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TITLE 218 – DEPARTMENT OF HUMAN SERVICES

CHAPTER 20 – INDIVIDUAL AND FAMILY SUPPORT PROGRAMS

SUBCHAPTER 00 – N/A

PART 1 – Supplemental Nutrition Assistance Program

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1.1 General Information

1.1.1 Authority

A. All regulations and procedures for the certification of Supplemental Nutrition Assistance Program (SNAP) households and subsequent issuance of SNAP benefits to eligible households are authorized by the Food and Nutrition Act of 2008 (as amended through Pub. Law 116-94).

1. Regulations issued pursuant to the act are contained in 7 C.F.R. Parts 271 through 282.

2. Program operations are conducted in Rhode Island under the terms of R.I. Gen. Laws Chapter 40-6.

1.1.2 Uses for SNAP Benefits

A. SNAP benefits are designed for use by participants to purchase eligible foods. “Eligible foods" means:

1. Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption; and

2. Seeds and plants to grow foods for the personal consumption of eligible households.

3. Meals prepared and delivered by an authorized meal delivery service to households eligible to use SNAP benefits to purchase delivered meals, or meals served by an authorized communal dining facility for the elderly, for Supplemental Security Income (SSI) households or both, to household eligible to use SNAP benefits for communal dining.

    a. Meal delivery services are provided to eligible household members sixty (60) years of age or over and their spouses, and household members living with a disability, and their spouses to the extent that they are unable to adequately prepare all their meals may use all or part of the SNAP benefits issued to them to purchase meals from a non-profit meal delivery service which is authorized by Food and Nutrition Service (FNS) as a retailer or which has a contract with the State agency, such as Meals on Wheels.

b. Communal dining facilities include senior citizen centers, apartment buildings occupied primarily by elderly persons or SSI households, public or private non-profit establishments (eating or otherwise) that feed elderly persons or SSI recipients, and federally subsidized housing for the elderly.

(1) It also includes private establishments which contract with an appropriate State or local agency to offer meals at concession prices to elderly persons or SSI recipients, and their spouses.

4. Meals prepared and served by a drug or alcohol treatment and rehabilitation center to center participants and their children who live with them;

a. Members of eligible households who are narcotic addicts or alcoholics, and who regularly participate in a drug or alcoholic treatment and rehabilitation program, may use all or part of the SNAP benefits issued to them to purchase meals prepared for them during the course of such programs by a private non-profit organization or institution or a publicly operated community mental health center.

5. Meals prepared and served by a group living arrangement facility to residents who are blind or disabled;

a. "Group living facility" means a public or private non-profit residential setting serving no more than sixteen (16) residents which is certified by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH), under regulations issued in the Social Security Act, 42 U.S.C. § 1382(e).

6. Meals prepared by and served by a shelter for battered persons and children to its eligible residents;

a. "Shelter for battered persons and children" means a public or private non-profit residential facility which serves battered persons and their children.

(1) If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered persons and children.

b. Eligible residents of shelters for battered persons and children may use all or part of their SNAP benefits to purchase meals prepared

and served by a shelter which is authorized by FNS to redeem at wholesalers, or which redeems at retailers as the authorized representative of participating households.

7. In the case of homeless SNAP households, meals prepared for and served by an authorized public or private nonprofit establishment (e.g. soup kitchen, temporary shelter), approved by Department of Human Services (DHS), that feeds homeless persons; and

8. In the case of homeless SNAP households, meals prepared by a restaurant which contracts with DHS to serve meals to homeless persons at concessional (low or reduced) prices.

9. Eligible household members sixty (60) years of age or over, or who receive supplemental security income benefits or disability or blindness payments under Title I, II, X, XIV, or XVI of the Social Security Act, 42 U.S.C. Chapter 7, and their spouses may use all or any part of the SNAP benefits issued to them to purchase meals prepared by a restaurant which contracts with the DHS to offer meals for such persons at concessional (low or reduced) prices.

C. Another person may be designated by the household to purchase the food.

1. Households are not required to have cooking facilities or access to cooking facilities to participate in the program.

1.1.3 Non-Discrimination

A. The agency is committed to the impartial and equitable treatment of all individuals in the administration of the Supplemental Nutrition Assistance Program. The non-discrimination statement of the Supplemental Nutrition Assistance Program is:

1. In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

2. Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits.

3. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

4. To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form.

5. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

   a. Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights,1400 Independence Avenue SW Washington, D.C. 20250-9410; or

   b. Fax: (202) 690-7442; or

   c. Email: OAC@usda.gov.

6. USDA is an equal opportunity provider.

B. Discrimination Complaint Process

1. Individuals who believe that they have been subject to discrimination may file a complaint with the Secretary of Agriculture or the Administrator of FNS, Washington, DC 20250, and/or with the Director of the DHS or her designee.

   a. A complaint must be filed no later than one hundred eighty (180) days from the date of the alleged discrimination.

      (1) However, the time for filing may be extended by the Secretary.

   b. The agency must accept all complaints of discrimination, written or verbal, and if requested to do so, forward them promptly to the Secretary or the Administrator of FNS;

      (1) Otherwise, civil rights complaints should be forwarded to the Community Relations Liaison Office at 206 Elmwood Avenue, Providence, R.I. 02907.

2. Written complaints are accepted by the Secretary of Agriculture or the Administrator of FNS or the Director of DHS.

3. Any person who believes that they have been subject to discrimination may also file a complaint with the Director of DHS or her designee, in addition to, or in place of, the one filed with the Secretary of Agriculture or the Administrator of FNS.

1.1.4 Complaints Not Relating to Discrimination

A. A complaint is any oral or written expression of dissatisfaction made to staff, either in the field or to Central Office personnel or department officials, by a member of the community questioning such issues as delays in processing or general services to participants.

1. Such complaints may be filed by participants, potential participants or other concerned individuals or groups.

a. They do not include complaints alleging discrimination on the basis of race, gender, age, religion, creed, national origin, political beliefs or disabilities.

b. Nor do these complaints include ones pursued through the fair hearing process or complaints that can be immediately resolved, or resolved by the close of the next business day.

2. Inquiries are not considered complaints.

a. An inquiry is when an applicant or recipient seeks the answer to a question such as where I can receive an application, when will I receive my benefits, when will my application be approved, etc.

3. Whenever a complaint is received by staff and cannot be immediately resolved or resolved by the close of the next business day, a Complaint Form must be filled out by the person receiving said complaint.

4. The agency must follow up on all complaints, resolve complaints, take corrective action where warranted, and respond to the complainant on the disposition of the complaint.

1.1.5 Equal Access to Justice

A. The purpose of R.I. Gen. Laws § 42-92-1 is to provide equal access to justice for small businesses and individuals.

1. The Rules and Regulations of this law govern the application and award of reasonable litigation expenses to qualified parties in fair hearing and Administrative Disqualification Hearing proceedings conducted by the DHS for the Supplemental Nutrition Assistance Program.

2. Individuals should be encouraged to contest unjust administrative actions in order to further the public interest, and toward that end, such parties should be entitled to State reimbursement of reasonable litigation expenses when they prevail in contesting an agency action which is, in fact, unfair and unjust according to the statute cited above.

1.1.6 Personnel Standards

A. Agency personnel used in the certification process are employed in accordance with the current standards for the merit system of personnel administration. Agency employees meeting the above requirements perform the interviews required in § 1.3.4 of this Part.

1. Volunteers and other non-agency employees cannot conduct certification interviews or certify SNAP applicants.

2. Individuals and organizations who are parties to a strike or lockout and their facilities may not be used in the certification process except as a source of verification of information supplied by an applicant.

3. Only authorized employees of the DHS involved in the administration of the Supplemental Nutrition Assistance Program are allowed to issue Electronic Benefit Transfer (EBT) cards and Personal Identification Numbers (PIN).

1.1.7 Disclosure of Information

A. The agency must restrict the use or disclosure of information obtained from SNAP applicant households to the following persons:

1. Persons directly connected with the administration or enforcement of the Food and Nutrition Act of 2008 (as amended through Pub. Law 116-94) or regulations, other Federal assistance programs, federally-assisted State programs providing assistance on a means-tested basis to low income individuals, or general assistance programs which are subject to the joint processing requirements described in § 1.3.2(B) of this Part;

2. Persons directly connected with the administration or enforcement of the programs which are required to participate in the Income and Eligibility Verification System (IEVS) to the extent the SNAP information is useful in

establishing or verifying eligibility or benefit amounts under those programs;

3. Persons directly connected with the verification of immigration status of non-citizens applying for SNAP benefits, through the Systematic Alien Verification for Entitlements (SAVE) program, to the extent the information is necessary to identify the individual for verification purposes;

4. Persons directly connected with the administration of the Child Support Enforcement program under the Social Security Act, Title IV, Part D, 42 U.S.C. § 651, in order to assist in the administration of that program, and employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under Titles II and XVI of the Social Security Act, 42 U.S.C. Chapter 7;

5. Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

6. Local, State, or Federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food and Nutrition Act of 2008 (as amended through Pub. Law 116-94), or its regulations.

    a. The written request must include the identity of the individual requesting the information, his/her authority to do so, the violation being investigated and the identity of the person on whom the information is requested.

    b. Notwithstanding any other provision of law, the address, Social Security Number, and if available, any photograph of any member of any household shall be made available, upon written request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that:

        (1) The member is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or an attempt to commit a crime) that is a felony under the law of the place from which the individual is fleeing or which, in the case of New Jersey, is a high misdemeanor under the State of New Jersey; or violating a condition of probation or parole imposed under a Federal or State law; or

        (2) The member has information that is necessary for the officer to conduct an official duty related the above;

(3) Locating or apprehending the member is an official duty; and

(4) The request is being made in the proper exercise of an official duty.

B. Recipients of information released under this section must adequately protect the information against unauthorized disclosure to persons or for purposes not specified in this section. In addition, information received through the IEVS must be protected from unauthorized disclosure as required by regulations established by the information provider. Information released to the agency pursuant to the Internal Revenue Code of 1954, 26 U.S.C. § 6103(a), is subject to the safeguards established by the Secretary of the Treasury in 26 U.S.C. § 6103 and implemented by the Internal Revenue Service in its publication, Tax Information and Security Guidelines.

1.1.8 The Household's Access to its Case Record

If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting in its behalf to review materials contained in its case record, the material and information contained in the case record pertaining to SNAP benefits are made available for inspection during normal business hours. However, the agency must withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

1.2 Household Definitions

1.2.1 General Household Definition

A. A household is composed of any of the following individuals or groups of individuals, provided they are not residents of an institution (except as otherwise specified in § 1.2.8 of this Part), are not residents of a commercial boarding house, or are not boarders (except as otherwise specified in § 1.2.6 of this Part):

1. An individual living alone;

2. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others;

3. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

1.2.2 Special Household Definition

A. Certain 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.

1. Separate household status may NOT be granted to the following:

a. A spouse of a member of the household; or

b. Children under twenty-two (22) and living with their parents, even if married and living with a spouse, a child, or both; or

c. Children (other than foster children) under eighteen (18) years of age who live with and are under the parental control of an adult household member other than his or her parent(s); or

d. Parents living together with their children who are under age twenty-two (22).

(1) A child must be considered under parental control if he or she is financially or otherwise dependent on a member of the household.

1.2.3 Elderly/Disabled Individuals

A. Although a group of individuals living together and purchasing and preparing meals together constitutes a single household under the provisions of the General Household Definition, an otherwise eligible member of such a household who is sixty (60) years of age or older and who is unable to purchase and prepare meals because s/he suffers from a disability considered permanent under the Social Security Act, U.S.C. Title 42 or suffers from a non-disease-related, severe, permanent disability may be a separate household from the others based on the provisions of the Special Definition, provided that the income of the others with whom the individual resides (excluding the income of the spouse of the elderly and disabled individual) does not exceed one hundred sixty-five percent (165%) of the poverty line.

1. The SSA's most current list of disabilities is used as the initial step for verifying if an individual has a disability considered permanent under the Social Security Act, U.S.C. Title 42.

a. However, only an individual who suffers from such a disability and who is unable to purchase and prepare meals because of such disability is considered disabled for the purpose of this provision.

2. If it is obvious to the agency representative that the individual is unable to purchase and prepare meals because s/he suffers from a severe physical or mental disability, the individual is considered disabled for the purpose of this provision even if the disability is not specifically mentioned on the SSA list.

3. If the disability is not obvious to the agency representative, s/he must verify the disability by requiring a statement from a physician or licensed or certified psychologist certifying that the individual (in the physician's/psychologist's opinion) is unable to purchase and prepare meals because s/he suffers from one of the non-obvious disabilities mentioned in the SSA list or is unable to purchase and prepare meals because s/he suffers from some other severe, permanent physical or mental disease or non-disease-related disability.

    a. The elderly and disabled individual (or his/her authorized representative) is responsible for obtaining the cooperation of the individuals with whom s/he resides in providing the necessary income information about the others to the agency for purpose of this provision.

1.2.4 Non-Household Members

A. Certain individuals are not included as members of the household, unless specifically included as a household member under the provisions of the Special Household Definition in § 1.2.2 of this Part.

1. If not included as a member of the household under the provisions of the Special Household Definition, such individuals must not be included as a member of the household for the purpose of determining household size, eligibility, or benefit level.

    a. The income and resources of such individuals must be handled in accordance with the provisions of § 1.5.6(C) of this Part.

2. The following individuals (if otherwise eligible) may participate as separate households:

    a. Roomers: Individuals to whom a household furnishes lodging, but not meals, for compensation.

    b. Live-in Attendants: Individuals who reside with a household to provide medical, housekeeping, child care or similar personal services.

c. Other Individuals: Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household.

B. Students

1. An individual who is enrolled at least half-time in an institution of higher education shall be ineligible to participate in the Supplemental Nutrition Assistance Program unless the individual qualifies for one (1) of the exemptions contained in § 1.4.13 of this Part.

2. An individual is considered to be enrolled in an institution of higher education if the individual is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

3. The enrollment status of a student shall begin on the first (1st) day of the school term of the institution of higher education.

a. 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 normal school term (excluding summer school).

1.2.5 Ineligible Household Members

A. Some household members are ineligible to receive program benefits (such as certain non-citizens), while others may become ineligible for such reasons as being disqualified for committing an intentional program violation or refusing to comply with a regulatory requirement.

1. These individuals must be included as members of the household for the purpose of defining a household under the provisions of the general and special definitions.

a. However, such individuals must not be included as eligible members of the household when determining the household's size for the purpose of comparing the household's monthly income with the income eligibility standard or assigning a benefit level.

b. The income and resources of such individuals must be handled in accordance with the provisions of § 1.5.6(A) of this Part, as appropriate.

(1) Moreover, these individuals are not eligible to participate as separate households.

2. Categories of ineligible individuals include:

a. Ineligible Non-citizens: Individuals who do not meet the citizenship or qualified alien status requirements of or the non-citizen sponsorship requirements of § 1.4.12 of this Part.

b. Ineligible Able-Bodied Adults without Dependents (ABAWDS): Individuals who are ineligible due to the time limit for able-bodied adults as detailed in § 1.11.9 of this Part.

c. Noncompliance with Work Requirements: Individuals who are disqualified for noncompliance with the work requirements found in § 1.11 of this Part.

d. Intentional Program Violation: Individuals who are disqualified for an intentional program violation, as set forth in § 1.8 of this Part.

e. Social Security Number (SSN) Noncooperation: Individuals who are disqualified for failure to provide or apply for an SSN, as set forth in § 1.4.12 of this Part.

f. Failure to Attest to Citizenship/Alienage Status: Individuals who do not attest to their citizenship or alien status as set forth in § 1.4.7 of this Part.

g. Fleeing Felons: Individuals who are fleeing to avoid prosecution, custody, or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime or attempt to commit a crime that is a felony under the law of the place from which the individual is fleeing or which, in the case of New Jersey, is a high misdemeanor under the State of New Jersey; or violating a condition of probation or parole imposed under a Federal or State law.

(1) An individual is considered to be a ‘‘fleeing’’ felon, if the following criteria are met:

(AA) There is a felony warrant for the individual;

(BB) The individual is aware of, or reasonably expects that a warrant has or would have been issued;

(CC) The individual has taken some action to avoid being arrested or jailed; and

(DD) A law enforcement agency is actively seeking the individual.

1.2.6 Boarders

A. Boarders are defined as individuals or groups of individuals residing with others and paying reasonable compensation to the others for lodging and meals.

1. Boarders are ineligible to participate in the program independent of the household providing the board.

a. They may participate as members of the household providing the boarder services to them at the household's request.

b. For SNAP Program purposes, a foster child or foster care adult is considered a boarder.

c. In no event, should boarder status be granted to those individuals or groups of individuals described in § 1.2.2 of this Part, which includes children residing with elderly or disabled parents.

2. Boarders are not to be considered members of participant or applicant households, nor is the income and resources of boarders to be considered available to such households.

a. However, the amount of payment which a boarder gives to a household for lodging and meals must be treated as self-employment income to the household.

3. For program purposes, a boarding house is defined as a commercial establishment which offers meals and lodging for compensation with the intention of making a profit.

a. Residents of such boarding houses are not eligible for program benefits.

b. The number of boarders residing in a boarding house is not used to determine if a boarding house is a commercial enterprise.

c. The household of the proprietor of a boarding house may participate in the program, separate and apart from the residents of the boarding house, if that household meets all of the eligibility requirements for program participation.

4. To determine if an individual is paying reasonable compensation for meals and lodging in making a determination of boarder status, only the amount paid for meals must be used, provided that the amount paid for meals is distinguishable from the amount paid for lodging. A reasonable monthly payment must be either:

   a. A boarder, whose board arrangement is for more than two (2) meals a day, must pay an amount which equals or exceeds the Thrifty Food Plan for the appropriate size of the boarder household; or,

   b. A boarder, whose board arrangement is for two (2) meals or less per day, must pay an amount which equals or exceeds two thirds (2/3) of the Thrifty Food Plan for the appropriate size of the boarder household.

5. An individual furnished both meals and lodging by a household, but paying compensation of less than a reasonable amount to the household for such service, is considered a member of the household providing the services.

B. None of the income or resources of individuals determined to be boarders and who are not members of the household providing the boarder services is considered available to such household. However, the amount of the payment that a boarder gives to a household must be treated as self-employment income to that household, with the exception of foster care boarders.

1. The procedures for handling self-employment income from boarders (other than such income received by a household that owns and operates a commercial boarding house) are set forth in § 1.5.4 of this Part.

2. The procedures for handling income from boarders by a household that owns and operates a commercial boarding household are set forth in § 1.5.4 of this Part.

1.2.7 Head of Household

A. When designating the head of the household in a household with an adult parent and children or an adult who has parental control over children, the household must select an adult parent of children of any age living in the household, or an

adult who has parental control over children under eighteen (18) years of age living in the household, provided that all adult members agree to the selection.

1. These households may affect the selection at application, recertification, or whenever there is a change in household composition, but not when a previously-designated head of household has been sanctioned under § 1.11 of this Part.

2. If such a household fails to select a head of household, the agency representative shall designate the principal wage earner as the head of household.

    a. The principal wage earner is the household member (including an ineligible member) who has the greatest amount of earned income in the two (2) months prior to the month of application or month of violation.

    b. This provision applies only if the employment involves twenty (20) hours or more per week or provides earnings at least equivalent to the Federal minimum wage multiplied by twenty (20) hours.

3. For households that do not consist of adult parents and children, or adults who have parental control of children living in the household, the worker will designate the head of household.

4. The head of household classification is not used to impose special requirements on the household such as requiring that the head of household, rather than another adult member of the household, appear at the office to make application for benefits.

5. In the event that the head of the household or spouse is unable to file the application, another household member may apply for the household, or an adult non-household member may be designated as the authorized representative for that purpose.

6. No person of any age living with a parent (or person fulfilling the role of parent) who is:

    a. Registered for work;

    b. Exempt from work registration because s/he is subject to and participating in a TANF/Rhode Island Works (RIW) employment plan; or

    c. Receiving unemployment insurance; or

d. Is employed or self-employed and working a minimum of thirty (30) hours weekly or receiving weekly earnings equal to the Federal minimum wage multiplied by thirty (30) hours shall be considered the head of household unless s/he is an adult parent of children and the household elects to designate her/him as its head of household.

7. When a new person joins a household with an adult parent of children while either the household or an individual is disqualified for a work requirement or voluntary quit violation, and if the new person is selected by the household to be the head of household as defined above, that new head of household status takes precedence over the status another member may have held.

1.2.8 Residents of Institutions

A. Individuals are considered residents of an institution when the facility provides them with the majority of their meals (over fifty percent (50%) of three (3) meals daily) as part of the institution's normal services. Residents of institutions are not eligible for participation in the SNAP Program.

1. Individuals who do not elect to receive the majority of their meals (over fifty percent (50%) of three (3) meals daily) from the facility, such as an Assisted Living facility, would not be considered residents of an institution and would, therefore, be entitled to receive SNAP benefits if otherwise eligible.

B. Exceptions to the Institution Rule:

1. Residents of federally subsidized housing for the elderly, built under either § 202 of the Housing Act of 1959, 12 U.S.C. § 1701(q), or § 236 of the National Housing Act, 12 U.S.C. § 1715z–1(j)(5).

2. Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a facility or treatment center. (Refer to § 1.2.12 of this Part)

3. Disabled or blind individuals who are residents of group living arrangements (as defined in § 1.2.12 of this Part) and who receive benefits under Title II or Title XVI of the Social Security Act, 42 U.S.C. Chapter 7.

4. Women, men or women and men with their children, temporarily residing in a shelter for battered persons and children (as defined in § 1.4.8 of this Part). Such persons temporarily residing in shelters for battered persons

and children are considered individual households for the purposes of applying for, and participating in, the program.

5. Residents of public or private non-profit shelters for homeless persons (Refer to § 1.4.9 of this Part).

1.2.9 Pre-Release Program Residents

Residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration's Pre-release Program for the Institutionalized are permitted to apply for SNAP benefits at the same time they apply for SSI. These pre-release applicants are processed in accordance with the provisions in § 1.4.10 of this Part.

1.2.10 Strikers

Households with striking members are ineligible to participate in the program unless the household was eligible for benefits prior to the strike (Refer to § 1.4.4 of this Part).

1.2.11 Authorized Representatives

A. There may be cases when the head of the household or spouse cannot apply for the household. In such cases, another household member may apply or an adult, non-household member may be designated as the authorized representative.

1. An authorized representative is a person designated by the head of the household or the spouse, or any other responsible member of the household, to act on behalf of the household in applying for program benefits, or using the SNAP benefits.

    a. A private, non-profit organization or institution or a publicly operated community mental health center conducting a drug addiction or alcoholic treatment and rehabilitation program must serve in this capacity, and a group living arrangement may or may not also serve in this capacity, as noted in § 1.2.12 of this Part.

2. An authorized representative may be designated for obtaining SNAP benefits on behalf of the household. This designation is made at the time the application is completed. The authorized representative is issued an EBT card for access to SNAP benefits.

