed as shelter costs. The portion of the interest and taxes (but not mortgage principal payments) attributed to the business portion of the property are allowed as costs of producing income.

- (g) Utility expenses - utility expenses which are not separately metered for the home and business portions of the farm may be prorated, based on income tax records or other available information. The prorated actual cost which is attributed to the business is allowed as an allowable cost of producing self-employment income. The remaining actual cost or the utility standard, whichever is greater, is allowed as a shelter expense.

NOTE: Costs are allowed when they are billed or otherwise become due. When the income is annualized, only expenses billed or otherwise due in the current 12-month period are allowed. Costs that were billed or otherwise became due in a prior year which are not expected to recur in the current year may not be brought forward to the current year regardless of when they are paid.

NON-ALLOWABLE COSTS - See FSSB Section 12.

d. OTHER INCOME EXCLUSIONS -

- (1) A Federal gasoline tax credit is excluded from income. (It is a credit against tax liability.)
- (2) A State gasoline tax refund is excluded from income on the basis that it is a nonrecurring lump-sum payment.
- (3) Recaptured Depreciation and Recaptured Investment Credit: IRS allows self-employed persons to deduct depreciation on property, for example a tractor, as a cost of doing business. When the property is sold before the end of its useful life, the seller must declare a portion of the depreciation as income for IRS purposes. This is commonly referred to as recaptured depreciation.

IRS allows a percentage of certain investments to be deducted as an expense. If the asset is disposed of or ceases to be eligible before the end of the recapture period for recovery property or before the end of the estimated life used to figure the credit, a percentage of the credit may have to be recaptured for IRS purposes. This is commonly referred to as recaptured investment credit.

Recaptured depreciation and recaptured investment credit are considered in the capital gains computations in the same manner as they are for Federal Income Tax purposes.

- (4) A crop insurance payment is excluded from income if it is a nonrecurring lump-sum payment.

NOTE: If the insurance company pays the household in installments, the money is counted as income.

- e. OPERATING AT A LOSS - See FSSB Sections 12.
- f. OPERATING AT A PROFIT - See FSSB Section 12.

4. SUDDEN CHANGES IN INCOME - See FSSB Section 12.

5. RESOURCES - In addition to the regular resource provisions outlined in FSSB Section 16, the following provisions also apply to self-employed farmers:

- a. Livestock is excluded as a resource if it is used in the farm operation, kept as a household pet, or used for food.
- b. If a farmer has incorporated his farm, he is the sole worker and all of the corporation's assets are related to the farming operation, the farmer's stock in the corporation is essential to his employment and excluded from being counted as a resource.

- c. Sometimes a farmer may obtain a loan, but funds can only be released by signature of both the lender and the farmer. In such cases where the farmer has a "line-of-credit," only the portion that is actually borrowed and held in an account is counted as a resource.
- d. Some farm households receive Payment-In-Kind (PIK) payments. Normally these are annualized as income. However, if the farmer indicates that he intends to retain PIK payments for longer than a year, the payments should not be annualized as income but counted as a resource to the extent that they will be kept longer than a year.
- e. Sealed grain is not counted as a resource until it has been in storage more than 12 months. Grain in storage more than a year is considered a resource.
- f. Non-contiguous property which was essential to farming and licensed vehicles which were used primarily for farming shall continue to be excluded as resources for one year following the termination of farm self employment. After one year, the farmer's non-contiguous property and licensed vehicles shall remain excluded if a good effort is being made to sell such property or equipment at a reasonable price. The local district must determine when a farmer ceases to be self-employed on a case by case basis.

NOTE: Farm land which is contiguous with the property on which a household's home is located is excluded as a resource indefinitely.

NOTE: Some farmers declare bankruptcy. If so, determine what resources are accessible to the household and, if they are accessible, whether the resources can be excluded under another provision such as being essential to self-employment if the person is still self-employed. (See paragraph 6 below.)

- g. As stated in FSSB Section 16-C-4, resources, which have been counted and prorated as income are excluded. Therefore, gross self-employment income that has been used in the income determination is excluded in the resource determination during the period of time that the net income is counted as income. A farmer may commingle the farm income in a bank account with other money and still retain the exclusion.

EXAMPLE: A household earned \$10,000 gross self-employment income last year and expects to earn the same amount this year. Six thousand dollars were excluded from income to cover the costs of doing business. Four thousand dollars were annualized and prorated as income for calendar year 1989. The household has \$11,000 in a bank account. Only \$1,000 is counted as a resource during 1989 unless there are other changes.

Prorated Income Not a Resource
\$10,000 gross farm income 1988
6,000 allowable costs

\$ 4,000 prorated for 1989
No changes were anticipated.

\$11,000 in bank account
-10,000 gross farm income

\$ 1,000 count as a resource

- 6. **BANKRUPTCY** - There are different types of bankruptcies. Some allow people to continue to do the same kind of business and others do not.
 - a. If the person continues to earn self-employment income, the gross amount minus allowable expenses is counted.
 - b. Sometimes the total amount of income goes to a trustee, and from this amount he pays the bills and gives the farmer a living allowance. This living allowance is not counted as income because it would result in double counting.

- c. In other situations all of the money goes to the farmer, but he must pay a set amount to a court appointed person for back debts. This amount is not allowed as an exclusion. An exclusion is only allowed for certain costs in the year in which they are billed or otherwise become due. The household is not entitled to a double exclusion.
- d. If a farmer sells equipment and uses the proceeds to pay off a loan, the money is income to the farmer. If a farmer sells equipment and the proceeds are diverted to a bank to repay a loan, the money is counted as income to the farmer. If a farmer voluntarily turns over collateral to a bank, and the bank sells the collateral to pay off a loan, the proceeds of the sale are not counted as income to the farmer. Once the collateral is turned over to the bank, it becomes the legal property of the bank.
- e. If a farmer holds the title to property and sells the property, any proceeds from the sale are counted as income to him/her. If the farmer gives the title to the bank or if the property is repossessed prior to sale and the bank sells the property, the proceeds are not counted as income to the household.
- f. If a lender is unable to collect on a farm loan, the lender may write all or part of it off or "forgive" the outstanding balance. The forgiven portion is not counted as income to the household.

7. VERIFICATION - (Also see FSSB Section 5.)

- a. Tax Forms - The farmer's most recent income tax forms and schedules are normally good sources of verification for self-employment income and expenses. However, other sources may be used. Several IRS forms which the local district should become familiar with are:

- (1) Form 1040, U.S. Individual Income Tax Return (Sole Proprietorship),

Schedule D, Capital Gains and Losses and Reconciliation of Forms 1099-B

Schedule E, Supplemental Income Schedule

Schedule F, Farm Income and Expenses (Schedule C is for nonfarm sole proprietorship)

- (2) Form 1065, U.S. Partnership Return of Income

Schedule K-1, Partners' Shares of Income, Credits, Deductions, etc.

- (3) Form 1120, U.S. Corporation Income Tax Return

Form 1120A, U.S. Corporation Short Form Income Tax Return

Form 1120S, U.S. Income Tax Return for an S Corporation (Small Business)

Schedule K, Shareholders' Share of Income, Credits, Deductions, etc. (Summarizes the corporation's income deductions, credits, etc., reportable by the shareholders.)

Schedule K-1, Shareholder's Share of Income, Credits, Deductions, etc. (Shows each shareholder's separate share).

- (4) Form 4506, Request for Copy of Tax Form.

- (5) Form 4797, Gains and Losses From Sales or Exchanges of Assets Used in a Trade or Business and Involuntary Conversions

- (6) Form 4835, Farm Rental Income and Expenses

NOTE: The IRS net income from farm self-employment cannot be used, because IRS computes income differently and allows different expenses such as depreciation on a yearly basis. Only certain information from the tax forms and schedules may be used for verification purposes.

A person may obtain a copy of his return from IRS by submitting IRS Form 4506, Request for Copy of Tax Form, but there is a charge for this. Persons are not required to file a Federal tax form if they have income under certain amounts depending on their

marital status. If the tax form is questionable or not available, the local district must ask to see other documents that support the income and expenses which the household has reported.

- b. Other Than Tax Forms - Other sources of verification may include, but are not limited to, ledgers, charge account statements, sales slips, cancelled checks, invoices, purchase orders and cash receipts. In documenting this verification, the local district should record the date, identify the other party or company, describe the expense or income, and record the amount, taxes and discounts, if any.

In some instances, such as anticipated changes or a new business, it may be necessary to obtain information from collateral contacts.

If a bankruptcy action has been initiated, the local district may get a statement from the bankruptcy trustee regarding the debt reorganization plan concerning the accessibility of assets and the anticipated gross income and expenses.

The local district must be sure to document the verification used.

OFFSETTING LOSSES OF SELF-EMPLOYED FARMERS

When the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses shall be offset against any other countable income in the household. The same base shall be used in determining any net loss as is used to determine the income from the self-employed farm operations (previous year's tax return or current income). Losses shall be prorated over the year in a manner comparable to that used to prorate farm self-employment income. To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of \$1,000 or more from the farming enterprise.

NOTE: A household continues to qualify for the farm loss deduction for the remainder of the period that the self-employment income is annualized even when it is no longer engaged in a farming enterprise as long as the household meets the above definition of a self-employed farmer. The household's eligibility and benefits were calculated by prorating income and expenses annually. Therefore, the household would continue under the definition of a farmer for the remainder of the annual period, even if the household is no longer engaged in the enterprise.

NOTE: A fisherman is equivalent to a self-employed farmer for purposes of the farm loss offset provision if the fisherman is self-employed, rather than an employee, and the fisherman receives or anticipates receiving annual gross proceeds of \$1,000 or more from fishing. This applies even if the fisherman is only involved in catching or harvesting the fish. This applies to watermen and crayfishermen, as well as other fishermen. Fishermen produce food, and they are subject to the same chances as farmers, such as market demands, weather conditions, and the environment, that could result in losses.

8. DETERMINING GROSS INCOME - In determining the household's gross monthly income:
- All earned and unearned income is first totalled (minus appropriate exclusions),
 - From this total the monthly farm loss income is then subtracted. The remainder is the household's gross monthly FS income subject to the 130% gross monthly income eligibility test.

NOTE: If there is an elderly or disabled member in the household, the household is exempt from the gross income eligibility test.

9. DETERMINING NET INCOME - In determining the household's monthly FS net income, the household's monthly self-employment farm loss income is first subtracted from the household's "other self-employment income," if any. Then:
- If a positive balance remains, this self-employment income amount is added to the household's non-self-employment earned income. The household's earned income deduction (as described in FSSB Section 11) would be determined based on this total. Normal FS budgeting methodology would then be applied

from this point to determine the household's monthly FS net income. No additional farm loss offsetting would be necessary.

- b. If a negative balance remains, this is the household's remaining farm loss income. This remaining farm loss income (or a household's entire farm loss income when there is no "other self-employment income" to be offset) would be applied as follows in determining the household's FS net income:
- (1) Determine the household's gross monthly non-self-employment earned income.
 - (2) From this total calculate and subtract the FS earned income deduction.
 - (3) Add any countable unearned income to the balance.
 - (4) From this balance subtract the monthly farm loss income (or remaining farm loss income when applicable as determined above).
 - (5) Current FS budgeting methodology would then be applied from this point to determine the household's monthly FS net income.

In summary, in determining the household's monthly FS net income the household's self-employment farm loss income is first offset against any "other household self-employment income". The remaining balance farm loss income is then offset against any non-self-employment earned income or unearned income to determine the household's FS net income.

EXAMPLE: A household's monthly self-employment farm loss income is determined to be \$100. The household's monthly countable income from "other self-employment" equals \$50. The household has a gross monthly earned income from non-self-employment of \$500 and gross monthly unearned income is \$300. Shelter expenses for the household would entitle the household to the maximum FS excess shelter deduction.

The household's FS gross income eligibility is determined as follows:

\$ 50 Net "other self-employment income"
 \$500 Gross non-self-employment earned income
 + \$300 Unearned Income
 = \$850 Total Income
 - \$100 Farm Loss Income
 = \$750 Total FS gross income subject to 130% FS gross income eligibility test.

The household monthly FS net income is determined as follows:

(First apply farm loss income against "other self-employment income")
 \$ 50 Net "other self-employment income"
 - \$100 Farm Loss Income
 - \$ 50 Farm loss income remaining to be offset as determined above
 (see calculation below)

If no farm loss income remains to be offset, add the balance of the positive self-employment income amount to the household's non-self-employment earned income and continue normal FS budgeting with no further farm loss income needs to be offset.

\$500 Gross non-self-employment earned income
 - \$100 20% earned income deduction
 = \$400
 + \$300 Unearned Income
 = \$700
 - \$ 50 Farm loss income remaining to be offset as determined above
 = \$650
 - \$134 Standard deduction
 = \$516
 - \$247 Excess shelter deduction

= \$269 FS Net Income

UPSTATE WMS INSTRUCTIONS

BUDGETING PROCEDURE FOR FS CASES WITH A FARM LOSS OFFSET AND OTHER SELF-EMPLOYMENT INCOME - For cases which have both a farm loss (NEG-FARM) amount and other self-employment earned income (Family Day Care Income - 09, Net Business Income - 20, Income from Boarder/Lodger - 45, Net Income from Rental of House, Store, or Other Property, Worked more than 20 hours per week - 46, or Income from a Roomer -48). Before the 20% Earned Income Deduction is calculated, ABEL:

- (1) Subtracts the NEG-FARM amount from the total of all other self-employment earned income amounts.
- (2) The remaining self-employment earned income amount, if there is one, and the full other earned income amount are added.
- (3) This sum is multiplied by 20% to obtain the 20% Earned (Income) Deduction amount. See Examples 1 and 2.

NOTE: One case circumstance still requires special attention. If the farmer has distributed from gross receipts, income to himself or any other of his FS household members, that income is not included in the calculation of the NEG-FARM amount. See Example #3.

EXAMPLE #1 A farmer, his wife and three children are receiving FS. His monthly Negative Farm Exclusion Amount of \$200.00 is entered as an additional exclusion in the "NEG-FARM" field. His wife is also self-employed with a net income of \$385.00 per month. The 20% EARNED (Deduction Amount) is 20% of \$185.00 (\$385.00 other self-employment income minus \$200.00 NEG-FARM amount). The remaining budget procedures remain unchanged.

EXAMPLE #2 A farmer, his wife, and three children are receiving FS. His oldest child receives wages of \$300.00 per week from a job and \$124.50 is received semi monthly from a Boarder/Lodger. The Boarder/Lodger exclusion - \$149.00 and the farmer's loss of \$200.00 are entered under Additional Exclusions.

```

WBGTF5  ** FS BUDGET **  VERSION          DIST ALLE 04/20/2005
CASE NAME          CASE NO.  OFC UNIT  WRKR  TT SD CT CE # SH AD IT P
FARM LOSS EXAMPLE 2  SCRATCHPAD  XXXX 05  31 N 05
I/TY  ACTUAL ALLOW  UNEARNED INCOME  EARNED INCOME  ***** ADDL *****
03 SHEL 10000 10000 LN SRC FRQ AMOUNT LN SRC FRQ AMOUNT ** EXCLUSIONS *
  WATER  0  0          0 03 01 W 130000 BRD/LDG 14900
X 2 HT/AC  0 45100          0 04 45 S 24900 NEG-FRM 20000
  DISP  0  0          0          0 PSNL CR  0
  UTIL  0  0          0  TOTAL 154900 SPONSOR  0
  PHONE  0  0  PA  0 HRS # 1 2 3 TOTAL 34900
  OTHER  0  0  PA  0 130
TOTAL SHEL 55100  TOTAL  0  ***** DEDUCTIONS *****
                                ACTUAL ALLOW
$$ FS ALLOTMENT $$ ***** CLAIMS ***** DEP CARE  0  0
    
```

```

TOTAL INC 154900 T DISQ BALANCE AMOUNT MO REM DEP CARE 0 0
ADDL EXCL 34900 0 0 0 0 DEP CARE 0 0
TOTAL DED 57050 0 0 0 MEDICAL 0 0 0
FS NET INC 62950 RECALC 0 SUPPORT 0 0
CLAIM AMT 0 20% EARNED 26000
$$$$ BENEFIT $$$$$ STANDARD 15300
MONTHLY 40300 ** EFFECTIVE DATE ** EXC SHEL 15750 15750
100104 TO 093005 TOTAL DEDUCTIONS 57050
DATE STORED / / TA VERSION NO.
    
```

NOTE: The 20% EARNED (Deduction Amount) is 20% of \$1,300.00 since the NEG-FARM amount is greater than the countable income from the Boarder/Lodger (i.e., \$249.00 - 149.00 = \$20.00 countable Boarder/Lodger income which is the only other self-employment income).

EXAMPLE #3 A farmer, his wife and three children are receiving FS (as one household). One child is employed on the farm and receives wages of \$500.00 per month from his father. The gross receipts for the farm are \$2,500.00 per month, allowable operating expenses are \$2,200.00 plus the \$500.00 salary paid to the son. However, the salary paid to the HH member is not included in the Farm income calculation. \$300.00 income is available to the FS HH. No NEG-FARM amount is entered.

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WBGTF5 ** FS BUDGET ** VERSION DIST ALLE 04/20/2005
CASE NAME CASE NO. OFC UNIT WRKR TT SD CT CE # SH AD IT P
FARM LOSS EXAMPLE 3 SCRATCHPAD XXXX 05 31 N 05
I/TY ACTUAL ALLOW UNEARNED INCOME EARNED INCOME ***** ADDL *****
03 SHEL 10000 10000 LN SRC FRQ AMOUNT LN SRC FRQ AMOUNT ** EXCLUSIONS **
WATER 0 0 0 04 20 M 30000 BRD/LDG 0
X 2 HT/AC 0 45100 0 0 NEG-FRM 0
DISP 0 0 0 0 PSNL CR 0
UTIL 0 0 0 TOTAL 30000 SPONSOR 0
PHONE 0 0 PA 0 HRS # 1 2 3 TOTAL 0
OTHER 0 0 PA 0 120
TOTAL SHEL 55100 TOTAL 0 ***** DEDUCTIONS *****
ACTUAL ALLOW
$$$ FS ALLOTMENT $$$ ***** CLAIMS ***** DEP CARE 0 0
TOTAL INC 30000 T DISQ BALANCE AMOUNT MO REM DEP CARE 0 0
ADDL EXCL 0 0 0 0 0 DEP CARE 0 0
TOTAL DED 60100 0 0 0 MEDICAL 0 0 0
    
```

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FS NET INC    0 RECALC        0      SUPPORT    0    0
CLAIM AMT     0                20% EARNED    6000
$$$$ BENEFIT $$$$$          STANDARD    15300
MONTHLY      59200  ** EFFECTIVE DATE **    EXC SHEL 50750 38800
              010105 TO 123105      TOTAL DEDUCTIONS 60100
              DATE STORED / /      TA VERSION NO.
    
```

10. **CERTIFICATION PERIODS** - (See also FSSB Section 14.) Households whose primary source of income is from self-employment (including self-employed farmers) or from regular farm employment with the same employer must be certified for up to 12 months if the income can be reasonably predicted and household circumstances are not likely to change. Annual certification periods may also be assigned to farmworkers who are provided their annual salaries on a scheduled monthly basis which does not change as the amount of work changes.

It is customary to phase self-employed households into a cycle whereby the household is recertified when new tax forms become available. However, certification periods maybe assigned to coincide with the sale of crops. Either method is acceptable.

For example, assume a State agency certifies households to coincide with the household's income tax return cycle. A household files its income tax form in April each year. The household applies for FS in October. The household advised that it did not anticipate any changes and that the self-employment income was intended to be its annual support. Based on the prior year tax form, the gross self-employment income was \$22,000 and allowable FS expenses were \$10,000, for an annual net self-employment income of \$12,000. This amount must be divided by 12 (months) and the resulting \$1,000 amount must be used each month the household is certified until a new tax form is submitted or a change occurs. In this case, the local district should assign a six-month certification period because the household applied in October and count \$1,000 net self-employment income each month from October through April.

Households that receive other sources of income or whose self-employment income is intended to cover a period of time that is less than a year shall be assigned a certification period appropriate for the household's circumstances following the regular certification period standards.

11. **SIX MONTH REPORTING REQUIREMENTS** - See FSSB Section 13.

12. **REPORTING CHANGES** - See FSSB Section 6.

Reference	Related Items
90 INF-6	Earned Income (FSSB)
GIS Message (89 IM/DC017)	Unearned Income (FSSB)
	Income Exclusions (FSSB)
	Self-Employment Other Than Farming (FSSB)
	Excluded Resources (FSSB)
	Certification Periods (FSSB)
	Quarterly Reporting (FSSB)

BOARDERS**POLICY**

1. **HOUSEHOLDS WITH BOARDERS** - A household with income from a boarder can participate in the program separate and apart from the boarding house residents, if that household meets all of the program eligibility requirements.
2. **DETERMINING INCOME TO HOUSEHOLDS OPERATING A BOARDING HOUSE** - Boarders who pay a reasonable amount for room and board must be excluded from the proprietor's household to determine the household's eligibility and benefits.

The income of a household owning and operating a commercial boarding house is treated as self-employment income and is calculated according to procedures in FSSB Section 12.

For all other households, payment from the boarder shall be treated as self-employment income and the household's eligibility determined as follows:

- a. **INCOME FROM THE BOARDER** - The income from boarders shall include all direct payments to the household for room and meals, including contributions to the household's shelter expenses. Shelter expenses paid directly by boarders to someone outside the household, such as to the landlord or utility company, shall not be counted as income to the household.
- b. **INCOME FROM FOSTER CARE PAYMENTS** - Foster care payments are EXCLUDED as income. If the person in foster care is included in the FS household, any other income of the foster child (such as SSI) is counted.
- c. **INCOME FROM THE ROOMER** - Money that a roomer pays to a household is self-employment income and is to be treated as specified in FSSB Section 12. However, before an individual is budgeted as a roomer, consideration should first be given to treating the individual as a non-household member, who shares in incurring household expenses.
- d. **COST OF DOING BUSINESS** - After calculating the income received from boarders, the local district must exclude that portion of the boarder payment which is a business cost. The cost of doing business must equal one of the following:
 - (1) The cost according to Thrifty Food Plan for a household size that is equal to the number of boarders.
 - (2) The actual documented cost of providing room and meals, if the actual cost exceeds the appropriate Thrifty Food Plan. If actual costs are used, only separate and identifiable costs of providing room and meals to boarders shall be excluded.

Furthermore, such costs cannot exceed the payments received from the boarder.

- e. **DEDUCTIBLE EXPENSES** - The self-employment net income will be added to other earned income, and the 20% earned income deduction applied. Shelter costs actually incurred by the household, even if the boarder contributes to the household for part of the household's shelter expenses, will be computed to determine if the household will receive a shelter deduction. However, the shelter costs cannot include any shelter expenses paid directly by the boarder to a third party, such as the landlord or utility company.
- f. **COST OF MEALS** - A reasonable monthly amount for meals shall be either of the following:
 - (1) Boarders whose board arrangement is for three meals or more per day shall pay an amount which equals or exceeds the Thrifty Food Plan for the appropriate size of the boarder household; or
 - (2) Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds of the Thrifty Food Plan for the appropriate size of the boarder household.
- g. **PAYMENT FOR MEALS** - When the boarder's payments for room are distinguishable from the payments for meals, only the amount paid for meals will be evaluated to determine if reasonable compensation is being paid for meals. The reasonable monthly amount for meals shall be paid in cash.

In no event shall FS be paid for meals and be credited toward the monthly payment.

Reference
387.16
89 ADM-28

Related Item
Self-Employment Other
Than Farming (FSSB)

TASB
Section 16-K

|

EDUCATIONAL INCOME**POLICY**

Effective October 1, 2002, educational grants, loans and scholarships that are intended for educational purposes other than general living expenses are excluded as income for FS. In addition, all educational income under Title IV of the Higher Education Act or under the Bureau of Indian Affairs student assistance program is excluded.

DEFINITIONS -

1. **EDUCATIONAL INCOME** - Educational Income includes scholarships, educational grants, fellowships, deferred payment loans for education, and any other monies provided or issued to enable a person to obtain education at:
 - a. A secondary school (high school); or
 - b. A post secondary school (college); or
 - c. School for the mentally or physically handicapped, vocational education program or program that provides a high school diploma or the equivalent of a high school diploma.
2. **EDUCATIONAL EXPENSES** - Educational expenses are tuition, mandatory fees, dependent care expenses, cost of books and supplies, transportation costs, loan origination and insurance fees, and miscellaneous personal expenses, other than ordinary living expenses, incidental to a student attending a school, institution or educational program.
3. **EDUCATIONAL PERSONAL EXPENSES** - Expenses for personal needs that are incidental to a student attending a school, institution or educational program. These expenses do not include the every day living expenses such as rent, clothing or cost of food which a student would incur even if he or she were not attending school. Judgment must be used to determine if a personal expense can be excluded as an educational cost. For example, although the cost of food is a personal expense a student would incur even if not attending school, the costs of meals that must be purchased at school because of the dictates of the student's class schedule are excludable.

References

387.11(f)
02 ADM-7
89 ADM-20
89 INF-70
88 INF-81
88 INF-41
GIS Message (93 ES/DCO11)
GIS Message (92 IM/DC021)

Related Item

Students (FSSB)

TASB

Section 16-N-all

ANTICIPATED INCOME**POLICY**

1. **ANTICIPATING INCOME** - If household income in the next certification period will differ from income in the previous 30 days, the anticipated income will be used to determine eligibility.

Income cannot be counted if the amount or date of receipt is uncertain, i.e., a basis has not been established. If the exact amount of the income is not known, that portion which can be anticipated with reasonable certainty must be considered as income. In cases where the receipt of income is reasonably certain, but the monthly amount may fluctuate, the household may elect to income average. (See FSSB Section 12). See also FSSB Section 13 on Reporting.

2. **PAST INCOME AS INDICATOR** - Income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period. However, the local district shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated.
 - a. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the local district and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income.
 - b. If the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The local district shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year.
 - c. In no event shall the local district automatically attribute to the household the amounts of any past income. The local district shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.
3. **DESTITUTE MIGRANT OR SEASONAL FARMWORKER HOUSEHOLDS** - Any income from a new source that is anticipated after the date of application shall be disregarded for destitute migrants and seasonal farmworker households. See FSSB Section 5. All other households anticipating receipt of income in the month of application shall have their income budgeted for the month of application providing there is reasonable certainty as to the amount and receipt of the income in the month of application.

Reference
387.15

TASB
Chapter 16

INCOME ONLY IN MONTH RECEIVED**POLICY**

Income anticipated during the certification period can be counted only in the month received.

Whenever a full month's income is anticipated but is received on a weekly or bi-weekly basis, the local district must determine the monthly income by one of the following methods:

1. Use the local district TA conversion standard.
2. Use the exact monthly figure, if it can be anticipated for each month of the certification period.

Wages withheld at the request of the wage earner count as income available to the household for the month the wages normally would have been received. However, wages withheld by the employer (even in violation of law) cannot be counted as household income unless wages have been withheld previously and the wage earner reasonably anticipated that he/she will request and receive an advance from those previously held wages. The amount of the advance will then be counted as income in the month it is received.

Households receiving TA, Military pay, SSI or Social Security payments or similar Federal and State benefits on a recurring basis shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next month.

DESTITUTE MIGRANT OR SEASONAL FARMWORKER HOUSEHOLDS - Destitute migrant or seasonal farmworker households must have their eligibility and level of benefits calculated for the month of application considering only income which is received between the first of the month and the date of application.

If a travel advance is, by written contract, an advance on wages that will be subtracted from the wages later earned by the employee, rather than a reimbursement, the wage advance shall count as income when received.

Reference

387.14

INCOME AVERAGING**POLICY**

1. ANY HOUSEHOLD, EXCEPT DESTITUTE MIGRANT OR SEASONAL FARMWORKER HOUSEHOLDS, MAY ELECT TO HAVE INCOME AVERAGED - To average income, the local district must use the household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period.

EXAMPLE: If fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income from the two known months may be averaged and projected over a certification period of longer than two months.

