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## Informational Letter

### Section 1

<b>Transmittal:</b>	02 INF 17
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Temporary Assistance
<b>Date:</b>	July 8, 2002
<b>Subject:</b>	Food Stamp Questions and Answers
<b>Suggested Distribution:</b>	Temporary Assistance Staff Food Stamp Staff CAP Staff Staff Development Coordinators
<b>Contact Person(s):</b>	Eastern Regional Team at (800) 343-8859, extension 3-1469 or (518) 473-1469
<b>Attachments:</b>	Food Stamp Questions and Answers
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

### Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
97 INF - 6					

### Section 2

#### I. Purpose

The Division of Temporary Assistance, Eastern Regional Team is responsible for administering and coordinating policy relating to the federal Food Stamp Program in New York State. In this capacity, Eastern Team members have responded to numerous policy questions. The attached document is a compilation of commonly asked questions and answers relating to Food Stamp income, budgeting, resources and alien eligibility policies and procedures.

#### II. Background

This letter is released in order to clarify existing Food Stamp Program policies.

### **III. Program Implications**

Districts should ensure that workers implement the Food Stamp policy clarifications contained in this letter.

#### **Issued By**

**Name: Patricia Stevens**

**Title: Deputy Commissioner**

**Division/Office: Division of Temporary Assistance**

## **FOOD STAMP QUESTIONS AND ANSWERS**

**1. Q:** What changes must be reported during their certification periods by food stamp households that are **not** subject to six-month reporting?

**A:** Food stamp households that are **not** subject to six-month reporting must report the following within ten days of the change:

- changes of more than \$100 in source or amount of gross monthly earnings or unearned income from private sources;
- changes in household composition;
- changes in residence and the resulting change in shelter cost;
- acquisition of a non-excluded licensed vehicle;
- when cash, stocks, bonds and money in a bank account or savings institution reach or exceed the household's applicable resource limit;
- changes in legal obligation to pay child support;
- and, for households subject to the able-bodied adults without dependents (ABAWD) time limits, when work hours fall below 80 hours per month.

Additional information on six-month reporting rules will be included in a separate release.

**2. Q:** Can a recertification form be used as an application?

**A:** If a client misses their recertification date, but does come in within thirty days following the expiration of the certification period, the recertification form may be used as an application. If they come in after thirty days a new application is required.

**3. Q:** Should legally permanent residents (LPR's) remain on the "Application Turnaround Document" DSS 3636 when there are remaining household members that are determined eligible. For example, in a household of four, the parents are determined ineligible aliens and the two children are determined eligible for food stamps. Do the parents remain on the DSS 3636, and how are they coded?

**A:** The answer is yes. The parents remain on the DSS 3636 and are coded as "sanctioned" under "individual status" entry of 10 and an "individual level reason" code of F92. Also all the correct citizenship codes must be in place.

**4. Q:** Districts have expressed concerns that the federal food stamp rules that prohibit requiring in-office interviews during a food stamp household's certification period prevent districts from requiring a client to appear for an Intentional Program Violation (IPV) investigation interview.

**A:** The provision preventing districts from requiring households to report for an in-office interview during their certification periods is intended to: 1) allow working households and those with transportation difficulties to clarify eligibility issues without having to take time off from work or to otherwise bear the cost of a trip to the food stamp office, and: 2) prevent districts from requiring recipients who meet an error prone profile to report for an in-office interview during their certification periods if there was otherwise no evidence of fraud. While these provisions did not target fraud investigators, the United States Department of Agriculture (USDA) has clarified that they do apply to them.

At the same time, we believe that under the current rules the district can apply consequences to households that are not willing to cooperate in an IPV investigation. The provision that requires a district to send a Request for Contact (RFC) when it needs to clarify information also provides the district an avenue through which it can elicit the desired cooperation from a household suspected of IPV. The district may stipulate the means by which the recipient must respond to the RFC – either in writing or over the phone. The LDSS may also stipulate that it believes it would be in the best interest of the

recipient to appear for an in-office interview, even though it is not required to do so. If a recipient does not respond to an RFC, or does respond but refuses to adequately clarify the information, the LDSS can terminate the household, which has more severe consequences than terminating the individual guilty of an IPV. Thus, a household facing case closure might decide that a face-to-face meeting with an investigator is the best course of action.

5. **Q:** A number of questions have been raised as to which retirement (pension) plans have to be included as resources and which ones are excluded.

**A:** In general the cash value of a pension plan is **excluded** from resources with certain exceptions. The following is an illustrative but nonexhaustive list of types of retirement savings and pension plans that are **excluded**:

- 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.

The Food Stamp Act of 1977, as amended, provides that certain retirement accounts must be counted as a resource. The following types of retirement savings are **included** as a resource, minus the amount of the penalty, if any, for early withdrawal:

- Keogh plans that have no contractual obligation with a third party;
- Individual Retirement Accounts (IRAs); and
- Simplified Employer Pension Plans (SEPs) (which are considered IRAs by banks and the IRS).