3. Limits are not placed on the number of households an authorized representative may represent. In the event employers, such as those who employ migrant or seasonal farm workers, are designated as authorized

representatives or that a single authorized representative has access to a large number of EBT cards and benefits, caution should be exercised to assure that:

a. The household has freely requested the assistance of the authorized representative;

b. The household's circumstances are correctly represented, and the household receives the correct amount of benefits; and

c. That the authorized representative is properly using the SNAP benefits.

B. Liability for Designation

1. It is important that the head of the household or the spouse prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed.

2. In conjunction with these provisions, another household member, or the household's authorized representative, may complete work registration forms for those household members required to register for work.

a. The agency representative must emphasize to the household that it will be held liable for any over issuance which results from erroneous information given by the authorized representative.

C. An authorized representative must be designated in writing by the head of the household, or the spouse, or another responsible member of the household; and, be an adult who is sufficiently aware of relevant household circumstances. In the event the only adult member of a household is classified as a non-household member, that person may be designated as the authorized representative for the minor household members.

D. The following individuals may not serve as authorized representatives without prior approval as indicated below:

1. Agency employees who are involved in the certification and/or issuance processes and retailers who are authorized to transact SNAP benefits may not act as authorized representatives unless a determination has been made that no one else is available to serve.

2. Individuals disqualified for fraud cannot act as authorized representatives during the period of disqualification, unless the disqualified individual is the only adult member of the household able to act on its behalf and the

agency representative has determined that no one else is available to serve.

a. The agency representative determines whether these individuals are permitted to apply on behalf of the household and/or to obtain and purchase goods with SNAP benefits.

b. If the agency representative cannot locate anyone qualified to serve as an authorized representative to purchase goods with the SNAP benefits, the disqualified member is allowed to do so.

3. Where evidence has been obtained that an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of the SNAP benefits, the authorized representative may be disqualified from participating in this capacity in the SNAP for up to one (1) year.

a. The affected household(s) and the authorized representative is sent written notification thirty (30) days prior to the date of disqualification. The notification includes:

(1) The proposed action;

(2) The reason for the proposed action;

(3) The household's right to request a fair hearing; the office telephone number and the name of the person to contact for additional information.

4. Establishments which provide meals to the homeless may not act as authorized representatives for homeless SNAP recipients.

1.2.12 Treatment Centers and Group Homes

A. Narcotics addicts or alcoholics who regularly participate in a drug or alcohol treatment program on a resident basis and blind or disabled (as defined in § 1.2.8 of this Part) residents of group living arrangements may voluntarily request SNAP benefits.

1. Drug and Alcohol Treatment Centers

a. The residents of drug or alcoholic treatment centers apply and are certified for program participation through the use of an authorized representative who is an employee of, and designated by, a publicly operated community mental health center, or private non-

profit organization or institution, that is administering the treatment and rehabilitation program.

b. The center is the authorized representative for the eligible residents and utilizes the SNAP benefits for food prepared by and/or served to the eligible residents. As authorized representative, the treatment center is responsible for complying with the requirements set forth in § 1.4.3 of this Part.

2. Group Living Arrangements

a. Residents of group living arrangements either apply and are certified through use of an authorized representative employed and designated by the group living arrangement or apply and are certified on their own behalf (or through an authorized representative of their own choice).

b. The group living arrangement determines if any resident may apply for SNAP on his/her own behalf.

(1) The determination should be based on an assessment of the resident's physical and mental ability to handle his/her own affairs.

(2) The group living arrangement is encouraged to consult with any other agencies providing services to individual residents prior to a determination.

(3) 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.

c. Applications are accepted for any individual applying as a one (1) person household or for any grouping of residents applying as a household.

(1) If a resident applies through the facility as the authorized representative, the group living arrangement may either receive and utilize the SNAP benefits for food prepared by and/or served to the eligible resident, or allow the eligible resident to use all or any portion of the allotment.

(2) If a resident is certified on his/her own behalf, the SNAP benefits may either be returned to the facility to purchase

meals served either communally or individually to eligible residents or retained and used by the eligible resident to purchase and prepare food for their own consumption. In any case, the group living arrangement is responsible for complying with the requirements set forth in § 1.4.7 of this Part.

d. If the group living arrangement has its status as an authorized representative suspended by FNS, eligible residents applying on their own behalf are still able to participate.

1.3 Application Process

1.3.1 Introduction

A. The application process begins with a request for an application form and is not completed until notification of the household's eligibility is sent. The date of application is considered to be the date a signed application is received by the agency, or in the case of telephonic applications, the date on which the household member provides verbal assent.

B. The application process includes, but is not limited to, the following activities:

1. Ensuring applications are available;

2. Assisting a household in the completion of its application;

3. Interviewing a member of the household or an authorized representative;

4. Performing necessary collateral contacts and verifications; and

5. Entering and maintaining a computer file through which SNAP benefits are issued.

C. The application process is completed promptly. A household must be given notification of eligibility or ineligibility no later than thirty (30) days after an application is filed.

1. Expedited service is available to households in immediate need (See § 1.3.9 of this Part).

2. Benefits are pro-rated and provided retroactively to the date of application for households who have completed the application process and have been determined eligible.

1.3.2 Filing an Application

A. Households wishing to participate in the program must file the Application for Assistance form, DHS-2. An application for SNAP benefits must be submitted for each household requesting SNAP assistance. Since the time limit for providing benefits is calculated from the date the application is filed, each household has the right to file an application on the same day it contacts the SNAP office during working hours.

1. The household must also be advised that it does not have to be interviewed before filing its application and that it may file an incomplete application form as long as the form contains the applicant's name, address, and the signature of either a responsible member of the household or the household's authorized representative.

    a. The household is encouraged to file the application form the same day the household or its representative contacts the office in person or by telephone and expresses interest in obtaining SNAP assistance.

2. Applications can be filed in person or by an authorized representative at a DHS Regional Office, by mail, online or by facsimile (fax).

    a. If the household has contacted a SNAP office by telephone but is unable to come to the office to file the application that same day, or the household has requested SNAP assistance in writing, the application form is mailed to the household on the same day the written request or telephone call is received.

B. Telephonic Signature

1. As outlined in 7 C.F.R. § 273.2(c)(7)(viii), the agency has specified in its State plan to select the use of a telephonic signature as an acceptable means for signing an application.

    a. Telephonic signatures are not limited to telephonic applications and can be used to sign any application regardless of the means by which the application is completed (e.g. online, telephonically, paper).

    b. Telephonic signatures shall allow a household who inadvertently submits an unsigned application to complete the application process without re-submitting the application with a written or inked signature.

        (1) If a household member submits an application without a signature and a worker is able to contact the household

member over the phone, the worker will write a casenote within the electronic case file application that verbal attestation of the signature was given.

(2) If DHS' efforts to reach the household member are unsuccessful, the application is considered to be invalid and must be returned to the household with a letter and a self-addressed return envelope explaining that the application must be signed before the agency can establish a file date.

2. To constitute a valid telephonic signature, the agency's telephonic signature system must make an audio recording of the household's verbal assent and a summary of the information to which the household assents.

a. The recording shall clearly indicate agreement or disagreement during the interview over the telephone.

b. The summary of the information to which the household assents is a recording of a reiteration of the household's details agreed to during the telephone conversation.

3. A telephonic signature system shall provide linkage from the audio file of the recorded verbal assent to the application so that the agency has ready access to the household's case file.

4. The agency shall promptly provide to the household member a printed copy of the "Statement of Facts" which summarizes the information and the rights and responsibilities that was attested to through the telephone signature process, along with instructions for correcting any errors or omissions.

C. Joint Application Procedure

1. To facilitate participation in the program, households in which all members are applying for RIW and/or General Public Assistance (GPA) are allowed to apply for SNAP benefits at the same time they apply for assistance.

a. However, the household's SNAP eligibility and benefit level must be based solely on SNAP eligibility criteria and the household must be certified in accordance with notice and procedural requirements within this Part.

2. RIW time limits and other requirements that apply to the receipt of RIW benefits do not apply to receipt of SNAP benefits and households which cease receiving RIW benefits because they have reached a time limit,

have begun working, or for other reasons, may still qualify for SNAP benefits.

3. A household with some RIW/GPA recipients, and some SSI recipients, is also certified under the joint application procedure.

4. An applicant for, or recipient of, Social Security benefits under Title II of the Social Security Act, 42 U.S.C. §§ 401 through 433, should be informed at the SSA office of the availability of benefits under the SNAP and the availability of a SNAP application at that SSA office. Such applications must be filed at a SNAP office.

5. When a resident of a public institution applies for both SSI and SNAP under the SSA's Pre-release Program for the Institutionalized, the filing date of the SNAP application is recorded as the date the applicant is released from the institution.

1.3.3 Withdrawing Applications

A. A household may voluntarily withdraw its application at any time prior to the determination of eligibility.

1. The agency representative must document in the case file the reason for withdrawal, if any was stated by the household, and that contact was made with the household to confirm the withdrawal.

2. The household must be advised of its right to reapply at any time subsequent to a withdrawal.

1.3.4 Interview Requirements

A. All households must have an interview with a qualified agency representative in a SNAP office, other certification site or on the telephone prior to initial certification and subsequent recertification.

1. Applicants (and recipients at recertification or for any other reason) who miss their first (1st) scheduled appointment, must be notified that they have missed a scheduled appointment and that rescheduling another interview appointment within the necessary time frame to insure an application can be acted upon within thirty (30) days or before the end of the certification period is the responsibility of the household.

2. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized

representative who is an adult and who knows the household's circumstances.

3. The applicant may bring any person s/he chooses to the interview. The interview is conducted as an official and confidential discussion of household circumstances.

4. The face-to-face interview can be waived in favor of a telephone interview.

    a. The agency must notify all SNAP households (applicant and recipient) that the face-to-face interview can be waived in favor of a telephone interview upon request by any household.

        (1) The applicant/recipient will be provided the opportunity to choose a telephone interview or a face-to-face interview. If the applicant/recipient does not indicate which method s/he would prefer to be interviewed, the department will automatically schedule a telephone interview.

        (2) The agency must grant a face-to-face interview to any household which requests one.

        (3) Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may also be used to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided.

        (4) Verifications may be faxed or uploaded to the household's online account. If the agency is unable to open any attachment(s), the attachment(s) is not considered to have been received by the agency. Waiver of a face-to-face interview does not affect the length of the household's certification period.

5. The agency representative may offer households for whom the office interview is waived the alternative of either a telephone interview or a home visit.

    a. However, home visits are used only if the time of the visit is scheduled in advance with the household.

6. The DHS-2 or recertification form is reviewed with the applicant or adult representative of the household, and the appropriate information is verified through documentation supplied by the applicant, or if not supplied by the applicant, by obtaining the document or information.

7. The applicant is required to read, or have read to him/her, the information on the signature page of the DHS-2, and sign the form.

    a. The DHS-2 must be completed and signed by an adult representative of the household applying for SNAP benefits certifying, under penalty of perjury, that the information contained in the application is true.

B. The agency representative must conduct a single interview at the initial application for both public assistance (PA) and SNAP purposes. PA households are not required to see a different agency representative or otherwise be subjected to two (2) interview requirements in order to obtain the benefits of both programs.

    1. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for SNAP and PA. A household's eligibility for the SNAP out-of-office interview provision does not relieve the household of any responsibility for a face-to-face interview in order to be certified for public assistance.

1.3.5 Household Failure to Cooperate

A. To determine eligibility, the application forms are completed and signed, the household or its authorized representative is interviewed, and certain information on the application is verified. If the household refuses to cooperate with the agency in completing this process, the application is denied at the time of refusal.

    1. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrates that it will not take actions which it can take and which are required to complete the application process.

    2. For a decision of noncooperation to be made, the household must fail to submit the requested verification by the tenth (10th) day from which the information was requested. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household is not denied until the thirtieth (30th) day from the date of the application.

    3. The household is also determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by

reported changes and application for recertification. Once denied or terminated for refusal to cooperate, the household may reapply but is not determined eligible until it cooperates.

4. The agency must not determine a household to be ineligible when a person outside of the household fails or refuses to cooperate with a request for verification.

    a. Individuals identified as non-household members under § 1.5.6 of this Part are not considered individuals outside the household.

1.3.6 Providing Notices of Eligibility/Ineligibility

A. Eligible Households

1. Every applicant household found eligible is provided a written notice of eligibility as soon as a determination is made but no later than thirty (30) days after the date of initial application. Refer to § 1.3 of this Part for information on the thirty (30) day processing standard.

2. The notice informs the household of the following:

    a. Amount of the allotment

    b. Beginning and ending date of the certification period

    c. The right to a hearing and the availability of free legal representation

    d. The household's obligation to report changes in circumstances and of the need to reapply for continued participation at the end of the certification period

B. Ineligible Households

1. Each household denied eligibility is provided a written notice of denial explaining:

    a. The basis for the denial

    b. The household's right to request a hearing

    c. The telephone number of the DHS Office

    d. The name of a person to contact for additional information

e. The availability of free legal service

1.3.7 Denying an Application Prior to the Thirtieth (30th) Day

A. Cases can be denied prior to the thirtieth (30th) day of application in the following instances:

1. When the Department has all the required information and verification and can determine that the applicant household is ineligible

2. When the household overtly refuses to cooperate with the agency representative in completing the application process

3. When the household requests in writing that the application for SNAP benefits be withdrawn

4. When an agency representative issues a Request for Documentation, and the client does not provide the requested information

B. If the household has failed to avail itself for a scheduled interview and has made no subsequent contact with the agency to express interest in pursuing the application, the household is denied and sent a notice of denial on the thirtieth (30th) day following the date of application. The household must file a new application if it wishes to participate in the program.

C. For a case in which an interview was conducted, the application may be denied prior to the thirtieth (30th) day from the date of application. In this instance the application may be denied on the tenth (10th) day following the date of request for verification if:

1. At the time of the intake interview, the agency representative provided the household with a list of the missing required verification necessary to determine eligibility for the SNAP; and,

2. The agency informed the household in writing by means of a request for documentation of the ten (10) day requirement for submission of missing verification; and,

3. The agency representative notified the household in writing of the date by which any missing verification must be provided; and,

4. The agency representative offered assistance to the household in obtaining verification; and,

5. The household failed to provide the requested verification within the ten (10) day time frame.

1.3.8 Delayed Eligibility Determinations

A. A notice either of denial or of pending status is provided for applications which are delayed in processing, depending upon the cause of the delay.

1. If the Department cannot make an eligibility determination within thirty (30) days from the date of application, the cause of delay is determined and a notice of pending status is sent to the household on the thirtieth (30th) day.

a. If the application is pending because action by the agency representative is necessary to complete the application process, the notice informs the household that its application has not been completed and is being processed.

b. If the application is pending because action by the household is necessary to complete the application process, the notice explains what action the household must take and that its application will be denied if the household fails to take the required action within sixty (60) days of the date the application was filed.

B. Determining Cause for Delay: The agency representative shall determine the cause of the delay using the following criteria:

1. Household caused delay: A delay shall be considered the fault of the household if the household has failed to complete the application process even though the agency has taken all the action it is required to take to assist the household. The agency must have taken the following actions before a delay can be considered the fault of the household:

a. For households that have failed to complete the application form, the agency must have offered, or attempted to offer, assistance in its completion.

b. If one (1) or more members of the household have failed to register for work, as required in § 1.11 of this Part, the agency must have:

(1) Informed the household of the need to register for work

(2) Determined if the household members are exempt from work registration

(3) Given the household at least ten (10) days from the date of notification to register these members

c. In cases where verification is incomplete, the agency must have:

(1) Provided the household with a statement of required verification and offered to assist the household in obtaining required verification

(2) Allowed the household sufficient time to provide the missing verification; sufficient time shall be at least ten (10) days from the date of the agency's initial request for the particular verification that was missing.

d. For households that have failed to appear for an interview, the agency must notify the household that it missed the scheduled interview and that the household is responsible for rescheduling a missed interview.

(1) If the household contacts the agency within the thirty (30) day processing period, the agency must schedule a second (2nd) interview.

(2) If the household fails to schedule a second (2nd) interview or the subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until after the twentieth (20th) day but before the thirtieth (30th) day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the thirtieth (30th) day; otherwise, the delay shall be the fault of the household.

(3) If the household has failed to appear for the first (1st) interview, fails to schedule a second (2nd) interview, and/or the subsequent interview is postponed at the household's request until after the thirtieth (30th) day following the date the application was filed, the delay shall be the fault of the household.

(4) If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.

2. Agency Caused Delay

a. Delays that are the fault of the agency include those cases where the agency failed to take the actions described in §§ 1.3.8(B)(1)(a), (b), (c) and (d) of this Part, and/or the following:

(1) If the household met its obligations in a timely manner but the agency failed to complete the application process promptly

(2) If the agency representative fails to provide required assistance or fails to give the household sufficient time

C. Action taken if the Household or Agency Causes a Delay

1. Household Caused Delay

a. If a request for documentation notice was issued and the client does not respond within ten (10) days, the case is denied.

b. If the Department cannot make an eligibility determination by the thirtieth (30th) day of the original application filing date, due to the fault of the household, the household loses its entitlement to benefits for the calendar month of application.

c. If the household takes the required action within sixty (60) days following the date the application was filed, the Department reopens the case without requiring a new application.

(1) No further action by the Department is required after the notice of denial or pending notice is sent if the household failed to take the required action within sixty (60) days following the date the application was filed.

d. If the household was at fault for the delay in the first thirty (30) day period, but is found to be eligible during the second (2nd) thirty (30) day period, the Department provides benefits from the date the household provides the required documentation.

(1) The household is not entitled to benefits for the calendar month of application when the delay was the fault of the household.

2. Agency Caused Delay: Whenever a delay is the fault of the Department, immediate corrective action occurs. The agency shall not deny the application if it caused the delay but shall instead notify the household by the thirtieth (30th) day following the date the application was filed that its application is being held pending. The State agency shall also notify the household of any action it must take to complete the application process.

a. If verification is lacking the agency will hold the application pending for ten (10) days following the date of the initial request for the particular verification that was missing.

(1) If the case remains pending after thirty (30) days, but the ten (10) day period to provide verification has not passed and the client provides the documentation within the ten (10) days, benefits are restored from the date of the original application.

(2) If, however, the household is found to be ineligible, the agency denies the application.

b. If the agency is at fault for not completing the application process by the end of the second thirty (30) day period, and the case file is otherwise complete, the Department shall continue to process the original application until an eligibility determination is reached.

(1) If the household is determined eligible, and the agency was at fault for the delay in the initial thirty (30) days, the household shall receive benefits retroactive to the month of application.

(AA) However, if the initial delay was the household's fault, the household shall receive benefits retroactive only to the month following the month of application.

(BB) The agency uses the original application to determine the household's eligibility in the months following the sixty (60) day period, or it may require the household to file a new application.

(2) If the agency is at fault for not completing the application process by the end of the second thirty (30) day period, but the case file is not complete enough to reach an eligibility determination, the agency may continue to process the original application, or deny the case and notify the household to file a new application.

(AA) If the case is denied, the household must be advised of its possible entitlement to benefits lost as a result of agency caused delays in accordance with § 1.18 of this Part.

1.3.9 Expedited Service

A. The following households are eligible for expedited service:

1. Households with less than one hundred fifty dollars ($150.00) in monthly gross income, provided their liquid resources (i.e. cash on hand, checking or savings account, savings certificates and lump sum payments as specified in § 1.5.5 of this Part) do not exceed one hundred dollars ($100.00);

2. Migrant or seasonal farmworker households who are destitute as defined in § 1.3.9(H) of this Part, provided their liquid resources (see above) do not exceed one hundred dollars ($100.00); or

3. Eligible households whose combined monthly gross income and liquid resources are less than the household's monthly rent (or mortgage) and utilities.

B. Timeframes for expedited service

1. Expedited service procedures apply at initial application. Application procedures are designed to identify a household eligible for expedited service at the time a household requests assistance. An agency representative is assigned responsibility for screening the application when it is filed or on the day the individual comes in to apply.

2. For households entitled to expedited service, the agency shall make SNAP benefits available to the recipient no later than the seventh (7th) calendar day following the date an application was filed.

    a. If the agency fails to identify a household as being entitled to expedited service and subsequently discovers that the household is entitled to expedited service, the agency shall provide expedited service to households within the seven (7) day processing standard, except that the processing standard shall be calculated from the date the agency discovers the household is entitled to expedited service.

C. Interview Requirements for expedited service

1. If a household is entitled to receive expedited service, the agency representative must attempt to conduct the interview by the sixth (6th) calendar day following the date the application was filed. The first (1st) day of this count is the calendar day following application filing.

2. If the agency representative conducts a telephone interview and must mail the application to the household for signature, the mailing time involved is not calculated in the expedited service standards.

    a. Mailing time only includes 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.

D. Verification Procedures – Expedited Service

1. The identity of the person making the application and, whenever possible, the household's residency in accordance with § 1.6.1 of this Part, must be verified through a collateral contact or readily available documentary evidence.

    a. Once an acceptable collateral contact has been designated, the agency representative must promptly contact the collateral contact in accordance with § 1.6.3 of this Part. Although the household has the primary responsibility for providing other types of verification, the agency representative must assist the household in promptly obtaining the necessary verification.

2. A household entitled to expedited service is asked to furnish an SSN for each person or apply for one (1) for each person before the second (2nd) full month of participation.

    a. A household unable to provide the required SSNs, or who does not have one prior to its next issuance, must be allowed thirty (30) days from the first (1st) day of the first (1st) full month of participation to obtain the SSN in accordance with § 1.4.12 of this Part.

3. All reasonable efforts must be made to verify within the expedited processing standards, the household's residency, income statements (including a statement that the household has no income), liquid resources and all other factors required by § 1.6 of this Part, through collateral contacts or readily available documentary evidence. However, benefits must not be delayed beyond the processing standards described in this Subsection, solely because these eligibility factors have not been verified.

4. A household entitled to expedited service must meet the resource criteria in § 1.5.5 of this Part, although verification of resources for expedited service must not cause a delay.

5. Postponed Verification: The agency representative should attempt to obtain as much additional verification as possible during the interview, but

should not delay the certification of households entitled to expedited service for the full timeframes when it is determined that it is unlikely that other verification can be obtained within these timeframes.

a. Except for a migrant household needing out-of-State verification, when the postponed verification is not completed within thirty (30) days of the date of the application, the agency representative must terminate the household's participation and issue no further benefits.

E. Work Registration

1. The agency representative must, at a minimum, require the applicant to register (unless exempt or unless the household has designated an authorized representative to apply on its behalf).

a. The agency representative may attempt to register other household members but must postpone the registration of other household members if it cannot be accomplished within the expedited service timeframes.

F. Certification Periods

1. Households which are certified on an expedited basis and have provided all necessary verification required in § 1.6 of this Part prior to certification are assigned a normal certification period.

2. Non-migrant households eligible for expedited service and applying after the fifteenth (15th) of a month and who are assigned a certification period of longer than two (2) months must be notified in writing that they must provide postponed verification before a third (3rd) month's benefits are issued.