NOTE: Income shall not be averaged for a destitute migrant or seasonal farmworker household, since averaging would result in assigning to the month of application income from future periods which is not available to the destitute household for its current food needs.

2. WHEN A HOUSEHOLD'S INCOME MUST BE AVERAGED -

- a. SELF-EMPLOYMENT OR CONTRACT INCOME - Households which receive their annual income by contract or self-employment in a period of time shorter than a year shall have their income averaged over a 12-month period, provided the income from the contract is not received on an hourly (as defined in paragraph (2) below) or piecework basis. These households include school employees, share croppers, farmers and other self-employed individuals. See FSSB Section 12 for averaging self-employment income.

- (1) A contract employee is one that has an agreement with an employer to work a certain length of time or perform a specific job. It may be either a written contract or an implied contract, e.g., tenured teachers.
- (2) An employee who is paid hourly is one that is paid based on the number of hours he/she works when there is no established work schedule, e.g., a handyman who does odd jobs as needed.
- (3) Acceptable verification could be a statement from the employer or a written document, such as a copy of the contract or agreement, that shows the terms of employment. A teacher's aide who works 10 months of the year for \$9.16 per hour and 6 hours per day, who has a statement from the Department of Education that it intends to rehire him/her for the following school year, would be a contract employee whose income would be annualized. The average amount of monthly income from the school job, plus any other income the household may have, would be counted in determining if the household is entitled to FS benefits including expedited service.

NOTE: Migrant and seasonal farm workers must not have their income averaged over a 12-month period.

Reference
387.14

Related Items
Self-Employment (FSSB)
Educational Income (FSSB)

SECTION 14: Rules for Reporting Changes**POLICY (01 ADM-9, 02 ADM 07 & 03 INF 10)**

New York implemented Six-Month Reporting as an alternative to Ten Day and Quarterly Reporting so as to:

- simplify the reporting rules for participants,
- lessen the administrative burden on local districts by lowering the amount of budgetary changes done during a certification period and improve program payment accuracy. It effectively allows districts to accept participants and have them, under most circumstances, remain at the same benefit level until the next six-month required reporting point. Six month reporting was incrementally implemented in NYS state as follows:
 - Earned income cases became Six Month reporters April 1st 2001
 - Unearned income cases became Six-Month reporters effective 10/01/02

Various subgroups of the overall caseload that are not included as Six-Month reporters (they remain reporters of change within ten days of occurrence) are discussed as excluded from Six-Month rules below.

Most FS cases with earned income formerly were subject to quarterly reporting and rebudgeting, and had six-month certification periods. Recent amendments in federal FS rules permit states to adopt the six-month reporting option for households with earnings. New York is implementing this option to simplify the reporting rules for employed participants, lessen the administrative burden on local districts and improve program payment accuracy.

Six Month Reporting Rules

1. For FS purposes, households who have earned income and a six-month certification period are not required to report changes in household circumstances between recertifications except when total (earned plus unearned) gross monthly income exceeds 130 percent of poverty.
2. FS households with earnings and certification periods of seven months or longer are required to complete a reporting mailer in their sixth month. in addition to reporting when total income exceeds 130 percent of poverty.
3. FS households that are subject to Able-Bodied Adults Without Dependents (ABAWD) requirements as well as the six-month reporting rule also must report when their work hours fall below 80 hours per month.
4. No additional reporting requirements between recertifications can be imposed on FS households subject to six-month reporting.
5. The six-month reporting system will be most successful when local districts thoroughly explain the reporting requirement to households. Districts are required to determine under what reporting system review the household is accountable. The District must explain the reporting requirements of the review applicable reporting system to the recipient and; additionally, if a household falls within the six-month reporter system, the recipient should be informed of the appropriate gross income level. The requirements of the Six Month reporting system can be explained and monitored by utilizing the decision matrix on the "Change Report Form- LDSS 3151) at certification and recertification interviews.
6. A household must report income over 130 percent of poverty within ten days after the end of the calendar month in which their income exceeded the 130 percent report threshold. A household's applicable poverty level is based on its household size at last recertification, unless the local district has already processed a change in household size on the ABEL budget, as described in section 5.
7. Please note that a household that is subject to six-month reporting must report when its income exceeds 130 percent of poverty even if it is exempt from the FS gross income limit due to categorical eligibility or inclusion of a member age 60 or older.

8. PERIODIC REPORTS:

NTA/FS households with certification periods of seven full months or longer are required to complete and return a WMS-generated periodic report (LDSS-43 IO) by the tenth day of the sixth month of their certification period, in addition to reporting whenever their total gross income exceeds 130 percent of poverty. TA/FS households:

- without earned income and certified for 12 months are required to complete and return their TA six-month locally developed /state approved eligibility questionnaire. Since a condition of state approval of the form insures that appropriate food stamp contact language is in the form, the district must close the household's TA case for failure to return the TA six-month eligibility questionnaire.
- with earned income the household must be certified for six months; thus, the required six month reporting check is accomplished by the recertification interview.

9. Able Bodied Adults Without Dependents (ABAWD's)

A FS household that is subject to Able-Bodied Adults Without Dependents (ABAWD) requirements, if it has earnings and is certified for at least four months, will be a six-month reporting household.

ABAWD households, however, have an additional obligation to report when their work hours fall below 80 hours per month. The ABAWD household must report the reduction in work hours within 10 days after the end of the month in which they fell below 80 hours.

For ABAWD households that have used at least one of their three months of eligibility without working, local districts may send monthly requests for verification of hours worked.

If the ABAWD household fails to comply with the request for verification of compliance with ABAWD eligibility requirements, the local districts must issue a timely notice of adverse action to delete the ineligible individual or, for a one-person household, to close the case.

10. **Under the six-month reporting rule**, all other changes must be reported at a household's next recertification, or for households with certification periods of seven full months or greater in accordance with the above, on the periodic report. Local districts must be particularly vigilant at recertifications to verify and correctly budget income and household circumstances, to ensure payment accuracy throughout the certification period. Districts must also explain to the household at the recertification interview what reporting system the household falls under and the associated reporting requirements.

At application and each recertification, districts must explain the six-month reporting rules to FS households affected by them, and must explain which mailer they will receive. In districts other than New York City, CNS generates an equivalent of the LDSS-4791: "Important Information About What Changes You Must Report for Food Stamps" at case opening, re-opening, undercare change and recertification for NPA/FS and PA/FS cases with income and a certification period of six months or more.

11. **LDSS-4791: "Important Information About What Changes You Must Report"** is a notice of the FS six-month reporting requirements for TA/FS and Non-TA/FS households. Local Districts must provide this notice, filling in the poverty level amounts appropriate to a household's size. **Local Districts must provide this notice, or the change report form with the proper reporting rules indicated and the poverty level completed if they are six-month reporters to all FS households, at the following times:**
- a. When they are opened for FS. This also applies to Non-TA/FS cases opened as result of separate FS determination after TA case closings,
 - b. In the first month of Non-TA/FS after TBA;
 - c. When they report new income, employment, and no income was previously budgeted; and
 - d. At each recertification.

12. Households Subject to Six-Month Reporting

All FS households except the following are now subject to six-month reporting rules

- Migrant or seasonal farm workers households;
- Homeless (undomiciled – ABEL shelter code 23) households;
- Households with no income;
- Households certified for less than four full months;
- NYS Nutritional Improvement Project - The SSI FS Autopay Project (standardized benefit) individuals;
- Group home residents in receipt of Supplemental Security Income (SSI) or Social Security Disability (SSD); and
- Households in which with all adult members are either disabled or elderly;
- Households in receipt of transitional FS benefits (TBA).

The reporting rules for these exceptions will be discussed at the end of this “reporting” section of the source book.

As explained in 01 ADM-09, the only change that all households subject to six-month reporting rules are required to report between recertifications is if their total household income exceeds 130% of the poverty level for their household size. In addition, a household that includes an individual who is subject to the able-bodied adult without dependents (ABAWD) time limits must report when work activity falls below 80 hours per month.

13. Acting on Reported Changes Under the Six-Month Reporting Rule

a. TA/FS Cases (Effective April 1, 2001) & Non-TA/FS Cases and Upstate Mixed FS Cases (Effective July 1, 2001)

TA/FS households will report changes pursuant to the TA ten- day timely reporting requirement; the TA quarterly reporting requirement; the FS six-month reporting rule (income over 130 percent of poverty); at recertification; or they may voluntarily report a change, such as an increase in shelter costs. **For a TA/FS case and a NTA/FS case subject to the FS six-month reporting rule, the worker must act on information that affects FS eligibility and benefit amounts only in the following circumstances:**

- (1) The information resulted in a change in the TA grant amount, including when total household gross monthly income exceeds 130 percent of poverty. When a FS household reports in person or in writing that their income exceeds 130 percent of poverty, the local district must act on the reported change.

When a FS household informs the local district by telephone of income over 130 percent of poverty, the local district must immediately send the household a written request to confirm the reported information, either with documentary evidence or by a written and signed statement. The District must allow ten days for the household to provide verification, and act on the additional information when received.

If a household fails to comply with the request for verification, the local district must provide timely and adequate notice to discontinue FS benefits;

- (2) The information is considered verified upon receipt (Please see section “Changes Considered Verified Upon Receipt” below 5 for a definition of "verified upon receipt");
- (3) The information is reported at recertification;
- (4) The information is reported on the FS six-month periodic report (LDSS-43 10) by a household with a certification period longer than six months; or
- (5) The household voluntarily reports and verifies information that will increase the FS benefit;
- (6) The household voluntarily requests to have its FS case closed. Local districts are reminded that, when a household requests in writing to have its FS benefits terminated, they may close the case without

further notice. Local districts must send an adequate notice confirming a household's oral request to close its FS case.

Local districts must provide a "timely and adequate" notice prior to closing a case for failure to return a periodic report. Local districts may provide "adequate only" notice sent no later than the date of the proposed action for changes resulting from information furnished in a periodic report.

In addition, local districts must continue to process non-financial changes that households may voluntarily report during their certification periods, such as address changes and corrections of demographic information.

- b. **For TA/FS and NTA/FS six-month reporting households, workers must not act on, or compute FS overpayment amounts for, change reports other than those listed above.** When a six-month reporting household notifies the local district of, but does not verify, a change other than income over 130 percent of poverty, the local district cannot require the household to verify the change for FS purposes. If the change would increase benefits, however, the local district must inform the household that FS benefits cannot be increased until the household verifies the change, and encourage the household to provide verification.

During its certification period, a TA/FS household's failure to report a change does not result in a FS overpayment or loss of FS eligibility unless the household:

- (1) Has Total gross monthly income over the 130 percent of poverty threshold;
- (2) Has a certification period of more than six months, and fails to report changes on the periodic reporting mailer (LDSS-4310), or fails to return a completed periodic reporting mailer in the sixth month; or
- (3) Is subject to, and fails to meet, Able-Bodied Adults Without Dependents (ABAWD) eligibility requirements.

In addition, a TA/FS household that fails to return a completed quarterly report for TA (for those districts still requiring TA quarterly reports) must have its FS continued for the duration of its original certification period if otherwise **eligible**, based on the **most recent verified** information (including removal of the TA grant as income from the FS budget).

Local districts must provide a "timely and adequate" notice prior to closing a case for failure to return a periodic report. Local districts may provide "adequate only" notice sent no later than the date of the proposed action for changes resulting from information on furnished in a periodic report.

In addition, local districts must continue to process non-financial changes that households may voluntarily report during their certification periods, such as address changes and corrections of demographic information.

14. Changes Considered Verified Upon Receipt

For purposes of processing changes for FS households subject to six-month reporting, information is considered to be verified upon receipt if it is not questionable and the provider is the primary source for the information. A report of a change in income cannot be considered as verified upon receipt unless it includes exact new income amount, effective date of receipt and any other information needed to recalculate the food stamp benefit amount. Examples of information that is verified upon receipt include the following:

- a. Computer match information about federal benefits received from the Social Security Administration, such as SDX and BENDEX. SSDs are reminded that computer matches from secondary sources, such as quarterly wage matches or earned income information on the SDX, are not considered verified on receipt, and would be resolved at households' next six month contacts;
- b. Information from the Department of Labor or local district employment contractor that a recipient failed to comply with a FS work requirement;
- c. A determination by a court, administrative hearing or disqualification consent agreement of an Intentional

Program Violation (IPV);

- d. Actions taken by other programs under the authority of the local district that affect budgeted FS expenses;
- e. Additionally regarding changes that are reported to the district, but to other program personnel e.g. Medicaid, child support, or services; when the information is not readily transferred over to the food stamp unit eligibility worker/supervisor, the change that is reported shall not be constituted as a claim (agency error) until the information is passed to the food stamp eligibility unit via whatever referral process is in place. Therefore, it is only an agency error overpayment when the food stamp eligibility unit knows of the verified change from the other unit and for some reason fails to act in timely basis.

15. Additional Information About Six-Month Reporting

a. Prospective budgeting of income

- (1) Local districts will continue to use the "best estimate practice" to project average monthly income to prospectively calculate FS benefits for six-month reporting households. Local districts use monthly amounts of income that is paid on a monthly or semimonthly frequency. For income received on a weekly or biweekly basis. guidelines for using the most recent four weeks' income information, not including atypical weeks, or using new information if income has significantly and permanently changed, still apply. Please refer to 93 ADM-9 for a more detailed explanation of the "best estimate practice."
- (2) When determining whether a household's income exceeds their 130 percent of poverty threshold, such that the change must be reported and processed, the total gross monthly income is derived by adding the last four weeks of earned income (regardless of whether four or five weekly, or two or three biweekly pays were received) to any unearned income received in the month. However, once the household reports the income, the "best estimate practice" noted in (1) is used to determine ongoing eligibility or ineligibility.

b. Closing six-month reporting households' cases

Local districts must discontinue FS benefits of a six-month reporting household when the household:

- (1) Becomes ineligible based on a reported change in income that exceeds the 130 percent threshold;
- (2) Requests to have its case closed;
- (3) Is certified for more than six months, and fails to return a completed periodic reporting mailer (LDSS-4310) in their sixth month;
- (4) No longer resides in New York State;
- (5) All household members have died; or

Is otherwise ineligible for reasons such as failure to meet ABAWD requirements, or because all household members are sanctioned or disqualified, or for a reason that is voluntarily reported by the household such as ineligible student status.

c. Leaving six-month reporting

A household that loses all of its income or otherwise becomes exempt from six-month reporting, will remain on six-month reporting until its next recertification. At that time the District is required to explain the reporting rules under which the household is required to report.

d. When household members leave

When an eligible member of a six-month reporting household leaves during the certification period, the individual is not removed from the case count unless:

- (1) The certification period is longer than six months and the change was reported on a six-month periodic reporting mailer (LDSS-4310);

- (2) Removing the individual (and his or her income) will result in increased benefits and all of the information regarding the change is verified; or
- (3) The leaver has joined another FS household, which requests that the individual be added to their case.

The Request for Contact (RFC) is used very sparingly for six-month reporting households, in the following conditions:

- A household has verbally reported a move within the district, and the move is left unverified. In a TA/FS case, the TA case would close (if the family fails to respond), but the FS portion must remain open. Additionally, the TA income would be removed, and the household would receive the Transitional Benefits Alternative (TBA). However, under such a situation if the TA/FS case were to be moving out of district, the RFC would be sent for FS and, if the household failed to respond, food stamp benefits would be discontinued with a timely and adequate notice.
 - To confirm/verify a phone report from a client who has called to indicate that the household income has exceeded the 130% poverty level.
 - To investigate or clarify some information from the last certification interview if information received from another source has called into question the accuracy/completeness of the household's reporting at the last certification.
- e. When the post office returns mail and lists a new address that is still within the local district for an NTA/FS case, the benefits would continue until the end of the certification period.

16. Establishing FS Claims Under Six-Month Reporting

Most employed FS households will not have changes that they are required to report between six-month contact points. The six-month contact is the face-to-face recertification or, for households certified for seven months or more, the periodic reporting mailer (LD SS-4310). A six-month reporting FS household whose income changes but remains under the 130 percent threshold is not required to report, and does not accrue an overpayment, based on an income change between six month contact points. Additionally, a household's loss of a household member, or gain of a new member with income, between six month contact points is not a mandatory reportable change. The 130 percent threshold is fixed at their household size set at their last recertification (or periodic reporting mailer, for those certified for longer than six months). Due to the reduction in changes that must be reported and processed, fewer overpayments should occur. However, local districts must calculate an overpayment and establish a claim in the case of a six-month reporting household in the following two circumstances:

- a. The household does not provide accurate information at application, recertification, or on a periodic reporting mailer, and the discrepancy results in an overpayment. The overpayment amount is computed by rebudgeting with the correct income amount for the month when the change would have taken effect, and "freezing" that benefit amount until the next change reporting point.

The Metzgers apply for FS on February 1 and report Mr. Metzger's earnings of \$100 per week. The worker uses the reported information to certify the household for six months, and inform the household of the six-month reporting rule. In March, Mrs. Metzger's reports that she also has had earnings since January, and verifies that an additional \$50 per week should have been reported at application and budgeted for February 2002 forward. The worker provides timely and adequate notice, reduces their May benefit and establishes a claim for the overpayment in the months of February through April. The overpayment amount calculated for February also is the overpayment amounts for the months of March and April, because the correct certification information would have been used to compute and "freeze" the February benefit amount until the next change reporting point.

- b. The household fails to report that it has income over 130 percent of poverty, unless the case is closed by the end of the month following the excess income month. For a household whose income exceeds the 130% standard, the overpayment period begins with the 2nd month following the month in which the household exceeded the 130% limit, to allow for reporting, processing and timely notice timeframes. All subsequent months' benefits are included in the overpayment calculation, unless the household has since re-applied or recertified and been found eligible.

In their October 25 recertification interview, an eligibility worker discovers that the Myersons' gross income currently exceeds 130 percent of their monthly poverty level. The worker determines that the household's income first exceeded 130 percent of poverty in July. Had the household complied with the requirement to report this by August 10, the worker would have closed their case effective August 31/September 1st. The worker must close the case effective November 1st with "adequate only" notice, establish a claim and calculate an overpayment to include the total benefits issued for September and October.

- c. Local districts are reminded that, when evaluating for possible overpayment, the 130 percent comparison is based on a household's total gross countable income received from all sources.

For determining whether an overpayment occurred, the gross monthly income is derived by adding the last four pay weeks of earned income to whatever unearned income was received in the month (regardless of whether four or five weekly pays were received.) This monthly amount is then compared to the 130% monthly poverty level.

Ms. Earnest, whose FS case was opened in June, received five \$250.00 paychecks in the month of July 2005. Since her total gross income including the 5 paystubs for the calendar month of \$1,250 exceeded the reporting threshold of \$1009 she should have reported that income. In evaluating the non-reported information the eligibility worker adds the last four pay weeks of income for the calendar month to equal \$1000, instead of the five weeks that would total \$1,250. As a household of one, Ms. Earnest's 130% poverty level for July 2005 was \$1009. The worker therefore determines that Ms. Earnest was still eligible, even though she was required to report the change and it did not incur an overpayment as the eligibility worker determined she remained under the gross income level using ABEL.

When a household subject to Six-Month Reporting rules for Food Stamps, and subject to Quarterly Reporting for Temporary Assistance, fails to comply with TA Quarterly Reporting rules, there is no overpayment for Food Stamps unless:

- The household fails to report income over 130 percent for a calendar month and the income would have resulted in a negative action if it had been reported, OR
- The household fails to report changes at recertification, OR
- The household is certified for more than six months and fails to report changes on its periodic reporting mailer.

Six Month Reporting Systems Implications

1. Upstate WMS Reporting Systems Implications:

a. Periodic Reporting

All earned and unearned income households who are subject to six-month reporting rules and have certification periods of seven full months or greater will receive a system generated periodic report form (LDSS-4310) at the end of the 5th month of the certification period.

Workers must enter Code "B" "C" or "L" in the Quarterly Contact field in WMS Screen I to generate the periodic reporting mailer for six-month reporting households that are certified for seven full months or greater and are one of the following:

- Bottom-line budgets ("B");
- CAP households, regardless of presence of income ("C");
- Households with sporadic earnings ("L"); or
- Households that lose employment, but remain subject to six-month reporting rules for the balance of the certification period ("L").

Workers must enter Code "E" in the Quarterly Contact field to exempt Non-TA/FS households from the periodic reporting requirement if they have a certification period of seven full months or greater and their only source of earned income is from annualized self-employment. Specifications for WMS generation of

periodic reporting mailers have been modified to identify and exclude all other households who are exempt from the requirement to return completed periodic reporting mailers.

b. Change Reporting

All unearned income households where all adults are aged/disabled (A/D = A) who have certification periods greater than 12 months will receive a system generated change report form (LDSS-3151) at the end of the 11th month of the certification period.

2. Downstate NYC Systems Implications:

a. Periodic Reporting

All earned and unearned income households who are subject to six-month reporting rules and have certification periods of seven full months or greater will receive a system generated periodic report form (LDSS-4310) at the end of the 5th month of the certification period. WMS automatically generates either a Code "N –Periodic Mailer due to Earned Income" or Code "U" FS Change Report due to Unearned Income" in the "FR" field on Screen NSBL02 when:

- b. Earned income is input on an NPA/FS case or
- c. An NPA/FS person on a TA/FS case is the only individual in the household with earned income or
- d. Unearned income is input on an NPA/FS case.

3. Change Reporting

- a. Any unearned income NPA/FS households where all adults are aged/disabled (A/D =X) with certification periods of 24 months will receive a system generated change report form (LDSS-3151) at the end of the 11th month of the certification period.

b. Six-Month Reporting (01 ADM-09) and Requests for Contact (01 ADM-08) and Reauthorization Changes (02 ADM-07)

c. Moves from Household by Individuals

If an individual with no income moves out of a six month reporting household for one month is not removed from the case, and then later in the original certification period applies for FS at a new address, this would be a situation of a "reconstituted household". In this case the leaving individual is able to get FS beginning the 1st of the month following the application date (rather than the application date itself, which is the standard rule for applicant households found eligible). The new application constitutes a report of the move. Therefore, although an eligibility determination is required within 30 days of the new VI-B-5.1. application, it would result in benefits effective the month following this action. The individual should be removed from the former household effective either the beginning of the month following the move (simultaneous with the effective date of the new FS benefits), or effective the beginning of the next month), if timely notice to the former household delays the reduction. There is no duplicate issuance, overpayment or claim when the reduction is delayed because of timely notice. The new case effective date of benefits would begin in the month following the month of application, regardless of whether the household size of the former was not reduced due to timely notice considerations.

d. Six-Month Reporters and Multiple Changes Voluntarily Reported

If during a certification period, a six-month reporting household voluntarily reports two or more changes at the same time, and one of the reported changes would result in a benefit increase and the other would result in a benefit reduction, Decreases in benefits may be processed, based on the household's information, with verification pending until the next recertification. No increases in benefits are processed unless the changes are verified. Also, multiple changes that are interrelated would not be made independently without verification. For example, a new household member would not be added to the budget without verifying and including his/her income no action would be taken until the totality of changes were verified.

Other Reporting Rules:

1. NYS Nutrition Improvement Project (NYSNIP): A federally-approved demonstration project to build and implement an automatic case creation process. NYSNIP uses information transmitted to NYSOTDA from the Social Security Administration (SSA) via the State Data Exchange (SDX) to automatically create food stamp cases for SSI recipients. Based on the A/A Living Arrangement SDX designation and the receipt of SSI income, we are able to conclude that these households are categorically eligible to receive food stamp benefits. Reporting requirements for participating households are as follows:
 - "NYSNIP participants will receive a contact letter sent at the end of the 23rd month after they begin participation in NYSNIP that they must complete and return in the 24th (process) month.
 - "NYSNIP participants will not have any other reporting requirements during their certification periods other than the 24-month contact letter. Participants may voluntarily report increases in medical expenses, rent or utility costs, or moves to a new address.
 - "The district must process changes from unsolicited reports that meet the definition of "verified upon receipt", reports from primary sources that may affect either eligibility or benefit amount. These reports may also include automated reports of SDX information requiring the state or the local district to remove the participant from NYSNIP when the SDX indicates the participant is no longer in receipt of SSI income. Districts must also process information received as verified upon receipt from the household itself as a primary source which indicates the household would receive a different benefit amount.
2. Transitional Benefits Alternative (TBA): These households are placed on the TBA program as result of leaving TANF, reporting requirements are as follows:
 - "Transitional Benefits can continue for up to 5 months after the TANF case closes.
 - "While on TBA the household is not required to report any changes.
 - "If the household has changes that may increase their benefits they can contact the district to evaluate the change for an early recertification application to receive an increase in benefits. The increase would not be made effective until a signed recertification application is filed and the TBA would end.
 - "The household must recertify near the end of the transitional period to continue to receive benefits after the transitional period ends.

10-Day (10-10-10) Reporting

1. The following households must report household information and changes using 10-day reporting standards:
 - Households certified for less than four months (a partial initial month benefit plus three full months counts as four months for purposes of the six-month reporting system;
 - Households with zero income. Households receiving TA benefits are receiving income and are not zero income cases;
 - Participants who live in group homes and have SSI or SSA income;
 - Migrant or seasonal farm-worker households;
 - Homeless households;
 - After May 1, 2004, a household in which all adult members are aged and/or disabled and all income is unearned.

10-Day reporting households must report all changes within 10 days of the date the change occurs except for the changes listed on the LDSS-3151 Change Report form. Changes listed on the LDSS-3151 must be reported at the household's next recertification.

The agency has 10 days to make the changes after a household's report. The household must receive a 10-day timely and adequate notice of change.

To simplify and standardize program procedures for claims establishment, the second month after the month the change occurred is designated as the initial overpayment month in 10-Day Reporting situations. This is true even if the actual calendar dates indicate that the change to the case could have been made as early as the month after the change occurred.

2. NYS Nutrition Improvement Project (NYSNIP)

NYS Nutrition Improvement Project (NYSNIP): A federally-approved demonstration project to build and implement an automatic case creation process. NYSNIP uses information transmitted to NYSOTDA from the Social Security Administration (SSA) via the State Data Exchange (SDX) to automatically create food stamp cases for SSI recipients. Based on the A/A Living Arrangement SDX designation and the receipt of SSI income, we are able to conclude that these households are categorically eligible to receive food stamp benefits. Reporting requirements for participating households are as follows:

"NYSNIP participants will receive a contact letter sent at the end of the 23rd month after they begin participation in NYSNIP that they must complete and return in the 24th (process) month.

"NYSNIP participants will not have any other reporting requirements during their certification periods other than the 24-month contact letter. Participants may voluntarily report increases in medical expenses, rent or utility costs, or moves to a new address.

"The district must process changes from unsolicited reports that meet the definition of "verified upon receipt", reports from primary sources that may affect either eligibility or benefit amount. These reports may also include automated reports of SDX information requiring the state or the local district to remove the participant from NYSNIP when the SDX indicates the participant is no longer in receipt of SSI income. Districts must also process information received as verified upon receipt from the household itself as a primary source which indicates the household would receive a different benefit amount.

Transitional Benefits Alternative (TBA): These households are placed on the TBA program as result of leaving TANF, reporting requirements are as follows:

"Transitional Benefits can continue for up to 5 months after the TANF case closes.

"While on TBA the household is not required to report any changes.

"If the household has changes that may increase their benefits they can contact the district to evaluate the change for an early recertification application to receive an increase in benefits. The increase would not be made effective until a signed recertification application is filed and the TBA would end.

"The household must recertify near the end of the transitional period to continue to receive benefits after the transitional period ends.

SECTION 15: Certification Periods / Issuing Benefits**Certification Periods****POLICY**

1. **DEFINITE CERTIFICATION PERIOD** - Households eligible for receipt of FS benefits receive those benefits for a specific period of time coinciding with the periods of eligibility determinations and redeterminations.

NOTE: When the period ends, FS entitlement expires and cannot continue without another recertification application and eligibility determination. Certification periods will conform to calendar months and begin with the month of application. Certification periods are not to exceed twenty-four months, except for households in the NYS Nutrition Improvement Project (NYSNIP).