If the cash value of an excluded type of plan is rolled over into an IRA, the cash value loses its exclusion and becomes an included resource following the roll-over. For all pension plans, whether the account is counted as a resource or not, the amount of the employee contribution deducted from an individual's pay is counted as income in the gross pay.

6. **Q:** How is the Social Security Administration's (SSA's) direct deposit of retroactive benefits into the dedicated account treated for food stamp purposes?

**A:** SSA's direct deposit (including installments) of retroactive benefits is excluded as income as a nonrecurring lump sum payment. The amount is also excluded as a resource because it belongs to a household member who receives SSI. Subsequent retroactive benefits and underpayments received in a lump sum payment and deposited in the dedicated account are treated the same. Interest earned in the account, however, would be counted as income.

7. **Q:** If an individual ends employment under the conditions interpreted as a "Voluntary Quit", there is a 60 day period of ineligibility for food stamps. If the individual comes in to apply for food stamps within the 60 days, must the individual be sanctioned, or does the district have the discretion to allow the applicant to withdraw the application? If a sanction is imposed, does it count as the first instance in terms of progressive penalty time periods for successive sanctions within a three year period?

**A:** Food stamp policy mandates that an individual has the right to file an application at any time. In light of this, we interpret that a local district has the discretion to allow an individual to withdraw his/her application. Regardless of whether or not the application is withdrawn, the individual, is ineligible for food stamps for 60 days from the date of the voluntary quit.

However, if the application is not withdrawn and the local district imposes a sanction, it does count as the first instance with a durational period of 60 days and a second voluntary quit within three years would result in a second level durational sanction with period of ineligibility lasting four months. A third occurrence would result in a six-month period of ineligibility.

8. Q: If a member of a FS household is seriously ill, and the community makes donations to the household for payment of the medical expenses, how is this budgeted?

A: If the community establishes an account at a local financial institution in the name of the ill person and then releases the funds to the family, as needed to pay for medical expenses, the account is exempt from the resource limit. If some donations were previously given directly to the family, these resources may be transferred into this account without being considered a “transfer of resources knowingly for the purpose of qualifying for food stamp benefits”. If the donations are spent within the month they are received, they are not counted. Finally, if the ill member receives SSI, the resources of that person would be exempt.

9. Q: What are the changes as per 01 ADM-1 concerning District of Fiscal Responsibility?

Old Way:

TA/FS	FROM district provides <b>FS</b> for month of move only TO district provides <b>FS</b> for month after move
NPA/FS	FROM district provides <b>FS</b> for month of move only TO district provides <b>FS</b> for month after move
Mixed	FROM district provides <b>FS</b> for month of move only TO district provides <b>FS</b> for month after move

New 01 ADM-1 Way:

TA/FS	FROM district provides <b>FS</b> for month of move and month after
DFR* TA/FS	FROM district provides <b>FS</b> for month of move only TO district provides <b>FS</b> for month after move
NPA/FS	FROM district provides <b>FS</b> for month of move only TO district provides <b>FS</b> for month after move
Mixed	FROM district provides <b>FS</b> for month of move only TO district provides <b>FS</b> for month after move

\*DFR means “District of Fiscal Responsibility”, i.e. TA’s Medical, Placement or other TA DFR (please see 97 INF – 6 )

10. Q: Can people with little or no income be certified for less than six months?

A: Three-month certification periods can be used in any instance, including a case with earned income. When you do this the case must change report according to the 10-10-10 reporting

standards. It is recommended that a decision to use the three-month periods for earned income cases be on a case-by-case basis rather than adopting a policy that requires three-month periods for all situations of a certain type (e.g. low earned income). By putting the case under six-month reporting rules both the household and your district are protected from having to process small changes in circumstances between recertifications.

11. **Q:** If a client re-applies within 30 days after the end of their cert period through intake, are they eligible for expedited processing?

**A:** Any household with a break in participation can, if they meet the criteria, receive expedited processing regardless of where in the agency they are seen. Households' recertifying late have a break in participation. Their benefits are prorated back to the date they file the recert application, not paid back to the first of the month. Reminder: Households do not "apply" for expedited processing. All new applications must be screened and provided with expedited processing when appropriate. This includes new "applications" that are processed as recerts because their break is less than 30 days.

12. **Q:** Are six-month reporters who have their benefits reduced entitled to timely notice or adequate notice?

**A:** Six-month reporters, like quarterly reporters, whose benefits are being reduced based on information provided in their mailer are entitled to adequate notice.

13. **Q:** A client applies for food stamps and, in their interview on January 17, indicates that they have \$ 3500 in the bank from a credit card advance. They call back on January 18 and report that they have spent all but \$300. How does this affect their eligibility?

**A:** Available resources at the time the household is interviewed must be used to determine the household's eligibility. However, if a household that is ineligible due to resources reports a decrease in resources after the interview, but before the 30<sup>th</sup> day after the application filing date, eligibility for the month after the application filing month and beyond must be determined using the new lower resource level.