3. A migrant household eligible for expedited service and applying after the fifteenth (15th) of a month and who is assigned a certification period of longer than two (2) months must be notified in writing that they must provide postponed verification from sources within the State before a third (3rd) month's benefits are issued, and must provide all verification from out-of-State sources before being issued benefits for the third (3rd) month.

a. The notice must also advise the household that if verification results in changes in the household's eligibility or level of benefits, the agency representative must act on these changes without advance notice of adverse action.

b. Migrants must be entitled to postpone out-of-State verification only once each season. If a migrant household requesting expedited service has already received this exception during the current season, the agency representative must grant a postponement of out-of-State verification only for the initial month's issuance and not for the second (2nd) month's issuance if the household is applying prior to the fifteenth (15th) of the month.

4. Certification Period-Postponed Verification: If verification was postponed, the agency representative certifies the household for the month of application and for those households applying after the fifteenth (15th) of the month, the month of application and the following month. When certified only for the month of application and the following month, the household must complete the verification requirements which were postponed.

a. When a certification period of longer than two (2) months is assigned, the agency representative must notify the household in writing that no further benefits will be issued until the postponed verification is completed.

G. Limit on Expedited Service

There is no limit to the number of times a household can be certified under the expedited procedures provided that, prior to each expedited certification, the household either completes the verification requirements which were postponed at the last expedited certification or has been certified under normal processing standards since the last expedited certification.

H. Destitute Households

1. Destitute Households are migrant or seasonal farmworker households who may have little or no income at the time of application and may be in need of immediate food assistance, even though they receive income at some other time during the month of application.

a. A household whose only income for the month of application was received prior to the date of application, and was from a terminated source, must be considered a destitute household and provided expedited service.

2. Special procedures are used to determine when migrant or seasonal farmworker households in these circumstances may be considered destitute and, therefore, entitled to expedited service and special income

calculation procedures. Households other than migrant or seasonal farmworker households must not be classified as destitute.

3. A household's source of income is its employer, or, in the case of self-employed persons, the self-employment enterprise.

   a. A household member who changes jobs but continues to work for the same employer is considered as still receiving income from the same source.

   b. A migrant farmworker's source of income is considered to be the grower for whom the migrant is working at a particular point in time, and not the crew chief. A migrant who travels with the same crew chief but moves from one grower to another is considered to have moved from a terminated to a new source.

   c. If income is received on a monthly or on a more frequent basis, it 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 month following the month of application.

      (1) If income is 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 for determining whether or not the income is terminated.

      (2) Therefore, for households that normally receive income less often than monthly, the income is 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.

   d. A household whose only income for the month of application is from a new source is considered destitute and must be provided expedited service if income of more than twenty-five dollars ($25.00) will not be received from the new source by the tenth (10th) calendar day after the date of application.

      (1) Income, which is normally received on a monthly or more frequent basis, is considered to be from a new source, if income of more than twenty-five dollars ($25.00) has not been received from that source within thirty (30) days prior to the date the application was filed.

(2) If income is normally received less often than monthly, it is considered to be from a new source if income of more than twenty-five dollars ($25.00) was not received within the last normal interval between payments.

e. A household may receive 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 if no other income is received in the month of application from the terminated source and if income of more than twenty-five dollars ($25.00) from the new source will not be received by the tenth (10th) calendar day after the date of application.

f. Households whose only income for the month of application was received prior to the date of application, and was from a terminated source, shall be considered destitute households and shall be provided expedited service.

(1) A household may receive 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 if no other income is received in the month of application from the terminated source and if income of more than twenty-five dollars ($25.00) from the new source will not be received by the tenth (10th) calendar day after the date of application.

4. Determining Eligibility and Benefits

a. A destitute household must have its eligibility and level of benefits calculated for the month of application by considering only income which is received between the first (1st) of the month and the date of application. Any income from a new source which is anticipated after the day of application must be disregarded for that month.

b. Some employers provide travel advances to cover the travel costs of new employees who must journey to the location of their new employment. To the extent that these payments are excluded as reimbursements, receipt of travel advances does not affect the determination of when a household is destitute.

(1) However, if the travel advance is by written contract an advance on wages which will be subtracted from wages later earned by the employee, rather than a reimbursement, the

wage advance must count as income. Nevertheless, the receipt of a wage advance for the travel costs of a new employee does not affect the determination of whether subsequent payments from the employer are from a new source of income, nor whether a household is considered destitute.

I. Special Processing – Expedited Service

1. For residents of drug addiction or alcoholic treatment and rehabilitation centers who are entitled to expedited service, the agency must make the SNAP benefits available no later than seven (7) calendar days following the date the application was filed.

2. For a resident of a public institution who applies for benefits prior to his/her release from the institution and who is entitled to expedited service, the date of filing of his/her SNAP application is the date of release of the applicant from the institution.

1.4 Non-Financial Requirements

1.4.1 Residency

A. A household must be living in the project area where it files an application for participation.

1. No individual may participate as a member of more than one (1) household or in more than one (1) project area in any month unless an individual is a resident of a shelter for battered persons and children as defined in § 1.4.8 of this Part and was a member of a household containing the person who had abused her or him.

a. Residents of shelters for battered persons and children are handled in accordance with § 1.4.8 of this Part.

2. Residency must not be interpreted to mean domicile which is sometimes defined as the legal place of residence or principle home.

3. No durational residency requirements must be imposed.

a. An otherwise eligible household must not be required to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

b. Residency must not mean an intent to permanently reside in the State. However, a person in the State solely for vacation must not be considered a resident.

1.4.2 Citizenship and Eligible Non-Citizen Status

A. To receive SNAP benefits, an individual must be either:

1. A citizen of the United States as described in § 1.4.2(C) of this Part; or

2. An eligible non-citizen as described in § 1.4.2(D) of this Part.

B. A household with a member who is not a citizen of the United States or an eligible non-citizen must not be prevented from applying and, if eligible, receiving benefits for the remaining eligible members of the household.

C. For SNAP purposes, a citizen of the United States is defined as an individual born in one (1) of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands.

1. In addition, nationals from American Samoa and Swain's Island are considered United States citizens for SNAP purposes.

2. Naturalized citizens are also considered to be citizens since they have the same status as citizens.

D. Eligible Non-Citizens

1. Eligibility for participation in the Supplemental Nutrition Assistance Program depends on the non-citizen being an eligible non-citizen or a qualified non-citizen that meets certain conditions related to the qualified non-citizen status.

2. The following eligible non-citizens may be eligible to participate in the Supplemental Nutrition Assistance Program without having to meet any additional non-citizen requirements:

a. Certain American Indians born abroad: American Indians born in Canada living in the U.S. under § 289 of the Immigration and Nationality Act (INA), 8 U.S.C. § 1359, or non-citizen members of a Federally recognized Indian tribe under § 4(e) of the Indian Self-Determination and Education Assistance Act (Pub. Law 93-638); and

b. Hmong or Highland Laotian tribal members: An individual lawfully residing in the U.S. who was a member of a Hmong or Highland

Laotian tribe that rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era (August 5, 1964 – May 7, 1975).

(1) This category includes the spouse (or un-remarried surviving spouse) or unmarried dependent children of these individuals.

3. The following qualified non-citizens may be eligible to participate in the Supplemental Nutrition Assistance Program without having to meet an additional condition:

a. Asylees: Individuals granted asylum under § 208 of the INA;

b. Refugees: Refugees admitted to the United States under § 207 of the INA;

c. Deportation withheld: individuals whose deportation is being withheld under § 243(h) of the INA (as in effect before April 1, 1997), or removal is withheld under § 241(b)(3) of the INA;

d. Cuban/Haitian Entrants: Cuban or Haitian entrants under § 501(e) of the Refugee Education Assistance Act of 1980 (Pub. Law 96-422); or

e. Victims of Severe Trafficking: Victims under the Trafficking Victims Protection Act of 2000 (Pub. Law 106-386).

f. Iraqi and Afghan Special Immigrants (SIV): Iraqi and Afghan special immigrants who have been granted special immigrant status under § 101(a)(27) of the INA who have worked on behalf of the U.S. government in Iraq or Afghanistan. The Department of Defense Appropriations Act of 2010 (DoDAA), Pub. Law 111-118 § 8120, enacted on December 19, 2009, provides that SIVs are eligible for all benefits to the same extent and the same period of time as refugees.

g. Amerasian immigrants: as defined under § 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988 (Pub. Law 100-461);

h. Elderly Non-citizens: elderly individuals born on or before August 22, 1931 and lawfully residing in the United States on August 22, 1996;

i. Children under eighteen (18): Qualified non-citizen children under eighteen (18) years of age.

j. Individuals receiving benefits or assistance for blindness or disability: Individuals who have been determined blind or disabled and are receiving benefits or assistance for their condition as defined under § 3(r) of the Food and Nutrition Act of 2008 (as amended though Pub. Law 116-94) regardless of when they entered the United States;

k. Military Connection: Individuals who are lawfully residing in a State and are on active duty (other than for training) in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard (but not full-time National Guard) or who are honorably discharged veterans who have not been discharged due to non-citizen status. This category includes the spouse (or surviving spouse who has not remarried) or unmarried dependent children of these individuals. A discharge "Under Honorable Conditions" does not meet this requirement.

l. A Legal Permanent Resident (LPR) who prior to adjustment to LPR status was:

(1) A refugee under § 207 of the INA, including a victim of severe forms of trafficking;

(2) An asylee under § 208 of the INA;

(3) A non-citizen whose deportation was being withheld under § 243(h) of the INA (as in effect before April 1, 1997), or removal is withheld under § 241(b)(3) of the INA;

(4) A Cuban/Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980 (Pub. Law 96-422); or

(5) An Amerasian immigrant as defined in § 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988 (Pub. Law 100-461).

4. The following qualified non-citizens must meet one (1) additional condition in order to be eligible to participate in the Supplemental Nutrition Assistance Program:

a. Legal Permanent Residents (LPRs): Individuals lawfully admitted for permanent residence (LPR) in the United States (holders of green cards).

b. Parolees: Individuals paroled into the United States under § 212(d)(5) of the INA for at least one (1) year;

c. Conditional Entrants: Individuals granted conditional entry under § 203(a)(7) of the INA as in effect before April 1, 1980;

d. Battered Non-Citizens: Under certain circumstances, a battered non-citizen spouse or child, non-citizen parent of a battered child or a non-citizen child of a battered parent with a petition pending under §§ 204(a)(1)(A) or (B) or 244(a)(3) of the INA.

5. In order to be eligible to receive SNAP benefits, LPRs, parolees, conditional entrants and battered non-citizens must meet one (1) of the following additional conditions:

a. Five (5) years of residence: has lived in the U.S. as a qualified alien for five (5) years from the date of entry;

b. Forty (40) qualifying work quarters (this condition can only be met by individuals who are LPRs):

(1) An LPR who can be credited with forty (40) qualifying quarters of work under the Social Security system (credits may be earned individually, in combination with a spouse and in some circumstances a parent);

c. Blind or disabled: Individuals who have been determined blind or disabled and are receiving benefits or assistance for their condition;

d. Elderly Non-citizens: elderly individuals born on or before August 22, 1931 and lawfully residing in the United States on August 22, 1996;

e. Military connection: an individual who is lawfully residing in a State and is on active duty in the military (excluding National Guard) or is an honorably discharged veteran whose discharge is not because of immigration status (includes spouse, surviving spouse if not married, and unmarried dependent children).

(1) A discharge “Under Honorable Conditions”, which is not the same as an honorable discharge, does not meet this requirement.

f. Child under eighteen (18): Qualified non-citizen children under eighteen (18) years of age.

6. Battered Immigrants/Qualified Non-Citizen Criteria

a. Certain categories of immigrants who have been subjected to battery or extreme cruelty in the United States by a family member with whom they reside are provided qualified non-citizen status under § 431 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (Pub. Law 104-193).

(1) Qualified non-citizen status also extends to an immigrant whose child or an immigrant child whose parent has been abused. Additionally, this group of battered immigrants is exempt from deeming requirements as outlined in § 1.5.8 of this Part.

b. A non-citizen is a qualified non-citizen as a battered immigrant if s/he meets the following seven (7) requirements. In general, these rules apply to abused immigrants who are (or were) married to LPRs or U.S. citizens, or whose parents are LPRs or citizens:

(1) The battered immigrant must show that s/he has an approved or pending petition which makes a *prima facie* case for immigration status in one (1) of the following categories:

(AA) A Form I-130 filed by their spouse or the child's parent;

(BB) A Form I-130 petition as a widow(er) of a U.S. citizen;

(CC) An approved self-petition under Title VIII of the Violence Against Women Reauthorization Act of 2013 (Pub. Law 113-4), (including those filed by a parent); or

(DD) An application for cancellation of removal or suspension of deportation filed as a victim of domestic violence.

(2) The immigrant, the immigrant's child or the immigrant child's parent has been abused in the United States under the following circumstances:

(AA) The immigrant has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the immigrant, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consent to the battery or cruelty.

(BB) The immigrant's child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the immigrant, or by a member of the spouse's or parent's family residing in the same household if the spouse or parent consents to the battery or cruelty, and the immigrant did not actively participate in the battery or cruelty.

(CC) The parent of an immigrant child has been battered or subjected to extreme cruelty in the United States by the parent's spouse, or by a member of the spouse's family residing in the same household as the parent, if the spouse consents to or acquiesces in such battery or cruelty.

(DD) There is a substantial connection between the battery or extreme cruelty and the need for SNAP benefits; and

(EE) The battered immigrant, child, or parent no longer resides in the same household as the abuser.

c. The conditions discussed above only establish that the battered immigrant is a qualified non-citizen. In order for the immigrant to qualify for SNAP benefits based on her or his immigration status, such a qualified alien must meet the other conditions for eligibility such as the five (5) year residency requirement or an LPR with forty (40) qualifying quarters of work.

(1) The five (5) year residency period begins when the *prima facie* case determination is issued or when the abused immigrant's I-130 visa petition is approved.

(AA) In making its determination, the agency representative must remember that the relevant date

for this immigrant's eligibility is the date that s/he obtained qualified alien status as an abused immigrant rather than the date of that individual's immigration status, such as that of an LPR.

(2) Examples to assist the agency representative determine whether a substantial connection exists between the battery or extreme cruelty and the applicant's need for public benefits include the following situations where benefits are needed:

(AA) To enable the applicant and the applicant's child or parent to become self-sufficient;

(BB) To escape the abuser or community in which the abuser lives or to ensure the safety of the applicant;

(CC) Because of a loss of financial support, dwelling, or source of income due to separation from the abuser; to alleviate nutritional risk; or

(DD) For medical attention, mental health counseling, or because of a disability that resulted from the abuse.

7. Undocumented Non-Citizens

a. When a household is unable, or unwilling, to provide documentation of non-citizen status for any household member, that member is classified as an ineligible non-citizen.

b. In such cases the agency representative does not continue efforts to obtain documentation and does not report him/her to the U.S. Citizenship and Immigration Services (USCIS) office. Only in those instances where the agency representative has seen the deportation notice can the immigrant be reported to the USCIS office.

8. Certification of Remaining Household Members

a. A non-citizen is ineligible for SNAP benefits until acceptable verification is provided unless:

(1) A copy of a document provided by the non-citizen has been submitted to USCIS for verification. Pending such verification, the agency cannot reduce, delay, deny or

terminate the immigrant's benefits on the basis of the individual's immigration status; or

(2) A request has been submitted to the Social Security Administration (SSA) for information regarding the number of quarters of work that can be credited to the individual, SSA has responded that the individual has fewer than forty (40) quarters, and the individual provides documentation from SSA that SSA is conducting an investigation to determine if more quarters can be credited.

(AA) If SSA indicates that the number of qualifying quarters that can be credited is under investigation, the agency must certify the individual pending the results of the investigation for up to six (6) months from the date of the original determination of insufficient quarters; or

(BB) The non-citizen applicant or the agency representative has submitted a request to a Federal Agency for verification of information which bears on the non-citizen's eligible non-citizen status. The agency representative must certify the individual pending the results of the investigation for up to six (6) months from the date of the original request for verification.

b. In all other situations, while awaiting acceptable verification, the non-citizen member(s) of the household whose status is questionable is not eligible. The non-citizen(s) with unverified status must be considered an ineligible member(s) and the eligibility of the remaining household members (if any) must be determined as defined in § 1.5.6 of this Part.

(1) The income and resources of the ineligible non-citizen must be treated in the same manner as an ineligible individual, and must be considered available in determining the eligibility of any remaining members.

(2) Cash payments from the ineligible non-citizen member(s) to the household are considered income under the normal income standards found in § 1.5.6 of this Part.

(3) If the agency representative determines from discussions with the household that the non-citizen either does not wish

to contact USCIS, or does not give the agency representative permission to make the contact for him/her, the household is given the option of withdrawing its application or participating without the non-citizen member.

(AA) However, should the agency representative subsequently receive verification of eligible non-citizen status, the agency representative must act on the information as a reported change in household membership in accordance with the timeliness standards set in § 1.13.1 of this Part.

1.4.3 Drug Addicts/Alcoholics in Treatment Programs

A. Members of eligible households, including single-person households, who are narcotics addicts or alcoholics and who regularly participate in a drug or alcoholic treatment and rehabilitation program on a non-resident basis may use SNAP benefits to purchase food prepared for them during the treatment program by a publicly operated community mental health center or private, non-profit organization or institution authorized by FNS as a retailer or certified by the appropriate State agency, including that agency's determination that the center is a non-profit organization.

1. A drug addiction or alcoholic treatment and rehabilitation program means any drug addiction or alcoholic treatment and rehabilitation program conducted by a publicly operated community mental health center or private non-profit organization or institution under the Public Health Service Act, 42 U.S.C. § 300x *et seq*.

    a. It also must be certified by the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) which is responsible for the state's programs for alcoholic and drug addicts under the licensing provisions of Title XIX of the Public Health Service Act as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

2. If an alcoholic treatment and rehabilitation program is located in an Indian reservation and the State does not certify or license reservation-based centers, approval to participate may be granted and the program either is funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA), or was so funded and has subsequently been transferred to Indian Health Service (IHS) funding.

3. In addition, the certification of such programs wishing to redeem through wholesalers the SNAP benefits received from or on behalf of their participants, may be authorized by FNS as retailers and show that the treatment program meets the standards required of treatment programs under the supervision of the Department of BHDDH.

    a. Approval to participate is automatically withdrawn once a treatment and rehabilitation program no longer meets the criteria which would make it eligible for funding under Part B of Title XIX of the Public Health Service Act.

    b. Resident members (and their children living with them) of such rehabilitation program centers may also voluntarily elect to participate in the program but must do so through an authorized representative.

4. Residents of treatment centers apply and are certified through the use of an authorized representative who is an employee of and designated by the publicly operated or private non-profit organization or institution that is administering the treatment and rehabilitation program.

    a. The organization or institution applies on behalf of the addict or alcoholic's household and receives and spends the SNAP allotment for food prepared by and/or served to the addict or alcoholic together with her or his child(ren) who live with the individual.

5. Individuals (and their children living with them) who are residents of addict/alcoholic treatment centers must be certified using the same provisions that apply to all other applicant households except that certification is completed through use of the authorized representative.

    a. Prior to certifying any resident(s) for SNAP benefits, the agency must verify that the treatment center is authorized by FNS as a retailer if the center wishes to redeem SNAP benefits through a wholesaler or, if not authorized by FNS as a retailer, that it is under Part B of Title XIX of the Public Health Service Act (42 U.S.C. § 300x *et seq*.) "Under Part B of Title XIX of the Public Health Service Act" is defined as meeting the criteria which would make it eligible to receive funds, even if it does not actually receive funding under Part B of Title XIX.

6. The room payments made to a treatment center are considered shelter costs. When a treatment center charges one (1) fee which includes both

room and board, the agency representative must obtain from the treatment center the actual room portion of the room and board fee.

7. When normal processing standards apply, the agency representative completes the verification and documentation requirements prior to making an eligibility determination for the initial application.

8. For those residents of treatment centers who are entitled to expedited service, the agency representative must make benefits available through the EBT card no later than seven (7) calendar days following the filing date.

9. Resident households have the same rights to notices of adverse action, hearings, and entitlement to lost benefits as do all other SNAP households.

10. Regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis, are exempt from work registration requirements.

11. If the information is questionable, the regular participation of an addict or alcoholic in a treatment program must be verified through the organization or institution operating the program before granting the exemption.

    a. To be considered questionable, information on the application must be inconsistent with statements made by the applicant, other information on this application or previous applications or information known to or received by the agency representative prior to certification.

12. Each treatment and rehabilitation center must provide the appropriate agency representative with a list of currently participating residents on a monthly basis. This list must include a statement signed by a responsible center official attesting to the validity of the list.

    a. Once the household leaves the treatment center, the center is no longer allowed to act as the household's authorized representative.

    b. The treatment center must provide the household, if possible, with a change report form which is used to report the household's new address and other circumstances after leaving the center.

    c. The center must advise the household to return the form to the appropriate certification office within ten (10) days.

d. The treatment center must notify the agency representative of changes in the household's income or other household circumstances. The treatment center must also inform the agency representative when the addict or alcoholic leaves the treatment center.

13. The agency establishes a claim for the over issuance of food benefits on behalf of resident clients if any over issuance is discovered during an investigation or hearing procedure for redemption violations.

14. If FNS disqualifies an organization or institution as an authorized retail food store, the agency suspends its authorized representative status for the same period.

15. An agency representative should conduct periodic random on-site visits to treatment centers to assure the accuracy of the listings and that the certification agency's records are consistent and up to date.

1.4.4 Households with a Member on Strike

A. For SNAP purposes, a striker is any person involved in a strike or concerted work stoppage by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

1. Any employee affected by a lockout, however, must not be deemed to be a striker. Further, an individual who goes on strike and who is exempt from work registration in accordance with as described in § 1.11.1 of this Part, the day prior to the strike (other than those exempt solely on the grounds that they are employed) must not be deemed to be a striker. Examples of non-strikers who are eligible for participation in the program include, but are not limited to:

a. Employees whose workplace is closed by an employer in order to resist demands of employees (e.g., a lockout);

b. Employees unable to work as a result of striking employees (e.g., truck drivers who are not working because striking newspaper pressmen prevent newspapers from being printed); and,

c. Employees who are not part of the bargaining unit on strike but who do not want to cross a picket line due to fear of personal injury or death.

2. A household with a striking member is ineligible to participate in the program unless the household was eligible for benefits on the day prior to the strike and is otherwise eligible at the time of application. However, such a household must not receive an increased allotment as the result of a decrease in the income of the striking member of the household.

    a. Pre-strike eligibility is determined by considering the day prior to the strike as the day of application and assuming the strike did not occur.

        (1) Eligibility at the time of application must be determined by comparing the striking member's monthly income before the strike to the striking member's current monthly income and adding the higher of the two (2) to the current income of non-striking members during the month of application.

        (2) To determine benefits (and eligibility for a household subject to the net income eligibility standard), deductions must be calculated for the month of application as for any other household.

        (3) Whether the striker's pre-strike earnings are used or his/her current earnings are used, the earned income deduction is allowed, if appropriate.

    b. Vehicles normally exempt for equity value because they are used for commuting do not lose this exclusion during the strike.