EXAMPLE: Mrs. Greene submits an application on January 20th. An eligibility determination is made on February 10th. Her household's six month certification period would be January 20th through June 30 and the February benefits would include retroactive benefits to January 20th.

2. **PUBLIC ASSISTANCE HOUSEHOLDS** - Certification periods for FS cases in receipt of TA, shall not be made less frequently than those required in Department Regulation 350.2 for TA cases, excluding those subject to Quarterly Reporting. TA/FS cases may be certified to expire the month following the household's TA redetermination date, providing the FS certification period does not exceed one year.
 - a. **TA/FS CERTIFICATION PERIODS LESS THAN 12 MONTHS** - If all household members receive TA, the FS certification period may be the TA certification period, plus one month beyond, UNLESS the TA certification period is for twelve months.
 - b. **TA/FS CERTIFICATION PERIODS OF 12 MONTHS** - If the TA certification period is for twelve months, the FS certification period is also for twelve months.
 - c. **TA/FS SIX MONTH REPORTING CASES** - TA/FS cases subject to six month reporting should have concurrent certification periods.
 - d. **TA/FS RECERTIFICATION** - FS recertification will take place at the same time TA eligibility is reviewed. The beginning of the subsequent certification period for TA and FS shall coincide.

EXAMPLE: Ms. Ford and her two children are certified for FA January through April. The FS certification period will be January through May. At her TA recertification in April, a FS recertification will also take place. When the household is recertified for TA for the period May through August, it is recertified for FS for May through September, even though the previous FS certification ran through May.

3. **NON-PUBLIC ASSISTANCE (NPA) HOUSEHOLDS** -
 - a. **NORMAL CERTIFICATION PERIODS** - NPA households will receive the longest certification period possible based on the stability of the household circumstances.

The normal certification period will be up to six months for households which have earnings, but little likelihood of changes in income and household status.
 - b. **OTHER CERTIFICATION PERIODS** - Other households will be certified for at least four months except.
 - (1) Households which at time of initial certification had their certification process completed after the 15th day of the month of application and also had circumstances which warranted it shall have their eligibility/certification period increased by one month;
 - (2) When the household cannot reasonably predict what its circumstances will be in the near future, or when there is a substantial likelihood of frequent and significant changes in income or household status the eligibility/certification period shall not be more than two months;

NOTE: This is most likely to occur for day laborers and migrant workers during the season when income fluctuates because of weather.

- (3) Households which have little likelihood of changes in income and household status, the eligibility certification period shall be up to 12 months;
- (4) Up to 24 months for household consisting entirely of unemployable or elderly/disabled persons with very stable income and no earnings. Local districts must have contact with these households at the twelve-month point.
- (5) Local District may lengthen a household's current certification period once it is established, as long as the total months of the certification period do not exceed 24 months for households in which all adult members are elderly or disabled, or 12 months for other households. If the agency extends a household's certification period, it must advise the household of the new certification ending date with a notice containing the same information as the notice of eligibility.

NOTE: This will occur most often for Social Security, SSI, disability or pension recipients.

- (6) Up to 12 months for households whose primary source of income is from self employment (including self-employed farmers) or from regular farm employment, including farmworkers whose annual salaries are paid on a scheduled and unchanging monthly basis, provided income can be readily predicted and household circumstances are not likely to change.
- (7) Households subject to Six-Month Reporting shall be certified every 6 months.
- (8) Households which are granted separate household status because the household consists of an individual and that individual's minor child(ren) living with the individual's parent or sibling and purchasing and preparing meals separate from the parent/sibling, the eligibility/certification period will not exceed six months.

4. **CERTIFICATION PERIODS FOR EXPEDITED SERVICES CASES** - Households which qualify for expedited service, and are determined eligible for Food Stamp benefits, shall be assigned certification periods in accordance with this Section. Whenever practical, even when verification is postponed, districts should assign normal certification periods of at least four months as there are significant advantages gained in subsequent notice requirements. No adverse notice, and no recertification call-in, are required if such a household is certified for at least four months and subsequently fails to submit the pending verification. Regardless of the length of the certification period assigned, issuance of food stamp benefits is limited to the initial expedited payment period of the month of application, or the month of application and the subsequent month if the household applies after the 15th of the month.

If verification is postponed, the local district may:

- assign a normal certification period of four months or longer to those households whose circumstances (as specified in this Section of the FS Sourcebook) would otherwise warrant a longer certification period, or
 - assign a three month certification period, or
 - certify these households for one or two months - the month of application (the month of application and the subsequent month for those households applying after the 15th of the month).
- a. **FOUR MONTHS OR LONGER** - The local district shall notify the household in writing as defined in FSSB Section 7, that no further benefits will be issued until the postponed verification is completed. No Adverse Action Notice is required if the household does not complete the verification, or completes it and it results in a lower benefit. The household must have received written notice that the receipt of benefits beyond the month of application (or the month of application and the subsequent month if applying after the 15th of the month) is contingent on its providing the verification which was initially postponed and that the verified information will be acted on without further notice. State prescribed language in Client Notice System (CNS) notices and on the LDSS-3152 & LDSS-4013B meets this requirement.

- b. **THREE MONTHS** - The local district shall notify the household in writing as defined in FSSB Section 7, that no further benefits will be issued until the postponed verification is completed. When certified for three months, the household must be sent a recertification notice in the second month of the certification period. The household must recertify and complete the verification requirements which were postponed. The household must have received written notice that the receipt of benefits beyond the month of application (or the month of application and the subsequent month if applying after the 15th of the month) is contingent on its providing the verification which was initially postponed and that the verified information will be acted on without further notice. State prescribed language in Client Notice System (CNS) notices and on the LDSS-3152 & LDSS-4013B meets this requirement.
- c. **ONE OR TWO MONTHS** - The local district shall notify the household in writing as defined in FSSB Section 7, that no further benefits will be issued until the postponed verification is completed. When certified for one or two months, the household must be issued a recertification notice at certification with the Action Taken Notice. The household must recertify and complete the verification requirements which were postponed. The household must have received written notice that the receipt of benefits beyond the month of application (or the month of application and the subsequent month if applying after the 15th of the month) is contingent on its providing the verification which was initially postponed and that the verified information will be acted on without further notice. State prescribed language in Client Notice System (CNS) notices and on the LDSS-3152 & LDSS-4013B meets this requirement.
- d. **TIMEFRAME FOR SUBMISSION OF POSTPONED VERIFICATION** - The maximum timeframe for the household to submit the verification that was postponed and receive continued ongoing benefits without interruption is the end of the month following the last month of the expedited payment period. For example, if a household applied on May 16th, was qualified for expedited processing, found eligible for Food Stamp Benefits and was issued benefits for the initial expedited payment period of May 16th through June 30th, the household would receive full ongoing benefits for the month of July and beyond if by July 31st they submitted the verification that was postponed and were still eligible.

NOTE: There is no limit to the number of times a household can receive expedited processing of their FS applications, as long as prior to each expedited certification the household either

- completes verification that was postponed at the previous expedited certification, or
- was certified under normal processing (no pending verification) since the last expedited certification, or
- submits all verification relevant to the current application so that no verification needs to be pending.

5. **CERTIFICATION PERIODS FOR EXPEDITED SERVICES CASES** - Households which are entitled to expedited service shall be assigned certification periods in accordance with this Section.

If verification was postponed, the local district may certify these households for the month of application (the month of application and the subsequent month for those households applying after the 15th of the month) or may assign a normal certification period to those households whose circumstances (as specified in this Section) would otherwise warrant a longer certification period.

- a. **MONTH OF APPLICATION** - When certified only for the month of application, the household must recertify and complete the verification requirements which were postponed. The recertification notice must be issued at certification with the Action Taken Notice.
- b. **LONGER THAN ONE MONTH** - When a certification period of longer than one month is assigned, the local district shall notify the household in writing as defined in **FSSB Section 7**, that no further benefits will be issued until the postponed verification is completed. Households which applied after the 15th of the month may not receive benefits after the second month unless pending verification is received.

NOTE: There is no limit to the number of times a household can be certified under expedited procedures. However, prior to each expedited certification, the household must either complete the verification requirements that were postponed at the last expedited certification, or have been certified under normal processing standards since the last expedited certification.

- (1) A household certified for two months must be issued a recertification notice at certification with the Action Taken Notice.
- (2) A household certified for three months must be issued a recertification notice during the second month.
- (3) A household certified for four months or more and which has not completed pended verification must be issued a timely Adverse Action Notice to discontinue benefits effective the end of the second month.

References	Related Item	TASB
387.14	Expedited Processing Sheet	Section 10-E
387.17	Expedited Screening Sheet	
05 ADM-13	Action Taken Notice (FSSB)	
02 INF-23		
01 ADM-8		
88 INF-81		

Issuing Benefits**POLICY**

1. NORMAL TIME STANDARD -

OPPORTUNITY TO PARTICIPATE - "Opportunity to participate" means that the household has a CBIC, PIN, and FS benefits have been entered on the system which enables them to obtain the allotment at an open, available issuance site.

All eligible TA and NPA households which complete the initial application process as described in **FSSB Section 4** must have an opportunity to participate in the FS Program. The local district must provide the opportunity to participate as soon as possible after the application is filed, but not later than 30 calendar days after the application was filed.

NOTE: If the 30th day falls on a non-work day, the local district must provide the household with the "opportunity to participate" no later than the first work day prior to the 30th day.

2. EXPEDITED TIME STANDARD - For households qualified for expedited service, as defined in **FSSB Section 5**, an eligibility interview must be conducted. If found eligible for benefits, benefits must be issued according to the following time standards:

- a. Food stamp coupons or FS benefits must be made available to eligible households no later than five calendar days following the day the application was filed.
- b. Households qualified for expedited service may include, but are not limited to, residents of shelters for victims of domestic violence, households entitled to a waiver of the office interview, residents of drug addiction or alcoholic treatment and rehabilitation centers, residents of group living facilities, homeless individuals and residents of facilities for the homeless.
- c. Eligible households must have a reasonable opportunity to obtain FS benefits no later than the fifth calendar day following the day the application was filed.
- d. Whenever the application of **FSSB Section 4** would result in the passage of more than five calendar days before FS benefits could be made available to eligible households, the FS benefits must be made available no later than the fifth calendar day following the day the application was filed.
- e. For households who receive a waiver to the office interview but are interviewed at home as specified in **FSSB Section 4**, the local district shall conduct the interview and process the application within the regular expedited service standards detailed in this section.
- f. Households who receive a waiver to the office interview, but are interviewed by telephone, shall be processed for expedited service as detailed in this section.

NOTE: If the local district must mail the application to the household for signature, the mailing time involved will not be calculated in the expedited service standards. Mailing time shall only include the days the application is in the mail to and from the household, and the days the application is in the household's possession pending signature and mailing.

- g. For joint processing cases, all SSI households shall be certified in accordance with the expedited processing standards specified in this section. The SSA will inform households which appear eligible for expedited services that benefits may be received a few days sooner if they choose to apply directly at the local district FS office.

For "pure" SSI households who choose to file an application at their Social Security Administration office, the expedited processing time standards shall begin the date the CORRECT local district office receives the food stamp application. FS applications sent to an incorrect local district shall be forwarded to the correct office on the same day they are received.

- h. When prescreening fails to identify a household as being entitled to expedited service and the local district subsequently discovers that the household is entitled to expedited service, the local district shall provide expedited service to the household within the processing standards set forth in this Section, except that the

processing standard must be calculated from the date the local district discovers the household is entitled to expedited service.

- i. Upon receipt and acceptance of all necessary verification, the local district shall issue the second month's benefits no later than the fifth working day from the date the verification was provided or the first day of the second month, whichever is later.
- j. Migrant households applying after the 15th of a month and assigned certification periods of longer than one month shall provide postponed verification from sources within the state before a second month's benefits are issued. They shall provide all verification from out-of-state sources before being issued benefits for the third month.

k. ISSUANCE OF BENEFITS -

- (1) Regular recurring benefits will be issued on a staggered basis depending on the terminal digit of the client's case number.
- (2) Upon receipt and acceptance of all necessary verification, the local district shall issue the second month's benefits no later than the fifth working day from the date the verification was provided or the first **working** day of the second month, whichever is later.
- (3) Migrant households applying after the 15th of a month and assigned certification periods of longer than one month, shall provide postponed verification from sources within the state before a second month's benefits are issued. They shall provide all verification from out-of-state sources before being issued benefits for the third month. The actual first working day of the calendar month issuance provision in paragraph (2) above also shall apply to issuance in the second and third months for those migrant households providing postponed verification.
- (4) Households which applied for benefits after the 15th of the month who have not postponed verification shall be assured of receiving at least one full month's benefits before being placed in a staggered issuance cycle. All households eligible for expedited service, who apply after the 15th of the month, shall be issued their first month's prorated benefits and the next full month FS benefit within the expedited service time frames.

3. HOUSEHOLDS THAT APPLY AFTER THE 15TH OF THE MONTH - For eligible TA/FS and NPA/FS households which apply after the fifteenth of the month and have completed all application and verification requirements, local districts must issue to the household its prorated initial month's allotment and its next (full) month's allotment at the same time. This requirement also applies to households certified under expedited procedures even if verification requirements have not been completed.

Under these provisions, such households which are certified and issued first and second months' benefits during the month of application will receive their second month's benefits earlier than under previous issuance requirements.

4. DELAYS IN ISSUANCE -

a. CAUSED BY HOUSEHOLD

- (1) If, by the 30th day, the local district cannot take any further action on the application due to the fault of the household, the household shall lose its entitlement to benefits for the month of application.

b. VERIFICATION AND ISSUING BENEFITS -

- (1) Benefits shall NOT be delayed beyond the expedited time standard solely because the household has failed to verify eligibility factors which are not mandated in the expedited verification process as specified in **FSSB Section 5**.
- (2) Benefits for the month following the month of application shall not be issued until all necessary verification not already provided has been provided to the local district unless the household applied after the 15th of the month as explained in paragraph 3 above.
- (3) If the initial delay was the household's fault, and the case is subsequently determined eligible, the household shall receive benefits from the first (1st) day of the month in which verification is provided.

EXAMPLE: If the household was interviewed and then was at fault for the delay in the first 30-day period, but is found to be eligible during the second 30-day period, the local district must provide prorated benefits from the first (1st) day of the month in which the local district received necessary verification.

c. CAUSED BY LOCAL DISTRICT -

- (1) Whenever a delay in the initial 30-day period is the fault of the local district, as specified in **FSSB Section 4**, immediate correction action must be taken. If the household is found to be eligible during the second 30 day period, the household is entitled to benefits retroactive to the date of application.
- (2) When the local district is at fault for not completing the application process by the end of the second 30-day period, and the case file is otherwise complete, the local district must continue to process the original application until an eligibility determination is reached. If the household is determined eligible and the local district was at fault for the delay in the initial 30 days, the household must receive benefits retroactive to the day of application. (387.14)

5. No Benefit Increase When Non-compliant with Other Means-tested Welfare or TA Programs (Sec. 829)

- a. This provision prohibits an increase in FS benefits when a household's income has been reduced because of a penalty imposed by another federal, State or local means-tested welfare or TA program. This means that when a household's income is reduced due to noncompliance with a program such as FA or SNA (or other means-tested program), that household's FS benefits will not increase solely because of the reductions in income due to the penalty in the other program. SSI is not considered a means-tested welfare or TA program.
- b. This provision only applies when the reason for the adverse action taken in the other means-tested program does not also result in an adverse action in the FS program. If a FS adverse action is taken at the same time as the adverse action in the other means-tested program, no additional action is needed.
- c. This policy applies in situations in which a household's income is reduced due to an adverse action in a TA program but no adverse action is taken in the food stamp program. This includes situations in which the recipient fails to:

sign a lien, pursue an SSN, meet certain employment requirements, participate in rehabilitation to restore employability, meet IV-D, FEDS or EVR requirements, or pursue other benefits such as UIB or SSI.

- d. In these situations, the local district must budget the calculation of Food Stamp Benefits in a manner that continues to count as FS income, the portion of the TA grant lost due to the sanction. This is done with the aid of the Upstate and NYC Automated Budgeting and Eligibility Logic (ABEL). Depending on the type of TA sanction and the Upstate or NYC budgeting system, it is accomplished in different ways:
 - (1) Upstate ABEL For Incremental TA sanctions where the individual is actually removed from the budgeting, the worker has to determine the amount of the TA reduction in grant due to the sanction and add it back into the FS budget using an unearned income code. For IV-D and Prorata TA sanctions, the worker only has to enter a code indicating how many people are being sanctioned for the IV-D non-compliance, or whether or not the Prorata sanction also applies to the FS program - ABEL then automatically adjusts the FS budgeting. (See ABEL Transmittal 98-1, and 01 INF-12)
 - (2) NYC ABEL - The worker uses certain income source codes on the individual budget screen to indicate the type of TA sanction and the system automatically adjusts the FS budgeting. (See 01 INF-12)
- e. It is important for local districts to develop procedures to insure that, in situations in which the TA case is being closed (e.g., a one person SNA case), the food stamp case be assigned to the proper unit (usually the NPA FS unit) with sufficient information so that the food stamp case can be budgeted correctly.

WMS INSTRUCTIONS - Food Stamp Payment Line Processing

Any newly authorized payment for FS Payment Type "91-Expedited FS" that has a Payment Effective FROM Day equal to the 16th or greater must extend to the end of the following month. This edit will ensure the

inclusion of the next full month's benefit on this line. This edit currently applies to Payment Types "93-Single Issuance" and "94-FS Retroactive Benefit" and is being expanded to cover expedited FS payments.

References

387.1
387.8
387.14
01 INF-12
96 LCM-83
 GIS Message (96 TA/DC014)
 GIS Message (93 ES/DC013)
 GIS Message (89 IM/DC032)
 GIS Message (87 IM/DC003)
"All Commissioner" Letter (6/24/86)
"All WMS Coordinator" Letter (10/04/93)

Related Items

Eligibility for Expedited Service (FSSB)
Applicant Interview (FSSB)
Action On Delays Caused
by the Local District (FSSB)

Electronic Benefit Transfer**POLICY (00 ADM-8)**

The Electronic Benefit Transfer (EBT) is now implemented statewide. EBT replaces the Upstate Electronic Benefit Issuance and Control System (EBICS) and the New York City Electronic Payment File Transfer (EPFT) benefit issuance system.

EBT is mandated by the United States Department of Agriculture (USDA) to deliver FS benefits electronically through the commercial financial infrastructure. In New York State, EBT will also deliver cash benefits. EBT is interoperable with other states' EBT programs across the country.

Generally, there is little program impact as the result of EBT implementation.

1. Food Stamps**a. FS Implication Include:**

- (1) Paper FS coupons are eliminated under EBT. Instead, a separate FS debit account is established. The FS debit account enables recipients to purchase allowable food items at USDA participating stores, that display the QUEST logo and food symbol.
- (2) Under EBT, recipients do not have to access their entire FS benefit all at once. They have the option of debiting portions of the FS benefit as needed, and leaving any unused portion of the benefit to carry over from month to month.
- (3) Cash back cannot be issued from the FS account.
- (4) All FS transactions are free of fees and/or surcharges.
- (5) Some retailers will use manual vouchers because they have very low volume FS sales, or because they do not have access to electricity at the point of sale. Retailers will be required to call the EBT Contractor for authorization when processing manual vouchers.

The recipient will sign the voucher, and a hold will be placed on the recipient's FS account for the amount of the purchase until the retailer clears the manual voucher through the EBT Contractor.

When the retailer clears the manual voucher, the recipient's food account will be debited by the EBT Contractor. Retailers have 15 days to clear manual vouchers.

- (6) Manual vouchers processed by participating retailers are used solely for FS benefit purchases, not for cash transactions.
- (7) Any authorized FS retailer that processes more than \$100 per month in FS transactions, will be eligible to get an EBT point-of-sale (POS) devices. This device is provided to the retailer at no costs.

This includes such authorized retailers as food banks, Enriched Housing Programs, congregate meals for the elderly sites, Residential Treatment Centers (RTCs) and group homes, with more than three, but fewer than sixteen, residents.

The POS device enables the retailer to process FS benefits electronically with the swipe of a CBIC card.

- (8) If a FS account is not accessed for a period of 270 days, all benefits in the account will be expunged. Recipients are informed of benefit expungement timeframes in the EBT training materials they receive.

Any portion of that benefit still remaining in the food account after 270 days will be expunged without further notice to the recipient.

Expunged FS benefits that are more than 270 days old cannot be replaced by the local district. Expunged FS benefits that are less than 270 days old must be replaced by the local district, if requested by the recipient.

(9) A FS participant who has not accessed his/her FS account for two consecutive months, including a participant whose TA case is closed for failing to access cash benefits, must be sent a Request for Contact, allowing the participant ten days in which to clarify household circumstances either by telephone, in writing or in person. A household that does not respond to the Request for Contact must be provided a timely notice of intent to close the food stamp case.

(10) Expunged FS benefits will be applied automatically to any outstanding FS overpayment, thus reducing the overpayment balance.

2. CBIC Cards

a. Implications for the CBIC card Include:

- (1) EBT uses the CBIC card and PIN to initiate all cash withdrawal, cash purchase, and FS debit transactions. Medicaid (MA) benefits are accessed using this same card, but a PIN is not necessary to access MA benefits.
- (2) Permanent plastic CBIC cards with and without photos, Authorized Representative cards, and Temporary Cardboard CBIC cards (which should only be used for MA), will continue to be issued.
- (3) Vault Cards, which are a new type of temporary card, are issued when there is a need to issue a valid card to an applicant or recipient in a timeframe that precludes mailing. Each local district is required to issue Vault Cards to their applicants or recipients as needed. Because Vault Cards cannot be used to access MA benefits, the temporary paper MA card must still be issued. Some of the elements necessary to support Vault Cards include:
 - (a) Special plastic card stock inventory
 - (b) Security storage for plastic card stock inventory
 - (c) Assignment of staff to Vault Card issuance
 - (d) Terminal security arrangements for issuance and activation
 - (e) Access to PIN selection transaction by use of PIN selection device(s) located in the local district office(s)
- (4) CBIC cards issued or reissued as of 2/99 display new graphics and the EBT Customer Service telephone number. A recipient will be able to use their current CBIC card and same PIN to access their benefits until they receive a new card.

Once a new card is received by the recipient, he/she may continue to use the same PIN to access benefits. Any change to the recipient's last name, sex or date of birth will generate a new card.

- (5) All CBIC cards issued as of 3/4/98 contain the QUEST Mark. The Quest Mark is an identifier that assists cardholders in determining where their card can be used. The Mark will appear on the back of all cards issued in programs following the QUEST Rules, as well as ATM and POS terminals that are operated in compliance with the Rules.

Because it is a national identifier, cardholders can compare the Mark on their card to the Mark on terminals and determine whether their card can be used at any terminal across the country.

Because issuers must agree to comply with the QUEST Operating Rules before they can affix the Mark to a card, a merchant accepts the card knowing that once the transaction is authorized, payment is guaranteed under the Rules.

All merchant and financial participants know the responsibilities, liabilities and guarantees that apply to them under the Rules.

- (6) If a PIN number is incorrectly entered four consecutive times, the account will be automatically locked until the next day. Selection of a new PIN by the recipient will not unlock the account. The account will be automatically unlocked shortly after midnight.

- (7) Recipients who are homebound, incapacitated or those with limited access to their benefits, may designate an Authorized Representative to access their benefits on their behalf.

The Authorized Representative is an adult who may not be part of the household, but who is familiar with the relevant household circumstances.

- (a) Authorized Representatives may also be designated employees of a Residential Treatment Center (RTC) or an approved group home, in order to facilitate the process of accessing benefits for resident recipients.
- (b) Under EBT, there is no change to the process by which an Authorized Representative is chosen or is approved. Participants who choose to have Authorized Representatives will receive two CBIC cards. Once card can be used by the recipient to access their cash, FS and MA benefits.
- (c) The second card is used by the Authorized Representative to access cash and FS benefits only. MA benefits cannot be accessed with the Authorized Representative card.
- (d) This Authorized Representative card contains both the participants name and their Authorized Representative's name and may contain the photo and signature of the Authorized Representative.
- (e) The recipient and the Authorized Representative each choose a different PIN in order to access the recipient's benefits. The PIN can be changed using the PIN selection device located in the local district.

3. General Information

a. Customer Service Support

To assist local districts in maintaining their primary responsibility in meeting recipient's needs, the EBT Contractor Customer Service, Locator Service and Training Helplines will be available.

EBT Contractor Customer Service will be partnering with local districts to provide comprehensive customer service to recipients. EBT Customer Service is responsible for the following:

- (1) Providing recipients with the available balance in the FS benefit and/or Cash benefit account(s)
- (2) Informing recipients of cash access by providing the Locator Service telephone number
- (3) Accepting and processing a claim submission from recipients for reported discrepancies in their Cash and/or FS benefit accounts
- (4) Authorizing PIN changes and providing further instructions
- (5) Deactivating lost/stolen CBIC cards
- (6) Providing a written record of the past two month's transactions
- (7) Providing a listing of the last 10 Food and/or Cash account transactions
- (8) Providing dates of benefit availability and pick-up

EBT Contractor Customer Service will also be responsible for providing recipients access to the Automated Response Unit (ARU). The ARU is an automated system that provides recipients with answers to questions regarding account transactions and account balances. This system can be accessed by telephoning the EBT customer service toll free number at 1 (888) 328-6399.

- b. Locator Service - will inform recipients of the location of ATMs and POS devices that do not surcharge, will be provided. The EBT Locator Service can be contacted by telephoning toll free 1 (888) 289-6739.

c. Training Helpline

Instructions to the CBIC cardholder on the use of the CBIC card at ATM and POS devices is available over the telephone. The Training Helpline can be contacted toll free at 1 (866) 491-3940. The Training Helpline, which will operate during conversion/implementation, provides the following services to recipients:

- (1) Educates recipients on the use of the CBIC card
- (2) Provides instruction on how to use ATMs
- (3) Provides instruction on how to use POS devices
- (4) Provides dates of benefit availability and pick up
- (5) Provides training on the use of the Automated Response Unit (ARU)
- (6) Provides information on Manual Vouchers
- (7) Provides instruction on the use of the PIN and how to change a PIN through the ARU

d. PIN Selection

Prior to EBT implementation, recipient PINs will automatically be converted from EBICS to EBT. Therefore, recipients will continue to use the same PIN for EBT that they were using for EBICS.

After the conversion, in order to create a PIN on a new case, a CBIC card is required. New applicants who have never had a CBIC card, regardless of whether they require same day benefits, may need to be issued a Vault Card. Once the Vault card is issued, the applicant can create a PIN by using the PIN selection device.

If the applicant is determined eligible for assistance, he/she will be able to use the Vault card and PIN number to retrieve benefits until a permanent card is mailed.

After case opening, a PIN mailer will also be sent to the recipient, containing the same PIN that was chosen by the recipient when using the PIN selection device.

If the applicant already has a CBIC card and needs same day benefits, the card may need to be linked to the case in CBIC. The procedure for doing this has not changed from the current (EBICS-CBIC) process. No action is required to activate the PIN.

If the applicant has a CBIC card already in their possession, and does not require same day benefits, no action is needed to activate the CBIC card or PIN in order to retrieve EBT benefits.

All new recipients will be automatically mailed a PIN at case opening.

e. Changing a PIN

PINs can be obtained in one of the following ways:

- (1) PIN Mailer - All new recipients will automatically be mailed a PIN after case opening. If the applicant selected a PIN prior to case opening via the PIN selection device, (see below) then the PIN already selected by the recipient will appear in the mailer after case opening.

If the recipient did not pick a PIN while an applicant, then the system will generate a PIN, and it will appear in the PIN mailer.

Recipients may also contact the local district worker and request a PIN be mailed. The local district worker enters necessary information into the CBIC system using function 11. The system will produce a PIN mailer containing the recipient's most recent PIN, or, will generate one if none already exists for the recipient. If recipients desire to change their PIN, they may telephone customer service or use the PIN selection device at the local district.