3. A striker whose household is eligible to participate under the criteria in this Section is subject to the work registration requirements in § 1.11 of this Part, unless exempt under § 1.11.1 of this Part on the day of application.

1.4.5 Migrant Farm Laborers

A. Since migrant farm laborers usually have little or no income when entering an area, they may qualify for expedited service as discussed in § 1.3.9 of this Part. Also see § 1.3.9 of this Part for handling income for migrant farm laborers.

1. Particular attention should be paid to real property in the home-base area. Each applicant household is permitted one (1) home and lot as an exemption from resources.

    a. As noted in § 1.5.7 of this Part, shelter costs for the home when not occupied by the household because of employment may be allowed under certain circumstances.

(1) To be included in the household's shelter costs, the household must intend to return, the current occupants of the home, if any, must not be claiming the shelter costs, and the home must not be leased or rented. Verification requirements for those expenses are discussed in § 1.5.7 of this Part.

b. Additionally, the eligibility technician should explore the possibility that out-of-State real property is being rented or is producing income in some way. If such property is producing income, such income must be added to all other household income in determining eligibility and basis of issuance.

2. Employable members of migrant households who are not employed at least thirty (30) hours a week or receiving weekly earnings equal to the Federal minimum wage multiplied by thirty (30) hours must register for and accept suitable employment in the same manner as other persons.

3. When the household receives one (1) payment which includes the income of migrant children under eighteen (18) years of age who are students, the child's/student's income must be differentiated from the rest of the household's income.

a. Unless income can be identified as being earned specifically by the student, the agency representative must pro-rate the income equally among the number of household members working and exclude that portion allotted to the student. This provision applies to students who are currently attending school and those who plan to return to school after academic breaks. Individuals are considered children for purposes of this provision if they are under the parental control of another household member.

1.4.6 School Employees

A. Households that derive their annual income in a period of time shorter than one (1) year should have that income averaged over a twelve (12) month period, provided the income is not received on an hourly or piecework basis. This provision may include teachers and other school employees who are under a contract which is renewable on an annual basis.

1. Such members are considered to receive compensation for an entire year even though pre-determined non-work periods are involved, or actual compensation is scheduled for payment during the work periods only.

2. The annual income household members received from contractual employment is averaged over a twelve (12) month period to determine the member's average monthly income.

    a. To determine household eligibility, all other monthly income from other household members is added to this average monthly income, and income exclusions and deductions are applied in the normal manner.

    b. Once eligibility has been determined, the annualized income may be averaged or pro-rated over the twelve (12) months before adding it to other monthly income to determine the household's basis of issuance during the certification period.

        (1) This provision does not apply to recipients of emergency SNAP assistance, in situations where the other party to the contract cannot or will not make payments specified in the contract or where labor disputes interrupt the flow of earnings specified in the contract.

        (2) If, during non-work periods, the person under contract receives weekly earnings at least equal to the Federal minimum wage, the individual is exempt from work registration.

1.4.7 Residents of Group Living Arrangements

A. Disabled or blind (see definitions in § 1.4.11 of this Part) residents of a group living arrangement, as defined in § 1.2.12 of this Part, may voluntarily apply for the SNAP.

1. If these residents apply through the use of the facility's authorized representative, their eligibility shall be determined as one (1) person households.

2. If the residents apply on their own behalf, the household size is in accordance with the definition in § 1.2.12 of this Part.

3. The agency certifies these residents using the same provisions that apply to all other households.

4. Prior to certifying any residents for SNAP benefits, the agency must verify that the group living arrangement is authorized by FNS or is certified by the Department of BHDDH, including that agency's determination that the group living arrangement is a non-profit organization.

B. Eligible residents of a group living arrangement, acting on their own behalf, may use benefits issued to them to purchase meals prepared especially for them at a group living arrangement if the facility is authorized by FNS for that purpose.

1. 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.

2. If residents purchase and/or prepare food for home consumption, as opposed to communal dining, the group living arrangement must ensure that each resident's SNAP benefits are used for meals intended for that resident.

C. The same provisions applicable to drug and alcoholic treatment centers in § 1.2.12 of this Part also apply when a group living arrangements acts as an authorized representative.

1. These provisions, however, are not applicable if a resident has applied on his/her own.

D. The same provisions applicable in § 1.2.12 of this Part to residents of treatment centers also apply to blind or disabled residents of group living arrangements who receive benefits under Title II or Title XVI of the Social Security Act, 42 U.S.C. Chapter 7, when the facility acts as the resident’s authorized representative.

E. Any group living arrangements wishing to redeem SNAP benefits directly through wholesalers must be authorized by FNS as retail food stores.

1. The group living arrangement must be certified by the Department of BHDDH under Regulations issued under § 1616(e) of the Social Security Act, U.S.C. Title 42.

a. Approval to participate is automatically cancelled at any time that a program loses its certification from BHDDH. In such a situation, the household is not entitled to a notice of adverse action.

2. Each group living arrangement must provide the agency with a list of currently participating residents.

a. This list must include a statement signed by a responsible official of the facility attesting to the validity of the list.

3. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement must notify the agency of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement.

4. If a resident, or a group of residents, applies on her or his own behalf, and if s/he retains use of the benefits, these individuals are entitled to the benefits when they leave.

    a. The household is responsible for reporting the changes in household circumstances to the agency representative.

    b. The resident applying on his/her own behalf is responsible for any over issuance in the same manner as any other household.

1.4.8 Shelters for Battered Persons and Children

A. Prior to certifying its residents, it must be determined that the shelter for battered persons and children meets the definition in § 1.1.12(A)(6) of this Part and the basis for this determination must be documented.

1. Shelters having FNS authorization to redeem at wholesalers are considered to meet this definition and it is not required to make any further determination.

    a. Each certifying office is required to maintain a list of shelters meeting the definition to facilitate prompt certification of eligible residents.

2. The battered person's former household may be certified for participation in the program, and its certification may be based on a household size that includes the battered person and child(ren) who have just left.

    a. A shelter resident who is included in such a certified household may, nevertheless, apply for and (if otherwise eligible) participate in the program as a separate household if such certified household which included them is the household containing the person who subjected them to abuse.

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

    c. Shelter residents who apply as separate households are certified solely on the basis of their income and resources and the expenses

for which they are responsible. They are certified without regard to the income, resources and expenses of their former household.

d. Jointly-held resources are only considered inaccessible in accordance with § 1.5.5(F) of this Part.

e. Room payments to the shelter are considered as shelter expenses.

3. Any shelter residents eligible for expedited service must be handled in accordance with the processing standards set forth in § 1.3.9 of this Part.

1.4.9 Homeless SNAP Households

A. Homeless households are permitted to use their SNAP benefits to purchase prepared meals from authorized homeless meal providers.

1. Definitions of terms are:

a. A Homeless Individual is defined as an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

(1) A supervised shelter designed to provide temporary accommodations such as an emergency shelter;

(2) A halfway house or similar institution which provides temporary residence for individuals intended to be institutionalized;

(3) A temporary accommodation in the residence of another individual for not more than ninety (90) days; or

(4) A place not designed for, or ordinarily used, as a regular sleeping accommodation, such as a bus station, a lobby or similar places.

b. A homeless Meal Provider is a public or private non-profit establishment, approved by the DHS, which feeds homeless individuals.

(1) Examples of such establishments are soup kitchens and temporary shelters.

2. FNS will authorize as retail food stores those homeless meal providers who apply and qualify for authorization to accept EBT SNAP benefits from homeless SNAP recipients.

a. Such meal providers must be public or private non-profit organizations; must serve meals which include food purchased by the meal provider; must be authorized by FNS as retail food stores; and must be approved by DHS as providers of meals to homeless individuals.

b. A homeless meal provider is responsible for obtaining approval from DHS and must provide written documentation of such approval to FNS prior to approval of the provider's application for authorization.

(1) If such approval is subsequently withdrawn, FNS authorization is also withdrawn.

c. Homeless meal providers serving meals which consist wholly of donated food are not eligible for authorization.

1.4.10 Pre-Release Applicants

A. A household consisting of a resident or residents of a public institution(s) and applying for SSI under the SSA's Pre-release Program for the Institutionalized, must be allowed to apply for SNAP benefits at the same time prior to the release from the institution.

1. Such a household is certified in accordance with § 1.2.9 of this Part.

1.4.11 Elderly or Disabled Household Members

A. Elderly or disabled member means a member of a household who:

1. Is sixty (60) years of age or older. If a household contains a member who is fifty-nine (59) years old on the date of application, but who will become sixty (60) before the end of the month of application, the individual is considered an elderly household member;

2. Receives (or is certified to receive) SSI income benefits under the Social Security Act, 42 U.S.C. §§ 1381 through 1383d, or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;

3. Receives federally or State-administered supplemental benefits under § 1616(a) of the Social Security Act, U.S.C. Title 42, interim assistance pending receipt of SSI, disability-related Medicaid under Title XIX of the Social Security Act, or disability-based GPA, 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;

4. Receives federally or State-administered supplemental benefits under § 212(a) of Pub. Law 93-66;

5. Receives disability retirement benefits from a governmental agency because of a disability considered permanent under § 221(i) of the Social Security Act, 42 U.S.C. § 421;

6. Is a veteran who has a service-connected or non-service-connected disability which is rated total under U.S.C. Title 38; or is considered in need of regular aid and attendance or permanently housebound under such Title;

7. Is a surviving spouse of a veteran and considered by the VA to be in need of aid and attendance or permanently housebound under U.S.C. Title 38; or is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under U.S.C. Title 38 and has a disability considered permanent under § 221(i) of the Social Security Act;

8. Is a surviving child of a veteran and is considered permanently incapable of self-support under U.S.C. Title 38; or is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under U.S.C. Title 38 and has a disability considered permanent under § 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and children who are receiving the compensation or benefits stated or have been approved for such payments, but are not receiving them; or

9. Receives an annuity payment and is determined to be eligible to receive Medicare by the Railroad Retirement Board under the Railroad Retirement Act of 1974, 45 U.S.C. § 231(a) and is determined to be disabled based upon the criteria used under Title XVI of the Social Security Act, 42 U.S.C. Chapter 7.

1.4.12 Social Security Number (SSN) Requirements

A. A household participating, or applying for participation in the SNAP, is required to provide the agency with the SSN for each household member or apply for one before certification.

1. If an individual has more than one (1) number, all numbers are required.

2. The agency representative must explain to applicants and participants that refusal to provide an SSN will result in the disqualification of the individual

for whom an SSN is not obtained in accordance with § 1.4.12(B) of this Part.

3. Ineligible immigrant (non-citizen) household members required by § 1.2.5 of this Part to be included as a household member, can be designated as non-applicants for the purposes of providing a Social Security Number to the agency.

4. Non-applicant household members do not have to provide the agency with an SSN when applying for the U.S. Citizen children. Such members, however, must comply with all required information on income and resources.

B. If the agency determines that a household member has refused or failed without good cause to provide or apply for an SSN, then the individual is ineligible to participate in the SNAP.

1. The disqualification applies to the individual(s) for whom the SSN is not provided and not to the entire household.

2. The earned or unearned income of an individual disqualified from the program for failure to comply with this requirement must be considered as outlined in § 1.5.6 of this Part.

3. The household member disqualified may become eligible upon providing the agency with an SSN. Completion of the SS-5 is sufficient to end a disqualification due to failure to comply with the SSN requirement.

C. In determining if good cause exists for failure to comply with the requirement to apply for or provide the agency with an SSN, the agency representative considers information from the household member, the SSA, and the agency (especially if the agency either did not process the SS-5 or did not process it in a timely manner).

1. Documentary evidence or collateral information indicating the household member has applied for the SSN or made every effort to supply SSA with the necessary information must be considered good cause for not complying with this requirement.

2. Good cause does not include delays due to illness, lack of transportation or temporary absence, because the SSA makes provision for mail-in applications in lieu of applying in person.

3. If the household member can show good cause why an application for an SSN has not been completed in a timely manner, that person is allowed to participate for one (1) month in addition to the month of application.

4. If the household member applying for an SSN has been unable to obtain the documents required by SSA, the agency representative should make every effort to assist the individual in obtaining these documents.

5. Good cause for failure to apply must be shown monthly in order for such a household member to continue to participate. Once an application has been filed, the agency must permit the member to continue to participate pending notification to the agency of the household member's SSN.

D. The agency is authorized to use Social Security Numbers in the administration of the SNAP. To the extent determined necessary by USDA and HHS, the agency has access to information regarding individual SNAP applicants and participants who receive benefits under Title XVI of the Social Security Act, 42 U.S.C. §§ 1381 through 1383(d):

1. To determine such household's eligibility to receive assistance, and the amount of assistance;

2. To verify information related to the benefits of these households;

3. To use the State Data Exchange (SDX) to the maximum extent possible;

4. To prevent duplicate participation;

5. To facilitate mass changes in Federal benefits;

6. To determine the accuracy and/or reliability of information given by households; and

7. To request and exchange information on individuals through the Income and Eligibility Verification System (IEVS).

1.4.13 Student Eligibility Requirements

A. In order to be eligible to participate in the Supplemental Nutrition Assistance Program, any student must meet at least one (1) of the following criteria:

1. Under age eighteen (18) or age fifty (50) or older;

2. Not physically or mentally fit;

3. Employed and paid for an average of twenty (20) hours per week;

4. Receiving RIW;

5. Responsible for the care of a child under age six (6);

6. 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 twelve (12) (regardless of the availability of child care);

7. Responsible for the care of a dependent child above the age of five (5) and under the age of twelve (12) for whom adequate child care is not available to enable the individual to attend class and work an average of twenty (20) hours per week or participate in a State or federally financed work study program;

8. Participating in a State or federally funded work study program (funded under Part C of Title IV of the Higher Education Act of 1965) during the regular school year;

    a. To qualify under this provision, the student must be approved for work study at the time of application for SNAP, the work study must be approved for the school term, and the student must anticipate actually working during that time. The exemption shall begin with the month in which the school term begins, or the month work study is approved, whichever is later. Once begun, the exemption shall continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment.

    b. The exemption shall 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.

9. Participating in one (1) of the following programs whether assigned to, placed in, or voluntarily enrolled.

    a. The Workforce Innovation and Opportunity Act (WIOA) program (Pub. Law 113-128);

    b. An employment or training program subject to the condition that the course or program of study is:

        (1) Part of a program of career and technical education as defined in § 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (as amended through Pub. Law 115-224), designed to be completed in not more than four (4) years at an institution of higher education as defined in § 102

of the Higher Education Act (HEA) of 1965 (Pub. Law 910-315); or

(2) Limited to remedial courses, adult basic education, literacy, or English as a second (2nd) language;

c. A program under § 236 of the Trade Act of 1974 (Pub. Law 93-618); or

d. A State or local government employment and training program where one (1) or more of the components of such program is at least equivalent to an acceptable SNAP employment and training program component as specified in 7 C.F.R. § 273.7(e)(1).

(1) Using the criteria in 7 C.F.R. § 273.7(e)(1), State agencies shall make the determination as to whether or not the programs qualify.

1.5 Financial Requirements

1.5.1 Categorical Eligibility

A. The following households are considered categorically eligible for SNAP benefits:

1. A household in which all members receive or are authorized to receive RIW cash assistance.

2. A household in which all members receive or are authorized to receive SSI.

3. A resident of a public institution who applies jointly for SSI and SNAP benefits prior to his/her release from the institution, is not categorically eligible for SNAP benefits upon a finding by SSA of potential SSI eligibility prior to release.

   a. This individual is considered categorically eligible at such time as a final SSI eligibility determination has been made and the individual has been released from the institution.

4. A household whose RIW or SSI benefits are suspended or being recouped.

5. A household entitled to RIW benefits but is not paid such benefits because the grant is less than ten dollars ($10.00).

6. A household in which all members receive or are authorized to receive General Public Assistance (GPA) benefits.

7. A household (including related children) authorized to receive a TANF-funded service.

    a. A TANF-funded service includes receipt of the Rhode Island Department of Human Services TANF Information Publication.

    b. These households must meet the Gross Monthly Income Standards (Table IV or Table V in § 1.15 of this Part) in order to be eligible for a TANF-funded service, and will receive a benefit as long as the normal benefit calculation (the Thrifty Food Plan amount for the household's size reduced by thirty percent (30%) of the household's net income in Table II in § 1.15 of this Part) results in a positive benefit amount.

        (1) Households with three (3) or more members which would not receive a benefit will be denied.

        (2) Categorically eligible households of one (1) and two (2) will receive at least the minimum monthly benefit of sixteen dollars ($16.00) after the calculation is completed.

B. RIW and GPA Households

1. To facilitate participation in the program, households in which members are applying for RIW and/or GPA (PA households) must be allowed to complete a joint application for SNAP benefits at the same time they apply for such assistance. These households' SNAP eligibility and benefit levels are based solely on SNAP eligibility criteria.

2. The joint application processing procedures in this Section are used for a SNAP household in which some members are receiving RIW and/or GPA and others are receiving SSI.

    a. A household consisting of some members who are receiving RIW/GPA/SSI and some not receiving assistance also may file a joint application for SNAP benefits.

3. Categorical eligibility must also be assumed at recertification in the absence of a timely RIW redetermination.

C. Reporting Changes

1. Households are not required to report changes in the assistance payment grant. Since the agency representative has prior knowledge of all changes in the assistance payment grant, action must be taken on this information.

2. Except for PA grant changes, PA households must report changes within ten (10) days.

    a. PA households which report a change in circumstances to the PA worker are considered to have reported the change for SNAP purposes.

3. A household must be notified whenever its benefits are altered as a result of changes in the PA benefits. Adequate time for the agency representative to send a notice of expiration and for the household to timely reapply must be allowed.

4. Whenever a change results in the reduction or termination of the household's PA benefits within its SNAP certification period, and the agency representative has sufficient information to determine how the change affects the household's SNAP eligibility and benefit level, the agency representative takes the following actions:

    a. If a change in household circumstances requires both a reduction or termination in the PA payment and a reduction or termination in SNAP benefits, the agency representative must issue a notice of adverse action for both the PA and SNAP actions.

    b. If the household requests a hearing within the period provided by the notice of adverse action, the household's SNAP benefits should be continued on the basis authorized immediately prior to sending the notice.

    c. If the hearing is requested for both programs' benefits, the hearing is conducted according to PA procedures and timeliness standards. However, the household must reapply for SNAP benefits if the SNAP certification period expires before the hearing process is completed.

    d. If the household does not appeal, the change is made effective in accordance with the procedures specified in § 1.13.1(D) of this Part.

5. If the household's SNAP benefits are increased as a result of the reduction or termination of PA benefits, the agency representative issues the PA notice of adverse action, but does not take any action to increase the household's SNAP benefits until the household decides whether it will appeal the adverse PA action.

a. If the household decides to appeal and its PA benefits are continued, the household's SNAP benefits may continue at the previous basis.

b. If the household does not appeal, the agency representative makes the change effective in accordance with the procedures specified in § 1.13.1 of this Part except that the time limits for the agency representative to act on changes which increase a household's benefits are calculated from the date the PA notice of adverse action period expires.

6. Whenever a change results in the termination of a household's PA benefits within its SNAP certification period, and the agency representative does not have sufficient information to determine how the change affects the household's SNAP eligibility and benefit level, the agency representative does not terminate the household's SNAP benefits but instead takes the following action:

a. If the situation requires a reduction or termination of PA benefits, the agency must issue a request for documentation at the same time it sends a PA notice of adverse action.

b. Before taking further action, the agency must wait until the household's PA notice of adverse action period expires or until the household requests a fair hearing, whichever occurs first.

c. If the household requests a fair hearing and elects to have its PA benefits continued pending the appeal, the agency must continue the household's SNAP benefits at the same level.

d. If the household decides not to request a fair hearing and continuation of its PA benefits, the agency must resume action on the changes.

e. If the situation does not require a PA notice of adverse action, the agency must issue a request for documentation. Depending on the household's response to the request for documentation, the agency must take appropriate action, if necessary, to close the household's case or adjust the household's benefit amount.

D. Mass Changes in Public Assistance

1. When an overall adjustment to public assistance payments is made, corresponding adjustments in household SNAP benefits are handled as a mass change.

2. When there is at least thirty (30) days advance knowledge of the amount of the public assistance adjustment, SNAP benefits must be recalculated to be effective in the same month as the public assistance change.

3. If there is not sufficient notice, the SNAP change must be effective not later than the month following the month in which the public assistance change was made.

4. A notice of adverse action is not required when a household's SNAP benefits are reduced or terminated as a result of a mass change in the public assistance grant. However, the agency sends individual notices to such households to inform them of the change.

    a. If a household requests a fair hearing, benefits are continued at the former level only if the issue being appealed is that SNAP eligibility or benefits were improperly computed.

E. Deemed Eligibility Factors

1. The eligibility factors which are deemed for SNAP eligibility without the required verification because of the household's RIW, GPA or SSI status are:

    a. The resource limit;

    b. The gross and net income limits;

    c. Social Security Number information;

    d. Sponsored immigrant information; and

    e. Residency.

2. The eligibility factors which are deemed for SNAP eligibility without the required verification because of the household's expanded categorical eligibility status due to receipt of a TANF-funded service are:

    a. The resource limit;

    b. The gross and net income limits.

F. Verification of Questionable Factors

1. If any of the following factors are questionable, the agency must verify that the household which is considered categorically eligible:

a. Contains only members who are RIW, GPA TANF-funded service (TANF Information Publication) or SSI recipients;

b. Meets the household definition (§ 1.2 of this Part);

c. Includes all persons who purchase and prepare food together in one (1) SNAP household regardless of whether or not they are separate units for RIW, GPA or SSI purposes; and

d. Includes no person(s) who has been disqualified from the Supplemental Nutrition Assistance Program.

G. Households Not Categorically Eligible

1. Under no circumstances should any household be considered categorically eligible if any member of that household is disqualified for:

a. An intentional program violation in accordance with § 1.8 of this Part or

b. If head of household fails to comply with the work requirements in § 1.11 of this Part.

2. These households are subject to all SNAP eligibility and benefit provisions.

H. Verification Standards

1. The Department shall verify the following factors for TANF-funded service/expanded categorically eligible households:

a. The household is eligible for the TANF Information Publication by comparing the income of the household to appropriate standards for the SNAP-only TANF-funded Service household.

b. The household contains no individuals disqualified in accordance with §§ 1.9 and 1.11.5 of this Part.

c. The household composition meets the definition of a household in accordance with § 1.2 of this Part.

d. The household meets the verification requirements set forth in § 1.6 of this Part, with the exception of the requirement to verify resource information.

2. The Department shall verify the following factors for households applying for both PA and SNAP benefits.

   a. Verification procedures described in § 1.6 of this Part apply to determine the household's eligibility for SNAP benefits.

   b. Verification procedures described in PA rules apply to determine both PA and SNAP eligibility.

   c. The agency representative must not delay the household's SNAP benefits if, at the end of thirty (30) days following the date the application was filed, the agency representative has sufficient verification to meet the verification for SNAP purposes but does not have sufficient verification to meet the PA verification rules.