- (2) PIN Selection Device - The PIN selection device will be installed at each local district. With the help of a local district worker, the recipient inserts his/her CBIC card and enters a new PIN on the PIN selection device keypad twice for verification. A phone line connects the device to the contractor's EBT system computers. The PIN is encrypted and linked to the CBIC card immediately.
- (3) Customer Service [1 (888) 328-6399] - The recipient can call this number to speak to a Customer Service Representative who will verify the recipient's identity and provide the recipient with an authorization number and an additional telephone number.

The recipient must dial the second telephone number and follow the instructions. Once this procedure is completed, the PIN is immediately linked to the CBIC card.

f. Lost or Stolen CBIC Cards

Recipients must report lost or stolen CBIC cards to EBT Contractor Customer Service immediately. Customer Service will disable the card to prevent any future use and refer the recipient to the local district for card replacement. This can be done 24 hours a day/7 days a week.

g. Troubleshooting

Local districts continue to be responsible for assisting recipients in identifying solutions to problems that can result in recipients being unable to access their cash and FS benefits.

In order for recipients to successfully access their Cash and/or FS accounts utilizing the EBT benefit delivery method, all of the following must be present:

- (1) A CBIC card that is active in the EBT Contractor's System
- (2) A valid PIN that is used correctly
- (3) A FS and/or Cash account that is active in the EBT Contractor's system. (Accounts are automatically created by the EBT Contractor on receipt of CBIC card data.)
- (4) A correctly authorized benefit in the WMS system or BICs, via the BICs pre-reg process
- (5) An available Cash or FS benefit in the EBT Contractor system

If any of the above elements are missing, the recipient will be unable to access his/her benefits from their cash and/or food account.

In order to assist local districts in determining the cause of a problem and the possible resolution, please refer to the EBT Upstate Troubleshooting Guide (Attachment B of 00 ADM-8).

4. Erroneous Posting

- a. When a systems error results in the posting of an incorrect benefit amount in an EBT FS account, the benefit may be pulled back without notice to the recipient.
- b. If an attempt is made to pull back the erroneous posting after the benefit availability date, and the full amount of the erroneous posting is not available for recovery, the residual account balance may be recovered, with the remainder of the erroneously posted benefit amount to be recovered from future month's benefits.
- c. Total recovered amounts cannot exceed the original, erroneously posted benefit amount.
- d. No client notice of the recovery is required because the recipient already has been notified of the correct benefit amount. Local district staff must answer recipient questions regarding recovery of erroneous postings, to the extent possible, using information obtained through WMS/BICS and the EBT administrative terminal.
- e. Local districts should refer recipients who request additional information to the EBT contractor's toll-free Customer Service Helpline at 1 (888) 328-6399.

5. Retailer-Initiated Adjustment

- a. A retailer that, due to a system error does not receive the correct payment amount, has ten days from the date the error occurred, to register a claim with the EBT contractor to have the amount of the shortage debited from the FS recipient's account.
- b. If confirmed, the retailer-initiated adjustment will be recovered from the recipient's current account balance or, if insufficient funds are present, will be recovered from the next month's benefits.
- c. When a retailer's claim would result in a debit adjustment in a recipient's FS account, a hold will be placed for ten days on the recipient's account for up to the amount of the adjusted claim by the retailer.

- d. If insufficient funds are available in the recipient's account to cover the adjustment, the ten day hold will be placed on the balance remaining in the recipient's account.
- e. The remainder of the adjustment will be debited from the next month's benefit. In addition, a notice of adverse action will be mailed to the household.
- f. The household may appeal the action by requesting a Fair Hearing within 90 days of the notice date. A household that requests a Fair Hearing within ten days of the notice of a retailer-initiated adjustment will have the hold released on the held funds in their account. This is called a "provisional credit".
- g. If the household does not request a fair hearing within ten days of the date of the notice, the recipient's account is debited and the adjustment is made into the retailer's account.
- h. A household that receives a provisional credit and subsequently loses their Fair Hearing will have the amount of the provisional credit recovered from their current or next month's benefits, with no additional notice.

6. Client-Initiated Adjustment

- a. A recipient who reports that an EBT system error resulted in an incorrect amount being debited from the FS account must be advised to register a claim by calling the EBT contractor Customer Service Helpline at 1 (888) 328-6399.
- b. Recipients may register FS claims up to 90 days after the disputed transaction.
- c. If the contractor has not completed a claim investigation within ten business days of its receipt of the claim, but has determined that the suspected error was system-generated and not the result of a human mistake, the household's account must be provisionally credited in the amount of the alleged error.
- d. If the contractor's investigation results in a denial of the recipient's claim, a notice of adverse action will be mailed to the household. The recipient may appeal the denial of the claim by requesting a Fair Hearing.
- e. A provisional credit is not given to a recipient pending a Fair Hearing decision regarding the denial of a recipient initiated adjustment.
- f. If a provisional credit was given while the contractor investigated the claim, and the claim was denied, the amount of the provisional credit will be recovered from the current or future months benefits without further notice to the household.

7. Unaccessed FS Benefits

A FS participant who has not accessed his/her FS account for two consecutive months, including a participant whose TA case is closed for failing to access cash benefits, must have the FS certification period shortened and be called in for recertification. The recertification call-in notice must be issued prior to the last month of the shortened certification period as described in the Food Stamp Source Book (FSSB) 7 (all) and 6

8. Non-Systems Errors

A recipient or retailer who requests correction of a non-systems transaction error should be advised to contact EBT contractor Customer Service at 1 (888) 328-6399.

Examples of non-system errors include a cashier who keys in an incorrect transaction amount or a recipient's claim that a merchant overcharged for a purchase. Such errors cannot result in a provisional credit.

9. Canceling or Voiding a Benefit

If a local district wants to cancel or void a benefit, it may do so before the benefit availability date. Once a cash benefit or FS benefit becomes available in the recipient's EBT account, the local district may not cancel or void that benefit.

The benefit is considered owned by the recipient and cannot be pulled back. If an error was made in the benefit amount and that error results in an overpayment or underpayment, appropriate action must be taken in accordance with current procedures.

10. Food Stamp Cash-Out

Federal FS policy prohibits the continuation of FS cash-out once an EBT system is operational statewide.

11. Group Homes

- a. Local districts must continue to issue Authorized Representative CBIC cards for FS Eligible residents of Residential Treatment Centers (RTCs). The criteria for determining whether a RTC or other group living facility is FS eligible is not changed by EBT implementation.
- b. Any RTC and any group home with more than three, but fewer than sixteen residents, that is an authorized FS retailer and processes more than \$100 in FS transactions per month, will be eligible for a point-of-sale (POS) device.
- c. Facilities and providers that do not meet this criteria, or that choose not to obtain a POS device, still will be able to use their residents' FS benefits to purchase food.

NOTE: In the event of a USDA declared disaster when ordinary issuance is unavailable, the district will be authorized to issue pre-pinned emergency vault cards in designated valued to affected households. Procedures for issuance under these circumstances are outlined in the Disaster Food Stamp Benefit Plan (on file with every local district).

Reference

00 ADM-8

SECTION 16: CLAIMS AGAINST HOUSEHOLDS

This Section contains program and policy information that workers and supervisors need in order to accurately establish Supplemental Nutrition Assistance Program client overpayment claims. It also identifies the processes and standards that local district management staff must implement and maintain to insure adequate support for efficient and effective SNAP claim management and establishment. This Management information is in bold throughout the section for easy identification.

Increased SNAP program integrity will result from these comprehensive instructions regarding claims establishment and tracking. Clear guidelines and definitions will foster greater accuracy in claims development.

The Local District Must:

- Identify and correct deficiencies in claim establishment, collection and documentation based on information in this release.
- Establish local standards for date of discovery that are in compliance with State guidelines.
- Establish standards to track and control the length of time it takes to establish a claim in order to comply with federal establishment timeframes.
- Implement use of actual income to calculate overpayment amounts.
- Implement use of appropriate overpayment claim notices and forms.

A. Responsibility for Recovering Overpayments

1. Local District Responsibility

- a. Establish, based on standards defined in this Directive, an overpayment claim against any participating (active/open) household or non-participating (inactive/closed) household that has received more SNAP benefits than it was entitled to receive or has trafficked benefits.
- b. Make all reasonable efforts to identify and collect established claims including but not limited to:
 - (1) Checking at application to determine if anyone in the applicant household has an outstanding claim in the local district where the application is filed or in any other local district.
 - (2) Maintaining accurate and complete claim records.
 - (3) Cooperating with other local districts regarding cross-local district claim collection.

2. Household and Individual Liability

All adult household members are individually and collectively responsible for the value of any overpayment of benefits to the SNAP household. Adults are responsible for repayment while members of the household that received the overpayment and remain responsible even after they leave the

household or the case is closed. For purposes of claims establishment and collection, an adult is defined as:

- a. A household member who is 18 years of age or older when the overpayment occurs, or
- b. Is less than 18 years of age but is the head of the household when the overpayment occurs.

Overpayments may be recovered from more than one source at a time. For example, the original household may continue to pay the overpayment through SNAP benefits reduction, while an adult who left the household makes cash payments to the agency. However, total collections must not exceed the total amount of the established claim. If excess funds are collected they must be returned.

Any sponsor of an alien and the alien's household is individually and collectively responsible for the value of any benefits overpaid as a result of incorrect information being provided by the sponsor. However, if the alien's sponsor had good cause or was without fault, the alien's household is solely liable for repayment of the overpayment.

The local district must:

- a. Establish procedures to identify and collect repayments from multiple sources.
- b. Establish procedures to insure that total collections do not exceed the total claim amount.
- c. Establish procedures to fairly return any excess amount collected to multiple sources.

3. No Overpayment

The following situations do not constitute an overpayment and, therefore, no claim is established:

- a. There is no overpayment due to lack of signature when the client receives benefits without signing the application, if the client is otherwise eligible for the benefits. However, if the client receives benefits to which he or she is not otherwise entitled, there is an overpayment.
- b. There is no overpayment when the client receives benefits in the wrong local district, if the client is otherwise eligible for the benefits. However, if the client receives benefits to which he or she is not otherwise entitled, there is an overpayment.
- c. There is no overpayment if a change was not a reportable change under the change reporting requirements applicable to the household.
- d. There is no overpayment if benefits are authorized in accordance with expedited processing requirements.

B. Definitions

1. Types of Claims

There are three types of claims: Agency Error (AE), Inadvertent Household Error (IHE) and Intentional Program Violation (IPV).

a. Agency Error (AE) Claims (formerly called Administrative Error Claims)

An AE occurs when a local district action, or failure to take action, causes an overpayment. This includes, but is not limited to, cases in which the local district worker:

- (1) Fails in accordance with the change reporting requirements that apply to the household to take prompt action on a reported change.
- (2) Incorrectly computes a household's income or deductions, or otherwise assigns incorrect FS benefits.
- (3) Fails to reduce SNAP benefits because of a Family Assistance grant change.
- (4) Issues SNAP benefits for any month in which a disqualification period for an Intentional Program Violation should have been imposed.

b. Inadvertent Household Error (IHE) Claims

An IHE occurs when there is a misunderstanding or unintended error on the part of an applicant or recipient. This includes, but is not limited to, cases in which a SNAP applicant or recipient household:

- (1) Unintentionally fails to provide the local district with correct or complete information.
- (2) Unintentionally fails to report changes in household circumstances.
- (3) Receives aid continuing benefits pending a fair hearing decision and the hearing decision later determines the household was not entitled to the benefits.
- (4) Is determined to have received an overpayment or participated in trafficking and the local district is pursuing but has not yet completed establishment of an Intentional Program Violation.

A claim originally established as an IHE claim may be changed to an Intentional Program Violation (IPV) claim if further investigation proves that the overpayment was caused by willful misrepresentation to deliberately mislead the agency and the claim is classified as an IPV through appropriate administrative or court action.

c. Intentional Program Violation (IPV) claim.

An IPV occurs when an individual intentionally:

- (1) Makes a false or misleading statement, or misrepresents, conceals or withholds facts.

- (2) Commits any act that constitutes a violation of the federal FS Act, the federal SNAP Program Regulations, or any State regulation relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).
- (3) Traffics in Electronic Benefit Transaction (EBT) benefits.

One of the following must occur for a claim to be classified as an IPV:

- (1) Determination by a court of appropriate jurisdiction that a household member committed an IPV.
- (2) Determination at an Administrative Disqualification Hearing (ADH) held by the New York State Office of Temporary and Disability Assistance that a household member committed an IPV.
- (3) A household member signs a Disqualification Consent Agreement (DCA) to avoid prosecution for a suspected IPV recognized by a court of appropriate jurisdiction.
- (4) A household member signs a waiver of his or her right to an ADH.

In addition to having the obligation to repay the monetary amount of an IPV claim, a household member determined to have committed an IPV is disqualified from program participation for a specified period of time. While most IPV's result in a monetary loss to the program, in some circumstances the household's willful misrepresentation may be sufficient grounds for a disqualification penalty even if no benefits were paid.

The local district must:

- Establish and collect potential IPV claims as IHE claims prior to the determination of IPV, unless directed by the local district attorney not to establish an IHE pending the IPV court action. Local districts are encouraged to work with the local district attorney's office to limit the circumstances for delaying collection by not initially establishing the claim as an IHE and to pursue IHE overpayment collection on as many potential IPV's as possible.
- Establish and implement a local district claim management process to deal with suspected IPV claims. Overpayments found not to be IPV's must be established and collected as IHE's after completion of the IPV process, if not previously established.

d. Court Ordered Restitution

When Court orders a defendant to pay restitution in a criminal proceeding for supplemental nutrition assistance program benefits they received, but were not entitled to receive, it is important to look at the decision and findings of the Court. If the person was found guilty of a crime, act or conduct or admitted to such crime, act or conduct that constitutes an Intentional Program Violation (IPV) (even if the Court does not refer to it as an IPV) as defined in 7 CFR 173.16, an IPV penalty shall be imposed (with notice) unless it is contrary to the Court order [7 CFR 273.16 (b)(7)]. In such cases, the Court ordered restitution should be processed as an IPV recovery. However, if there is no finding of guilt by

the Court or no admission of guilt of an act or conduct that constitutes an IPV, as defined in 7 CFR 273.16, or if the imposition of an IPV would be contrary to the Court order, the restitution should be processed as an IHE recovery. The decision of the Court is binding even if the Court ordered restitution exceeds 12 months.

2. Discrepant Information

Discrepant information is any previously unknown event or circumstance that may affect or, in the past, may have affected FS eligibility or benefit amount. It may be reported by the client, reported by someone other than the client or discovered through a quality control review or other management review. Evaluate all discrepant information to determine if a case change is required and if any overpayments have occurred.

The local districts must:

- a. Establish and implement a local district procedure for promptly evaluating all discrepant information and keeping track of all instances where the information results in a claim against the household.

3. Date of Discovery

The Date of Discovery for purposes of computing overpayments is the date the local district becomes aware that there is discrepant information that may affect the benefit amount of the case. The Date of Discovery is used with other information to determine the start date ("From Date") and length of the claim period.

The Date of Discovery must be as soon as possible after the information arrives at the agency but may take into consideration reasonable periods for clerical processing and information prescreening. These include, but are not limited to, mail sorting and routing and reasonable periods of time to determine that the information is legitimately related to the household. Do not wait for verification of the information.

EXAMPLE: A piece of information is date stamped as received in the mailroom on the 15th. It is given to the supervisor of the Eligibility Unit on the 17th. It would be appropriate for the agency to define the date of discovery as the 17th.

EXAMPLE: The supervisor receives information on the 17th but does not assign it to a worker for action until the 24th. Defining the date of discovery as the 24th would not be acceptable.

The following are examples of some date of discovery standards:

- a. The date the worker has direct contact with a recipient, such as a recertification interview or telephone call
- b. The date a supervisor receives a change report or periodic reporting form for distribution to a worker
- c. The date a worker receives a change report or periodic reporting form from the client or the mailroom
- d. The date a worker or supervisor directly receives information from someone other than the recipient
- e. The date a supervisor directly receives information gained through a Quality Control review, Management Evaluation review, case record or other management review that must be distributed to a worker for action
- f. The date the worker discovers a discrepancy when reviewing a case record

The Date of Discovery for an Agency Error (AE) overpayment is the date that the agency discovers the error that led to the overpayment, not the date the information was reported but not processed by the agency.

The local districts must:

- a. Establish and implement local district policies and procedures for assigning the Date of Discovery based on local organizational structure and local district procedures for handling change information.
- b. Establish and implement local district procedures regarding identifying the Date of Discovery for computer match information.

4. Date of Claim Establishment

The date of establishment is the date the initial claim notification is sent to the household.

C. Discrepant Information Assessment

Assess all discrepant information to determine its effect on the current case situation and to determine if there was an overpayment in the past.

1. **Changes to Active Cases**

If the discrepant information requires a change to the current active case, make the change within the appropriate change action time frame.

2. **Potential Overpayment**

Assess discrepant information to determine if an overpayment occurred, even if the case is closed or is about to be closed. Enter the reason for the decision to pursue an overpayment claim in the case record, if it appears that the discrepant information caused any overpayment in the past.

EXAMPLE: The worker determines during a recertification interview on 1/15/10 that a member of the household had an increase in earned income. The client's statements and some of the information on the pay stubs seem to indicate that the client has been receiving this amount of income for quite a while, maybe even before the last recertification interview in July 2009. The worker includes the increased income in the budget for the new certification period. The worker also makes the following notation in the record; "Information reported at the recertification on 1/15/10 (date of discovery) indicates household may have received an increase in earned income in April 2009. Investigation to determine if a SNAP overpayment occurred is required."

Depending upon local district procedures, the worker will then either develop the claim or refer the case to the unit that is responsible for claim development.

The local district also has the option, but is not required, to develop procedures requiring workers to record why a claim is not being pursued. Such notations document that workers are actively seeking to identify all potential overpayment claims and strengthen the effectiveness of the local district's claims management procedures.

D. Tracking Claim Establishment

Establish all claims as soon as possible after the date of discovery of the discrepant information, but no later than the last day of the fifth month after the month of discovery. This time frame complies with USDA requirements to implement adequate management procedures to insure all overpayment claims are established in a timely manner. It applies to closed cases as well as to active cases.

The USDA standard requires establishment of at least 90% of all claims within this time frame. Failure to meet the minimum compliance standard may result in federal penalties.

Continue work on the claim until it is finished, even if claim establishment is not completed within the time frame. Claims not established within the time frame are part of the overdue claim establishment backlog while the work is being completed. Once established, such claims count toward the claims over due percentage. A local district's claims overdue percentage should not exceed 10%.

EXAMPLE: Discrepant information that caused an overpayment is reported to the worker on January 15. This is the date of discovery. The worker must assess the information and complete all the actions needed to calculate and establish the overpayment claim by June 30 or the action is overdue.

The Cash Management Subsystem (CAMS) automatically tracks the length of time it took to establish a claim by calculating the amount of time between the date in the date of discovery field and the date in the claims establishment field. Data derived from this CAMS information provides support for local district tracking procedures and process improvement. This data is also used in State and Federal management reports and reviews. Establish and implement local district procedures to:

- a. Track the steps of the claims determination process to ensure that all actions are completed within the allowed time.
- b. Provide early identification of potential claims establishment backlogs.
- c. Track resolution of backlogs, if they develop.
- d. Report to the Office of Temporary and Disability Assistance, as required.

E. Claim Calculation

There are three steps to calculating an overpayment claim:

- a. Assessing if a household failure to report a change, report of incorrect information or omission of information actually resulted in an overpayment
- b. Determining the claim period, and
- c. Determining the amount of the overpayment.

1. Determining If an Overpayment Occurred/Review of Change Reporting

The first step in the claims establishment process is to determine if an overpayment occurred. Use the reporting rules that would have applied to the case situation if all facts and figures had been reported to the agency at the proper time to determine if an overpayment actually occurred. What follows is a brief review of the change reporting rules.

There are three types of Change Reporting:

- Simplified Reporting (Six-Month)
- 10-Day (10-10-10) Reporting
- Quarterly Reporting

In addition, there are special reporting rules for households that receive Transitional Benefit Alternative (TBA) benefits and households that receive New York State Nutrition Improvement Project (NYSNIP) benefits.

Each type of reporting specifies when information must be reported. For purposes of claims establishment, the date of a change is the date the change to household circumstances happened or the date income or resources were received, not the date the household may have known that a change in household circumstances, income or resources was going to occur in the future.

a. Simplified Reporting (Six-Month)

For Supplemental Nutrition Assistance Program purposes all TA/SNAP, NTA/SNAP and Mixed SNAP recipients must report household information and changes using Simplified Reporting (Six-Month) standards except the following:

- (1) Households certified for less than six months (a partial initial month benefit plus five full months counts as six months for purposes of the Simplified Reporting (Six-Month) system)
- (2) Households with zero income. Households receiving TA benefits are considered to be receiving income. They are not zero income cases.
- (3) Participants who live in group homes and have SSI or SSA income

- (4) Migrant or seasonal farm-worker households
- (5) Homeless households
- (6) Households in which all adult members are aged and/or disabled and all income is unearned

Simplified Reporting (Six-Month) households must report current household circumstances and income:

- (1) At recertification interviews
- (2) When an increase in income causes the household's income to exceed 130% of the poverty level for the household size for any calendar month. This report must be made within ten days after the end of the calendar month in which the income increase is received.
- (3) During the 6th month of the household's certification period (Six-Month Contact) using the LDSS-4310 Periodic Report, even if there are no changes, if the:
 - (a) Case is a NTA/FS or a SNAP Mixed case and
 - (b) Case's certification period is seven full months or more
- (4) During the 6th month of the household's certification period (Six Month Contact) using the local district TA Eligibility Questionnaire if the:
 - (a) Case is a TA/SNAP case and
 - (b) Case's certification period is seven full months or more

In addition to the above reporting points, a household with a member subject to the Able Bodied Adult without Dependents (ABAWD) rules must report when work hours fall below 80 hours a month.

Simplified Reporting (Six-Month) households are not required to report changes at any other time, such as during a six-month certification period. Further, Simplified Reporting (Six-Month) households are not required to cooperate in verifying information from an outside source during a six-month certification period.

The change reporting rules for Simplified Reporting (Six-Month) households apply to all changes, not just to changes in income less than 130% of the poverty level. They apply even if the change will make the household ineligible once it is reported.

EXAMPLE: A Simplified Reporting (Six-Month) household's certification period is 6/1/10 to 11/30/10. In July, the household receives an inheritance that puts the household over the Supplemental Nutrition Assistance Program resource level. The household is not required to report this information. If the household still has the resource at the time of the next recertification interview, it must be reported. If it is not reported, there is an overpayment from the start of the next recertification period.

While a Simplified Reporting (Six-Month) household is not required to report a change except as specified above, a worker must take action on changes during the certification period of a Simplified Reporting (Six-Month) household if:

- (1) The household voluntarily reports and verifies changed information
- (2) The household reports and verifies change information to comply with TA or other program requirements; or
- (3) The agency receives verified change information from a source outside the household. Failure to take such action is an Agency Error overpayment.

Temporary Assistance does not use Simplified Reporting (Six-Month). Use the change reporting standard for SNAP benefits, not the TA reporting standard, when assessing a TA/SNAP or SNAP Mixed household for a potential SNAP overpayment. This will result in situations where there is a TA overpayment but no SNAP overpayment.

EXAMPLE: A TA/SNAP household fails to report a change within 10-days after the change occurred as required by the TA change reporting rules. However, Simplified Reporting (Six-Month) rules apply to the SNAP portion of the case. If the change did not raise the household's income to more than 130% of the poverty level for the household size, there is an overpayment for TA but there is no overpayment for SNAP.

b. 10-Day (10-10-10) Reporting

The following households must report household information and changes using 10-day reporting standards:

- (1) Households certified for less than four months (a partial initial month benefit plus three full months counts as four months for purposes of the Simplified Reporting (Six-Month) system)
- (2) Households with zero income. Households receiving TA benefits are receiving income and are not zero income cases
- (3) Participants who live in group homes and have SSI or SSA income
- (4) Migrant or seasonal farm-worker households
- (5) Homeless households
- (6) A household in which all adult members are aged and/or disabled and all income is unearned.

10-Day reporting households must report all changes within 10 days of the date the change occurs except for the changes listed on the LDSS-3151 Change Report form. Changes listed on the LDSS-3151 must be reported at the household's next recertification. The agency has 10 days to make the changes after a household's report. The household must receive a 10-day timely and adequate notice of change.

To simplify and standardize program procedures for claims establishment, the second month after the month the change occurred is designated as the initial overpayment month in 10-Day Reporting situations. This is true even if the actual calendar dates indicate that the change to the case could have been made as early as the month after the change occurred.

c. Supplemental Nutrition Assistance Program Quarterly Reporting

In the past, there was also Quarterly Reporting (QR). While QR is no longer a change-reporting standard for SNAP households, there may be claims for past periods when QR was in use.

TA/SNAP households with earned income were required to report SNAP changes using Quarterly Reporting standards until April 2001. NTA/FS households with earned income were required to report SNAP changes using Quarterly Reporting standards until July 2001. Because of the limits on how far back a claim can go from the Date of Discovery, the need to use Quarterly Budgeting rules will only occur for cases in which an IPV overpayment is being determined for a period before April or July 2001. Eventually, there will be no claims established using Quarterly Reporting rules.

SNAP Quarterly Reporting households were only required to report changes on the Quarterly Report and at recertification. This included TA/SNAP and Mixed-SNAP households that were required to report all changes within 10 days for TA in addition to at recertification and on the Quarterly Report. Failure of a Quarterly Reporting household to report a change within 10 days would have resulted in a TA overpayment but not a SNAP overpayment.

Use Quarterly Reporting rules only if the household actually received Quarterly Reports. If the household never reported receiving income and, therefore, never received a Quarterly Report, the household is processed as a 10-Day Reporting household for purposes of claim calculation.

d. Transitional Benefit Alternative (TBA)

Households receiving Transitional Benefit Alternative (TBA) benefits after a TA case is closed do not have to report any changes during the TBA period.

e. New York State Nutrition Improvement Project (NYSNIP)

SSI households participating in the New York State Nutrition Improvement Project (NYSNIP) are required to report changes to the local district:

- (1) At recertification, and
- (2) At the 24-month contact point of a 48-month certification period.

NOTE: The NYSNIP undercare system will report changes that impact eligibility for the program. Some of these will require the district to enter changes from an exception report. Failure to do so could cause overpayments.

2. Determining the Period of the Claim

a. Initial Month of Overpayment

The initial month of overpayment is determined by when the household was required to report the information and how the information would have been processed if reported timely.

Use the SNAP reporting standards, not the TA standards, when determining an overpayment for the SNAP part of a TA case. The start date for the SNAP overpayment may be different from the start date of the TA overpayment or there may be an overpayment for TA but not for SNAP.

b. Overpayment at Application

For all three change-reporting types, the initial month of payment is the first month the household was certified to receive SNAP benefits if the household fails to:

- (1) Report correct information on the application or during the application interview or
- (2) Report changes that occur after the application interview but during the application processing period.

c. Overpayment at Recertification

For all three change-reporting types, changes that a household was not required to report during the certification period (or for a QR household during the quarter) must be reported at recertification. The initial month of overpayment is the first month of the new certification period when inaccurate or incomplete information is reported at recertification.

EXAMPLE: A Simplified Reporting (Six-Month) household had a certification period January 1, 2010 to June 30, 2010. The household received an increase in income on February 15, 2010. The household was not required to report the increase when it occurred because the income did not put the household over the 130% level.

The household did not report the income during the recertification interview in June. The case was reauthorized for the period July 1, 2010 to December 31, 2010. In August, the agency discovered the increase. July 2010 is the initial month of overpayment.

EXAMPLE: A Simplified Reporting (Six-Month) household had a certification period January 1, 2010 to June 30, 2010. The household received an increase in income on February 15, 2010. The increase did not put the household over the 130% level. The income was reduced back to the original level in May. During the recertification interview in June, the household did not report that the income increased for a short period during the certification period.