I. Timeliness Standard

1. In order to determine if a household is categorically eligible due to its status as a recipient RIW/GPA/SSI, the agency may temporarily postpone, within the thirty (30) day processing standard, the SNAP eligibility determination if the household is not entitled to expedited service and appears to be categorically eligible.

   a. The agency should postpone denying a potentially categorically eligible household until the thirtieth (30th) day in case the household is determined eligible for RIW, GPA and/or SSI benefits.

   b. Once the RIW, GPA and/or SSI application is approved, the household is considered categorically eligible if it meets all the categorically eligible criteria in this Subsection.

2. Action on the SNAP portion of the application must not be delayed, nor may the application be denied on the grounds that the PA determination has not been made.

   a. If the agency can anticipate the amount and the date of receipt of the initial PA payment but the payment is not received until a subsequent month, the agency must vary the household's SNAP benefit level according to the anticipated receipt of the payment and so notify the household.

   b. The portion of the initial PA payment intended to retroactively cover a previous month is disregarded as a lump sum payment.

c. If the amount or date of receipt of the initial PA payment cannot be reasonably anticipated at the time of the SNAP eligibility determination, the PA payment must be handled as a change in circumstances.

(1) However, the agency is not required to send a notice of adverse action if the receipt of the PA grant reduces, suspends or terminates the household's SNAP benefits, provided the household was notified in advance that its benefits may be reduced, suspended or terminated when the PA grant is received.

J. Persons Not Considered Household Members

1. No person is included as a member in any household that is otherwise categorically eligible if that person is:

a. An ineligible non-citizen as defined in § 1.4.2 of this Part;

b. An ineligible student under the provision in § 1.2.4 of this Part; or,

c. A person who is institutionalized in a non-exempt facility as defined in § 1.2.8 of this Part.

d. A household member that refuses to comply with the work requirements.

(1) For households in receipt of a TANF-funded service, the resources of this household member continue to count in their entirety to the remaining household members.

K. Income Standards for PA Households

1. All income received by the PA household, including the RIW, GPA, or SSI grant, any special allowances, and any other income, is counted in determining the net monthly SNAP income for basis of issuance purposes unless otherwise excludable for SNAP purposes.

2. Exemptions from income allowed under PA for purposes of grant computation are not allowed in determining income for SNAP purposes.

L. SSI/SNAP Joint Application Process

1. Households applying simultaneously for SSI and SNAP must be subject to SNAP eligibility criteria, and benefit levels must be based solely on such criteria until the household is considered categorically eligible.

a. However, households in which all members are either RIW or SSI recipients or are authorized to receive RIW or SSI benefits must be eligible for SNAP based on their RIW/SSI status in accordance with the provisions for categorical eligibility for SNAP benefits.

2. When a household, with an SSI application pending, is denied SNAP benefits as a non-public assistance (NPA) household, it must be informed on the notice of denial of the possibility of categorical eligibility if the person becomes an SSI recipient.

3. The SSA will accept and complete SNAP applications received at the SSA office from SSI households and forward them, within one (1) working day after receipt of a signed application to the SNAP office. SSA must verify those items for which verification can be made at the time of the interview from either SSA records or from documents provided by the applicant.

4. The SSA also refers non-SSI households and those in which not all members have applied for or receive SSI to the SNAP office.

   a. Applications from such households are considered filed on the date the signed application is taken at the SNAP office, and the normal and expedited processing time standards begin on that date.

5. The SSA must also screen all applications for entitlement to expedited services on the day the application is received at the SSA office and should mark "Expedited Processing" on the first (1st) page of all applications that appear to be entitled to such service.

   a. The SSA informs households which appear to meet the criteria for expedited service that benefits may be issued sooner if the household applies directly at the SNAP office.

6. The household may take the application from SSA to the SNAP office for screening and processing of the application.

7. If SSA takes an SSI application or redetermination on the telephone from a member of a pure SSI household, a SNAP application must also be completed during the telephone interview.

   a. In such cases, the SNAP application is mailed to the claimant for signature and for return to either the SSA office or the SNAP office. SSA should forward any SNAP applications it receives to the SNAP office.

8. The SSA sends a notice to SSI recipients redetermined for SSI, by mail, informing them of their right to file a SNAP application at the SSA office (if they are members of a pure SSI household) or at their local SNAP office, and their right to an out-of-office SNAP interview to be performed by an agency representative.

9. SSA distributes an information sheet, provided by the DHS, to all pure SSI households informing such households of the address and telephone number of the household's correct SNAP office; the remaining actions to be taken in the application process; and, a statement that a household should be notified of the SNAP determination within thirty (30) days and can contact the SNAP office if it receives no notification within thirty (30) days, or has other questions or problems.

    a. It also includes the client's rights and responsibilities (including fair hearings, authorized representatives, out-of-office interviews, reporting changes and timely reapplication), information on how and where to obtain SNAP benefits, and how to use SNAP benefits (including the commodities clients may purchase with the SNAP benefits).

10. Except for applications taken from residents of public institutions prior to their release, the DHS must make an eligibility determination and issue SNAP benefits to eligible SSI households within thirty (30) days following the date the application was received by the SSA.

    a. Applications are considered filed for normal processing purposes when the signed application is received by SSA.

    b. The expedited processing time standards begins on the date the DHS receives a SNAP application.

    c. The agency must make an eligibility determination and issue SNAP benefits to a resident of a public institution who applies jointly for SSI and SNAP benefits within thirty (30) days following the date of his/her release from the institution.

        (1) Expedited processing time standards for such an applicant must also begin on the date of his/her release from the institution.

        (2) SSA will notify the DHS of the date of the applicant's release.

(3) If, for any reason, DHS is not notified on a timely basis of the applicant's release, the Department must restore lost benefits, in accordance with § 1.18 of this Part, back to the date of release.

d. The DHS should not require pure SSI households to see an agency representative or to have an additional interview.

e. The SNAP application is processed by the DHS. The DHS should not contact the household further in order to obtain information for certification for SNAP benefits, unless:

(1) The application is improperly completed;

(2) Mandatory verification is missing; or,

(3) Certain information on the application is determined to be questionable.

f. In no event would the applicant be required to appear at the DHS office to finalize the eligibility determination.

g. The DHS should screen all applications received from the SSA for entitlement to expedited service on the day the application is received.

(1) All SSI households entitled to expedited service are certified in accordance with procedures explained in § 1.3.9 of this Part except that the expedited processing time standard begins on the date the application is received.

11. The DHS should ensure that information required in accordance with § 1.6 of this Part is verified prior to certification for initial application.

a. SSI benefit payments may be verified through information supplied by SSA or through verification provided by the household.

12. In jointly processed cases in which the SSI determination results in denial and the agency representative believes that SNAP eligibility or benefit levels may be affected, the agency representative sends the household a notice of expiration advising that the certification period will expire the end of the month following the month in which the notice is sent and that it must reapply if it wishes to continue to participate.

a. The notice must also explain that its certification period is expiring because of changes in circumstances which may affect SNAP eligibility or benefit levels and that the household is entitled to an out-of-office interview.

13. The agency representative must restore to the household benefits which were lost whenever the loss was caused by an error by the DHS or by the SSA office through joint processing.

a. Such an error includes, but is not limited to, the loss of an applicant's SNAP application after it has been filed with SSA. Lost benefits are restored in accordance with § 1.18 of this Part.

14. A household member who is applying simultaneously for SSI and SNAP benefits has the requirement for work registration waived until:

a. S/he is determined eligible for SSI and is thereby exempt from work registration or,

b. S/he is determined ineligible for SSI and, when applicable, a determination of her/his work registration status must then be made through recertification procedures, or through other means.

1.5.2 Income

A. Household income means all income from whatever source excluding only the items specified in § 1.13.1 of this Part.

1. Earned Income

a. The following types of income are considered earned income:

(1) Wages: All wages and salaries for services performed as an employee, including payments to individuals for providing attendant care services.

(2) Garnishments: Wages earned by a household member that are garnished or diverted by an employer and paid to a third (3rd) party for a household's expenses, such as rent, are considered income.

(AA) However, if the employer pays a household's rent directly to the landlord, in addition to paying the household its regular wages, this rent payment is excluded as a vendor payment.

(BB) In addition, if the employer provides housing to an employee, the value of the housing is not counted as income.

(3) Income from Excluded Household Members: The earned income of an individual excluded from the household for failure to comply with the requirement to provide an SSN, or of an individual determined to be an ineligible alien, must be counted as income, less the *pro rata* share for the individual.

(4) Income of Individuals Disqualified for Intentional Program Violation (IPV): The earned income of an individual disqualified from the household for an IPV must continue to be attributed in its entirety to the remaining household members. (Refer to § 1.5.6(A) of this Part)

(5) Self-Employment: 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, excluding the costs of doing business.

(AA) Ownership of rental property is considered self-employment. However, income derived from the rental property is considered earned income only if a member of the household is actively engaged in management of the property at least an average of twenty (20) hours per week.

(BB) Payments from a roomer or boarder and returns on rental property are also self-employment income.

(6) Training Allowances: Training allowances from vocational and rehabilitative programs sponsored by Federal, State, or local governments, to the extent they are not a reimbursement, except for allowances received through programs authorized by the Workforce Innovation and Opportunity Act (WIOA) (Pub. Law 113-128) and the Federal Welfare to Work (WTW) Program.

(7) Title I: Certain Payments under Title I (VISTA, University Year for Action (UYA), etc.) of the Domestic Volunteer Service Act of 1973, (Pub. Law 93-113), must be considered earned income and subject to the earned income deduction described in § 1.5.7 of this Part and excluding any payments

made on behalf of households specified under § 1.5.3 of this Part ("Vendor Payments").

(8) WIOA on-the-job-training (OJT): Earnings paid to an individual who is participating in an OJT program under the Workforce Innovation and Opportunity Act.

(AA) This provision does not apply to a household member, who is under nineteen (19) years of age and under the parental control of an adult household member, regardless of school attendance and/or enrollment.

(9) Monies which are legally obligated and otherwise payable to the household, but which are diverted by the provider of the payment to a third (3rd) party for household expenses.

(AA) Such funds include wages earned by a household member and owed to the household. If an employer owes these funds to a household diverts them instead to a third (3rd) party to pay for a household expense, these payments are still counted as income to the household.

(BB) However, if an employer makes payments for household expenses to a third (3rd) party from funds that are not owed to the household, these payments are excluded as vendor payments. (Refer to § 1.5.3 of this Part)

b. The term "earned income" does not include any portion of the income earned under a work supplementation or support program that is attributable to public assistance.

2. Unearned Income

a. The following types of income are considered unearned (This list is not inclusive):

(1) Assistance Payments

(AA) Assistance payments from federal or federally aided public assistance programs, such as SSI, RIW, GPA or other assistance programs based on need, are considered to be unearned income even if provided in

the form of a vendor payment (provided to a third (3rd) party on behalf of the household), unless the vendor payment is specifically exempt under the provisions of § 1.5.3 of this Part.

(BB) Assistance payments from programs which require as a condition of eligibility the actual performance of work without compensation other than the assistance payments themselves are considered unearned income.

(2) Pensions, Social Security

(AA) Include as income annuities, pensions, retirement, Veteran's or disability benefits, Worker's or Unemployment Insurance, Social Security benefits, including the SMI amount, or strike benefits.

(3) Support and Alimony

(AA) Any support or alimony payments made directly to the household from non-household members is counted as income.

(BB) Money deducted or diverted from a court-ordered support of alimony agreement to a third (3rd) party to pay the household's expenses are also included as income to the household.

(CC) However, payments specified by the court order or other legally binding agreement to go directly to the third (3rd) party rather than the household are excluded as vendor payments.

(DD) Support payments not required by a court order or other legally binding agreement (including payments in excess of the amount specified in a court order or written agreement) that are paid to a third (3rd) party rather than the household even if the household agrees to the arrangement are also excluded as a vendor payment.

(EE) Any Child Support Bonus paid to RIW recipients through the Office of Child Support Services (OCSS)

must be counted as unearned income for SNAP purposes.

(4) Educational Loans and Grants

(AA) Include as income educational loans on which payment is deferred, scholarships, fellowships, educational grants, veteran's educational benefits and the like in excess of amounts excluded under the provisions in § 1.5.3 of this Part.

(BB) Also, educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits and the like which are provided to a third (3rd) party on behalf of a household for living expenses, such as rent or mortgage, clothing, or food eaten at home must be treated as money payable directly to the household (unearned income) and are not excludable as a vendor payment.

(5) Managed Income

(AA) Any or part of a public assistance grant that is diverted to a third (3rd) party or to a protective payee for purposes such as but not limited to, managing a household's expenses, is considered income to the household and not excluded as a vendor payment except as provided in § 1.5.3 of this Part.

(BB) Assistance financed by State or local funds (GPA) which is provided over and above the normal RIW or GPA payment or is not normally provided as part of such payment, is considered emergency or special assistance and is excluded if provided to a third (3rd) party on behalf of the household.

(6) Garnishments

(AA) When a household member earns wages and the wages are garnished or diverted by the employer and paid to a third (3rd) party for a household expense, such as rent, this vendor payment is counted as income.

(BB) However, if the employer pays a household pays a household's rent directly to the landlord in addition to paying the household its regular wages, the rent payment shall be excluded as income.

(7) Grants, Interest Payments

Include as income payments from government-sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(8) Income from Excluded Household Members

The unearned income of an individual excluded from the household for failure to comply with the requirement to provide an SSN, or of an individual determined to be an ineligible alien, must be counted as income, less the *pro rata* share for the individual. (Refer to § 1.5.6 of this Part)

(9) Certain Rental Income

Include as income the gross income, minus the cost of doing business, derived from rental property if a household member is not actively engaged in management of the property at least twenty (20) hours a week.

(10) Certain "Vendor" Payments

(AA) Include as income monies which are legally obligated and otherwise payable to the household, but which are diverted by the provider of the payment to a third (3rd) party for household expenses, are counted as income and not excluded as a vendor payment.

(BB) The distinction is whether the person or organization making the payment on behalf of a household is using funds that are otherwise payable to the household.

(i) Such funds include a public assistance grant to which a household is legally entitled, and support or alimony payments in amounts which legally must be paid to a household member.

(ii) If an agency, or former spouse who owes these funds to a household diverts them instead to a third (3rd) party to pay for a household expense, these payments are still counted as income to the household. However, if agency, former spouse or other person makes payments for household expenses to a third (3rd) party from funds that are not owed to the household, these payments are excluded as vendor payments. (Refer to § 1.5.3 of this Part)

(11) Trust Withdrawals

(AA) Include as income monies that are withdrawn or dividends that are or could be received by a household from trust funds considered to be excludable resources, in accordance with § 1.5.5 of this Part.

(BB) Such trust withdrawals must be considered income in the month received, unless otherwise exempt under the provisions of § 1.5.3 of this Part.

(CC) Dividends that the household has the option of either receiving as income or reinvesting in the trust are considered as income in the month they become available to the household, unless otherwise exempt.

(12) Deemed Income from an Alien's Sponsor

(AA) The income and resources of a legal permanent resident's sponsor (and the sponsor's spouse) who has signed a legally binding affidavit of support on or after December 17, 1997 are required to be counted as belonging to the immigrant (or deemed), regardless of actual availability, when determining the sponsored immigrant's eligibility and benefit amount for SNAP benefits unless the immigrant is exempted from sponsorship deeming. § 1.5.8 of this Part outlines exemptions from sponsor deeming.

(BB) If the immigrant is categorically eligible due to receipt of a TANF-funded service/publication, the resources

of the immigrant's sponsor (and the sponsor's spouse) are not counted when determining eligibility for SNAP benefits.

(CC) See § 1.5.8 of this Part for instructions for calculating the amounts of income and resources to be deemed.

(DD) If the sponsor signs an affidavit of support for more than one (1) immigrant, the sponsor's income is pro-rated among the sponsored immigrants.

(EE) Actual money paid to the immigrant by the sponsor or the sponsor's spouse is not considered income to the alien unless the amount paid exceeds the amount attributed (deemed).

(i) In such case, the amount paid that actually exceeded the amount deemed would be considered income to the non-citizen in addition to the amount deemed to the non-citizen.

(13) Income of Individuals Disqualified for an IPV

The unearned income of an individual disqualified from the household for an intentional program violation must continue to be attributed in its entirety to the remaining household members. (Refer to § 1.5.6 of this Part)

(14) Foster Care Payments

Include as income foster care and/or guardianship payments for children or adults who are considered members of the SNAP household (see § 1.2.6 of this Part for provisions regarding including boarders in the household providing the board).

(15) Substantial Lottery and Gambling Winnings

(AA) A cash prize won in a single game, before taxes or other amounts are withheld, which is equal to or greater than the resource limit for elderly or disabled households as defined in § 1.5.5 of this Part.

(i) Any household certified for SNAP benefits that receives substantial lottery or gambling winnings must lose eligibility for benefits immediately upon receipt of winnings.

(ii) Households shall remain ineligible until they meet the allowable financial income and resource eligibility requirements as defined in §§ 1.5.2 and 1.5.5, respectively within this Part.

B. Expenses Exceeding Income

1. A household's report of expenses which exceed its income are grounds for a determination that further verification is required. However, this circumstance is not, in and of itself, grounds for a denial.

a. The agency representative, instead, explores with the household how it is managing its finances, whether the household receives excluded income or has resources, and how long the household has managed under these circumstances.

C. Averaging Educational Assistance. A household that receives a scholarship, deferred education loan, or other educational grants, has such income, after exclusions, averaged over the period for which it was provided.

1.5.3 Excluded Income

A. In the Food and Nutrition Act of 2008 (as amended though Pub. Law 116-94), Congress has specified the types of income which are excluded for SNAP purposes. Only the types of income listed in this Section are excluded from household income, and no other income is excluded.

1. In-Kind Income

Any gain or benefit, not in the form of money, payable directly to the household such as non-monetary or in-kind benefits. For example, meals, clothing, public housing, or produce from a garden.

2. Vendor Payments

a. A payment made in money on behalf of a household is considered a vendor payment whenever a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or organization providing a service to the household.

b. The following types of payments may be excluded as vendor payments:

(1) An employer pays a household's rent directly to the landlord in addition to paying the household regular wages;

(2) An employer provides free housing to an employee;

(3) A RIW, SSI, or GPA payment which is not made directly to the household, but paid to a third (3rd) party on behalf of the household to pay a household expense, are vendor payments and not counted as income to the household if such payment is for:

(AA) Medicaid;

(BB) Child care assistance;

(CC) A payment or allowance as described in § 1.5.3(A)(18) of this Part;

(DD) Assistance provided by a State or local housing authority;

(EE) Emergency assistance for migrant or seasonal farmworker households during the time the household is in the job stream (this assistance may include, but is not limited to, emergency vendor payments for housing or transportation); or

(FF) Housing assistance made to a third (3rd) party on behalf of the household residing in transitional housing for the homeless.

3. Energy Assistance Payments

a. Any payments or allowances made for the purpose of providing energy assistance under any Federal law other than Part A of Title IV of the Social Security Act, 42 U.S.C. § 601 *et seq.*, including utility reimbursements made by the Department of Housing and Urban Development and the Rural Housing Service, or

b. A one (1) time payment or allowance applied for on an as-needed basis and made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or

inoperative furnace or other heating or cooling device. A down-payment followed by a final payment upon completion of the work will be considered a one (1) time payment for purposes of this provision.

4. Housing and Urban Development (HUD) Vendor Payments

   a. Rent or mortgage payments paid to a landlord or mortgagee by the HUD, State or local housing authorities are vendor payments and are excluded.

   b. HUD Community Development Block Grant Funds used for rehabilitation of the individual's residence are also excluded as vendor payments.

5. Grants, Support or Alimony Payments

   a. If an employer, agency, former spouse or other person makes payments for household expenses to a third (3rd) party from funds not owed to the household, these payments are excluded as vendor payments.

   b. Payments specified by a court order or other legally binding agreement to go directly to the third (3rd) party rather than to the household and support payments not required by a court order or other legally binding agreement (including payments in excess of the amount specified in a court order or written agreement) which are paid to a third (3rd) party rather than the household, are excluded as a vendor payment, even if the household agrees to the arrangement.

6. Child Care Payments

   Payments by a government agency to a child care institution to provide child care for a household member are excluded as vendor payments.

7. Child Support Income Exclusion

   a. Legally obligated child support payments made by a household member to or for a non-household member are an income exclusion.

   b. Allowable payments include those child support payments made to a third (3rd) party on behalf of the non-household member (vendor payments).

c. Payments toward a current arrearage order(s) also count toward this exclusion.

d. Any child support payments made in excess of the amount a household member is legally obligated to pay are not allowable as an exclusion.

8. Income Excluded by Law

a. Student financial assistance received under Title IV of the Higher Education Act of 1965 (Pub. Law 105-244), or under Bureau of Indian Affairs student assistance programs, shall not be counted in the determination of eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

(1) Educational assistance authorized under Title IV of the Higher Education Act of 1965, includes the following:

(AA) Basic Educational Opportunity Grants (BEOG or Pell Grants);

(BB) Presidential Access Scholarships (Super Pell Grants);

(CC) Federal Supplemental Educational Opportunity Grants (FSEOG);

(DD) State Student Incentive Grants (SSIG);

(EE) Robert C. Byrd Honors Scholarship Program;

(FF) Federal or State Work Study income wholly or partially funded by Title IV of the Higher Education Act of 1965 (Pub. Law 105-244). (Note: Not all Federal work study funds come under Title IV of the Higher Education Act of 1965. Education assistance that is not funded under Title IV may still be excluded as income if it is used or will be used for paying tuition, fees, or other necessary education expenses at any educational institution);

(GG) Federal Family Education Loan Program (Formerly GSL):

(i) Supplemental Loans for students,

(ii) PLUS loans for parents,

(iii) Robert T. Stafford Student Loans;

(iv) Federal Perkins Loan Program – Direct loans to students in institutions of higher education (Perkins Loans, formerly NDSL);

(v) TRIO Grants (Go to organizations or institutions for students from disadvantaged backgrounds);

(vi) Robert C. Byrd Honors Scholarship Program;

(vii) High School Equivalency Program; and

(viii) National Early Intervention Scholarship and Partnership Program.

b. Under Titles I and II of the Domestic Volunteer Services Act of 1973 (Pub. Law 93-113), payments under Title I of that Act (including payments for such Title I programs as VISTA, University Year for Action, and Urban Crime Prevention Program) to volunteers must be excluded for those individuals receiving SNAP benefits or public assistance at the time they joined the Title I program, except that households which were receiving an income exclusion for a VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 (Pub. Law 88-525a) must continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion.

(1) Temporary interruptions in SNAP participation do not alter the exclusion once an initial determination has been made.

(2) New applicants who were not receiving public assistance or SNAP benefits at the time they joined VISTA shall have these volunteer payments included as earned income.

c. Payments under Title II including the Retired Senior Volunteer Program (RSVP), Foster Grandparents, and Senior Companion Program are also excluded.

d. Income received by individuals age fifty-five (55) and older, under the Senior Community Service Employment Program (SCSEP) authorized under the Title V of the Older Americans Act (OAA) of 1965 (Pub. Law 89-73).