In August, the agency discovers the household had increased income in February, March and April. There is no overpayment. The household was not obligated to report the increased income because it was no longer being received when the household recertified in June.

d. Overpayment at Six-Month Contact Point or Quarterly Reporting Point

Overpayments for changes that are not reported at a required six-month contact by a Simplified Reporting (Six-Month) household with a certification period longer than six months are processed the same as changes not reported at recertification. The first month of overpayment is the seventh month of the certification period.

Overpayments for changes not reported on a quarterly report are processed the same as changes not reported at recertification. The first month of overpayment is the first month of the quarter following the quarter in which the change occurred.

e. Changes During the Certification Period

(1) Simplified Reporting (Six-Month): Exceeding 130% of Poverty Level/ABAWD rule

Simplified Reporting (Six-Month) households are required to report during a certification period when income exceeds 130% of the poverty level or when the work hours of a household member subject to the ABAWD rules drop below 80 hours per month. The report must be made by the 10th of the month following the month in which the change occurred.

An increase in income reported by a Simplified Reporting (Six-Month) household during the certification period must be evaluated prospectively. There is no overpayment if the increase in income did not continue during the second month after the change and the household was no longer over the 130% standard.

If a Simplified Reporting (Six-Month) household fails to report an increase in income that results in the household's income exceeding 130% of the poverty level and the income continued past the second month following the change, the initial month of overpayment is the second month following the month that the income exceeded 130% of the poverty level.

Once it is determined that the household is ineligible due to the 130% standard, the ineligibility continues for claims establishment purposes until the next reporting point (e.g. recertification, six month contact), even if the household's income falls below 130%.

EXAMPLE: A household had a certification period of February to July. The household's income exceeded 130% in March. The household was required to report this by April 10, but did not. The worker discovered this in July during the recertification interview.

When developing the claim the worker looked at income received in March and April and determined that the household continued to receive the increased amount in April and May. In June, the household's income decreased to below the 130% level. There is an overpayment for May, June and July. The household is reauthorized benefits from August to January because income is now below 130%.

Supplemental nutrition assistance program overpayments for TA/SNAP households must be determined using Supplemental Nutrition Assistance Program reporting rules. This may result in a TA overpayment but no supplemental nutrition assistance program overpayment when there is a change during a household's certification period.

EXAMPLE: A TA/SNAP household must report changes within 10 days to comply with Temporary Assistance (TA) requirements. The household is a Six- Month Reporting household for Supplemental Nutrition Assistance Program. The certification period is March to August. The household fails to report that a

household member started a part-time job on April 23. The household's gross income increase does not go above 130% of the poverty level. There is a TA overpayment. There is no SNAP overpayment. There will be a SNAP overpayment starting in September, if the household fails to report the increase in income at recertification.

There is also an overpayment if a household, with a member subject to the ABAWD rules, fails to report that work hours fell below 80 hours in a month it is the third month of ABAWD eligibility and the reduction of work hours is expected to continue in the next month. The overpayment starts the month after the month that the person's hours fall below 80. An AE overpayment is established for the month following the month the hours fell below 80 for the third time, if the household reports the change on time. An IHE or IPV overpayment is established if the household does not report this type of change or reports it late.

There is no overpayment if the household fails to report work hours below 80 per month during the first or second month of ABAWD eligibility. However, workers should stress to persons subject to ABAWD rules the importance of timely and accurate reporting regarding hours worked to help them avoid overpayments and, in some cases, an IPV disqualification.

(2) Simplified Reporting (Six-Month): Voluntary Report or Report from Outside the Household

Failure to act on changes voluntarily reported and verified by the household, or reported and verified by a source outside the household, including other program areas of the local social services agency can cause an agency error overpayment. The overpayment starts in the second month following the month in which the change information was reported to the agency (not the month in which the change occurred).

(3) 10-Day Reporting (10-10-10)

For 10-Day Reporting households, all changes during a certification period must be reported within 10 days after they occur, the worker has 10 days to make the change and a timely 10-day notice is sent to the client. For purposes of administrative ease, the start date of an overpayment caused by failure of a 10-10-10 reporting household to timely report a change is the second month following the month in which the change occurred. This policy is used even if the actual calendar dates of the change would have made it possible to change the budget for the month after the change if the household had reported on time.

EXAMPLE: A 10-day reporting homeless household started receiving income on March 1. The household should have reported the change by March 10th, but did not. The worker would have been required to send a notice by March 20th. The 10-day notice time frame would have ended March 30th. The first month of overpayment is May.

(4) Supplemental Nutrition Assistance Program Quarterly Reporting - only for those claims being developed for dates prior to April 2001.

Supplemental Nutrition Assistance Program Quarterly Reporting households were only required to report changes on the quarterly report and at recertification.

f. Initial Month of Overpayment vs. Start Date of the Claim Period

The initial month of overpayment is not always the start of the claim period. The initial month of overpayment is determined by application of change reporting rules as discussed above.

The type of claim and the Date of Discovery of the discrepant information determine the start date of the claim period. A household is required to repay the overpayment that occurred during the months covered by the claim period. A household is not required to repay overpayment amounts that occurred outside the claim period.

For claims classified as AEs or IHEs, the claim period may go back one full year (12 months) from the Date of Discovery. In some instances, the actual AE and IHE overpayment may extend back further than the beginning date of the overpayment claim period.

EXAMPLE: On June 25, 2010, the worker determines that the agency failed to budget new unearned income that a Simplified Reporting (Six-Month) household reported during a recertification interview held in January 2009. The household's new certification period started February 1, 2009. The household was overpaid starting in February 2009. The worker classifies the overpayment as an AE.

The time period between the Date of Discovery, June 25, 2010 and the date the overpayment started is longer than 12 months. A household cannot be held liable for AE or IHE overpayment amounts for a past period longer than one year from the Date of Discovery. The start date of the overpayment claim period is July 1, 2009, one year from the Date of Discovery.

For claims classified as IPV s, the claim period may go back up to six years (72 months) from the date of discovery.

EXAMPLE: If, in the above example, the household had not reported the information and an IPV determination is obtained, the start date of the claim period is February, 2003 because the period of an IPV claim can go back up to 72 months.

Count the month of discovery as Month One when counting back to determine the start date of the claim period.

g. End Date of the Claim Period

The end date of the claim period is the date the change is made to the case or the date the information no longer applies to the case. The claim period includes overpayments made during the time between the date of discovery and when the change is made, including the notice time period. The total claim period can exceed 12-months for AEs and IHEs or 6 years for IPV s when these "forward" months are included.

EXAMPLE: A Simplified Reporting (Six-Month) household reported an increase in income at recertification. The new certification period started on February 1, 2009. On June

25, 2010 the worker discovers the agency failed to make the change. This is an AE overpayment.

3. Determining the Amount of the Claim

The worker sends timely notice to change the current case as of July 31, 2010. The claim period is July 2009 (one year back from the date of discovery) to 7/31/10 (the date the change is made to the case). The claim period is 13 months.

The SNAP overpayment is the difference between the SNAP benefits the household received and the benefits the household should have received.

Determine a corrected benefit amount for each month of overpayment. Subtract the corrected amount from the amount that was received to determine the overpayment amount for each month. Record the overpayment calculation on the paper LDSS-4778 Calculation of Total Overpayment Amount worksheet. This information will be needed to complete the CNS or manual notice that is sent to the household.

a. Determining the Amount Issued/Amount of Benefit Received

Use the Benefit Issuance Control System (BICS) "Case Record of Assistance" inquiry screens to determine the amount of EBT benefits issued to the household each month or if any benefits were returned or expunged. Under New York State's Electronic Benefit Transfer (EBT) system, a benefit is considered received as soon as it is posted and available in the household's account. The benefit does not have to be accessed (used) to be considered received. Benefits returned by the household or expunged are not considered received by the household.

Amounts of benefits authorized to the household but withheld as a recoupment to repay a prior overpayment are sometimes counted as benefits issued. If there is a recoupment for a prior overpayment in a month for which a new overpayment is being calculated, determine if the new overpayment occurred in the same period as the previous overpayment.

- (1) If the new overpayment occurred in the same period as the prior overpayment, the amount of the recoupment being taken to repay the prior overpayment is not counted as benefits received. Do not add the recoupment amount to the EBT-issued benefit to determine the actual amount of benefits received for the month.
- (2) If the new overpayment did not occur in the same period as the prior overpayment, the amount of the recoupment being taken to repay the prior overpayment is counted as benefits received. Add the recoupment amount to the EBT-issued benefit to determine the actual amount of benefits received for the month.

Use copies of past budgets to identify if a recoupment for a previously established claim was taken during a month in which a new overpayment is being calculated.

EXAMPLE: In January 2010, a worker is calculating an overpayment for two cases, both for the period January 2009 to December 2009. Both households have a recoupment for a prior overpayment that was being collected during the period the new overpayment occurred.

Case #1: Household #1 had a previous overpayment for February and March 2009. It was recouped from benefits paid in April 2009 through November 2009. During that period the household was entitled to \$100 per month but \$10 was withheld to repay (recoup) the overissuance. The household received \$90 in benefits each month in their EBT account. Do not include the amount of the recoupment as part of the amount of benefits issued from April 2009 to November 2009. Use \$90 as the amount of benefit issued. This is because the overpayment months of the prior claim (February 2009 and March 2009) occurred within the overpayment period of the new claim (January 2009--December 2009).

Case #2: Household #2 had a previous overpayment from June 2008 through December 2008. The recoupment started in January 2009 and will continue until June 2010. From January 2009 to December 2009 the household was entitled to \$100 per month but \$10 was withheld from the benefit to repay (recoup) the overpayment. The household received \$90 in benefits each month in their EBT account. Add the recoupment amount to the amount of EBT benefits issued to determine the total amount of benefits issued. Use \$100 as the benefit issued. This is because the overpayment months of the prior claim (June 2008 - December 2008) does not occur within the overpayment period of the new claim.

b. Determining Corrected Benefit Amount

(1) Earned Income Deduction

For all three types of change reporting, do not apply the earned income deduction to any part of the earned income that the household failed to report timely when determining the actual entitlement amount for IHE or IPV overpayment calculation. The earned income deduction is used when calculating an AE overpayment.

EXAMPLE: At recertification, a Simplified Reporting (Six-Month) household reports earned income of \$100 a week but fails to report income of \$25 per week from a second part-time job. When calculating the corrected benefit amount in order to calculate the overpayment amount, the earned income deduction is applied to the \$100 a week income but not to the \$25 a week from the part-time job.

(2) Use Actual Income Received

Workers use prospective averaged income when initially calculating SNAP eligibility and benefit amount. This requires using information at hand to make the best estimate of what the household expects to receive in income in the coming months. If the income varies from week to week an average pay amount must be calculated. That average pay must then be "converted" to reflect that there are 4.3 weeks in an average month.

When calculating an overpayment claim amount, the worker has access to a household's actual income records for the period in the past when the overpayment occurred. There is no need for a projected best estimate of income since the actual amount received is known.

For all three types of change reporting, use actual income received in a month rather than projected monthly income, to determine the corrected benefit amount when calculating a SNAP overpayment claim. Do not average and convert.

c. Corrected Benefit: Simplified Reporting (Six-Month) Household

(1) Freezing Income and Circumstances

To determine the corrected benefit amount for a Simplified Reporting (Six-Month) household for all overpayments except those due to the household's income exceeding 130% of poverty:

- (a) Determine the first month of the claim (not overpayment) period;
- (b) Calculate the amount of benefits the household should have received using the household circumstances and income that occurred during the first month of the claim (not overpayment) period;
- (c) Freeze the income and other case circumstances. Do not change the corrected benefit amount to reflect variations in income and other household circumstances between reporting points, unless the household's income starts to exceed 130% of poverty in any of the months. This is the corrected benefit for each month until the next reporting point.

EXAMPLE: Based on circumstances reported at a December 2010 recertification, the worker authorized a benefit for the period January 2011 to June 2011 using earned income of \$100 a week. During the next recertification interview in June, the worker finds out that another household member had unreported unearned income of \$75 a week when the case was recertified in December 2010. The worker also finds out that the earned income was raised to \$125 in February. After the increases, the household's income remained under 130% of the poverty level.

The household was overpaid for the months of January through June because of the unreported unearned income of \$75 per week. The worker figures the corrected entitlement for these months using the actual income received in January, \$175 a week. The increase in the earned income that occurred in February is not counted because the household was not required to report this change until the next recertification.

(2) Failure to Report Income Exceeding 130% of the Poverty Level

To determine the corrected benefit amount for a Simplified Reporting (Six-Month) household for overpayments due to failure to report household income has exceeded 130% of the poverty level:

- (a) Determine the first month of the claim (not overpayment) period;
- (b) The household was ineligible for all months in which benefits were received beginning the first month of the claim period. The corrected benefit amount is \$0 (zero). It does not need to be calculated. The total amount of the benefit issued each month is the overpayment;

- (c) The household remains ineligible until reapplying or recertifying, even if the income goes below 130% of the poverty level.

EXAMPLE: A Simplified Reporting (Six-Month) household had a certification period of January through June. During the recertification interview in June, the household reports receiving a new source of income in February which caused the household's income to exceed 130% of the poverty level. The new income amount continued in March. The household also reports the income stopped as of May. The household income was below 130% of the poverty level in May and June.

The household should have reported the income change by March 10. The case would have been closed before April. The household was over paid during April, May and June. The amount of the overpayment is the total of all the benefits received in those months.

Based on the household's circumstances during the June recertification interview, the household is eligible for SNAP. The worker reauthorizes the household with a certification period of July to December. A claim is established against the household for April through June.

(3) Extra Paycheck in Calculation Month

In some instances, a Six-Month Reporting household may receive more than the usual number of paychecks in a month because of the payday schedule ("5-paycheck month"). If there was an extra payday in the month identified as the first month of the claim period, eliminate the extra amount from the overpayment calculation. Use the amounts of the four most recent weeks of earned income to determine the income to use when determining the corrected benefit amount.

d. Corrected Benefit Amount: 10-Day (10-10-10) Change Reporting

To determine the corrected benefit amount for a 10-Day Reporting household:

- Determine the first month of the claim (not overpayment) period
- Calculate a corrected benefit amount for each month of the claim period using each month's actual household circumstances and income
- Allow for the change reporting time period and income limit reporting rules for any changes that occur during the months of the claim period.

EXAMPLE: A 10-day change reporting SNAP recipient residing in a group home had a certification period of January to December. The individual had no income. The SNAP recipient started receiving \$150 monthly from a pension on February 15 but did not report it. In June the pension was raised to \$300. In September, the recipient started receiving an annuity payment of \$200 per month. The worker discovers the unreported incomes during a recertification interview in December. The claim period is April to December 31. The income amounts to use to determine the corrected benefit areas follow:

January	\$0	
February	\$0	(Change in circumstance-pension income. 10-10-10 rule)
March	\$0	
April	\$150	(2 nd month following the month pension income started)
May	\$150	
June	\$150	(Increase pension 10-10-10 rule)
July	\$150	
August	\$300	(2 nd month following pension increase)
September	\$300	(Change in circumstance- annuity income 10- 10-10 rule)
October	\$300	
November	\$500	(2 nd month following month annuity income started)
December	\$500	

(1) Extra Paycheck in Calculation Month (10-Day Reporting)

In some instances, a 10-Day Reporting household may receive more than the usual number of paychecks in a month because of the payday schedule ("5-paycheck month"). If there was an extra payday in any month of the claim period, eliminate the extra amount from the overpayment calculation. Use the amounts of the four most recent weeks of earned income to determine the income to use when determining the corrected benefit amount.

(2) Underpayments During Claim Period (10-Day Reporting)

If the calculation of corrected benefit amount shows there was an underpayment in a month included in the claim period, consider that month as having no overpayment (\$0). Do not subtract the underpayment amount from the total claim amount to reduce the amount of the claim.

EXAMPLE:

MONTH	ISSUED	CORRECT	OP
June	\$ 150	\$ 125	\$ 25
July	\$ 150	\$ 125	\$ 25
August	\$ 150	\$ 200	\$ 0
September	\$ 150	\$ 125	\$ 25

Total Overpayment \$75

Issue restored benefits to the household for underpayments caused by the agency. Do not issue restored benefits for overpayments caused by the household's failure to timely report. Offset restored benefits against established overpayment claims.

e. Switching From One Type Reporting to the Other: Six-month and 10-Day Reporting

(1) 10-Day Reporting to Simplified Reporting (Six-Month)

Use the 10-10-10 Change Reporting time rules to determine the first month of overpayment when a 10-Day reporting household has a change that makes it a Simplified Reporting (Six-Month) household. Use Simplified Reporting (Six-Month) rules to determine the amount of the overpayment. Simplified Reporting (Six-Month) rules apply to determining the corrected benefit amount even though the household did not report the change.

EXAMPLE: A household with no income was opened with a certification period of June to November. The household was required to report changes according to the 10-Day Reporting requirements. In July, a household member started a part-time job for \$100 a week but did not report it. In September the pay for the part-time job was raised to \$225.

During a recertification interview in November, the worker discovers that the income was not reported and calculates an overpayment. The household's income did not go above 130% of poverty during any of these months. The amount of earned income used to calculate the overpayment is as follows:

Month	Earned Income Received	Corrected Income
July	\$ 300 (worked three weeks)	\$0 (10-10-10 period)
Aug	\$ 350	\$0 (10-10-10 period)
Sept	\$ 400 (4 paychecks @ \$100)	\$400 (Start of OP)
Oct	\$ 500 (4 paychecks @ \$125)	\$400 (Inc frozen Sept amt)
Nov	\$ 625 (5 paychecks @ \$125)	\$400 (Inc frozen Sept amt)

The claim period is September through November.

(2) Simplified Reporting (Six-Month) to 10-Day Reporting

If a household no longer meets the requirements to be a Simplified Reporting (Six-Month) household, the Simplified Reporting (Six-Month) rules continue to apply until the end of the household's certification period or next required six-month contact.

4. Claims During TBA Period

If an overpayment results because the worker does not use the correct budgeting method to determine the TBA benefit when the TA case closes, a claim for the overpayment amount is established against the household. The claim starts with the month in which the first TBA benefit is paid to the household and ends with the last month the TBA benefit is paid.

If the Supplemental Nutrition Assistance Program benefit is in error at the time that the TA case closes and the worker uses this information as the basis for determining the TBA benefit, there is no overpayment if the worker uses the correct budgeting method to determine the TBA benefit amount.

The local district must not decrease benefits during the TBA period. There is no overpayment if a change occurs during the TBA period that would decrease the benefits even if the change is reported and verified by a household member or a source outside the household.

Do not reduce TBA benefits by starting an overpayment recoupment for a new claim during the TBA period. Negotiate a repayment agreement for case repayment, if the case closes after the TBA period or start of a recoupment, if the case stays open after the TBA period.

5. Claims and New York State Nutrition Improvement Project (NYSNIP) Households

Establish a claim:

- a. Starting in the second month following the month the interim contact form was mailed to the household, for any benefits received after failing to respond to the interim contact request. Continue the claim period until the month in which the household had appropriate contact with the local district.
- b. If a household fails to report required changes in information or reports misinformation at the interim contact or at recertification.
- c. If the agency fails to act on information on the SDX that causes an overpayment.

F. Collecting the Claim - Repayment Methods

Make all reasonable efforts to collect the overpayment amount for both open and closed cases, once a claim is established.

1. Recoupment: Active Cases

Collect overpayment claims through SNAP benefits reduction (recoupment) during any period when there is an open case.

The recoupment amount for IHE and AE claims is 10% of the household benefit amount, or \$10, whichever is greater. The recoupment amount for IPVs is 20% of the household benefit before it is reduced due to the IPV disqualification, or \$20, whichever is greater. One- and two-person households receiving the minimum benefit of \$10 may have their SNAP benefits reduced to zero due to FS recoupment.

Claims against active cases must be collected through recoupment unless:

- The household voluntarily requests to make monthly repayment through another method (e.g., cash, return of an EBT SNAP benefit), and
- The amount to be collected each month will exceed the amount of the recoupment. This applies to all types of claims: AE, IHE and IPV.

A household may voluntarily elect to make payment in addition to the recoupment amount at any time.

Before September 1996, AEs could not be collected through any means unless the household agreed to repayment and completed a repayment agreement. This was changed with the implementation of PRWORA.

All AE overpayments, including those established before September 1996, are now collected through recoupment when there is an active case.

When starting a recoupment for the first time to collect an AE established before September 1996, review the past record to determine if the household received proper notice at the time the AE claim was initially established. If there is any doubt as to whether proper notice was sent, send appropriate notice to establish the claim.

2. Direct Collection: Inactive/Closed Cases

Persons who incur SNAP overpayments are obligated to repay the overpayment even if no longer in receipt of assistance. This includes overpayment claims established while receiving benefits and overpayment claims established at or after case closing.

Negotiate a Repayment Agreement with the household when a case with an outstanding claim balance closes, a claim is established at case closing or a claim is established after the case is closed.

Establish and implement local district procedures for establishing a Repayment Agreement and for continuing collection efforts if a person:

- a. Fails to enter into a repayment agreement
- b. Does not make a payment in accordance with an established repayment schedule
- c. Pays less than the agreed upon amount

The Cash Management Subsystem (CAMS) can be used to send regular billing statements, or a local district can initiate other collection activities. CAMS also provides an Aging Report that tracks the length of time the claim has been delinquent. After the claim has been delinquent for more than six months, it can be referred to the Treasury Offset Program (TOP) for collection from federal benefits.

3. Treasury Offset Program (TOP): Inactive/Closed Cases

The Treasury Offset Program (TOP) is a collection method for delinquent SNAP overpayment claims. All local districts are required to participate in TOP.

Delinquent Supplemental Nutrition Assistance Program overpayment claims are referred to the U.S. Treasury for collection from any federal payments potentially due the individual who is responsible for the overpayment. Federal payments eligible for offset include tax refunds, federal salaries, federal pension benefits or Veteran's Benefits. NY State, in accordance with federal regulation 7 CFR 273.18, removes only cases where the State has arranged with the debtor to resume payments from the Tax Offset Program (TOP). Additionally, if a case has been inactivated from TOP and fails to make a payment for a period of 60 days the case is reactivated automatically in TOP.

Cases are identified for a TOP collection after an automated review of CAMS shows the:

- a. Client responsible for the overpayment is not a current recipient of FS benefits and
- b. Debt is less than 10 years old and
- c. Claim is delinquent

The retention of documentation is critical for the proper certification of SNAP overpayments to the TOP program. Claim documentation must be retained as proof of the overpayment claim. This information must also be made available to the client. The client is entitled to the supporting information upon request at anytime, up to and including the appeal process.

4. Offsetting Restored Benefits: Active and Inactive/Closed Cases

Offset restored benefit amounts against overpayment amounts. Use this repayment method for both active and closed cases that receive restored benefits. Check to see if there is an outstanding overpayment amount before issuing a restored benefit. If there is an outstanding claim balance, do not issue the benefit to the client.

In upstate local districts, deduct the restored amount from the WMS claim balance and change the claim balance in WMS and CAMS. In New York City follow the local procedures in the Family Independence Administration (FIA) FS Recoupment Subsystem. See Section J of this Directive for more information about WMS and the FIA SNAP Recoupment Subsystem.

5. Benefit Expungement: Active and Inactive/Closed Cases

All unredeemed SNAP benefits in an account are expunged (erased) from the EBT System if there are no benefits redeemed for 365 days. Unredeemed benefits are offset against any outstanding claim balance before they are expunged. This process applies to both active and closed cases. The offset is done automatically for claims listed on CAMS.

Benefits which are unredeemed for 365 days or more when expunged may not be restored. Benefits expunged when unredeemed for less than 365 days may be restored at client request. Adjust the claim balance in CAMS and WMS if benefits previously offset against a claim are later restored to the client.

6. Voluntary Repayment: Active and Inactive/Closed Cases

Clients may make extra voluntary payments to reduce overpayment claim amounts at any time. These may be cash repayment, repayment using EBT SNAP benefits, increasing the SNAP benefits reduction (recoupment) to a higher amount than required or making payments in addition to the amount required by a repayment agreement or recoupment percentage.

A household with an active case may make voluntary payments in addition to repayment through recoupment. However, a household may not substitute a voluntary repayment for a recoupment unless the voluntary payment is more than the recoupment amount.

Establish and implement local district worker and supervisory procedures regarding accepting extra voluntary repayments. Ensure that the worker knows the appropriate action to take or referral to make if a client wants to make a voluntary repayment.

7. Switching Collection Method

Change the collection method when a case status changes from active/open to inactive/closed or vice versa. Send the household a notice explaining the change in collection method and the outstanding amount of the claim balance.

In this situation the household has a right to a fair hearing to challenge the amount of the claim balance or the appropriateness of the collection method. The household does not have fair hearing rights regarding the fact that there is an overpayment. The household had the opportunity to challenge the overpayment when it was established.

G. Establishing The Claim

1. Establishing a New Claim

a. Notice

Establish the claim by sending all appropriate notices once the type, period, amount and repayment method of the claim is determined. The date on the Demand Notice is the date the claim is established, provided the notice is not returned as undeliverable. If returned as undeliverable, a claim is not established.

b. System

Enter information about the claim into WMS upstate and into the Family Independence Administration (FIA) Recoupment Subsystem in New York City.

Enter Upstate claim information into the Cash Management Subsystem (CAMS) for all closed cases. Use of CAMS for active cases is optional. Enter claim information for active cases into CAMS, if the district uses CAMS for active cases. Establish a claim control process for active cases that meet the requirements established by the OTDA Office of Finance if the local district does not use CAMS for active cases.

In New York City there is an interface between the FIA Recoupment Subsystem and CAMS. Information entered into the Recoupment Subsystem is automatically transmitted to CAMS. No separate action is required to ensure that the data goes to CAMS.

2. Waiving Claim Establishment

a. Pre- Establishment Cost Effectiveness Determination

In the following instances, claim establishment may be waived because it may not be cost effective to establish and subsequently collect an overpayment:

(1) Closed Case with Claim Less Than \$125

- (a)** It is a local district option to waive establishment of a claim if the case is closed and the amount of the claim is \$125 or less. The local district can establish an establishment threshold of any amount between \$1 and \$124. This includes IPV claims, unless the court decision establishing the IPV prohibits waiving the establishment of the claim. The IPV disqualification penalty is imposed even if the establishment of the overpayment claim is waived.

If a local district chooses to use an establishment threshold for closed cases, the policy must be applied to all cases fitting this situation. It cannot be used on a case-by-case basis.

Document in the case record that no claim was established because the case is closed and the amount is less than the local threshold when processing a closed case for which the establishment of the claim is waived. This resolves the discrepant information. The information does not have to be reviewed again if the case reopens.

A local establishment threshold pertains only to establishing the claim. If a claim was established and the balance is below the threshold when the case is closed or falls below the threshold after the case is closed, collection efforts must be continued. In such situations, consider writing off the claim.

Establish and collect claims of any amount for active cases.

(2) All Members Deceased

- (a) Claims establishment may be waived if all persons who would be responsible for repaying the claim are deceased. Claims may be established against the estate of deceased household members. It is a local district option to waive establishment of a claim against the estate of deceased household members. This option may be used on a case-by-case basis. It does not need to be applied to all cases fitting the situation. Document in the case record that no claim was established because all members of the case are deceased, if this option is used.

(3) No Adult Household Members

- (a) Do not establish a claim if all members of the household were under the age of eighteen and none of them were head of the household when the overpayment occurred.

3. Responsibility for Claims Established In Another Jurisdiction

a. Household Continuing to Receive FS Benefits

If a household with a claim established in another New York local district or another state moves to a new district and continues to receive FS benefits in the new district, responsibility for collecting the claim is transferred to the new district.

Notify the old local district or state to terminate the claim. Change CAMS to reflect that the new local district will collect the recoupment.

Make sure that the uncollected balance of the claim is accurate when reestablishing the claim. Information in CAMS is considered accurate. It does not have to be verified by additional contact with the previous county. If there is no CAMS information because the previous district does not use CAMS or the claim was established in another state, contact the old district or state to find out the current uncollected claim balance.

The household must be informed of the amount still owed when the claim is reestablished in the new district.

Do not obtain copies of the documentation used to initially establish the claim when re-establishing it. This documentation remains with the county that originally established the claim.

The new local district is responsible for issues dealing with the accuracy of the balance and collection for the period of time after the claim is established in the new district if a client requests a Fair Hearing. The old local district or state remains responsible for issues dealing with the original

establishment of the claim and the accuracy of the balance and collections during the period before the claim was transferred to the new local district. At times, there may be Fair Hearing requests regarding issues for the period of time before the claim was transferred. The new local district may have to appear at the Fair Hearing on behalf of the old local district or state due to location and travel considerations. If this happens, obtain the information and documentation needed for the hearing from the old local district or state at that time.

b. Households Not Continuing to Receive SNAP Benefits

If a household moves and does not continue to receive SNAP benefits, the old local district remains responsible for collection. Obtain a repayment agreement from the household and continue to collect the overpayment. If the household does not cooperate use other collection methods such as TOP.

H. Compromising Claim Amounts

1. Claims Compromise on Inactive/Closed Cases

This provides discretionary standards for local districts to compromise (reduce) claim amounts including AE's, IHE's and IPV's in order to maximize and expedite client payments. Compromise is the term used to describe the administrative reduction of part of a SNAP claim amount. Claims compromise is offered as a collection tool to offer an accommodation to clients with outstanding debts, thereby encouraging payment directly to the district, and speeding receipt of payments at that level.

Active cases with over issuances will continue to repay the full amount of the claim via allotment reduction. Balances for each of several claims against the same household may be compromised at the same time, though each claim will need to be adjusted separately. Claims compromise is not appropriate for all cases, especially if collection can be achieved effectively by other means.

The manual version of the "Notice of Food Stamp Overpayment" (LDSS- 3156) as well as the related CNS notices have been revised to include the statement, "If you have a Supplemental Nutrition Assistance Program Benefit Agency overpayment that has not been paid back, and your case is now closed or being closed, you may be able to get a reduction (compromise) of what you owe. If you cannot repay the full balance of what you owe, talk to your local department of social services.

Upon client request, the LDSS will consider compromising a claim. As a rule, only claims that the district deems not to be fully collectible via a standard repayment agreement or by other means (including a potential future TOP recovery), are eligible for compromise. Decisions regarding compromise must be documented and maintained in the case record.

2. Compromise/Collection Methods

The district shall compute the amount of potential payment available by determining the Thrifty Food Plan for the current household size for a three-year period. Ten (10) percent of that amount will be considered the figure that can be reasonably anticipated to be collected and the amount of debt exceeding that is to be vacated. Since claims compromise is offered as a collection tool thereby encouraging payment directly to the district, the district must secure another repayment agreement as a condition of the compromise. If the household becomes delinquent in its payment of the compromised amount, the debt shall continue to be the compromised amount, less any payments made.

Or

Districts may also offer to settle for amounts larger or smaller than the total from the above method if they believe it creates a greater likelihood that the household will be able to pay the debt.

3. Other Compromise Issues

No further compromise may be afforded on the same claim if the client has defaulted on paying the compromised amount. However, at the discretion of the local district, the timely and installment amounts of the prior repayment agreement may be renegotiated without impacting the compromise.

Delinquent accounts will be subject to collection through the Treasury Offset Program (TOP) as well as other collection methods.

Fair Hearing Implications: Claims Compromise is a collection method provided by USDA to increase and expedite collection of federal debt. While it is intended to be an administrative tool and it is not to be confused with a client right, Fair Hearing rights are afforded when a request for compromise is denied. For this purpose, additional compromise notification language has been added to the Notice of Food Stamp Overpayment (LDSS-3156).

I. Terminating Claims

1. Termination of Claim

For a non-participating household, districts may also choose to terminate a claim that it deemed to be administratively uncollectible if it meets any of the following criteria:

- a. Any claim which is found to be invalid in a fair hearing, administrative disqualification hearing or court hearing
- b. Any claim in which all adult household members are deceased, and the local district is not planning to pursue collection from the estate
- c. Any claim of up to \$500 for non-participating households
- d. Any claim which the local district has determined is not cost-effective to collect; or
- e. Any claim which has been delinquent for three years. Claims no longer have to be suspended for 3 years before termination.

Note: Suspension, a period of inactivity prior to referral for collection, is no longer required. Clients are entitled to all appropriate notice and hearing periods but may then be referred without further delay.

Local Departments of Social Service (LDSS) should continue to use the termination provision to target uncollectible claims and avoid inflating SNAP Claims inventories with bad debts.

Documentation of the reason for termination should be included in the case record.

J. Notices

Providing proper notice of an overpayment is a critical step in the claims process. The date of the notice is the date the claim is considered established. Failure to provide proper notice can result in the claim being overturned in a Fair Hearing or being rejected from automated collection processes such as the Treasury Offset Program (TOP).

The following are the approved notices for claims establishment. No other notice, such as a local Confession of Judgment, may be substituted for the State approved CNS or manual notices when establishing a FS overpayment claim.

1. **Claims Establishment Notices: Demand Notice, Calculation of Total Overpayment Amount Worksheet, Repayment Agreement**

The following must be sent to the household to establish the claim:

- Demand Notice
 - Overpayment Calculation Explanation
 - Repayment Agreement, if claim cannot be collected through recoupment
- a. Demand Notice

The Demand Notice tells the household about the:

- (1) Amount of the overpayment
- (2) Period of the overpayment
- (3) Reason for the overpayment
- (4) Date of discovery
- (5) Type of claim
- (6) Method of repayment

The household has fair hearing rights on all aspects of the claim listed above when a claim is being established.

The Demand Notice also provides:

- (1) Information that the local district may continue to pursue an IPV even though an IHE has already been established; and
- (2) Information that an unpaid claim will be referred for collection including automated collection by the federal government even after the case is closed.

The Demand Notice is also used to notify the household about the current balance of a claim.

b. Calculation of Total Overpayment Amount Worksheet

Send the Calculation of Total Overpayment Amount worksheet whenever a claim is being established to:

(1) Support the amount of overpayment stated on the Demand Notice

(2) Show amounts of overpayment month-by-month.

(3) Support the agency's position during agency conferences, Fair Hearings and TOP challenges.

The manual version of this notice can be used by the worker as a calculation aid when the amount of the overpayment is being calculated.

c. Repayment Agreement

Send the Repayment Agreement when:

(1) Establishing a claim at case closing

(2) Establishing a claim after the case is closed.

(3) Closing a case with a previously established claim

It is also used when a household with an active case requests to make a voluntary repayment that is in excess of what is being recouped.

Establish and implement local district procedures to monitor the sending and return of the Repayment Agreement. The procedures must include at a minimum:

(1) Identification of who sends the agreement, who monitors the return of the agreement and where the agreement is sent when it is returned.

(2) Provisions for discussing with the recipient the specifics of the repayment so that any necessary billing can be set up.

(3) The process to use when the Repayment Agreement is returned.

(4) The process to use if the Repayment Agreement is not returned, including efforts to continue to try to obtain a repayment agreement.

Do not send the Repayment Agreement to an active case unless the recipient wants to make a voluntary repayment.

2. Producing the Establishment Notice

a. Active Cases CNS

Use the following CNS codes to generate Establishment Notices for active cases:

Type of Overpayment	CNS Code if recoup will start in WMS	CNS Code if recoup will be pending in WMS
Agency Error (AE)	R 21	R 24
Inadvertent Household Error (IHE)	R 22	R 25
Intentional Program Violation (IPV)	R 23	R 26

When any of the above codes are used and the appropriate worker entry fields are completed, they generate the CNS Demand Notice, which includes the Calculation of Total Overpayment information. Codes R23 and R26 also generate the information about the Food Stamp disqualification penalties.

b. Closed/Closing Cases CNS

Use the following CNS codes to generate Establishment Notices for closed cases or when establishing a claim at case closing:

Type of Overpayment	Code
Agency Error (AE)	R 27
Inadvertent Household Error (IHE)	R 28
Intentional Program Violation (IPV)	R 29

When any of the above codes are used and the appropriate worker entry fields are completed, they generate the CNS Demand Notice, the Calculation of Total Overpayment information and the Repayment Agreement. Code R29 also generates the information about the Supplemental Nutrition Assistance Program disqualification penalties.

c. Manual Notices

The following are the manual claims establishment notices for active, closed and closing cases:

- (1) LDSS 3156 - Notice of Food Stamp Benefits Overpayments is the Demand Notice for AE and IHE overpayments.
- (2) LDSS 4799 - IPV Disqualification Notice is the Demand Notice for IPV overpayments. It also tells the household about the SNAP disqualification penalties.
- (3) LDSS 4778 - Calculation of Total Overpayment Amount is used with both the LDSS 3156 and LDSS 4799 to explain how the overpayment was calculated.

The manual Repayment Agreement for closed and closing cases is:

- (1) LDSS 4053 - FS Repayment Agreement

3. Notifying Household of the Effect Claim Will Have on Current Benefits

a. CNS Notices

In addition to the information about the amount of the claim and how it was calculated on the Demand Notice and the Calculation of total Overpayment Amount worksheet, inform a household with an active case of the effect the recoupment of the overpayment will have on current benefits. Use the notices or the comparable CNS language that inform the household about eligibility and benefit amount. The notice codes vary depending upon the type of action being completed.

b. Manual Notices

The manual notices used for this purpose are:

- (1) LDSS-3152 Action Taken on Your FS Case
- (2) LDSS-3152 (NYC) Action Taken on Your FS Case (NYC)
- (3) LDSS-3620 Notice of Intent to Change Benefits (Timely and Adequate)
- (4) LDSS-3620 (NYC) Notice of Intent to Change Benefits (Timely and Adequate) (NYC)
- (5) LDSS-3621 Notice of Intent to Change Benefits (Adequate Only)
- (6) LDSS-3621 (NYC) Notice of Intent to Change Benefits (Adequate Only) (NYC)
- (7) LDSS-3969A & LDSS-3969B Notice of Action on Your Application/Benefit for the Child Assistance Program
- (8) LDSS-4013A & LDSS-4013B Action Taken on Your Application: Public Assistance
- (9) LDSS-4013A (NYC) & LDSS-4013B (NYC) Action Taken on Your Application: Public Assistance (NYC)

- (10) LDSS-4014A & LDSS-4014B Action Taken on Your Recertification: Public Assistance
- (11) LDSS-4014A (NYC) & LDSS-4014B (NYC) Action Taken on Your Recertification: Public Assistance (NYC)
- (12) LDSS-4015A & LDSS-4015B Notice of Intent to Change Benefits: Public Assistance (Timely & Adequate)
- (13) LDSS-4015A (NYC) & LDSS-4015B (NYC) Notice of Intent to Change Benefits: Public Assistance (Timely & Adequate) (NYC)
- (14) LDSS-4016A & LDSS-4016B Notice of Intent to Change Benefits: Public Assistance (Adequate Only)
- (15) LDSS-4016A(NYC) & LDSS-4016B(NYC) Notice of Intent to Change Benefits: Public Assistance (Adequate Only) (NYC)

For IPV Claims, use the LDSS 4799 - IPV Disqualification Notice (LDSS 4799(NYC)) to inform the household about the effect the IPV claim will have on current benefits.

4. Updating the Household About the Claim Balance

When a household switches from one-repayment method to another (i.e. recoupment to cash, cash to recoupment) send notice of the total balance of all overpayments owed. In this situation, there are Fair Hearing rights on the accuracy of the claim balance and repayment method. There are no Fair Hearing rights on the criteria used to originally establish the claim (i.e. original amount, period, reason, date of discovery and type).

a. CNS Notices

Use the following CNS codes to generate a Claim Balance notice:

Action	CNS Code
Active Case is Closing (Recoupment to cash repayment)	L 99
A closed case with an outstanding AE or IHE is reopening (Cash repayment to recoupment)	L 92
A closed case with an outstanding IPV is reopening (Cash repayment to recoupment)	L 94

The worker must complete the BALANCED OWED field for the CNS notice. In addition to generating the Balance Owed Notice, code L99 also generates the Repayment Agreement.

b. Manual Notices

If using manual notices, use the LDSS 3156 - Notice of Food Stamp Overpayment to update the household about the balance owed when the repayment method for the household changes. Also send the LDSS 4053 - Repayment Agreement when the case is going from active/opened to closed.

5. Households That Cannot Be Located For Claims Establishment

A claim is not established if the FS Demand Letter Notice (manual or CNS) is returned to the agency as undeliverable. However, there may be a good chance to collect the overpayment if the household members come back on SNAP or can otherwise be located at a later date.

Make reasonable efforts to get undelivered notices to household members liable for repayment. If such attempts fail, terminate the claim in CAMS.

When a claim is terminated ("written-off"), it is no longer subject to continued collection and reporting requirements. However, the information about it stays in CAMS. If a new collection method or a specific event subsequently increases the likelihood of further collection, the claim may be reinstated.

If contact is made with the household at a later date, send the appropriate notices to establish the claim and change the claim status in CAMS. In districts that do not use CAMS for open cases, reinstate the claim in the local accounting system.

Do not attempt any collection of the overpayment until the household receives appropriate notice of the claim by receiving the manual or CNS Demand Notice.

Establish and implement local district procedures to:

- a. Control claim notices returned as undeliverable so that these claims are terminated in CAMS
- b. Ensure that workers identify terminated claims when contact is renewed with a household member
- c. Ensure that proper notice to establish the claim is sent to the household when contact is re-established and that the claim is removed from terminated status in CAMS
- d. Insure proper manual controls if the district does not use CAMS for active cases.

Failure of the household to return a Repayment Agreement does not mean the mail was undeliverable. Even if the Repayment Agreement is not returned, the claim is considered established unless the Demand Notice is returned marked "undeliverable."

K. Documentation

1. Types of Documentation

Maintain all documentation that supports the decisions about the claim amount, type, period and repayment method. At a minimum, this includes but is not limited to:

- a. The source of the discrepant information, such as a verbal report from the client, a change report form, information received from an outside source, or computer print-out
- b. Application or recertification forms that apply to the time period of the overpayment
- c. Verification of the discrepant information, such as pay stubs or employer letters
- d. Copies of manual notices
- e. Records relating to the amount of benefits that were received
- f. Budget calculations used to determine the benefit amount that the client should have received. This can be represented as copies of scratchpad budgets representing the entire period of overpayment
- g. The Calculation of Total Overpayment Amount worksheet with the month-by-month overpayment summary showing the Date of Discovery, Date of Establishment, amount issued to the household, the amount to which the household was actually entitled, the overpayment amount for each month and the total amount of the overpayment.

Documentation may be paper originals, copies of originals, electronically imaged documents or an electronic record such as information retained in WMS and CAMS. It may be kept in a separate claims file or in the general case record. If kept in the general case record, the information must be clearly identified that it supports a claim and what claim it supports. Information must be readily retrievable for local district, federal, State, client, or fair hearing review. Failure to adequately document claims establishment information can result in the claim being overturned in a Fair Hearing, TOP review or other challenge.

2. Record Retention Requirements

Keep closed case documentation according to the USDA time limits outlined below:

- a. IPV Disqualification Records: Indefinite. These records must be retained for the life of the individual or until USDA notifies the State that the record is no longer needed.
- b. Work Requirement Violation Records: Indefinite. Permanent work rule disqualifications must be retained for the life of the individual or until s/he reaches age 60, whichever occurs first.
- c. Claims Records: 3 years after the claim is either satisfied or closed administratively.
- d. Issuance Records: 3 years from the date the federal debt is paid for cases with claims.

In addition, follow these State requirements:

- a. General Program Records: 6 years from the date of origin.
- b. Certification Records 6 years from the end of the date of certification or, if under investigation, until the investigation is resolved or the penalty imposed.
- c. DSS-3214 Status of Claims Against Households: 6 years.
- d. CAMS Reports: 6 years.

L. Systems Implications

1. WMS Claims Procedures

This section outlines the WMS activities used to process claims in new, active and closed cases.

a. Upstate

(1) Establishing a new claim

To enter a new claim in WMS for an active case on the ABEL FS Input screen enter:

(a) Claim Type using one of the following codes:

1 Agency Error

2 Client Error

4 TA Fraud/FS IPV

(b) Enter the Claim Balance

(c) If the Claim Type is '4' (FS IPV), enter the number of people disqualified

ABEL calculates the amount of the ongoing monthly SNAP Benefit reduction, the number of months it will take to collect the overpayment and the final month's remaining recoupment amount.

The household may enter into a voluntary repayment agreement to make a monthly repayment that is greater than the required 10% or 20% recoupment amount. If this occurs, the household must complete a "FS Repayment Agreement." Enter the amount of the voluntary repayment in the "Amount" field. ABEL will not calculate a recoupment amount. The voluntary repayment amount will be used as the recoupment amount.

Write a recurring FS Payment Line using Payment Type "96" or "X6". WMS brings the monthly Claim amount being recouped from the stored ABEL Budget to the bottom of data-entry Screen 6. The monthly recoupment amount is transmitted to BICS and that amount is subtracted from the total claim balance in WMS. For districts using CAMS for active cases, the amount of the recoupment is also automatically posted to the CAMS claim.

When doing subsequent months' budgets for the case, enter 'Y' in the RECALC field on the FS Input Screen. The overpayment balance, the number of months to recover the overpayment and any remaining final month overpayment amount are updated each time a subsequent budget is stored with a 'Y' entered in the RECALC field on the FS Input Screen.

When writing single issue FS payment lines using either Pay Type X1, X3, 91, 93, 94, 95 or 97, if there is no ABEL budget to access, enter the claim amount at the bottom of data-entry Screen 6. This ensures accurate crediting of the recoupment amount in CAMS in districts using CAMS for active cases. Under certain circumstances, WMS will automatically bring a Claim Amount to Screen 6, if there is a stored budget that matches the amounts and dates of

the single-issue payment. Complete details for updating CAMS using single-issue pay lines are contained in the following two "Dear WMS Coordinator" Letters: November 14, 2003, Attachment I, #3, and July 10, 2003, Attachment I, #3.

Prepare appropriate manual or automated notices with reason(s) and corresponding budgetary information for the action taken on the case and amount to be recovered.

(2) Previous Claims/Order of Collection

ABEL has room to show two outstanding claims. The first claim occurrence field is the claim currently being collected. If it is filled, enter the new information in the second occurrence field. Collection will start on the new claim after the collection on the previous claim is complete.

If there already are two outstanding claims, entry of the information into ABEL is pended. Follow local procedures for pending the claim entry into WMS. Enter information about the claim into CAMS even though the entry into WMS has been pended. Send appropriate notice to the household, even if the entry into WMS is pended.

Collection of IPV takes precedence over collection of AE and IHE claims. If the new claim is an IPV, and the first prior claim occurrence is not an IPV claim, suspend the claim that is in the first field. Do this by removing the non-IPV from the first claim occurrence field and putting it in the second occurrence field. If there already is a claim in the second occurrence field, move that claim to pending.

If the first occurrence is an IPV, do not suspend it. Put the new IPV claim in the second field. If the rare third claim is an IPV, pend WMS entry for the new IPV. For AE and IHE claims, collect the oldest claim first.

(3) Previous Claims at Case Opening

When opening a new case, determine if anyone in the new case has an outstanding claim. There is a Recoupment Indicator on the WMS Clearance Report if the individual being matched is or was a member of a case that currently has, or had when closed, an outstanding TA recoupment balance, an outstanding SNAP claim balance or both. The indicator is labeled R/C on the clearance report, with values of "P" for TA recoupment, "F" for FS claim or "B" for both. Also, information may be obtained about previously established overpayment through other sources such as direct contact with other local districts or states and the state Disqualified Recipient Subsystem (DRS) or CAMS.

Enter these claims into WMS for collection. If there is more than one claim, enter IPV's first and all other claims next with the oldest claim listed first.

(4) Establishing a Claim at Case Closing or on a Closed Case

Claims established at case closing or after a case closes are not entered into WMS when established.

(5) Fair Hearings

If a client requests a Fair Hearing and is entitled to aid-to-continue take the following actions:

- (a) Cancel the payment line reducing the FS benefits
- (b) Recalculate and store a new ABEL Budget without including the overpayment claim that is in dispute
- (c) Re-write the payment line in an amount not reflecting the claim recovery

If the district is upheld in the hearing, re-establish the claim. This includes recalculating the claim to include the amount of the overpayment accrued during the aid-to-continue period. Reenter the claim in WMS. Make sure CAMS information is updated.

Remove claim from CAMS, if the district decision is overturned.

b. New York City

(1) New Claims

In NYC, claim data for both opened and closed cases is processed and maintained in the FS Recoupment Subsystem. This subsystem is designed and maintained by the New York City Family Independence Administration (FIA) in accordance with standards defined by OTDA.

Amounts entered into the subsystem are recouped automatically when the regularly recurring FS benefit is issued. Setting the claim collection priority is done by the system. It does not require any worker action. Claim information from the recoupment subsystem is sent to the State CAMS system.

Follow the Recoupment Subsystem procedures issued by the FIA to establish or change a claim for a NYC case.

(2) Claims at Case Opening

When opening a new case, determine if anyone in the new case has an outstanding claim. There is a Recoupment Indicator on the WMS Clearance Report if the individual being matched is or was a member of a case that currently has, or had when closed, an outstanding TA recoupment balance, an outstanding FS claim balance or both. The indicator is labeled 'Recoup' on the clearance report, with values of 'Y' or 'N'. Also, information may be obtained about previously established overpayment through direct contact with other counties or states and from the state DRS system.

Follow the Recoupment Subsystem procedures to insure that outstanding claims are recorded in the subsystem.

(3) Fair Hearings

For a case entitled to Fair Hearing aid-to-continue, take the following actions:

If the recoupment transaction is in 04 clockdown status (also known as 10-day timely notice), enter an FH status of "2" (aid continue) through the Fair Hearing Update subsystem.

If the recoupment is not clocking down, give aid-to-continue through the FS recoupment subsystem (action code 5).

2. Cash Management Subsystem (CAMS)

CAMS, the Cash Management Subsystem is the portion of Benefit Issuance Control System (BICS) that allows for the cash collection and accounting of claims established due to the client being overpaid. The Accounting or Resource Unit staff is normally the unit responsible for the actual entry of data into CAMS. For information on the actual entry of data into CAMS refer to the Cash Management Procedural Manual that is published by the Bureau of Financial Services.

For open cases, CAMS receives the recoupment information that appears on WMS screen 6 for "recurring" or is entered for "single issues." On the fourth weekend of the month a batch job is run in CAMS to update claims with recoupment data. The amount of the recoupment is updated to the outstanding claim resulting in reduction of the outstanding balance of the claim. It is critical to enter "single issues" on screen 6 to allow the recoupment process to update the claim.

Two types of reports identify situations where the CAMS claim information is inconsistent with the information received from WMS. If a claim exists for the case but no recoupment was received, a report can be requested to identify the situation. The Accounting or Resource Unit must then notify the worker that ABEL should be changed to include a recoupment in the budget calculation. An automated, monthly report will be generated, if a recoupment is received but no claim has been established. This would indicate to Accounting or the Resource Unit that they must contact the worker to obtain the overpayment information.

CAMS is used to post voluntary repayments that the client makes to the local district for closed cases. These repayments are posted to the claim and reduce the outstanding balance by the amount of the repayment. In addition, CAMS can generate a billing statement for these cases. These statements identify the amount of all outstanding claims and request that payment be made. The Billing Statements are produced on a schedule determined by the local districts. When claims for closed cases are established, Accounting or the Resource Unit indicates whether a bill should be generated for that particular claim.

Send CAMS billing statements periodically to remind of outstanding claims if a former recipient refuses to enter into a repayment agreement with the agency or does not make the payments required by a repayment agreement. Do not use CAMS billing statements in place of the initial Demand Letter. Local districts must establish procedures regarding how often billing statements will be sent. There is no State

requirement regarding frequency of demand letters. However, local districts with poor collection records may be required to develop a Corrective Action Plan to improve collection activity.

The most important financial report that is generated for FS overissuances is the DSS-3214 (FS Benefits Program - Status of Claims against Households). CAMS generate this report monthly for submission to the State. The accumulation of the DSS-3214s becomes the basis of the State's reported overclaim information to the federal Government. The report includes all the recoupment and repayment data as well as identifying all new or terminated claims. The ending balance for the report indicates the total amount of outstanding FS benefits claims and becomes the beginning balance for the next month's report.

Closed/Inactive case claims for which payments are delinquent are referred to the Tax Offset Program (TOP) for collection from federal tax refunds. A case is considered delinquent when no payments have been collected for at least six months.

SECTION 17: RESOURCES

A. Description

POLICY

1. Definitions

- a. Equity Value - The fair market value of the resource less encumbrances.
- b. Resources - Liquid and non-liquid resources of all members of the household cannot exceed \$2,000 for the household, except that, for households including a member or members age 60 or over or a disabled member(s), such resources cannot exceed \$3,000.

NOTE: Categorically eligible households are not subject to a resource test.

2. Types Of Resources

- a. Liquid Resources - Liquid resources are those resources which are readily available to the applicant or recipient including, but not limited to the following:
 - (1). Cash on hand
 - (2). Money in checking and savings accounts
 - (3). Stock or bonds
 - (4). Lump sum payments
 - (5). Funds held, less the amount of penalty if any for early withdrawal, in individual retirement accounts (IRA's)
 - (6). Keogh plans which do not involve the household member in a contractual relationship with individuals who are not household members
 - (7). Funds set aside under a HR Plan of Self-Support
- b. Liquid Resources and Expedited Processing Determination – Only the following liquid resources are to be used when calculating the total liquid resources which are readily available to the household when determining expedited processing eligibility.
 - (1). Cash on hand,
 - (2). Money in checking and savings accounts,
 - (3). Stocks or bonds,

(4). Lump sum payments

- c. Non-Liquid Resources - Non-liquid resources such as personal property, licensed and unlicensed vehicles, buildings, land, recreational properties, and any other property not specifically excluded under the Excluded Resources in this section of the SNAPSB. The value of nonexempt resources, except for licensed vehicles as specified in Licensed Vehicles in this section of the SNAPSB, shall be its equity value.

3. Jointly Owned Resources

- a. Resources owned jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household.

If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level.

- b. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply.

NOTE: For the purpose of this provision, ineligible aliens or disqualified individuals residing with the household shall be considered household members.

- c. Resources shall be considered inaccessible to persons residing in shelters for battered women and children if the:
 - (1). Resources are jointly owned by such persons and by members of their former household; and
 - (2). Shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household.

4. Resources Of A Sponsored Alien

Households containing sponsored aliens shall also include that portion of the alien's sponsor and sponsor's spouse resources that have been deemed to be those of the alien in accordance with procedures contained in Deeming of a Sponsor's Resources in this section of the SNAPSB.

References:

387.1; 387.9(b);
02-ADM-07

Related Items:

Licensed Vehicles (SNAPSB);
Excluded Resources (SNAPSB);
Deeming of a Sponsor's Resources (SNAPSB);
Unearned Income (SNAPSB)

B. Resource Limits

POLICY

All applicants and recipients of SNAP must not exceed the resource limits set forth in this section, however households which are categorically eligible for SNAP, as provided in SNAPSB Section 5 Non-Financial Eligibility Standards, 07-ADM-09 and 09-ADM-06 are not subject to the resource limitations or any other requirements of this Section.

NOTE: Per 07-ADM-09, effective 1/1/08 most supplemental nutrition assistance program households are now categorically eligible and exempt from the resource test. However, information on resources should still be collected in order to determine if the resource produces income that must be included in the budget when determining eligibility. Example: a savings account may produce interest income that is considered a source of unearned income that must be used in determining supplemental nutrition assistance program eligibility. The maximum allowable resources are: \$3,000 for a household where at least one person is 60 years of age or older, or disabled and \$2,000 for all other households

1. Determining Resources

- a. At the time the household is interviewed, the value of a household's resources shall be determined.
- b. Resources of ineligible aliens, individuals disqualified for intentional program violation, individuals who fail to comply with a SNAP work registration requirement or a SNAP work requirement, or individuals disqualified for refusal to apply for or provide an SSN as described in SNAPSB Section 5 Social Security Numbers are to be considered available in their entirety to the remaining household members.
- c. The resources of households with striking members shall be based on pre-strike circumstances. The household's resources on the day prior to the strike must be used when determining the household's available resources.