(1) These funds are excluded by Pub. Law 100-175 as income for SNAP purposes.

e. The Workforce Innovation and Opportunity Act (WIOA)

(1) Training allowances paid to individuals participating in programs under WIOA are excluded as income with the exception of earnings paid to an individual age nineteen (19) or over, participating in an on-the-job training program.

(2) Earnings include monies paid under the WIOA and monies paid by the employer.

(3) The National and Community Service Act (NCSA) of 1990, Pub. Law 101-610 § 117(d), provides that § 142(b) of the WIOA applies to projects conducted under Title I of the National and Community Services Act of 1990 as if such projects were conducted under the WIOA.

(AA) Title I includes three (3) Acts:

(i) Serve-America: The Community Service, Schools and Service-Learning Act of 1990, Pub. Law 101-610 § 110 *et seq.*;

(ii) The American Conservation and Youth Service Corps Act of 1990, Pub. Law 101-610 § 120 *et seq.*; and

(iii) The National and Community Service Act, Pub. Law 101-610.

(BB) Most payments are made as a weekly stipend or for educational assistance.

(CC) The Higher-Education Service-Learning program and the AmeriCorps umbrella program come under this Title.

(DD) The National Civilian Community Corps (NCCC) is a federally managed AmeriCorps program.

f. Under The Omnibus Budget Reconciliation Act of 1990 (Pub. Law 101-508), Federal earned income tax credit (EITC) payments received either as a lump sum payment or an advance payment included as part of the paycheck (or as a reduction in taxes that would otherwise have been paid at the end of the year);

g. Payments made under the Low-Income Home Energy Assistance Act, (42 U.S.C. § 8621), in determining any excess shelter deduction, the full amount of such payments shall be deemed to be expended by the recipient household for heating or cooling costs.

h. Under provisions of the Child Nutrition Act, (42 U.S.C. § 1771 *et seq.*), the value of assistance to children under the Child Nutrition Act.

i. As provided in Pub. Law 100-435, under the Women, Infants, and Children (WIC) demonstration projects, coupons which can be exchanged for food at farmers' markets;

j. Certain child care payments:

(1) Under Pub. Law 100-485, the value of any child care payments made under Title IV-A, including transitional child care payments are excluded;

(2) "At-risk" block grant child care payments made under Pub. Law 101-508 § 5801; no deduction may be allowed for any expense covered by such payments;

(3) Under Pub. Law 102-586, the value of any child care provided or any reimbursement for costs incurred under the Child Care and Development Block Grant is excluded from income from any other federal or federally assisted program in which eligibility, or amount of benefits, is based on need.

k. Certain military payments:

(1) The mandatory salary reduction amount for military service personnel that is used to fund the G.I. Bill;

(2) Payments made under the provisions of Wartime Relocation of Civilians, Pub. Law 100-383, entitled to certain United

States citizens of Japanese ancestry, resident Japanese aliens and certain eligible Aleuts (natives of the Aleutian Islands).

(3) Under Pub. Law 110-246, combat-related military pay is excluded from consideration as income when determining SNAP eligibility and benefit levels if the additional pay is the result of deployment to or service in a combat zone and was not received immediately prior to serving in a combat zone.

(4) Any monetary allowances paid by the Veterans Administration under Pub. Law 104-204 § 1805(d), to a child of a Vietnam veteran for any disability resulting from Spina Bifida suffered by such child.

(5) Any monetary allowances paid by the Veterans Administration under Pub. Law 106-419 § 1815(a), to any individual with one (1) or more covered birth defects if he or she is a child of a female Vietnam veteran.

l. All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation retroactive to January 1, 1989.

(1) The disabled veteran will receive yearly payments; survivors of the deceased disabled veterans will receive a lump-sum payment.

(2) These payments were disbursed by the Aetna Insurance Company.

(3) Note: Veterans' benefits were authorized under provisions of the Agent Orange Act of 1991, Pub. Law 102-4, to some veterans with service-connected disabilities resulting from exposure to Agent Orange. These VA payments are not excluded by law.

(4) Pub. Law 101-239 also excluded payments made from the Agent Orange settlement fund or any other fund established pursuant to the settlement in the case of *In re Agent Orange Product Liability Litigation* in the United States District Court for the Eastern District of New York *(*Multi-District Litigation No. 381 (Pub. Law 101-201, 103 Stat. 1795).

m. Utility reimbursements made by HUD directly to the household or via a two (2) party check payable to both the household and the utility provider are excluded from income and are not allowable shelter costs.

n. Under Pub. Law 103-322 § 30202, an amended section of the Crime Act of 1984, 42 U.S.C. § 10602, compensation paid by an eligible crime victim compensation program is excluded as income to the household.

o. Under the Disaster Relief Act of 1974, Pub. Law 93-288 § 312(d), payments precipitated by an emergency or major disaster as defined in the Act, as amended;

(1) This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by States, local governments, and disaster relief organizations.

(2) A major disaster is any natural catastrophe such as a hurricane or drought, or regardless of cause, any fire, flood, or explosion, which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) An emergency is any occasion or instance for which the President determines that Federal assistance is needed to supplant State and local efforts and capabilities to save lives, and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe.

(4) Most Federal Emergency Management Assistance (FEMA) funds are excluded; however, some 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.

p. Funds paid under the Radiation Exposure Compensation Act, Pub. Law 101-426 § 6(h)(2),

q. Certain Native American/American Indian tribal payments:

(1) Payments received under the Alaska Native Claims Settlement Act, Pub. Law 92-203 § 29;

(2) Payments of relocation assistance to members of the Navajo and Hopi Tribes under Pub. Law 93-531.

(3) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes under Pub. Law 94-114;

(4) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians under Pub. Law 94-540;

(5) 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 under Pub. Law 95-433;

(6) Payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980, Pub. Law 96-420 § 9(c);

(7) Payments to the Turtle Mountain Band of Chippewas, Arizona under Pub. Law 97-403;

(8) Payments to the Blackfeet, Gros Ventre, and Assiniboine tribes, Montana and the Papago, Arizona under Pub. Law 97-408;

(9) Per capita and interest payments under Pub. Law 98-123 made to the Red Lake Band of Chippewas;

(10) Per capita and interest payments under Pub. Law 98-124 to the Assiniboine tribe of the Fort Belknap Indian Community and the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana;

(11) Payments under the Old Age Assistance Claims Settlement Act, Pub. Law 98-500 § 8, made to heirs of deceased Indians except for per capita shares in excess of two thousand dollars ($2,000.00);

(12) Funds distributed for members of the Chippewas of Lake Superior under Pub. Law 99-146 § 6(b);

(13) Moneys paid pursuant to the White Earth Reservation Land Settlement Act of 1985, Pub. Law 99-264;

(14) Disbursements made under Pub. Law 99-346 to the Saginaw Chippewa Indian Tribe of Michigan; and

(15) Per capita payments to the Chippewas of Mississippi under Pub. Law 99-377.

(16) The Puyallup Tribe of Indians Settlement Act, Pub. Law 101-41, provides that none of the funds, assets, or income from the trust fund established in § 6(b) shall at any time be used as a basis for denying or reducing funds to the Tribe under any Federal, State, or local program.

(17) The Seneca Nation Settlement Act, Pub. Law 101-503, provides that none of the payments, funds, or distributions authorized, established, or directed by this Act, and none of the income therefrom, shall affect the eligibility of the Seneca Nation or its members or be used as a basis for denying or reducing funds under any federal program.

9. Reimbursements

a. Reimbursements are excluded as income for past or future expenses to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household.

b. Reimbursements for normal living expenses of the household are not excluded.

c. To be excluded, such payments must be provided specifically for an identified expense, other than normal living expenses, and used for the purpose intended.

d. Payments made to a disabled household member for attendant care services are considered to be reimbursements for expenses and are excludable income.

(1) If attendant care services are provided by a household member, the payment for these services is considered earned income of the care giver.

e. When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified

as long as none of the reimbursement covers normal living expenses. (Reimbursements for normal living expenses are not excluded.)

f. The amount by which a reimbursement exceeds the actual incurred expense must be counted as income. However, reimbursements are not considered to exceed actual expenses, unless the provider or the household indicates the amount is excessive.

g. The following are considered excludable reimbursements:

(1) Reimbursements or flat allowances for job or training-related expenses such as travel, *per diem*, uniforms, and transportation to and from the job or training site.

(AA) Reimbursements which are provided over and above basic wages for these expenses are excluded.

(BB) However, these expenses, if not reimbursed, are not otherwise deductible.

(2) Reimbursements for the travel expenses of migrant workers.

(3) Reimbursements for out-of-pocket expenses of volunteers incurred in the course of their work.

(4) Medical or dependent care reimbursements, including payments made to a disabled individual for attendant care.

(5) Non-federal reimbursements or allowances to students for specific educational expenses, such as travel or books, but not allowances for normal living expenses such as food, rent, or clothing.

(AA) Portions of a general grant or scholarship must be specifically earmarked by the grantor for education expenses rather than for living expenses to be excluded as a reimbursement.

(6) Reimbursements received by households to pay for services provided by the Social Services Block Grant.

(7) Reimbursements for *per diem* transportation allowances under the SNAP E&T or RIW education and supervised job search and training components.

h. The following are not considered to be excludable reimbursements under this provision:

(1) No portion of any Federal educational grant, scholarship, fellowship, veterans' benefit and the like to the extent it provides income assistance beyond that used for tuition and mandatory school fees, is considered excludable under this provision.

(AA) This provision does not apply to educational assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act of 1965 (Pub. Law 105-244) or the Carl D. Perkins Career and Technical l Education Act of 2006 (as amended through Pub. Law 115-224).

(2) No portion of any non-Federal, i.e., State, local, or private educational grant, scholarship, fellowship, veterans' benefit and the like that is provided for living expenses is considered excludable under this provision.

(AA) Thus, to be excludable, such assistance must be specifically earmarked by the grantor for education expenses, such as travel or books, but not for living expenses, such as food, rent, or clothing.

10. Educational Assistance

a. Exclude as income any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits and the like to the extent that they are used for or made available (i.e., earmarked) by a school, institution, program, or other grantor for tuition and mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses) of the student incidental to attending the school, institution, or program.

b. If the educational assistance is provided by a program funded in whole or in part under the Carl D. Perkins Career and Technical Education Act (as amended through Pub. Law 115-224).

c. The student must be enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for

completion of a secondary school diploma or obtaining the equivalent thereof.

(1) For the purpose of this provision, "institution of post-secondary education" means any public or private educational institution which either normally requires for enrollment of a high school diploma or equivalency certificate or admits persons who are beyond the age of compulsory school attendance (age sixteen (16) in Rhode Island) without a high school diploma.

(2) The institution must be legally authorized and recognized by the State to provide an educational program of training to prepare students for gainful employment.

d. Educational assistance is excluded based on the amounts earmarked by the institution, school, program, or other grantor as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

(1) If the institution, school, program, or other grantor does not earmark amounts made available for the allowable costs involved, the student may verify the use of the educational assistance for allowable costs and thus receive an exclusion.

(2) Students may also provide verification of amounts used for allowable costs in excess of the amounts earmarked by the school or grantor to obtain an exclusion.

(3) However, excludable expenses claimed by the student must not exceed the amount of the educational assistance.

e. Origination fees and insurance premiums on student loans are excludable charges.

(1) Only the amount of the loan after these charges have been excluded is to be considered income.

11. Mandatory Fees

a. Mandatory fees encompass those charges to students including the rental or purchase of any equipment, materials, and supplies which are related to the pursuit of the course of study involved.

b. For example, uniforms, lab fees, or equipment charged to students in order to enroll in a chemistry course would be excluded. However, transportation, supplies, and textbook expenses are not uniformly charged to students and, therefore, would not be excluded as mandatory fees.

c. Tuition and mandatory fees paid from earnings, resources, or any source other than grants, deferred loans, etc. are not excluded.

12. Financial Aid under the Carl D. Perkins Act

a. Financial assistance, such as grants, loans, reimbursements or allowances, under the Carl D. Perkins Career and Technical Education Act (as amended through Pub. Law 115-224), must be for tuition, mandatory school fees, books, supplies, transportation, and miscellaneous personal expenses with the additional exclusion of payments made for dependent care expenses;

(1) Room and board expenses are not excluded under the Carl D. Perkins Act (V), (as amended though Pub. Law 115-224).

b. In order to qualify for this exclusion, the student must be attending an institution of post-secondary education on at least a half-time basis and be eligible to participate in the SNAP in accordance with the student eligibility requirements in § 1.11.1(A)(9) of this Part.

c. The student is responsible for providing the agency with information to verify that:

(1) The institution considers the student to be attending the institution on at least a half-time basis;

(2) The educational assistance received is from a program funded in whole or in part under the Carl D. Perkins Act (V).

d. For financial assistance awarded under the Carl D. Perkins Act (V), exclude the amounts claimed for tuition, mandatory school fees, books, supplies, transportation, and miscellaneous personal expenses that are related to the cost of attendance at the educational institution.

e. Dependent care expenses are also considered excludable.

f. Excludable expenses claimed by the student must not exceed the value of the total amount of educational assistance granted from the Carl D. Perkins Career and Technical Education Act.

13. Monies Received for Third Parties

a. Exclude as income monies which are received and used for the care and maintenance of a third (3rd) party beneficiary who is not a household member.

b. 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 is excluded. If the non-household member's portion cannot be readily identified, the payment is pro-rated among intended beneficiaries and the exclusion applied to the non-household member's *pro rata* share or the amount actually used for the non-household member's care and maintenance, whichever is less.

14. Earnings of Children

a. Disregard the earned income of children who are members of the household if they are elementary or high school students at least half-time and are not yet eighteen (18) years of age.

b. Their income is also excluded during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break.

c. If the child's earnings or the amount of work performed cannot be differentiated from that of the other household members, the total earnings must be pro-rated equally among the working members and the child's *pro rata* share excluded.

d. Individuals are considered children for this exclusion if they are under eighteen (18) and under the parental control of another household member.

15. Cash Donations

a. Cash donations, based on need, which a household receives from one (1) or more private, nonprofit charitable organizations, are excluded as income.

b. This exclusion cannot exceed three hundred dollars ($300.00) in a quarter. For purposes of this exclusion, a quarter is defined as the Federal fiscal year quarters as follows:

(1) October, November, December – 1st quarter

(2) January, February, March – 2nd quarter

(3) April, May, June – 3rd quarter

(4) July, August, September – 4th quarter

16. Loans

a. All loans on which repayment is deferred, including loans from private individuals as well as commercial institutions and reverse mortgages, other than educational loans, are excluded as income for SNAP purposes.

b. Federal deferred payment educational loans, to the extent that they provide income assistance beyond that used for tuition and mandatory fees, are not excludable under this provision.

c. If the deferred educational loan is provided by a program funded in whole or in part under Title IV of the Higher Education Act of 1965 (Pub. Law 105-244).

d. Portions of non-Federal (State, local or private) deferred payment educational loans are excludable under this provision only to the extent that the lender specifically earmarks portions or all of such loan to provide for educational expenses such as travel or books, but not for living expenses such as rent, mortgage, personal clothing or food eaten at home.

17. Irregular Income

Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated but not in excess of thirty dollars ($30.00) in a quarter, is excluded as income for SNAP purposes.

18. Nonrecurring Lump Sum Payments

a. Exclude as income money received in the form of a nonrecurring lump sum payment, including but not limited to, income tax refunds, rebates or credits; retroactive lump sum social security, SSI, public assistance, railroad retirement benefits or other payments; lump

sum insurance settlements; lump sum lottery winnings; or refunds of security deposits on rental property or utilities.

b. These payments are counted as resources in the month received unless specifically excluded from consideration as a resource by other Federal laws.

19. Costs of Self-Employment

Exclude as income the cost of producing self-employment income.

20. Income of Non-Household Members

The income of a non-household member (defined in § 1.2.4 of this Part), is not considered available to the household.

21. Energy Assistance

Any payments or allowances made for the purpose of providing energy assistance under any Federal law (other than Part A of Title IV of the Social Security Act, 42 U.S.C. § 601 *et seq.*), or a one-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device are excluded.

22. Payments Which Are Not Considered Income

a. Exclude as income monies withheld from an assistance payment, earned income, or other income source, or monies received from any income source which are voluntarily or involuntarily returned to repay a prior over issuance received from that income source, provided that the over issuance is not excluded under another paragraph in this Subsection.

b. However, monies withheld from an assistance program, for purposes of recouping from a household an over issuance which resulted from the household's intentional failure to comply with that program's requirements, must be included as income.

23. Child Support Payments

Exclude as income child support payments received by RIW recipients which must be transferred to the Child Support Agency to maintain RIW eligibility.

24. Foster Care – Guardianship Payments

Exclude as income for the household, foster care and/or guardianship payments for children or adults for whom the household provides care, unless the household elects to include the foster child or adult as a member of the SNAP household.

25. PASS Accounts

Exclude as income amounts necessary for the fulfillment of a Plan to Achieve Self-Support (PASS) of a household member under Title XVI of the Social Security Act.

1.5.4 Households with Income from Self-Employment

A. Income from Rental Property

1. Income derived from rental property is considered earned income for the twenty percent (20%) earned income deduction only if a member of the household is actively engaged in the management of the property at least an average of twenty (20) hours per week.

2. Regardless, the cost of doing business is deducted from rental property. If the twenty (20) hours per week criterion is not met, the net income is considered unearned.

B. Capital Gains

1. The proceeds from the sale of capital goods or equipment are calculated in the same manner as a capital gain for Federal income tax purposes.

2. Even if only fifty percent (50%) of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the agency representative must count the full amount of the capital gain as income for SNAP purposes.

C. Costs of Producing Self-Employment Income

1. Allowable costs of producing self-employment income include, but are not limited to:

a. Payment on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery and other durable goods;

b. The identifiable costs of labor, stock, raw material, seed and fertilizer;

c. Interest paid to purchase income-producing property;

d. Insurance premiums, and taxes paid on income-producing property.

2. The following items are not allowable costs of doing business:

a. Net losses from previous periods;

b. Federal, State, and local income taxes;

c. 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 twenty percent (20%) earned income deduction;

d. Depreciation; and

e. Any amount that exceeds the payment a household receives from a boarder for lodging and meals.

D. Averaging Self-Employment Income

1. Self-employment income which represents a household's annual support, is annualized over a twelve (12) month period, even if the income is received in only a short period of time during the twelve (12) months.

2. However, if the average annualized amount does not accurately reflect the household's circumstances because the household has experienced a substantial increase or decrease in business, the agency must calculate the self-employment income on anticipated earnings.

3. The agency must not calculate self-employment income on the basis of prior income (e.g., income tax return) when the household has experienced a substantial increase or decrease in business.

4. For the period of time over which self-employment is determined, the agency representative adds all gross self-employment income (including capital gains), excludes the cost of producing the self-employment income, and divides the self-employment income by the number of months over which the income will be averaged.

5. If, however, the averaged amount does not accurately reflect the household's actual circumstances because the household has experienced a substantial increase or decrease in business, the agency representative calculates the self-employment income based on anticipated earnings.

6. For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, the agency representative adds any capital gains the household anticipates it will receive in the next twelve (12) months (starting with the date the application is filed) and divides this amount by twelve (12).

    a. This amount is used in successive certification periods during the next twelve (12) months, except that a new average monthly amount is calculated over this twelve (12) month period if the anticipated amount of capital gains changes.

    b. The agency representative then adds the anticipated monthly amount of capital gains to be anticipated monthly self-employment income and subtracts the cost of producing the self-employment income.

    c. The cost of producing the self-employment income is calculated by anticipating the monthly allowable costs of producing the self-employment income.

E. Monthly Income from Self-Employment

1. If it is determined that a household is eligible based on its monthly net income, the household may have the option to have its benefit level determined by using either the same net income which was used to determine eligibility, or by unevenly pro-rating 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.

    a. If income is pro-rated, the net income assigned in any month cannot exceed the maximum monthly income eligibility standards for the household's size.

    b. If the cost of producing self-employment farm income exceeds the income which is derived from self-employment as a farmer, such losses must be offset against any other countable income in the household.

        (1) Losses from self-employment farm income are offset in two (2) phases:

            (AA) The first (1st) phase is to offset losses against non-farm self-employment income.

(BB) The second (2nd) phase is to offset the remaining losses against the total of the household's earned and unearned income.

(i) To be considered a self-employed farmer, eligible for this offset of expenses, the farmer must receive or anticipate receiving annual gross proceeds of one thousand dollars ($1,000.00) or more from the farming enterprise.

F. Determining Net Monthly SNAP Income

1. To determine the monthly SNAP income for households with income from self-employment enterprises, the monthly net self-employment income is added to any other earned income received by the household.

2. The total monthly earned income, less the twenty percent (20%) earned income deduction, is then added to all other monthly income received by the household.

3. The standard deduction, dependent care and shelter costs are computed as for any other household and subtracted to determine the monthly net income of the household.

G. Households with Boarders

1. A household that operates commercial boarding houses are considered self-employed and the criteria in § 1.11.2 of this Part apply.

2. Households with boarders are allowed to deduct the cost of doing business.

3. A person paying a reasonable amount for room and board, as discussed in § 1.2.6 of this Part, is excluded from the household when determining the household's eligibility and benefit level.

4. Payments from that boarder are treated as self-employment income.

5. Cost of Doing Business

a. After determining the income received from a boarder, the agency representative excludes that portion of the boarder payment which is a cost of doing business.

b. The cost of doing business is equal to one (1) of the following provided that the amount allowed as the cost of doing business does not exceed the payment the household received from the boarder for lodging and meals:

(1) The cost of the Thrifty Food Plan for a household size that is equal to the number of boarders; or

(2) The actual documented cost of providing room and meals if the actual cost exceeds the Thrifty Food Plan. If actual costs are used, only separate and identifiable costs of providing room and board to the boarder are excluded.

6. Deductible Expenses

a. The net income from self-employment is added to other earned income and the twenty percent (20%) earned income deduction is applied to the total.

b. Shelter costs which the household actually incurs, even if the boarder contributes to the household for part of the household's shelter expenses, is computed to determine if the household receives a shelter deduction.

(1) However, the shelter costs must not include any shelter expenses paid directly by the boarder to a third (3rd) party, such as to the landlord or utility company.

H. Work Registration

1. The receipt of income from self-employment does not automatically exempt a member from the work registration requirement.

2. The member must be actively engaged in the enterprise on a day-to-day basis and the agency representative must determine that the self-employment enterprise either requires at least thirty (30) hours of work per week during the period of certification or an average of thirty (30) hours per week on an annual basis or, if not working thirty (30) hours per week, is receiving weekly earnings at least equal to the Federal minimum wage multiplied by thirty (30) hours.

3. In instances when the member hires or contracts for another person or firm to handle the daily activities of such enterprise, the member is not considered as self-employed for the purpose of work registration unless the person works in such activity at least thirty (30) hours per week.

1.5.5 Resources

A. The Food and Nutrition Act of 2008 (Pub. Law 116-94) requires that participation be "limited to those households whose income and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet." The standards are established by law and apply to all households applying for Program benefits.