NOTE: If a SNAP household includes an individual who would be disqualified for failure to obtain or provide an SSN or who is an ineligible alien, and who is also an ineligible student (as described in SNAPSB Section 5 Social Security Numbers), the resource rules described in paragraph 2 above take precedence.

The ineligible individual's income is pro-rated as described in SNAPSB Section 13 Income Of Ineligible Individuals; deductions or earned income, shelter costs and dependent care expenses are pro-rated (SNAPSB section 12 Dependent Care Deductions and Shelter Deductions); and the individual's resources are counted in their entirety.

References:

387.9;
387.16;
02-ADM-07;

92- ADM-03;
89- INF-70;
07-ADM-09;
09-ADM-06

Related Item:

Ineligible Individuals (SNAPSB);
Students (SNAPSB);
Earned Income Deduction (SNAPSB);
Dependent Care Deduction (SNAPSB); S
helter Deduction (SNAPSB)

C. Excluded Resources

POLICY

In determining the resources of a household, only the following shall be excluded:

1. The home and surrounding property which is not separated from the home by intervening property owned by others.
 - a. Only one home is excluded. To be considered a home for purposes of this provision the dwelling should have been intended for human habitation and could appropriately be rented as a home for one or more people. If there is a free standing building close to the home such as a garage and some of the household members live in it due to limited space in the home, it would appear appropriate to exclude such a building as part of the one home exclusion. Other homes on the property must be counted as a resource unless they can be excluded under another provision. Buildings, other than homes, on the contiguous property are excluded even if they could be rented.
 - b. Public rights of way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property.
 - c. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster, if the household intends to return.
2. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, shall receive an exclusion for the value of the lot and, if it is partially completed, for the home.
3. One burial plot per household member.
4. The value of one bona fide funeral agreement per household member, provided that the agreement does not exceed \$1,500 in equity value, in which event the value above \$1,500 is counted.
5. Household goods and personal effects.

NOTE: A household good or personal effect that is determined to be an item purchased for investment (with the expectation that its value would appreciate) is not an excluded resource. However, it will be difficult to determine in most cases whether an item considered a household good or personal effect was purchased as an investment. Therefore, except in certain limited cases, most household goods or personal effects will be excludable as a resource.

6. The cash value of life insurance policies.
7. The cash value of pension plans or funds:
 - 457 plans (plans for State and local governments and other tax- exempt organizations)
 - 401(k) plans (generally a cash or deferred arrangement and generally limited to for-profit organizations)
 - Federal Employee Thrift Savings plan

- Section 403(b) plans (tax- sheltered annuities provided for employees of tax- exempt organizations and state and local educational organizations)
 - Section 01(c) (18) plans (retirement plans for union members consisting of employee contributions to certain trusts that must have been established before June 1959) and
 - Keogh plans that involve a contractual obligation with someone who is not a household member
8. Any vehicle on those Indian Reservations that do not require vehicles driven by tribal members to be licensed.
 9. Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis, e.g. a summer camp in a resort area or a house with one or more rental apartments.
 10. Property, such as farm land and rental homes, or work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self -employment of a household member.

Rental homes which are used by households for vacation purposes at some time during the year must be counted as resources unless excluded under item 9 above.

- a. Non-Contiguous property which was essential to farming and licensed vehicles which were used primarily for farming shall continue to be excluded as resources for one year following the termination of farm self employment. After one year the farmer's non-contiguous property and licensed vehicles shall remain excluded if a good faith effort is being made to sell such property or equipment at a reasonable price. The local district must determine when a farmer ceases to be self-employed on a case-by-case basis.

NOTE: Farm land which is contiguous with the property on which a household's home is located is excluded as a resource indefinitely.

- b. The property and work related equipment of a self-employed individual (other than farmers) who has recently terminated his or her self-employment business and where a good faith effort is being made to sell such property or equipment at a reasonable price shall also be excluded.
11. Real or personal property that is directly related to the maintenance or use of an income producing vehicle or a vehicle necessary to transport a physically disabled household member. However, only the portion of real property related to the maintenance or use of such vehicles shall be excludable. For example, a household owns a 100 acre field which is separated from the home by intervening property owned by others. A quarter acre of the field is used to park the household's income-producing truck. Only the quarter acre would be allowed as resource exclusion.
 12. Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value. The exclusion shall also apply to the value of the property sold under the installment contract, or held as security in exchange for a purchase price consistent with the fair market value of that property.
 13. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended. For example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration.

Also excluded are Federal Emergency Management Assistance (FEMA) subsidies to households to pay for temporary housing after a disaster. However, monies that exceed the cost of housing that are not returned to FEMA would be income.

NOTE: Payments made to homeless people to pay for rent, mortgage, food, and utility assistance when there is no major disaster or emergency are not excluded under this provision.

14. Inaccessible Resources - A resource shall be excluded from the appropriate \$2,000/\$3,000 limit if a household is unlikely to be able to sell that resource for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great. Resources so identified would be termed "inaccessible". This inaccessibility provision does not apply to motor vehicles. Local districts shall not mandate verification that a resource is inaccessible, unless the information provided by the household is questionable. A complete description of why a resource is considered inaccessible should be in the case record.

a. Resources having a cash value which is not accessible to the household, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold.

NOTE: The local district may verify that the property is for sale and that the household has not declined a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker.

b. A non-liquid asset(s) (e.g. land, buildings, timber, farm equipment) against which a lien has been placed as a result of a household member taking out a business loan, providing the household member is prohibited by the security or lien agreement with the lien holder (creditor) from selling the asset(s).

c. Any funds in a trust or transferred to a trust, and the income produced by that trust to the extent it is not available to the household, shall be considered inaccessible to the household if:

(1) The trust arrangement is not likely to cease during the certification period, and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.

(2) The trustee administering the funds is either:

(a) A court, or an institution, corporation, or organization which is not under the direction or ownership of any household member, or

(b) An individual appointed by the court who has court imposed limitations placed on his/her use of the funds which meet the requirements of this paragraph

(3) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction or influence of a household member; and

(4) The funds held in irrevocable trust are either:

- (a) Established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust; or
- (b) Established from non-household funds by a non-household member.

NOTE: This includes Supplemental Needs Trusts (SNTs).

- d. If a person owns stock in a corporation, the stock is counted as a resource unless it is essential to his/her employment. If a person is employed by and owns stock in a corporation, the EW must determine if the stock is essential to the person's employment. To the extent that an employee of a corporation must hold stock in the corporation as a condition of employment, the stock is essential to the employment of that person and not counted as a resource. However, if ownership of the stock is not essential, the stock is counted as a resource. For example, if a farmer has incorporated his farm, he is the sole worker and all of the corporation's assets are related to the farming operation, the farmer's stock in the corporation is essential to his employment and excluded from being counted as a resource.

Sometimes the value of shares in a corporation with only one shareholder or just a few shareholders is not readily available. In such instances, the EW may subtract corporate liabilities from assets and prorate the difference among the various shareholders based on the percentage of shares held.

EXAMPLE: Value of Stock

\$22,000 Corporate assets
- \$10,000 Corporate liabilities
= \$12,000 Value of corporation
x .40 Household has 40% of the stock
= \$4,800 Household's resources

- e. Resources that are discovered by the local district which the household was unaware of shall be considered inaccessible to the household as long as they were truly unknown to the household. Once the household discovers resources that are legally available to them, the resources must be counted in determining the household's eligibility for SNAP. In other words, at the point the household is made aware of the resources, the resources shall be considered available to them from that time forward. The resources would then be counted in determining the household's eligibility for SNAP. This is the case regardless of the manner in which the household is made aware of the existence of the resource.
- 15. Resources which have been counted as income such as those of students or self-employed persons, which have been prorated as income.
 - 16. Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs.
 - 17. Resources which are excluded for SNAP purposes by express provision of Federal statute:
 - a. Payments received under the Alaska Native Claims Settlement Act (P.L. 92-203, Section 21(a)) or the Sac and Fox Indian Claims Agreement (P.L. 94-189). This includes all compensation such as cash, stock, partnership interest, land, interest in land, and other benefits received under this Act.

- b. Payments received by certain Indian tribal members under P.L. 94-114, section 6, regarding the sub marginal land held in trust by the United States.
- c. Benefits received under P.L. 89-642, Section 11(b) of the Child Nutrition Act of 1966. This includes the Women, Infants and Children (WIC) program and school meals. Also excluded are coupons, issued under WIC Demonstration projects (P.L. 100-435, Section 401), which may be exchanged for food at farmers' markets.
- d. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (P.L. 91-646, section 216).
- e. Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (P.L. 94-540).
- f. Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission as designed under P.L. 95-433, section 2.
- g. Payments to the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420, section 5).
- h. The first \$2,000 of funds distributed by the Indian Claims Commission pursuant to P.L. 93-134 as amended by P.L. 97-458. P.L. 98-64 extended the exclusion to cover per capita payments from funds which are held in trust by the Secretary of Interior (trust fund distributions).
- i. Individuals of Japanese Ancestry - Payments to individuals of Japanese ancestry and permanent resident Japanese aliens in restitution for war time relocation and internment (P.L. 100-383, Section 105).
- j. Aleuts - Payments to natives of the Aleutian or Pribil Islands in restitution for war time relocation and internment (P.L. 100-383, Section 206).
- k. Navajo and Hopi tribes - Payments of relocation assistance to members of the Navajo and Hopi tribes under P.L. 93-531, section 22.
- l. Payments to the Turtle Mountain Band of Chippewa, Arizona under P.L. 97-403.
- m. Payments to the Blackfeet Grosventre, and Assiniboine tribes (Montana) and the Papago (Arizona) under P.L. 97-408.
- n. Per capita and interest payments made to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana) under P.L. 98-124, Section 5.
- o. Per capita and interest payments made to the Red Lake Band of Chippewa under P.L. 98-123, Section 3, 10/13/83.
- p. Payments to the Saginaw Chippewa Indian Tribe of Michigan under P.L. 99-346, Section 6(b)(2).
- q. Per capita payments to the Chippewa of Mississippi under P.L. 99-377, Section 4(b), 8/8/86.
- r. The Radiation Exposure Compensation Act, dated October 15, 1990 under P.L. 101-426, Section 6(h)(2).

- s. The first \$2,000 of payments made under P.L. 98-500, Section 8, 10/17/84, for the Old Age Assistance Claims Settlement Act, to heirs of deceased Indians.
 - t. German reparation payments: All reparation payments received from the Federal Republic of Germany are excluded as long as they remain identifiable as such. Formerly, supplemental nutrition assistance program rules only excluded reparation payments received by individuals who were victims of Nazi persecution.
 - u. Funds distributed per capita or held in trust for members of the Chippewa of Lake Superior under P.L. 99-146, Section 6(b), 11/11/85.
 - v. P.L. 99-264, White Earth Reservation Land Settlement Act of 1985, 3/24/86, Section 16. This Act involves members of the White Earth Band of Chippewa Indians in Minnesota.
 - w. Compensation paid by an eligible crime victim compensation program.
 - x. Individual Development Accounts (IDAs) - An individual development account to enable a SNAP household member to save for post-secondary education, first home purchase or business capitalization is excluded as a SNAP resource. If a withdrawal is made from an IDA for purposes other than post-secondary education, home purchase or business capitalization, however, any remaining balance would be considered an available resource.
18. HUD retroactive tax and utility cost subsidy payments issued pursuant to settlement of Underwood v. Harris (Civil No. 76-0469, D.D.C.) against HUD, for the month in which payment was received and for the following month. Plus HUD community development block grants are excluded as SNAP resources.
19. Energy assistance payments or allowances excluded as income as specified in SNAPSB Section 12.
20. Resources of non-household individuals as described in SNAPSB Section 5.
21. Resources of ineligible students.
22. Social Security (RSDI) or SSI benefits which are directly deposited in recipients' bank accounts must be counted as income and not resources for the month of deposit. Only any amount remaining in deposit beyond the month of deposit may be counted as a resource.
23. Agent Orange payments:
- a. The Agent Orange Settlement Fund; and
 - b. Any other fund established pursuant to the settlement in regards to Agent Orange Product Liability litigation.

NOTE: Benefits must be restored to any household which reports and documents that it was denied or under issued SNAP benefits due to the receipt of Agent Orange payments back to January 1, 1989.

NOTE: P.L. 102-4, Agent Orange Act of 1991, 2/6/91, authorized veterans' benefits to some veterans with service connected disabilities resulting from exposure to Agent Orange. These VA payments are not excluded by law.

24. Earned Income Tax Credit (EITC) refunds, as long as they remain identifiable. Formerly, these payments were excluded as resources for either two or twelve months, depending on whether the individual was an applicant or recipient and whether the EITC was federal or State.
25. The resources of a household member who receives FA, SNA, or SSI. This is true even if not everyone in the household is receiving FA, federally funded SNA, or SSI. This includes PASS accounts of SSI recipients.
26. Seneca Nation Settlement Act - Under Public Law 101-503 and the memorandum of understanding between the Seneca Nation and the State, Settlement Act monies are exempt from consideration in determining eligibility or benefits for any State or federally funded social services program. These monies must not be counted as income or resources now or at any later point in time.
27. Service provided to a public housing resident under P.L. 101-625, section 22(i) of the Cranston – Gonzales National Affordable Housing Act. This exclusion applies to services such as child care, employment training and counseling, literacy training, computer skills training, assistance in the attainment of certificates of high school equivalency and other services. It does not apply to wages or stipends.
28. Payments made by the VA to Vietnam Veteran's children with Spina Bifida (PL104-204).
29. Educational Grants, loans or scholarships, as long as they remain identifiable as such (not commingled with other savings).
30. Children's savings accounts of under \$500, if accumulated from gifts from non-legally responsible relatives or from the child's own wages. For purposes of this exclusion, a child is a household member under the age of 21.
31. Austrian General Social Insurance payments made under paragraph 500 to 506 of the Austrian General Social Insurance Act are excluded as long as they remain identifiable as such.
32. Funds and agreements for burial services and headstones, not to exceed \$1,500 per SNAP household member must be excluded.
33. Nutritional Assistance Program (NAP) Benefits- As of October 17, 2003 USDA Nutritional Assistance Program (NAP) Benefits from Puerto Rico should not be counted as income for supplemental nutrition assistance program, even when issued in the same month a household submits a supplemental nutrition assistance program application in New York State. In the interest of treating all Territories in an equitable manner, effective December 31, 2003 this policy was extended to also include NAP benefits issued in American Samoa or the Commonwealth of the Northern Marinas. When determining eligibility and benefits, local districts must not count NAP benefits from these territories, even when issued in the same month a household submits a new application.

NOTE: Policy on licensed vehicles is described in the next area of this Section (16).

NOTE: Excluded funds kept in a separate account and not mixed in an account with non-excluded funds will retain the resource exclusion for an unlimited period of time. Excluded monies mixed in an account with non-excluded funds will retain their exemption for six months from the date they are mixed. After six months from the date of mixing, all funds in the mixed account shall be counted as a resource.

Resources of students and self-employed households which have been excluded and are commingled in an account with non-excluded funds will retain their excluded status only for the period of time over which they have been prorated as income.

References:

387.9(b);
02-ADM -07;
02-ADM-01;
01-ADM-02;
95-ADM-15;
92-ADM-06;
92-ADM-03;
91-ADM-06;
01-INF-08;
95-INF-41;
90-INF-06;
GIS Message (01TA/DC024);
GIS Message (99TA/DC 015);
GIS Message (98TA/DC018);
GIS Message (92IM/DC015);
GIS Message (92IM/DC010);
GIS Message (89IM/DC017);
GIS Message (88IM/DC037);
GIS Message (87IM/DC018);
92-LCM-120

Related Items:

Non-house hold Members (SNAPSB);
Ineligible Individuals (SNAPSB);
Licensed Vehicles (SNAPSB);
P.L. 91- 646;
P.L. 94-540;
P.L. 92- 203;
P.L. 95-433;
P.L. 92- 443;
P.L. 95-600;
P.L. 94-114;
P.L. 96-420;
P.L. 94- 189;
P.L. 97-458

D. Licensed Vehicles

POLICY

1. Excluded Vehicle(s) Under SNAP Employment/Training Provision

New York State's SNAP vehicle allowance rules completely exclude from the SNAP resource test one licensed vehicle per adult household member and one licensed vehicle for each child under 18 who drives to school, work, training or to look for work. The concept of one single general-purpose vehicle as well as the employment related restriction for additional vehicles has been discontinued.

a. Equity Value

Additional licensed vehicles not subject to complete exclusion are to be evaluated based on their full equity value.

Equity value is defined as a vehicle's fair market value less any encumbrances. In determining a vehicle's fair market value local districts are to use the lowest reasonable price possible and are not to increase the basic value of a vehicle due to low mileage, optional equipment or special apparatus for handicapped.

A number of sources may be used including Internet web sites dealing with vehicle appraisals, up-to-date printed "blue books," or dealer appraisals. Local districts are not required to do an exhaustive search in order to determine fair market value but should use the lowest value in the source that it chooses to consult.

b. Recreational Vehicles

In order to qualify for one of the above exclusions, licensed vehicles must be used primarily for household transportation. This does not include recreational vehicles such as boats, snow mobiles or campers whose main purpose is leisure. Recreational vehicles are subject to having their full equity value applied to the household's applicable liquid resource limit.

c. Local District Action

Local districts must now completely exclude from the SNAP resources test one licensed vehicle per adult household member and also exclude one licensed vehicle for each child under 18 who drives to school, work, training or to look for work. Additional licensed vehicles must be evaluated under the existing federal SNAP vehicle exclusion criteria.

Additional licensed vehicles that are not excluded under the employment/training provision must be evaluated for exclusion under the existing Supplemental Nutrition Assistance Program vehicle rules such as being used to produce earned income, to transport a physically disabled household member, etc. This includes evaluating licensed vehicles under the inaccessible resource provision and excluding them if the return on the vehicle when sold is likely to be \$1,500 or less.

d. Vehicles Not Excluded

Additional licensed vehicles that do not meet the criteria for exclusion under the employment/training provision or under the existing Supplemental Nutrition Assistance Program vehicle rules must have their full equity value applied to the household's applicable liquid resource limit.

Unlicensed vehicles are also to be evaluated for their full equity value

2. Excluded Vehicles Under Existing SNAP Rules

The entire value of any licensed vehicle must be excluded if the vehicle is:

- a. Used primarily (over 50 per cent of the time) for income producing purposes.

NOTE: Licensed vehicles which were used primarily for farming shall continue to be excluded as resources for one year following the termination of farm self-employment. After one year the farmer's licensed vehicles shall remain excluded if a good faith effort is being made to sell such equipment at a reasonable price.

- b. Annually producing income consistent with its fair market value, even if used only on a seasonal basis.
- c. Necessary for long distance travel, other than daily commuting if it is essential to the employment of a household member or excluded member whose resources are being considered available to the household.
- d. Used as the household's home and, therefore excluded as such.
- e. Necessary to transport a physically disabled household member or excluded individuals whose resources are being considered available to the household regardless of the purpose of such transportation: (387.9(b))

(1) One vehicle per physically disabled household member shall be considered necessary for transportation of a disabled person if the vehicle is:

- (a) Specially equipped for the purpose, or
- (b) Is a special type of vehicle, whether or not specially equipped for the purpose. For example, a van which by its capacity alone enables transportation of a person requiring a wheelchair meets this provision.

The vehicle need not be used primarily by or for the disabled person.

(2) A household containing a disabled member who can be transported in a normal vehicle is eligible for a vehicle exclusion under this provision. The determining factor for vehicle exclusion under this provision is the fact that a physically disabled household member requires a vehicle for transportation.

- f. Leased by a household member.
- g. Registered in the name of a household member but the title to the vehicle is held by a person who is not a member of the household. If the person in whose name the vehicle is registered does not have control over disposing of or keeping the resource, then the person cannot be considered the owner and the vehicle cannot be counted as a resource.

NOTE: If the household member in whose name the vehicle is registered is the actual owner of the vehicle, even though the title is held by someone else, the value of the vehicle must be counted as a resource in accordance with supplemental nutrition assistance program regulations. Thus, if the title to a vehicle is held by a bank because there is an outstanding balance on the loan used

to purchase the vehicle, then the household member has the control to dispose of or keep the vehicle, and the vehicle is counted as a resource.

NOTE: *For real or personal property that is directly related to the maintenance or use of an income producing vehicle or a vehicle necessary to transport a physically disabled household member, see Licensed Vehicles earlier in this section (16).*

- h. A vehicle whose title is held by a non-household member so long as no member of the household is permitted to access the cash value of the vehicle.
- i. Any vehicle upon which a household depends to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.
- j. If the equity value is less than half of the household's resource limit.
- k. Individuals receiving FA, SNA-FP or SSI are categorically eligible for SNAP. The resources of a categorically eligible individual are exempt when determining SNAP eligibility. Thus, a household containing a FA or SNA-FP individual with a TA approved vehicle with a fair market value up to \$9,300, or a higher amount set by the district, is not denied SNAP due to excess resources, if the vehicle belongs to a categorically eligible person. The resources of FA, SNA- FP or SSI categorically eligible individuals in the household are exempt even if the entire SNAP household is not categorically eligible.
- l. Any vehicle whose sale is likely to produce a return of \$1500 or less because of household's interest in the vehicle is relatively slight or the cost of selling it is relatively great (inaccessible resource provision).

NOTE: *The value of an unlicensed vehicle is its equity value. More information on unlicensed vehicles on Indian reservations is available in this section of the SNAPSB.*

References:

387.9;
02-ADM-06;
01- ADM-15;
Attachment;
00-ADM-05;
95-ADM-15;
GIS Message (00-TA/DC010);
GIS Message (96-TA/DC029);
GIS Message (89-IM/DC017);
"All Commissioner" Letter (06/24/86)
May/June/July 1986 Consolidated Letter

Related Item:

Excluded Resources (SNAPSB)

E. Transfer Of Resources

POLICY

Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for supplemental nutrition assistance program benefits shall be disqualified from participation in the program for up to 1 year from the date of the discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the 3-month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits.

1. Transfers Not Affecting Eligibility

The following transfers will not affect program eligibility:

- a. Resources which would not otherwise affect eligibility.
- b. Resources sold or traded at, or near, fair market value.
- c. Resources which are transferred between members of the same household (including excluded individuals whose resources are considered available to the household); and
- d. Resources which are transferred for reasons other than to qualify or attempt to qualify for supplemental nutrition assistance program benefits. Example: a parent placing funds into an educational trust fund described in this section.

2. Determining Length of Disqualification

The length of the disqualification period must be based on the amount by which non-exempt transferred resources, when added to other countable resources, exceed the allowable resource limits. The following chart shall be used for the determination.

Amount in Excess of the Resource Limit	Period of Disqualification
\$249	1 month
\$250 - \$99	3 months
\$1,000 - \$2,999	6 months
\$3,000 - \$4,999	9 months
\$5,000+	12 months

NOTE: Proving "intent" in this case is very difficult. If a case is denied on this basis, the local district needs significant documentation in order to have the district's decision upheld at a Fair Hearing should one ensue.

3. Interpretation

Households which have transferred resources shall be disqualified from participation in the supplemental nutrition assistance program if:

- a. The transfer occurred in the three month period prior to application and was knowingly for the purpose of qualifying or attempting to qualify for supplemental nutrition assistance program benefits, or
- b. The transfer occurred after certification and was knowingly for the purpose of continuing to qualify for supplemental nutrition assistance program benefits. The disqualification period must be applied if the resources are transferred knowingly to prevent the household from exceeding the maximum resource limit.

References:

387.9

Related Item:

Excluded Resources (SNAPSB)

F. Deeming Of A Sponsor's Resources

POLICY

Households containing sponsored aliens as defined in SNAPSB Section 12 shall also include that portion of the alien's sponsor and sponsor's spouse's resources that have been deemed to be those of the alien. The amount of resources to be deemed will be the total countable resources of the sponsor and the sponsor's spouse minus \$2,000.

NOTE: If a sponsored alien can demonstrate to the local district's satisfaction that his/her sponsor sponsors other aliens, the resources determined deemable shall be divided by the number of such aliens that apply for or are participating in the program.

References:

387.9(b)

Related Item:

Determining Income (SNAPSB)

**SECTION 18: SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM
RECORD RETENTION/DOCUMENTATION****A. Introduction**

This Record and Retention and Disposition Schedule have been altered to meet both State and Federal retention requirements for Supplemental Nutrition Assistance Program documentation.

B. Purpose

The purpose of this Retention Schedule is to:

- a. Ensure that County government records are retained as long as needed for the County's administrative, legal, fiscal, and other use
- b. Ensure that records are retained as long as required by County, State, and Federal agencies for fiscal, oversight, and other purposes;
- c. Provide that archival records, those with enduring value for historical and other research purposes, are retained permanently; and
- d. Encourage and facilitate the systematic disposal of records no longer needed for any use.

C. Documentation Of Records

1. Types of Documentation

Maintain all documentation that supports the decisions about the claim amount, type, period and repayment method. At a minimum, this includes but is not limited to:

- a. Application or recertification forms that apply to the time period of the overpayment
- b. Verification of the discrepant information, such as pay stubs or employer letters
- c. Copies of manual notices
- d. Records relating to the amount of benefits that were received
- e. Budget calculations used to determine the benefit amount that the client should have received - this can be represented as copies of scratchpad budgets representing the entire period of overpayment.

Documentation may be paper originals, copies of originals, electronically imaged documents or an electronic record such as information retained in WMS and CAMS. It may be kept in a separate claims file or in the general case record. If kept in the general case record, the information must be clearly identified that it supports a claim and what claim it supports. Information must be readily retrievable for local district, federal, State, client, or fair hearing review. Failure to adequately document claims establishment information can result in the claim being overturned in a Fair Hearing, TOP review or other challenge.

2. Record Retention Requirements

Keep closed-case documentation according to the USDA time limits outlined below:

- a. IPV Disqualification Records: Indefinite. These records must be retained for the life of the individual or until USDA notifies the State that the record is no longer needed.
- b. Work Requirement Violation Records: Indefinite. Permanent work rule disqualifications must be retained for the life of the individual or until s/he reaches age 60, whichever occurs first.
- c. Claims Records: 3 years after the claim is either satisfied or closed administratively.
- d. Issuance Records: 3 years from the date the federal debt is paid for cases with claims.

In addition, follow these State requirements:

- a. General Program Records: 6 years from the date of closing.
- b. Certification Records: 6 years from the end of the date of certification or, if under investigation, until the investigation is resolved or the penalty imposed.
- c. DSS-3214 "Status of Claims Against Households": 6 years.
- d. CAMS Reports: 6 years.

References: 387.2(k), 272.1(f), 98 INF-3

SECTION 19: NYSNIP

TO BE DEVELOPED

SECTION 20: Glossary**A - J**

- A -

Able Bodied Adults Without Dependents (ABAWD) certain FS recipients who are work registrants without children, subject to additional work requirements, in order to maintain eligibility for continued receipt of benefits.

ACTION TAKEN NOTICE - An action taken notice means a notice from a local district advising:

An applicant for FS benefits or a recipient of FS at recertification of the local district's determination to accept or deny FS benefits; or A recipient of FS benefits, of an increase in benefits.

ADEQUATE NOTICE - a notice means a notice of action, or an adverse action notice or an action taken notice. The provisions of an adequate notice are found in FSSB Section 7.

ADMINISTRATIVE ERROR - an overissuance caused by a local district action or local district failure to take action.

ADVERSE ACTION NOTICE - means a notice from a local district advising a recipient of FS benefits of its determination to discontinue, reduce, or suspend such recipient's FS benefits, within the FS certification period.

AFFIDAVIT - a written statement by an individual made under oath before a notary public or other person authorized to administer oaths.