1. With the exception of categorically eligible households defined in § 1.5.1 of this Part, a household must report at the time of application all resources and potential resources expected during the certification period so that the value and the treatment of the resources for all eligible and ineligible household members can be determined.

2. Available resources at the time the household is interviewed are used to determine the household's eligibility.

B. Resource Eligibility Standards

1. Eligibility must be denied or discontinued if the value of non-exempt resources, both liquid and non-liquid assets, for the household exceeds either:

   a. Three thousand five hundred dollars ($3,500.00) for all households that consist of, or include, at least one (1) member who is disabled or sixty (60) years of age or over; or

   b. Two thousand two hundred fifty dollars ($2,250.00) for all other households.

2. These resource standards are to be applied to all applicant households, including those in which some members are recipients of PA with the exception of the following:

   a. In a mixed household, i.e., a household comprised of some members receiving SSI or RIW cash assistance and some not receiving SSI or RIW cash assistance, all resources of the SSI/RIW recipient(s) are categorically excluded. The resource standards are applied to the remaining household members.

   b. Households in which all members receive SSI, RIW, a TANF-funded service or GPA and which are categorically eligible as defined in § 1.5.1 of this Part, do not have to meet the resource limits or definitions in this Part.

C. Verification of Resources

Documentary evidence is used as the primary source of verification, although collateral contacts may also be sources of verification if written verification is unavailable.

D. Exempt Resources

1. In determining the resources of a household, only the following types, are exempted:

a. Resources of RIW/SSI Recipients

(1) The resources of any household member who receives SSI or who receives benefits under Part A of Title IV of the Social Security Act, 42 U.S.C. Chapter 7, (RIW) shall be considered exempt for SNAP purposes.

(2) This applies whether or not the household receives SNAP benefits as categorically eligible.

b. Home and Lot

(1) The home and surrounding property which is not separated from the home by intervening property owned by others.

(2) Public rights of way, such as roads, which run through the surrounding property and separate it from the home, do not affect the exemption of the property.

(3) The home and surrounding property remains exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, vacation or is not inhabitable because of a casualty or natural disaster, if the household intends to return.

(4) If the household does not already own a home but owns or is purchasing a lot on which it intends to build or is building a permanent home, it receives an exclusion for the value of the lot, and if it is partially completed, for the home.

c. Household Goods, Life Insurance & Pensions

(1) Exclude as a resource household goods, personal effects, including one (1) burial lot per household member, and the cash value of life insurance policies.

(2) The cash value of pension plans or funds is excluded.

d. Excluded Vehicles

(1) Exclude the value of vehicles as specified below:

(AA) One (1) vehicle (licensed or unlicensed) for each adult household member, but not to exceed two (2) vehicles per household, shall not be counted as resources of the family.

(BB) Exclude the entire value of any licensed vehicle, such as, but not limited to, a taxi, truck, tractor, or fishing boat, if:

(i) The vehicle is used primarily (over fifty percent (50%) of the time the vehicle is used) for income-producing purposes.

(ii) Licensed vehicles which have previously been used by a self-employed household member engaged in farming, but are no longer used over fifty percent (50%) of the time in farming because the individual has terminated her/his self-employment from farming, continue to be excluded for one (1) year from the date the individual terminated her/his self-employment from farming.

(iii) The vehicle annually produces income consistent with its fair market value, even if used only on a seasonal basis.

(iv) The vehicle is necessary for long distance travel, other than daily commuting, which is essential to the employment of a household member (or an ineligible or a disqualified person whose resources are being considered available to the household). Such vehicles include that of a traveling salesperson or a migrant farmworker following the work stream.

(v) The vehicle is used as the household's home. This exemption applies during temporary periods of unemployment when the vehicle is

not in use and for unlicensed vehicles on Indian reservations which do not require vehicles driven by tribal members to be licensed.

(2) Maintenance of excluded vehicles

(AA) Exclude any property, real or personal, to the extent that it is directly related to the maintenance or use of a vehicle excluded above.

(BB) Only that portion of real property determined necessary for maintenance or use is excludable under this provision.

(3) Vehicles for the Disabled

(AA) Exclude the entire value of any licensed vehicle if the vehicle is necessary to transport a physically disabled household member (or disabled ineligible or disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation.

(BB) This exemption is limited to one (1) vehicle per physically disabled household member. A vehicle is considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle which makes it possible to transport the disabled person.

(CC) The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member.

(4) Fuel or Water Carrier

Licensed vehicle if the vehicle is necessary to carry fuel for heating or water for home use when the transported fuel or water is anticipated to be the primary source of fuel or water for the household during the certification period.

(5) Inaccessible Resource

Exclude from resources the value of a vehicle that is inaccessible, in accordance with § 1.5.5(F) of this Part, because its sale would produce an estimated return of not more than one thousand five hundred dollars ($1,500.00).

(6) Income-Producing Property

(AA) Exclude property which annually produces income consistent with its fair market value, even if only used on a seasonal basis. Such property includes a rental home and a vacation home.

(BB) Exclude property such as farmland which is essential to the employment or the self-employment of a household member.

(CC) Exclude work-related equipment, such as the tools of a tradesperson or the machinery of a farmer which is essential to the employment or self-employment of a household member.

(i) Property essential to the self-employment of a household member engaged in farming continues to be excluded for one (1) year from the date the individual terminates her/his self-employment from farming.

(7) Exclude installment contracts for the sale of land or buildings, if the contract or agreement is producing income consistent with its fair market value.

(AA) The value of the property sold under installment contract or held as security in exchange for a purchase price consistent with the market value of that property.

E. Determining Fair Market Value of Property

1. If the agency representative determines that the property is not producing income consistent with its fair market value, such property must be counted as a resource.

a. However, if the property is leased for a return that is comparable to other property in the area leased for similar purposes, it is

considered as producing income consistent with its fair market value and is not considered a resource.

2. Property exempt as essential to employment need not be producing income consistent with its fair market value.

F. Inaccessible Resources

1. Resources with cash value that 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 have not been sold are exempted.

   a. In such cases, the agency representative verifies that the property is for sale and that the household has not declined a reasonable offer.

2. 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, is considered inaccessible to the household if:

   a. 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;

   b. The trustee administering the funds is either:

      (1) A court, or an institution, corporation, or organization which is not under the direction or ownership of any household member; or,

      (2) 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 Section;

      (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:

         (AA) 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,

(BB) Established from non-household funds by a non-household member.

G. Resources Excluded by Law

1. Under Pub. Law 103-66, earned income tax credits (EITC) received by any member of the household shall be excluded from financial resources for twelve (12) months from receipt if the household member is participating in the program at the time of its receipt and participates continuously during the twelve (12) month period.

2. Benefits received from the special supplemental food program for women, infants, and children (WIC).

3. Under the Child Nutrition Act, (42 U.S.C. § 1771 *et seq.*), the value of assistance to children.

4. As provided in the Child Nutrition Act, (42 U.S.C. § 1771 *et seq.*): under WIC demonstration projects, coupons that can be exchanged for food at farmers' markets.

5. Under the Low-Income Home Energy Assistance Act, (42 U.S.C. § 8621), the amount of any home energy assistance payments or allowances provided directly to, or indirectly in behalf of, a household is excluded.

6. Financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act in accordance with Pub. Law 105-244.

7. Payments made under Pub. Law 98-524, the Carl D. Perkins Career and Technical Education Act of 2006 as amended by Pub. Law 115-224.

8. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Pub. Law 91-646).

9. Payments made under provisions of the Disaster Relief Act of 1974, Pub. Law 93-288, as amended. This exclusion applies to Federal assistance provided to persons directly affected and to comparable disaster assistance provided by States, local governments, and disaster relief organizations.

10. Payments made under the provisions of "Wartime Relocation of Civilians," Pub. Law 100-383, to certain United States citizens of Japanese ancestry, resident Japanese aliens and certain eligible Aleuts (natives of the Aleutian Islands).

11. All payments from the Agent Orange Settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation retroactive to January 1, 1989. The disabled veteran will receive annual payments; survivors of the deceased disabled veterans will receive a lump-sum payment. These payments were disbursed by Aetna Insurance Company.

12. Payments made under the Radiation Exposure Compensation Act, Pub. Law 101-426 § 6(h)(2).

13. Payments received under the Alaska Native Claims Settlement Act, Pub. Law 92-203 § 29, or the Sac and Fox Indian claims agreement under Pub. Law 94-189.

14. Funds distributed under Pub. Law 94-189 § 6, to the Sac and Fox Indians.

15. Payments of relocation assistance to members of the Navajo and Hopi Tribes under Pub. Law 93-531.

16. Payments received by certain Indian tribal members under Pub. Law 94-114 § 6, regarding sub marginal land held in trust by the United States.

17. Payments received from the disposition of funds to the Grand River Band of Ottawa Indians under Pub. Law 94-540.

18. Funds paid under Pub. Law 98-123 § 3, to members of the Red Lake Band of Chippewa Indians.

19. 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 under Pub. Law 95-433.

20. Payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980, Pub. Law 96-420.

21. Payments to the Blackfeet, Grosventre, and Assiniboine tribes, Montana, and the Papago, Arizona under Pub. Law 97-408.

22. Funds distributed per capita or held in trust under Pub. Law 99-146 § 6(b), for members of the Chippewas of Lake Superior.

23. Moneys paid under the White Earth Reservation Land Settlement Act of 1985, Pub. Law 99-264.

24. Payments to the Saginaw Chippewa Indian Tribe under Pub. Law 99-346.

25. Funds distributed under Pub. Law 99-377 § 4(b), to the Chippewas of the Mississippi.

26. Moneys paid under Indian Child Welfare, Pub. Law 95-608.

27. Payments to the Turtle Mountain Band of Chippewas, Arizona under Pub. Law 97-403.

28. Funds paid to members of the Assiniboine Tribe, Fort Belknap and Fort Peck, Montana under Pub. Law 98-124.

29. Under the Old Age Assistance Claims Settlement Act, Pub. Law 98-500, payments to heirs are excluded except for per capita shares in excess of two thousand dollars ($2,000.00).

30. Payments made under the Puyallup Tribe of Indians Settlement Act, Pub. Law 101-41.

31. Funds awarded to the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission are excluded except for per capita shares in excess of two thousand dollars ($2,000.00) paid under Pub. Law 101-277.

32. Payments made under Seneca Nation Settlement Act, Pub. Law 101-503.

33. Any monetary allowances paid by the Veterans Administration under Pub. Law 104-204 § 1805(d), to a child of a Vietnam Veteran for any disability resulting from Spina Bifida suffered by such child.

34. Any monetary allowances paid by the Veterans Administration under Pub. Law 106-419 § 1815(a), to any individual with one (1) or more covered birth defects if he or she is a child of a female Vietnam veteran.

35. Under Pub. Law 103-322 § 30202, amended § 1403 of the Crime Act of 1984 (42 U.S.C. § 10602), compensation paid by an eligible crime victim compensation program.

36. Under the Food, Conservation and Energy Act of 2008, Pub. Law 110-246, which revised the Food Stamp Act, any funds in a plan, contract or account described in §§ 401(a), 403(a), 403(b), 408, 408A, and 501(c)(18) of the Internal Revenue Code of 1986, U.S.C. Title 26, and the value of funds in a Federal Thrift Savings Plan account as provided in 5 U.S.C. § 8439; and any retirement program or account included in any successor or similar provision that may be enacted and determined to be exempt from tax under the Internal Revenue Code of 1986.

37. Included in the above exclusion are: Pension or traditional defined-benefit, 401(k), SIMPLE 401(k), 501(c)(18), 403(b), 457, Federal Employee Thrift Savings, Keogh, IRA, Roth IRA, SIMPLE IRA, Simplified Employer, Profit Sharing and Cash Balance plans.

38. Under the Food, Conservation and Energy Act of 2008, Pub. Law 110-246, which revised the Food Stamp Act, any funds in a qualified tuition program described in § 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under § 530 of that code.

H. Other Excluded Resources

1. Earmarked Resources

   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 should the funds not be used as intended.

2. Pro-rated Income

   Resources, such as those of students or self-employed persons, which have been pro-rated and counted as income.

3. Indian Lands

   Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

4. Energy Assistance

   Energy assistance payments or allowances are considered excluded income under § 1.5.3 of this Part.

5. Inaccessible Resources

   Non-liquid asset(s) against which a lien has been placed as a result of taking out a business loan when the household is prohibited by the

security or lien agreement with the lien holder (creditor) from selling the asset.

6. Resources which cannot be sold for a significant return

   a. A resource is excluded if a household is unlikely to be able to sell that resource for a significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great. Such a resource is considered inaccessible.

   b. This inaccessibility provision does not apply to financial instruments such as stocks, bonds, or negotiable financial instruments.

   c. This provision does apply to vehicles. For example, the value of a vehicle is considered inaccessible because its sale would produce an estimated return of not more than one thousand five hundred dollars ($1,500.00).

   d. A complete description of the reasons for the determination of inaccessibility of the resource must be notated in the eligibility system.

   e. For the purposes of this Subsection:

      (1) Significant return means any return, after estimating costs of sale or disposition, and taking into account the ownership interest of the household, that the State agency determines are more than one thousand five hundred dollars ($1,500.00);

      (2) Any significant amount of funds means funds amounting to more than one thousand five hundred dollars ($1,500.00).

I. Handling Excluded Funds

1. Excluded monies which are kept in a separate account and are not commingled in an account with non-excluded (countable) funds, retain their resource exclusion for an unlimited period of time.

2. The resources of students and self-employed households which are excluded (per above) and are commingled in an account with non-excluded funds retain exclusion for the period of time over which they have been pro-rated as income.

3. All other excluded monies which are commingled in an account with non-excluded funds retain their exclusion for six (6) months from the day they are commingled.

    a. After six (6) months from the date of commingling, all funds in the commingled account must be counted as a resource.

J. The following non-exempt resources must be counted in determining the total value of the household's resources:

1. Liquid Resources

    a. These include, but are not limited to, cash on hand, a checking or savings account in a bank or other financial institution, savings certificates, stocks or bonds, and lump sum payments.

        (1) In determining the resources of a household with an Education account (e.g. 529 plan), or an IRA or countable Keough plan, see § 1.5.3 of this Part, Resources Excluded by Law.

2. Non-Liquid Resources

    These include real and personal property, such as but not limited to, licensed and unlicensed vehicles, buildings, land, recreational properties, boats, vacation homes, mobile homes and other property not specifically excluded in this Subsection.

3. Deemed Resources

    For a household containing a sponsored non-citizen (as defined in § 1.5.8 of this Part), its resources also include the resources of the alien's sponsor and the sponsor's spouse (if any) which are deemed to the alien in accordance with the procedures described in § 1.5.8 of this Part.

4. Resources of Excluded/Non-Household Members

    a. The resources of non-household members must not be counted as available to the household. (See § 1.2.4 of this Part)

    b. The resources of ineligible household members must be counted in their entirety as available to the remaining household members. (See § 1.5.6 of this Part)

5. Jointly Owned Resources

a. Resources owned jointly by separate households must be considered available in their entirety to each household, unless the household can demonstrate otherwise.

b. A household member who states that s/he is not the owner, or is only the partial owner of the resource must be required to demonstrate the ownership of the funds.

c. A household member who states that s/he has no access, or only partial access to the resource, must be required to demonstrate such lack of access.

d. If the household can demonstrate that it has ownership of, or access to, only a portion of the resource, only that portion must be counted toward the household's resource level.

K. Evaluating Ownership of a Resource

1. If the applicant/recipient can verify the lack of either access to, or ownership of, a resource that resource is not counted towards the resource limit when determining eligibility for SNAP benefits.

2. A resource is considered inaccessible to the household if the resource cannot be practically subdivided or the household's access to the value of the resource is dependent on the agreement of the joint owner who refuses to comply.

3. Resources must be considered inaccessible to a person residing in a shelter for battered persons and children (as defined in § 1.4.8 of this Part) if:

a. The resources are jointly owned by such a person and by members of his/her former household; and,

b. The 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. In order for a household member to demonstrate a lack of ownership, or only partial ownership of a resource, two (2) of the following sources of documentation must be presented as evidence:

a. Documents showing the origin of the resource. For example, if a bank account was opened, who opened it or whose money was used to open the account;

b. Documentation through Federal or State tax records as to which of the joint account holders declares the tax on the interest credited to the account as income;

c. Records of who makes deposits and withdrawals and, if appropriate, of how withdrawn funds are spent.

(1) The person claiming a lack of ownership (or accessibility) should not have made any withdrawals.

d. A notarized affidavit which details a written or oral agreement made between the parties listed on the resource or by someone who established or contributed to the resource, with respect to the ownership of the funds in the resource;

e. When the household member states that s/he does not own a bank account but is listed as a co-holder solely as a convenience to the other co-holder to conduct bank transactions on his/her behalf, evidence of the age, relationship, physical or mental condition, or place of residence of the co-holder must be provided;

f. A signed, notarized statement from the household member and from either other individual(s) listed in the joint account, or the person who established or contributed to the account, stating that the applicant or recipient had no knowledge of the existence of the account.

g. A document or piece of evidence submitted to verify a particular fact does not count as more than one (1) verification under the above Subsection.

(1) However, a document, piece of evidence or a statement may address more than one (1) fact needed for verification.

h. For a bank account, a change in the account designation removing the household member's name or restricting access to the funds in the account must be made.

L. Nonrecurring Lump Sum Payments

1. Money received in the form of a nonrecurring lump sum payment, including, but not limited to, income tax refunds, rebates, or credits; retroactive lump sum social security, SSI, public assistance, railroad retirement benefits or other payments; lump sum insurance settlements;

lump sum lottery winnings; or refunds of security deposits on rental property or utilities.

2. These payments are counted as resources in the month received, unless specifically excluded from consideration as a resource by other Federal laws.

3. If the total amount of resources exceeds the allowable resource limit, the household must be given an opportunity to update its entire resource statement.

    a. If it declines to do so, or the amount of resources still exceeds the limit, the agency representative takes action to discontinue the household's certification.

M. Non-Excluded Vehicles

1. If a vehicle is not excluded under this Section, the agency representative then handles each vehicle as follows:

    a. Individually determines the resource value of each vehicle not excluded by:

        (1) Determining the amount, if any, in excess of four thousand six hundred fifty dollars ($4,650.00) of the vehicle's Fair Market Value.

        (2) Calculating the vehicle's equity value, unless specifically exempt from the equity value test.

            (AA) Unlicensed vehicles and non-income producing licensed vehicles, except for those excluded, are evaluated for equity value.

            (BB) Equity value is fair market value less encumbrances.

            (CC) Equity value is attributed toward the household's resource level except when a vehicle's equity value is less than one thousand five hundred dollars ($1,500.00).

        (3) Counts as a resource only the greater of the two (2) amounts if the vehicle has a countable fair market value of more than four thousand six hundred fifty dollars ($4,650.00) and also has a countable equity value.

2. Determining Fair Market Value (FMV) of Licensed Vehicles

a. The fair market value of licensed automobiles, trucks and vans is determined by the wholesale value of the vehicle as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies.

b. The agency representative must not increase the basic value of a vehicle by considering such variables as low mileage or other factors such as optional equipment.

c. Any household that claims the blue book value does not apply to its vehicle must be given the opportunity to acquire verification of the true value from a reliable source.

(1) Households are asked to acquire verification of the value of a licensed antique, custom made, or classic vehicle, if the agency representative is unable to make an accurate appraisal.

(2) If a vehicle is specially equipped with apparatus for a disabled person, the apparatus must not increase the value of the vehicle.

(3) If a vehicle is no longer listed in the blue book, the household's estimate of the value of the vehicle is accepted, unless the agency representative has reason to believe that the estimate is incorrect.

(AA) In such a case, if it appears that the vehicle's value may affect eligibility, the household must obtain an appraisal or produce other evidence of its value, such as a tax assessment or newspaper advertisement indicating the sale price of similar vehicles.

(BB) If a new vehicle is not yet listed in a blue book, the agency representative determines the wholesale value through some other means, such as contacting a car dealer who sells that make of vehicle.

3. When Fair Market Value is Counted

a. All non-income producing licensed vehicles must be evaluated individually for fair market value.

b. That portion of the value which exceeds four thousand six hundred fifty dollars ($4,650.00) is attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles unless the vehicle has both fair market and equity value.

c. Any value in excess of four thousand six hundred fifty dollars ($4,650.00) must be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment unless the criteria in § 1.5.5(M)(5) of this Part below, is applicable.

d. Each vehicle must be appraised individually. The values of two (2) or more vehicles must not be added together to reach a total fair market value in excess of four thousand six hundred fifty dollars ($4,650.00).

4. Vehicles Exempt from the Equity Test

a. Only the following vehicles are exempt from the equity value test:

(1) Vehicles excluded in this Subsection;

(2) One (1) licensed vehicle per adult household member (or an ineligible alien or disqualified household member whose resources are being considered available to household), regardless of the use of the vehicle; and

(3) Any other vehicle a household member under age eighteen (18) (or an ineligible alien or disqualified household member under age eighteen (18) whose resources are being considered available to household) drives to commute to and from employment, or to and from training or education which is preparatory to employment, or to seek employment.

5. Counting Either Fair Market Value or Equity Value

a. When a licensed vehicle is assigned both a fair market value in excess of four thousand six hundred fifty dollars ($4,650.00) and an equity value, only the greater of the two (2) amounts is counted as a resource if the vehicle is not otherwise excluded.

b. Count the Higher of:

(1) Fair Market Value Over four thousand six hundred fifty dollars ($4,650.00); or

(2) Equity (Fair Market Value Less Encumbrances)

Table on Treatment of Vehicles	
TOTALLY EXEMPT	NON-EXEMPT COUNT FAIR MARKET VALUE OVER FOUR THOUSAND SIX HUNDRED FIFTY DOLLARS ($4,650.00)
A vehicle (licensed or unlicensed) for each adult household member, not to exceed two (2) vehicles per household	One (1) vehicle per adult household member, regardless of use
Income producing	Used to transport household members under age eighteen (18) to work, school, other or training to look for work
Necessary for long-distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible non-citizen or disqualified person whose resources are being considered available to the household)	
Necessary to transport a physically disabled household member	
Used as household's home	

Necessary 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	
Classified as an inaccessible resource	

N. Vacation Homes

A vacation home used part of the year by the household and that is not producing income consistent with its fair market value has its equity value counted toward the resource limit.

O. Transfer of Resources

1. Households which have knowingly transferred resources for the purpose of qualifying or attempting to qualify for SNAP benefits must be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer.

    a. This disqualification period must be applied if the resources are transferred knowingly in the three (3) month period prior to application or if they are transferred after the household is determined eligible for benefits.

2. Eligibility for the program is not affected by transfer of a resource which:

    a. Would not otherwise affect eligibility;

    b. Is sold or traded at or near fair market value;

    c. Is transferred between members of the same household (including an ineligible non-citizen or a disqualified person whose resources are being considered available to the household); or,

    d. Is transferred for reasons other than qualifying or attempting to qualify for SNAP benefits.