AGENCY CONFERENCE - an informal meeting at which an applicant or recipient may have any decision of a local district concerning the applicant's or recipient's, FS benefits, reviewed or may have any other aspect of the applicant's or recipient's case reviewed by an employee of that local district who has the authority to change the decision with which the applicant or recipient disagrees.

AID CONTINUING - the right to have FS benefit continued unchanged until the fair hearing decision is issued.

ALIENS - those persons that are eligible to participate in the Food Stamp Program are those individuals who are residents of the United States and who meet the applicable requirements of the Immigration and Nationality Act.

ALCOHOLIC TREATMENT AND REHABILITATION FACILITY - See Drug Addiction Facility

ALLOTMENT - the total value of FS a household is authorized to receive during each month or other time period.

APPEAL – Request for a hearing on an action proposed or taken by the Department or on the Department's failure to act. This can include Fair Hearings, Administrative Hearings or Supervisory Conferences.

APPELLANT - the party for whom the fair hearing is requested.

APPLICANT - a person who has applied for FS benefits.

APPLICATION FOR RECERTIFICATION - upon expiration of the certification period, household entitlement to FS benefits ends. Further entitlement to food stamps cannot be established without another application, which should be made prior to the end of the current certification period to avoid a lapse in benefits.

ASSESSMENT - adjunct to the FSET program components in which the employment worker gathers information on each recipient's needs, interests, skills, work experiences, and abilities.

ASSETS (RESOURCES) – Assets are objects of value, not defined as income, such as personal property, real state, automobiles, life insurance, cash and bank deposits, securities, and certain other items.

ASSISTANCE for federal purposes consists of any payment or benefit designed to meet ongoing basic needs - food, clothing, shelter, utilities, household goods, personal care items, general incidental expenses. Assistance also includes supportive services such as transportation or child care provided to unemployed recipients. Assistance paid to an FA or Non-Cash SNA/fp recipient is counted toward the 60-month TANF time limit. Assistance counts toward the support offset. Payment types defined as assistance, when paid to a trackable person in a trackable case type (FA, Cash SNA, Non-Cash SNA/FP) will trigger time limit counts, be reported to DHHS as assistance, and be counted toward the support offset.

AUTHORIZATION PERIOD - the six-month period for which FS benefits are authorized following a certification. Each authorization period is divided into two payment quarters.

AUTHORIZED REPRESENTATIVE - an individual who is:

Chosen by the head of household, spouse or other responsible household member to represent the household in applying for, obtaining and/or using the food stamps;

An employee designated by a publicly operated community mental health center or a private, non-profit drug addiction or alcoholic treatment and rehabilitation facility, group living arrangement and/or shelter for battered women and children who will represent households who reside at such centers in applying for and obtaining food stamps; or

The only household adult available to be the authorized representative for the household children, even though classified as a non-household member.

- B -

BASIC CERTIFICATION SERVICES - distributing and accepting applications, interviewing applicants, and accepting notices of changes in household circumstances.

BEGINNING MONTH PERIOD - normally the first two months in a household's initial certification period. Households jointly applying for TA and FS which are certified for FS in the month preceding the month in which they are certified for TA shall be assigned a FS beginning month period of three months. An ongoing certified household whose case is closed shall not be assigned a beginning month period upon reapplication unless the case remained closed for at least one full month.

All FS cases are budgeted prospectively during the beginning month period.

BENEFIT QUARTER - the three month period after the process month.

Best Estimate: Process that is use to determine one of two methods to project average monthly earnings. Districts do not have a choice as to which of the two methods must be used. The circumstances of each case determine which method must be used. (See 93 ADM-9 and 95 INF-19).

BOARDERS - individuals who reside with others and pay reasonable compensation for lodging and meals. Boarder status shall not be extended to:

Those individuals or groups of individuals described in **FSSB Section 5**, including children or siblings residing with elderly or disabled parents or siblings.

Individuals paying less than a reasonable monthly payment for meals. These persons will be counted as members of the household which provides the lodging and meals.

BOARDING HOUSE - is an establishment which is licensed or viewed by the community as a commercial enterprise, offering meals and lodging for one or more persons for compensation, with the intention of making a profit.

BUDGET DEFICIT – Occurs when income is insufficient to meet the budgeted needs of a categorically eligible household.

BUDGET SURPLUS – Occurs when available income meets or exceeds the budgeted needs of a categorically eligible household.

- C -

CAPITAL GAINS - the proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for Federal income tax purposes. Even if only 50 percent of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the State agency shall count the full amount of the capital gain as income for FS purposes.

CASH MANAGEMENT SYSTEM[CAMS] – Subset of WMS. Allows LDSS to record and track debts/claims owed and/or paid by those recipients and former recipients that owe money back to the agency.

CERTIFICATION - the decision by the local district that a household is eligible to participate in the program. A specific period of time that a household may participate is assigned, based on stability of income, expenses and household composition.

CLAIM DETERMINATION - a decision regarding the basis, amount and liability for the overissuance of FS benefits.

CLEARANCE REPORT – The clearance report matches information about each individual applying for assistance with all case and application data currently in the system. The resulting printout is a report listing the names and identifying data of any individual who appears to be the same or very similar to the applicant according to such characteristics as social security number, name, sex, date of birth and client identification number (CIN). The clearance report is obtained through the process of Application Registry.

Collateral Investigation: the collection of additional information through contacts with secondary sources such as relatives, employers, banks, insurance companies, school personnel, social agencies, and other appropriate individuals and organizations.

COMMON BENEFIT IDENTIFICATION CARD (CBIC) - looks like a standard plastic debit/credit card used by recipients to obtain FS, TA, and MA benefits.

COMMERCIAL BOARDING HOUSE - See Boarding House.

CONSOLIDATED HEARING - a single group hearing conducted by the local district in response to a series of individual requests for hearings where related issues of State and/or Federal law, regulation or policy are the sole issues being raised.

- D -

DATE OF APPLICATION – The date a signed application for assistance is received in the local office. This is especially important for FS in order to insure accrual of benefits.

DENIAL – Disapproval of the client’s application based on a determination that one or more of the eligibility requirements is not met.

DEPARTMENT - the New York State Office of Temporary & Disability Assistance.

DEPENDENT CARE DEDUCTION - payments for the actual costs for the care of a child or other dependents when necessary for a household member to accept or continue employment, seek employment in compliance with the job search criteria (or an equivalent effort by those not subject to job search), or attend training or pursue education which is preparatory to employment.

DESTITUTE HOUSEHOLDS - those households whose only income for the month of application:

Was received prior to application and was from a source which has been terminated, or

Is from a new source and no more than \$25 gross income from the new source will be received within ten calendar days of the application date.

DISABILITY- Physical or mental illness or injury which limits a person’s ability to work. -See FSSB Section 5

DOCUMENTARY EVIDENCE - written confirmation of a household's circumstances, e.g., wage stubs, rent receipts, utility bills. It is used as the primary source of verification.

DRUG ADDICTION OR ALCOHOLIC TREATMENT AND REHABILITATION FACILITY - a facility operated by a private, non-profit organization or is a publicly operated community mental health center. Any drug addiction or alcoholic treatment facility must either be authorized as a retailer by the United States Department of Agriculture (USDA) or be eligible to receive funds under Part B of Title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) even if it does not actually receive such funding. Private, non-profit facilities must also be certified by the New York State Division of Alcoholism and Alcohol Abuse or the New York State Division of Substance Abuse Services.

- E -

EARNED INCOME- all monies received from wages, salaries, tips, payment for services, Room and Board, Net proceeds from self employment, sick leave pay [when source of income is employer] income earned by maintaining rental property at least 20 hrs weekly or more.

EARNED INCOME OF CHILDREN - are members of the household, are students at least half-time, and are less than 18 years old.

EARNED INCOME TAX CREDIT (EITC) - refundable credit to which families with dependent children and limited incomes may be entitled. The credit is based on the family's earned income and is to be applied first against

their tax liability. If the amount of credit is greater than the family's tax liability, the excess is treated as an overpayment of taxes and refunded to the family. The EITC may be included in regular pay checks based on estimated credits or as a lump sum payment at the end of the tax year.

EDUCATIONAL - any of the following educational activities: literacy training, basic education, GED, High School, or English-as-a-Second Language.

EDUCATIONAL INCOME - income or loans on which payment is deferred, grants, scholarships, fellowships, veteran's educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Mandatory fees are those charged to all students or those charged to all students within a certain curriculum.

ELDERLY MEMBER - a member of the household who is 60 years of age or older.

ELIGIBILITY PROCESS – The eligibility process is those activities which are required in all cases as part of the basic provision of benefits. These activities begin with the application for assistance, include redeterminations of eligibility and case maintenance activities, and end with notification and appeal provisions.

EMERGENCY AUTHORIZED REPRESENTATIVE - someone who has not been designated as the household's authorized representative at the time of the household's interview but obtains FS when neither a household member nor the designated authorized representative is able to obtain them because of unforeseen circumstances.

EMPLOYABLE PERSONS - all food stamp applicants/recipients between the ages of 16 and 60, including persons unemployed because of a strike or lockout at their usual place of employment.

EQUITY VALUE - the fair market value of the resource less encumbrances.

EXEMPTION – The amount of income or resources that is disregarded when computing income and/or resource eligibility.

EXPEDITED APPLICATION PROCESSING SERVICE - the following households are qualified for Expedited Service:

Households with less than \$150 in monthly gross income provided their liquid resources (i.e., checking or savings accounts, savings certificates, and lump sum payments) do not exceed \$100.

Migrant or seasonal farmworker households who are destitute, provided their liquid resources do not exceed \$100.

Eligible households in which all members are homeless; or

Eligible households whose combined monthly gross income and liquid resources are less than the household's rent/mortgage plus heating/utilities.

The Standard Utility Allowances (SUAs) may be used to determine this amount.

If the applicant is able to document heating/utilities amounts in excess of the SUAs, the documented amount is used in the determination.

All households qualified for expedited service must receive benefits in timeframes specified in **FSSB Section 14**.

EXPIRATION NOTICE - a notice sent by a local district which advises a household in receipt of FS benefits that its certification period is due to expire. The provisions of an expiration notice are found in **FSSB Section 7**.

EXTENDED FILING PERIOD - the additional period of time of at least ten days from the date the Department (or local district) mails a second Monthly Report form during which the local district must allow a household to submit a completed Monthly Report form following the expiration of the household's initial filing period.

- F -

FAIR HEARING - a formal procedure provided by the Department upon a request made for an applicant or recipient to determine whether an action taken or failure to act by a local district was correct.

FEDERAL FISCAL YEAR - a period of 12 calendar months beginning with each October 1 and ending with September 30 of the following calendar year.

FOOD AND NUTRITION SERVICE (FNS): Formerly known as the Food and Consumer Service - administers the nutrition assistance programs of the U.S. Department of Agriculture. The mission of FNS is to provide children and needy families better access to food and a more healthful diet through its food assistance programs and comprehensive nutrition education efforts.

FOOD STAMP (FS) - a federally funded program with the purpose of reducing hunger and malnutrition by supplementing the food purchasing power of eligible low income individuals.

FOOD STAMP EDUCATIONAL TRAINING - See Education

FOOD STAMP EMPLOYMENT RELATED TRAINING - See Job Readiness Training

FOOD STAMP INDEPENDENT JOB SEARCH - See Job Search

FOOD STAMP JOB CLUB - a directed, full-time workshop that teaches recipients the techniques of how to seek employment by themselves.

FOOD STAMP VOCATIONAL TRAINING - See Job Skills Training

FOOD UNIT - when determining household composition, a food unit is the number of individuals customarily purchasing food and preparing meals together for home consumption.

FOSTER CARE FOR ADULTS – A living arrangement for persons who do not need institutional or nursing care, but may need some type of help in daily living.

FOSTER CARE FOR CHILDREN – A provision for care which is not otherwise given by the parents and provided either on a temporary or permanent basis.

FRAUD CLAIM - See Intentional Program Violation Claim

FUEL ALLOWANCE - Standard of assistance, established from each county, to cover the cost of fuel for heat, if such cost is not included in the household's rent.

- G -

GOOD CAUSE - is defined, for food stamp purposes, as those circumstances beyond the household member's control, such as but not limited to: illness, illness of another household member requiring the person's presence, a

household emergency, unavailability of transportation, or lack of adequate child care for children who have reached age six but are under age 12.

GRANT – The grant is the total amount of financial assistance the client is eligible to receive. It is paid in the form of checks to recipients, or in payments to providers of goods and services on behalf of recipients through vendor or restricted payments.

- H -

HEAD OF HOUSEHOLD - is the member of the applicant household designated by the household to represent the household in all matters pertaining to its eligibility for and receipt of food stamps. The head of household classification must not be used to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household, appear at the certification office to apply for benefits.

HEARING OFFICER - is an attorney who is employed by the Department and designated and authorized by the Commissioner to preside at hearings.

HOME ENERGY ASSISTANCE PAYMENTS - payments or allowances made under any Federal, State or local laws for the purpose of energy assistance. These payments must be clearly identified as energy assistance by the legislative body authorizing the program or providing the funds.

HOMELESS INDIVIDUAL - is one who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

A homeless shelter or welfare hotel;

A halfway house or similar institution that provides "temporary" residence for individuals;

A temporary accommodation in the residence of another individual; or

In a place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

HOMELESS SHELTERS - See Shelters for the Homeless.

HOUSEHOLD - a term relating to any of the following:

An individual living alone;

An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others;

A group of individuals, a food unit, who live together and customarily purchase food and prepare meals together for home consumption;

An individual who is 60 years of age or older living with others (and the spouse of such individual) who is unable to purchase and prepare meals because he/she suffers from a disability considered permanent under the Social Security Act or suffers from a non disease-related, severe, permanent disability. However, the income of the others with whom the individual resides (excluding the income of the individual and spouse) cannot exceed 165% of the poverty level.

- I -

IDENTIFIABLE APPLICATION - an application which contains the applicant's name and address and is signed by a responsible member of the household or the household's authorized representative.

IDENTIFICATION CARD (ID) - a card which identifies the bearer as eligible to purchase meals at a discount price from State approved/USDA authorized restaurants.

INADVERTENT HOUSEHOLD ERROR - an overissuance caused by misunderstanding or unintended error on the part of the household.

INCOME - all monies received or expected to be received each month by all household members from whatever source unless specifically excluded.

INELIGIBLE ALIENS - individuals who do not meet citizenship or prescribed alien status.

INFREQUENT OR IRREGULAR INCOME - any income in the certification period which is received too infrequently or irregularly to be reasonable anticipated, but not in excess of \$30 in a quarter.

INITIAL APPLICATION - households must fill out an application and have an interview with an eligibility worker. If the household is not on food stamps at the time, this is an initial application.

INITIAL MONTH - the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household was not certified for participation.

INSTITUTION OF HIGHER EDUCATION - any institution which normally requires a high school diploma or equivalency certificate for enrollment including, but not limited to, colleges, universities, and vocational or technical schools at the post high school level.

INTENTIONAL PROGRAM VIOLATION (IPV) - in the FS program means the commission of one or more acts in violation of the standards for the FS program. An FS-IPV occurs when an individual has intentionally:

Made a false or misleading statement, or misrepresented, concealed or withheld facts concerning the individual's eligibility for FS; or

Committed any act constituting a violation of the requirements of the FS program, including but not limited to acts constituting a fraudulent use, presentation, transfer, acquisition, receipt, possession or alteration of FS coupons, CBICs, BINS or any other evidence of the individual's eligibility for FS.

INTENTIONAL PROGRAM VIOLATION CLAIM - a claim against a household only when an administrative disqualification hearing or a court has found that a household member committed an Intentional Program Violation.

IPV(Intentional Program Violation) - An IPV occurs when an individual intentionally:

makes a false or misleading statement, or misrepresents, conceals or withholds information that impacts eligibility. Commits any act that constitutes a violation of the federal FS Act, the federal FS Program Regulations, or any State regulation relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

IRREGULAR INCOME - any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter.

ISSUANCE MONTH - The month for which the FS benefits are issued. The payment month and issuance months

are identical.

- J -

JOB READINESS TRAINING - a program component of the Food Stamp Employment and Training Program (FSET) in which group classroom training teaches participants how to successfully approach an independent job search.

JOB SEARCH - a program component of the FSET Program which consists of a specially structured job search for TA and NPA food stamp recipients. Participants are required to contact 24 prospective employers during a maximum eight week job search period. In addition, participants must report twice to the local district employment unit or job search contractor during the job search period for a review of their progress.

JOB SKILLS TRAINING - instruction in either a specific skill or occupation or in a program with a specific vocational objective.

JOINTLY-OWNED RESOURCES - resources owned jointly by separate households. They shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to the household.

L - Z**- L -**

LIQUID ASSETS – Is that property which is in cash or payable in cash on demand. Liquid assets also include financial instruments which can be converted into cash. The most common types of liquid assests are cash on hand, saving accounts, checking accounts, stocks, bonds, mutual funds, promissory notes, loans, mortgages, and land contracts.

LIVE-IN ATTENDANTS - individuals who reside with a household member to provide medical, housekeeping, child care or other similar personal services.

LOCAL DISTRICT - local department of social services which has the responsibility for the administration of Public Assistance and Food Stamp Programs within the State.

LOW-INCOME HOUSEHOLD - a household whose annual income does not exceed 125 percent of the Office of Management and Budget poverty guidelines.

- M -

MASS CHANGE IN THE FOOD STAMP PROGRAM - are changes initiated by the federal government or the Department which affect all food stamp households or a significant portion of all food stamp households. Mass changes may include, but are not limited to, adjustments to income eligibility standards, shelter and dependent care deductions; the thrifty food plan and the standard deduction; annual and seasonal adjustments to social security, Supplemental Security Income and other federal benefits.

MEDICAL DEDUCTIONS - that portion of medical expenses, excluding special diets, which is in excess of \$35 per month and incurred by a household member who meets the definition of elderly or disabled.

MERIT PERSONNEL - employees used in the certification process who are employed in accordance with current standards under the New York State Merit System.

MIGRANT - a seasonal farmworker (individual) who has left home temporarily for the purpose of performing agricultural field or processing work with the expectation of eventually returning home.

MIXED HOUSEHOLD - a household in which some people receive public assistance (SNA, FA, etc.) and others do not.

- N -

NEW YORK STATE NUTRITION IMPROVEMENT PROJECT: [NYSNIP] - Additional budgeting methodology for SSI/FS live alone recipients. They may receive more than categorically eligible minimum amount depending upon their amount of shelter costs. SSA also automatically opens cases for those in receipt of SSI that live alone- similar to MASSI automatically generated cases then are handed off to districts. There is also a 24 month certification period.

NON-FRAUD - See Inadvertent Household Error and Administrative Error.

NON-PUBLIC ASSISTANCE (NPA) - a household in which no one receives Public Assistance.

NORMAL PROCESSING STANDARD - local districts shall provide eligible households that complete the initial application process an opportunity to participate as soon as possible, but not later than 30 calendar days after the application is filed.

NOTIFICATION – A required action by which the applicant/recipient is advised, in writing, of any changes made which affect the grant, continued eligibility, or a determination of the application.

- O -

Office of Temporary and Disability Assistance (OTDA) – OTDA is the agency under DFA which administers temporary assistance programs (i.e. FA, SNA, FS and HEAP), child support, transitional programs (i.e. Learnfare, Drug/Alcohol screening & assessment, Domestic Violence screening & assessment, Bureau of Refugee and Immigration Assistance, Building Independence for the Long Term, Housing) and disability determinations.

OPPORTUNITY TO PARTICIPATE - consists of providing households with a CBIC, PIN, and FS benefits which have been entered on the system which enables the household to obtain its FS within the 30-day processing standard.

OVERISSUANCE - the amount by which the food stamps issued to a household exceeds the amount the household was eligible to receive.

- P -

PARENT - an individual who is a father or mother of a natural, adopted or step-child.

PARTIES TO A FAIR HEARING - the persons for whom a fair hearing is requested and the local district or agencies whose decision, action or failure to act is subject to review at the fair hearing.

PERSONAL IDENTIFICATION NUMBER (PIN) - a personal access number, selected by the client or designated authorized representative to access their electronic benefits. This number functions as the client's electronic signature.

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT (PRWORA) - the federal legislation that replaced the AFDC program with the federal TANF program funded through the TANF Block Grant. (DTA)PROGRAM - the Food Stamp Program conducted under the Food Stamp Act and Regulations.

Poverty Level Guidelines: simplified version of the Federal Government's statistical poverty threshold used by the Bureau of the Census to prepare its statistical estimates of the number of persons and families in poverty. The poverty guidelines are used for administrative purposes such as in determining whether a person or family is financially eligible for assistance under a particular federal program. The poverty level guideline is calculated annually and released between February and March.

PRIMARY SOURCE:- any form of original or copied/faxed documentation that the applicant/recipient or member of the household provides to the agency or worker to support proof of their circumstances. Examples; Birth

Certificates, Social Security Card, last 4 pay stubs, bank statement with account number and name ,also includes previously verified sources that have not changed that are already at he agency's disposal ex: from another case file., as well as documents that the agency orders and pays for.

PROGRAM - the Food Stamp Program conducted under the Food Stamp Act and Regulations.

PROSPECTIVE BUDGETING - means that local districts shall determine the amount of the allotment based on: an estimate of actual monthly income and/or circumstances which will exist in the month for which the allotment is given.

PRUDENT PERSON CONCEPT - refers to the reasonableness of judgments made by an eligibility worker based on available facts pertinent to a given situation.

PUBLIC ASSISTANCE includes Family Assistance, Safety Net Assistance, emergency assistance to aged, blind or disabled persons, and emergency assistance to needy families including special grants and benefits available pursuant to Department Regulation 352. Refer to Temporary Assistance, the revised public assistance program based upon the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

PUBLIC ASSISTANCE HOUSEHOLD (PA) -household in which all members are applying for or receiving some form of Public Assistance.

"PURE" SSI HOUSEHOLD - a household in which all members are SSI applicants or recipients.

- Q -

QUESTIONABLE INFORMATION - information on the application which is inconsistent with statements made by the applicant, with other information on the application or previous applications or inconsistent with information received by the local district.

- R -

REQUEST FOR CONTACT:[RFC] LDSS-4753- letter from worker or agency requesting applicant/recipient to physically appear, telephone, or to provide specific information/verification via hard copy or fax within a specified period of time, detailing specific local district possible actions if they do not do so.

RESERVED - provisions which will be set forth at a later date.

RESIDENCY - households living within the county geographic area in which they file application for food stamps.

RESIDENTS OF INSTITUTIONS - those individuals who are provided the majority of their meals (over 50% of three meals daily) as part of the institution's normal service but the institution is NOT authorized to accept food stamps.

RESOURCES - both liquid and non-liquid assets which include cash, bank accounts, stocks/bonds, real estate, licensed and unlicensed vehicles. The limit on resources is \$3,000 for households with at least one member over 60 years of age and \$2,000 for all other households.

RESTORATION OF LOST BENEFITS - when the local district or a Fair Hearing decision rules, or a fraud disqualification is reversed so that a household's benefits were lost and the loss was not caused by the household, the local district shall restore such benefits to the household in an amount equal to the amount of benefits lost.

RETROACTIVE BENEFITS - if an application of an eligible household is delayed through fault of the local district, the household shall be entitled to benefits retroactive to the month of application.

ROOMER - a person who pays a household for lodging but NOT for food.

- S -

SEASONAL FARMWORKER - a person who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence when (1) employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations or (2) employed in canning, packing, ginning, seed conditioning or related research or processing operations, and transported or caused to be transported, to or from the place of employment by means of a day-haul operation.

SECONDARY EVIDENCE: Secondary or Collateral sources of information are relatives outside the immediate family group and other persons, agencies, or resources.(See Collateral Investigation)

SELF-EMPLOYMENT INCOME – Income that results from work activity on the part of the Applicant/Recipient which is self-directing and yields compensation directly from the customer. After business expenses have been deducted, the remainder is included in gross personal earned income.

SHELTER ALLOWANCE – Standard of assistance, established for each county, intended to cover the cost of sheltering the household, by providing the amount actually paid by the household, but not in excess of the standard.

SHELTER DEDUCTION - a deduction for shelter costs in excess of 50% of the household's income up to the established maximum after all other income exclusions and deductions are allowed. Households with an aged or disabled member are not subject to the maximum.

SHELTERS FOR THE HOMELESS - public or private facilities which provide temporary living accommodations for homeless persons.

SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE - public or private non profit residential facilities that serve victims of domestic violence. If such facilities serve other individuals, a portion of the facility must be set aside on a long-term basis to serve only victims of domestic violence.

SIBLING - an individual who has a natural, adopted, half or step-brother or sister.

SINGLE LANGUAGE MINORITY - individuals who speak the same non-English language.

SPOUSE - refers to either of two individuals who would be defined as married under applicable State law or who are living together and are holding themselves out to the community as husband and wife.

STAGGERED ISSUANCE - the process by which the clients regular recurring electronic benefits will be available. The benefit pick up day will depend on the last digit of the client's case number.

STANDARD DEDUCTION - a deduction, determined by USDA which is applied against the gross income of every household.

STANDARD UTILITY ALLOWANCES (SUA) are allowances that encompass costs for heating/cooling, electricity, cooking fuel, trash collection, sewage, water fees and heating hot water.

STUDENT - as defined for Food Stamp purposes, is any person 18 thorough 49 years of age; physically and mentally fit; enrolled at least half time in an institution of higher education excluding high school and on the job training programs, and complies with the eligibility criteria stated in **FSSB Section 5**.

SUPPLEMENTAL SECURITY INCOME (SSI) - monthly cash payments under the authority of Title XVI of the Social Security Act, as amended, to the aged, blind and disabled, or Federally administered mandatory supplemental payments.

SUPPLEMENTATION - the process by which an additional or supplemental grant is issued to a recipient in situations when the recipient's actual income received plus the TA grant for any payment month are less than the appropriate standard of need for that month.

- T -

TEMPORARY ASSISTANCE (TA) - the "cash" assistance component of welfare. In New York State, temporary assistance includes Family Assistance, Safety Net Assistance, emergency assistance to aged, blind or disabled persons, and emergency assistance to needy families including special grants and benefits available pursuant to Department Regulation 352. Refer to Temporary Assistance, the revised public assistance program based upon the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). TA is often referred to as "public assistance".

TEMPORARY ASSISTANCE HOUSEHOLD (TA) - household in which all members are applying for or receiving some form of Public Assistance.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) - commonly used in reference to the federal assistance program of which a state operates. It is the Block Grant which was established under the Personal Responsibility and Work Opportunity Reconciliation Act which states receive in order to operate a federally funded program to assist families with children. TANF funds are used for supportive services and federal benefits.

THIRD-PARTY BENEFICIARY - monies received and used for the care and maintenance of a third-party beneficiary not a household member.

THRIFTY FOOD PLAN - The diet required to feed a family of four persons consisting of a man and a woman 20-54, a child 6-8, and a child 9-11 years of age, determined in accordance with the Secretary of Agriculture's calculations. The cost of this diet is the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary of Agriculture shall make household size adjustments in the Thrifty Food Plan taking into account economics of scale.

TIMELY NOTICE - a notice which is mailed at least 10 days before the date upon which the proposed action is to become effective.

TRANSITIONAL HOUSING - the term transitional housing means a living accommodation which is intended to provide shelter to homeless households for a short period of time until permanent regular housing, such as an

apartment or house, can be obtained by the household. Such living accommodations may contain cooking and/or refrigeration facilities.

- U -

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICE (USCIS) - under the US Department of Justice

- V -

VERIFICATION - providing/securing of information which establishes the accuracy of information provided by the applicant/recipient on the form prescribed by the Department.

VOLUNTARY PARTICIPANTS - FSET volunteers are food stamp recipients who are exempt from food stamp work registration but volunteer for FSET activities. All of the definitions and reporting instructions that pertain to mandatory work registrants also apply to volunteers. However, volunteers may not be sanctioned for failure to comply with FSET requirements.

- W -

WORK REGISTRATION - all able-bodied household members, unless specifically exempted, must register for and accept suitable employment.