3. The length of the disqualification period is based on the amount by which the transferred resource, when added to other countable resources, exceeded the allowable resource limit.

a. The following chart is used to determine the period of disqualification:

Amount in Excess of the Resource Limit	Period of Disqualification
$1.00 – $249.99	One (1) Month
$250.00 – $999.99	Three (3) Months
$1,000.00 – $2,999.99	Six (6) Months
$3,000.00 – $4999.99	Nine (9) Months
$5,000.00 and up	Twelve (12) Months

b. In the event the agency establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for SNAP benefits, the agency sends the household a notice of denial explaining the reason for and length of the disqualification.

c. The period of disqualification begins in the month of application.

d. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and length of the disqualification period is sent.

e. The period of disqualification is effective with the first (1st) allotment issued after the adverse notice period has expired, unless the household has requested a hearing and continued benefits.

1.5.6 Special Situations

A. Income/Resources of Ineligible Members

1. The following procedures are used to determine the eligibility and benefit level of any remaining household member(s) of a household containing an individual determined ineligible for SNAP benefits:

a. For households with an ineligible non-citizen, an individual ineligible for failing to attest to his/her U.S. citizenship or immigration status, an individual ineligible because of disqualification for failure or

refusal to obtain or provide an SSN or an individual ineligible due to meeting the time limit for able-bodied adult without dependents:

(1) Resources: The resources of such an ineligible member(s) continue to count in their entirety to the remaining household members.

(2) Income: *pro rata* share of the income of such an ineligible member(s) is counted as income to the remaining members.

(AA) This *pro rata* share is calculated by first subtracting the allowable exclusions from the ineligible members' income and dividing the income evenly among the household members, including the ineligible members.

(BB) However, if the ineligible member receives no income of his or her own, the RIW payment shall not be pro-rated.

(3) Deductible Expenses: The twenty percent (20%) earned income deduction applies to the pro-rated income earned by such an ineligible member(s) which is attributed to the household.

(AA) That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the ineligible members(s), is divided evenly among the household's members, including the ineligible member(s).

(BB) All but the ineligible members' share is counted as a deductible shelter or dependent care expense for the remaining household members.

(CC) If the expense is paid in full by an eligible member, the expense is allowed in full for the household.

(DD) The mandatory Standard Utility Allowance (SUA) will not be pro-rated – the full SUA will be provided to the household if it is entitled to it.

(EE) If a household contains an ineligible member with no income of his/her own, the full shelter and/or

dependent care costs are allowed in the determination of eligibility and benefit level for SNAP.

(4) Eligibility and benefit level: Such an ineligible member(s) must not be included when determining the household's size for the purposes of:

(AA) Assigning a benefit level to the household;

(BB) Assigning a standard deduction to the household;

(CC) Comparing the household's monthly income with the income eligibility standards; or,

(DD) Comparing the household's resources with the resource eligibility limits.

b. For households with an individual who is ineligible because of disqualification for an IPV or ineligible because a sanction has been imposed for failing to comply with work requirements in § 1.11 of this Part:

(1) Income, Resources and Deductible Expenses

The income and resources of the ineligible household member(s) continue to count in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions continue to apply to the remaining household members.

(2) Eligibility and Benefit Level

(AA) The ineligible member is not included when determining the household's size for the purpose of:

(i) Assigning a benefit level to the household;

(ii) Assigning a standard deduction to the household;

(iii) Comparing the household's monthly income with the income eligibility standards; or

(iv) Comparing the household's resources with the resource eligibility limits.

c. The agency representative must ensure that no household's benefit allotment is increased as a result of the exclusion of one (1) or more household member(s).

2. If a household's benefits are reduced or terminated within the certification period because one (1) of its members was determined ineligible because of disqualification for intentional program violation, the agency must notify the remaining members of their eligibility and benefit level at the same time the ineligible member is notified of his/her disqualification.

   a. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

3. If a household's benefits are reduced or terminated within the certification period because one (1) or more of its members is an ineligible non-citizen, is ineligible because a sanction has been imposed while s/he was participating in a household disqualified for failing to comply with work requirements, or ineligible because s/he was disqualified for refusal to obtain or provide an SSN, the agency must issue a notice of adverse action which informs the household of the ineligibility, the reason for the ineligibility, the eligibility and benefit level of the remaining members, and the action the household must take to end the ineligibility.

B. RIW, GPA and SSI Households

1. To facilitate participation in the program, households in which members are applying for RIW and/or GPA (PA households) must be allowed to complete a joint application for SNAP benefits at the same time they apply for such assistance.

   a. These households' SNAP eligibility and benefit levels are based solely on SNAP eligibility criteria.

   b. The joint application processing procedures in this Section are used for a SNAP household in which some members are receiving RIW and/or GPA and others are receiving SSI.

   c. A household consisting of some members who are receiving RIW/GPA/SSI and some not receiving assistance also may file a joint application for SNAP benefits.

   d. The RIW and GPA application form contains all the information necessary to determine a household's SNAP eligibility and level of benefits.

C. Income/Resources of a Non-Household Member

1. For all other non-household members who are not specifically mentioned in § 1.5.6(B) of this Part above, such as a roomer or an ineligible student, the income and resources of such individuals must not be considered available to the household with whom the individual resides.

2. Voluntary cash payments from a non-household member to the household are considered income under the normal income standards.

3. Vendor payments are excluded as income.

4. If the household shares deductible expenses with the non-household member, only the amount actually paid or contributed by the household is deducted as a household expense.

    a. If the payments or contributions cannot be differentiated, the expenses must be pro-rated evenly among persons actually paying or contributing to the expense and only the household's *pro rata* share is deducted.

    b. The mandatory SUA will not be pro-rated — the full SUA will be granted to the household if the household is entitled to it.

5. When the earned income of one (1) or more household members and the earned income of a non-household member are combined into one (1) wage, the income of the household member(s) is determined as follows:

    a. If the household's share can be identified, the agency representative counts that portion due to the household as earned income.

    b. If the household's share cannot be identified, the agency representative must pro-rate the earned income among all those whom it was intended to cover and counts that pro-rated portion to the household.

6. Such non-household members must not be included when determining the size of the household for the purposes of:

    a. Assigning a benefit level to the household;

    b. Assigning a standard deduction to the household;

    c. Comparing the household's monthly income with the income eligibility standards; or,

d. Comparing the household's resources with the resource eligibility limits.

1.5.7 Deductions and Expenses

A. Deductible expenses include only certain medical, dependent care, and shelter costs as described in this Subsection.

1. Categorically eligible SSI recipients entitled to the excess medical deduction and the uncapped shelter expense must receive such deductions, if they incur such expenses, for the period for which they are authorized to receive SSI benefits or the date of the SNAP application whichever is later as discussed in the categorical eligibility provisions (§ 1.5.1 of this Part).

a. Such individuals who are entitled to restored benefits in accordance with those provisions must have their benefits restored using these special deductions if they have such expenses.

2. Disallowed Expenses

a. An expense covered by either an excluded reimbursement or vendor payment, except an energy assistance vendor payment made under the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. §§ 8621 through 8630, is not deductible.

b. Expenses are only deductible if the service is provided by someone outside of the household, and the household makes a money payment for the service.

c. If the household reports an allowable medical expense at the time of certification but cannot provide verification at that time, and if the amount of the expense cannot be reasonably anticipated based upon available information about the individual's medical condition and public or private medical insurance coverage, the household shall have the non-reimbursable portion of the medical expense considered at the time the amount of the expense or reimbursement is reported and verified.

3. Except as provided in § 1.5.7(A)(5) of this Part for averaged expenses, a deduction is allowed in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense.

a. Amounts carried forward from past billing periods are not deductible even if included with the most recent billing and actually paid by the household.

b. A repayment agreement or verification indicating that a household still incurs a bill on a one (1) time medical expense is allowable in the month that each installment is due, even if the household was initially billed and established a payment plan before the certification period began.

c. An expense may only be deducted and applied to a case once and must be non-reimbursable.

4. Anticipating Expenses

a. The agency representative calculates a household's expenses based on those expenses the household expects to be billed for during the certification period.

b. Anticipation of an expense is based on the most recent month's bills, unless the household is reasonably certain a change will occur.

c. The SNAP allotment is adjusted for the remainder of the certification period and, if necessary, a supplemental allotment is provided for the month in which the change is verified.

d. The household may elect to average its expenses (see § 1.5.7(A)(5) of this Part below).

5. Averaging Expenses

a. Households may elect to have fluctuating expenses averaged.

b. Households may also elect to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover.

c. Households reporting one (1) time only medical expenses during their certification period may elect to have a one (1) time deduction or to have the expense averaged over the remaining months of their certification period.

d. Averaging begins the month the change becomes effective.

e. For households certified for twenty-four (24) months that have one (1) time medical expenses, the agency will utilize the following procedure:

(1) In averaging any one (1) time medical expense incurred by a household during the first (1st) twelve (12) months, the agency will give the household the option of deducting the expense for one (1) month, averaging the expense over the remainder of the first (1st) twelve (12) months of the certification period, or averaging the expense over the remaining months in the certification period.

(2) One (1) time expenses reported after the twelfth (12th) month of the certification period will be deducted in one (1) month or averaged over the remaining months in the certification period, at the household's option.

f. Averaging Energy Assistance Payments

Except for payments made under the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. §§ 8621 through 8630, any energy assistance payments which a household receives are pro-rated over the entire heating (or cooling) season for which the payment is intended to cover.

6. The SNAP allows five (5) deductions from a household's gross income. These deductions are:

a. The earned income deduction

(1) A household with earned income shall be allowed a deduction of twenty percent (20%) of all earned income to compensate for taxes, other mandatory deductions from salary, and work expenses.

(2) The term "earned income" does not include any portion of the income earned under a work supplementation or support program that is attributable to public assistance. For the definition of earned income, see § 1.5.2 of this Part.

(3) Exception: the deduction described above shall not be allowed with respect to determining an over issuance due to the failure of a household to report earned income in a timely manner.

b. The standard deduction

(1) The standard deduction is adjusted annually on October 1 to reflect changes in the Consumer Price Index for All Urban Consumers (CPI-U).

(2) Each household is allowed a standard deduction. For Fiscal Year (FY) 2020 ending September 2020, and FY 2021, beginning October 1, 2020, the amounts are as outlined below:

Household Size	Standard Deduction Amount FY 2020	Standard Deduction Amount FY 2021
1	$167.00	$167.00
2	$167.00	$167.00
3	$167.00	$167.00
4	$178.00	$181.00
5	$209.00	$212.00
6	$240.00	$243.00
7	$240.00	$243.00
8	$240.00	$243.00

(3) The amounts above are provided annually by Food and Nutrition Services and equal 8.31% of the Federal Poverty Level (FPL) but not more than 8.31% of the Federal Poverty Level for a household of six (6).

c. The excess medical expense deduction

(1) An excess medical deduction is that portion of total medical expenses in excess of thirty-five dollars ($35.00) per month, excluding special diets, incurred by all household members who are elderly or disabled (Including disabled veterans or surviving disabled spouses/children of veterans).

(AA) The thirty-five dollar ($35.00) disregard applies to the entire household and not individual members.

(2) A spouse or other person receiving benefits as a dependent of the SSI or disability and blindness recipient is not eligible to receive this deduction, but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction.

(3) The household's monthly medical deduction for the certification period shall be based on the information reported and verified by the household, and any anticipated changes that can be reasonably expected to occur during the certification period based on available information about the individual's medical condition, public or private health insurance coverage, and the current verified medical expenses.

(AA) The household shall not be required to report changes in its medical expenses during the certification period.

(BB) If the household voluntarily reports a change in its medical expenses, the worker will verify the change in accordance with procedures described in § 1.13.1 of this Part.

(4) Allowable medical costs are:

(AA) Medical and dental care, including psychotherapy and rehabilitation services, provided by a licensed practitioner authorized by State law or other qualified health professional.

(BB) Hospitalization, outpatient treatment, nursing care, 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 provided by a facility recognized by the state.

(CC) 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 (exception: medicinal marijuana is not an allowable medical cost for purposes of determining SNAP eligibility and/or benefit level);

(i) In addition, postage for prescription drugs, costs of medical supplies, sick room equipment (including rental) or other prescribed equipment are deductible.

(DD) Health and hospitalization insurance policy premiums.

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 which continue mortgage or loan payments while the beneficiary is disabled, are not deductible.

(EE) Medicare premiums, and any cost-sharing or spend-down expenses incurred by Medicaid recipients.

(FF) Repayments made on a loan when the loan is used to pay a one (1) time only medical expense.

(i) Loan expenses, such as interest, are not allowable as part of the medical expense.

(ii) If a second (2nd) mortgage is obtained for medical expenses, repayment is treated as a shelter expense and not as a medical expense.

(GG) Dentures, hearing aids, and prosthetics.

(HH) Securing and maintaining a seeing eye, hearing dog or service animal, including the cost of food for the animal and veterinarian bills.

(II) Eye glasses prescribed by a physician skilled in eye disease, or by an optometrist.

(JJ) Reasonable cost of transportation and lodging to obtain medical treatment or services.

(KK) Maintaining an attendant homemaker, home health aide, or child care services necessary due to age, infirmity, or illness. In addition, an amount equal to the one (1) person SNAP allotment is deducted if the household furnishes the majority of the attendant's meals.

(i) The allotment is that which is in effect at the time of initial certification.

(ii) The allotment amount is updated at the next scheduled recertification.

(iii) If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the cost is treated as a medical expense.

d. The dependent care deduction

(1) Payments for the actual cost for the care of a child under the age of eighteen (18) or an adult who is incapacitated when necessary for a household member to accept or continue employment, comply with the employment and training requirements as specified in § 1.11 of this Part (or an equivalent effort by those not subject to those requirements), or attend training or education preparatory to employment.

(AA) Incapacitation refers to any permanent or temporary condition that prevents an individual from participating fully in normal activities without supervision (including but not limited to work or school) and that requires the care of another person to ensure the health and safety of the individual, or a condition or situations that makes a lack of supervision risky to the health and safety of the individual.

(2) The agency will accept the household's statement of these expenses unless the statement is questionable as defined in § 1.6.2 of this Part.

e. The excess shelter deduction

(1) Monthly shelter costs in excess of fifty percent (50%) of the household's income after all the above deductions have been allowed. Shelter costs include only the following:

(AA) A standard shelter expense estimate per household for all homeless households where all members are homeless and not receiving free shelter throughout the calendar month of one hundred fifty-two dollars and six cents ($152.06) ending FY 2020 on September 30, 2020, and one hundred fifty-six dollars and seventy-four cents ($156.74) beginning FY 2021 on October 1, 2020.

(i) All homeless households which incur or reasonably expect to incur shelter costs in a month shall be eligible for the estimate unless higher costs are claimed, at which point the household may use actual shelter costs rather than the estimate.

(ii) Homeless households which incur no shelter costs shall not be eligible for the standard estimate. A homeless household may not receive both the homeless shelter estimate and the SUA.

(BB) Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments.

(i) Payments on second (2nd) mortgages and home equity loans are allowable shelter costs.

(ii) Payments on personal loans that are not secured by a lien on the property are not allowable costs even if the bank is listed as a

beneficiary on the homeowner's insurance policy.

(iii) If a household owns a home and lot and later purchases a connecting piece of property, the mortgage payments on the new property can only be allowed as shelter costs if the new property was financed by a second (2nd) mortgage or other loan secured by the home and lot.

(CC) Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

(DD) Charges for heating, cooling, and cooking fuel; electricity; water and sewer; garbage and trash collection fees; the basic service fee for one (1) telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility.

(i) One (1) time deposits are not included as shelter costs.

(ii) Note that the Standard Utility Allowance must be utilized instead of actual charges if the household incurs charges for heating and/or cooling expenses.

(EE) The above shelter costs for the home if not actually occupied by the household because of employment away from home, illness, or abandonment of the home due to natural disaster or casualty loss.

(i) For the costs of a vacated home to be included in shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs during the absence of the household; and the home must not be leased or rented in the household's absence.

(ii) The Standard Utility Allowance must be used if the household incurs heating and/or cooling expenses.

(iii) A household that incurs expenses for both an occupied and unoccupied home is only entitled to one (1) Standard Utility Allowance.

(FF) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood.

(i) Shelter costs do not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

(ii) The cost of repairs as a result of wear and tear, incidental repairs, and improvements are not allowed for homeowners, renters who work-off their rent, or other renters.

(GG) For condominium owners, the entire condominium fee is allowable as a shelter cost.

(2) The maximum excess shelter deduction per household per month for households incurring shelter costs is five-hundred sixty-nine dollars ($569.00) ending September 30, 2020 and five hundred eighty-six dollars ($586.00) beginning FY 2021 on October 1, 2020.

(AA) The maximum does not apply to households with an individual age sixty (60) and older and/or a disabled household member as defined in § 1.4.11 of this Part.

(i) Such households receive an excess shelter deduction for the monthly cost that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

(ii) The maximum shelter cost deduction is subject to change annually.

B. Standard Medical Deduction

1. Households that contain elderly and/or disabled members who claim to have medical expenses of more than thirty-five dollars ($35.00) will be given a standard medical deduction of one hundred forty-one dollars ($141.00).

2. At initial application or when an active case containing a qualifying member reports medical expenses, the agency must verify if monthly medical expenses are more than thirty-five dollars ($35.00).

    a. If the household fails to verify any medical expenses, the household is not entitled to a Standard Medical Deduction.

    b. If total medical costs for the qualifying member(s) are more than thirty-five dollars ($35.00) per month, allow the appropriate Standard Medical Deduction.

3. If the household claims that its monthly medical expenses exceed one hundred seventy-six dollars ($176.00) per month, the agency will grant the household the option of verifying and utilizing its actual monthly medical expenses instead of the Standard Medical Deduction.

    a. If the household verifies that medical expenses exceed thirty-five dollars ($35.00) per month but fails to verify total monthly medical expenses over one hundred seventy-six dollars ($176.00), the household's benefits will be calculated using the Standard Medical Deduction.

4. Participating households will remain eligible for the Standard Medical Deduction at recertification if they declare that the medical expenses continue to exceed thirty-five dollars ($35.00) per month.

    a. Verification is not required at recertification unless the declaration is questionable. Declaration is a verbal statement, written statement, or appropriate response to a question supplied on a form. No further verification is required.

C. Utility Expenses

1. There are three (3) methods of calculating utility expenses for households:

    a. The Standard Utility Allowance which is used only when the household is billed for heating and/or cooling costs on a regular basis or has received a LIHEAA payment at its current address;

b. The actual utility expenses, not including heating and/or cooling costs, which the household incurs and pays for separately.

(1) These utility amounts are then added to the rent or mortgage payments (including property taxes, insurance and local assessment) to obtain the total shelter expense; and,

c. The Standard Telephone Allowance of twenty-two dollars and fifty cents ($22.50), which is used for a household that incurs the expense of a basic service charge for one (1) telephone and is not eligible to use the Standard Utility Allowance.

(1) If a household can demonstrate that its cost for basic service for one (1) telephone is greater than the Standard Telephone Allowance, then the actual cost is used.

(2) If the expense is shared by separate households, each household can claim the Standard Telephone Allowance.

2. Standard Utility Allowance (SUA)

a. The Standard Utility Allowance (SUA) which includes a heating or cooling component must be used by households which incur heating and/or cooling costs separately and apart from their rent or mortgage.

b. The Standard Utility Allowance includes the cost of heating and/or cooling, cooking fuel, electricity, or gas not used to heat or cool the residence, the basic service fee for one (1) telephone, water, sewerage and garbage and trash collection.

c. To qualify, the household must be billed on a regular basis for its heating or cooling costs or have received a LIHEAA payment in the month of application or in the immediately preceding twelve (12) months.

(1) These households include:

(AA) Residents of rental housing who are billed on a monthly basis by their landlords for actual usage through individual metering;

(BB) Recipients of indirect energy assistance payments (vendor payments), made under a program other than the Low-Income Home Energy Assistance Act of 1981

(LIHEAA) 42 U.S.C. § 8621, who also incur out-of-pocket heating or cooling expenses during any month covered by the certification period; or

(CC) Recipients of energy assistance payments made under the Low-Income Home Energy Assistance Act of 1981 (LIHEAA), 42 U.S.C. Chapter 94.

(i) These households are deemed to have incurred out-of-pocket heating or cooling costs even if heat and utilities are included in their rent.

(ii) If a household received a LIHEAA payment at its current address in the month of application or in the immediately preceding twelve (12) months, the household is entitled to the SUA.

d. A household which incurs cooling or heating fuel costs on an irregular basis but is otherwise eligible to use the Standard Utility Allowance, continues to use the allowance between billing periods.

e. A cooling cost is a utility expense relating only to the operation of air conditioning systems or room air conditioners.

f. A household living in a public housing unit, or other rental housing unit which has central utility meters and charges the household only for excess heating or cooling costs must use the Standard Utility Allowance.

g. If the household shares utility expenses with, and lives with, another individual not participating in the SNAP, another household participating in the SNAP, or both, the household is entitled to the full Standard Utility Allowance.

h. The SUA is six hundred thirty-six dollars ($636.00) per household per month based on an annualized (twelve (12) month) average of utility costs.

i. Verification for Use of the SUA

(1) If a household is to qualify for the Standard Utility Allowance based on incurring heating or cooling expenses, the household must be billed on a regular basis for those costs and the household’s statement of the costs is accepted as

verification, unless the statement is questionable, as defined in § 1.6.2 of this Part.

(2) If a household is to qualify for the Standard Utility Allowance based on the receipt of a Low-Income Home Energy Assistance Payment (LIHEAP), the household's statement is used as acceptable verification unless questionable as defined in § 1.6.2 of this Part.

(3) When a household moves, its entitlement to the SUA is redetermined.

3. If the household claims expenses for an unoccupied home, the household must provide its actual utility expenses if it is not entitled to the SUA for the unoccupied home.

a. If the household incurs expenses for heating or cooling the unoccupied home, the SUA may be used but the household cannot receive the SUA for both an occupied and unoccupied home.

4. Expenses verified only if questionable (as defined in § 1.6.2 of this Part) and if allowing the expense would actually result in a deduction.

a. If a deductible expense must be verified, and obtaining the verification may delay the household's certification, the agency representative advises the household that its eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense.

(1) If the expense cannot be verified within thirty (30) days of the date of application, the agency representative determines the household's eligibility and benefit level without providing a deduction for the unverified expense.

(AA) The household is entitled to restoration of any benefits retroactive to the month of application only if the expense could not be verified within the thirty (30) day processing standard because the agency representative failed to allow the household sufficient time, to verify the expense.

D. Shelter Costs for Unoccupied Homes

1. A household that wishes to claim shelter costs for a home which is unoccupied because of employment, training away from the home, illness,

or abandonment caused by a natural disaster or casualty loss, is responsible for providing verification of the expense if it is questionable (as defined in § 1.6.2 of this Part) and if the expense would result in a deduction.

a. The agency representative is not required to assist a household in obtaining verification of this expense if the verification would have to be obtained from a source outside of the State.

b. The SUA is allowed if the household incurs heating or cooling expenses on the home.

(1) A household that incurs expenses for both an occupied and unoccupied home is only entitled to one (1) SUA.

1.5.8 Deeming

A. Households Containing Sponsored Non-Citizen

1. For purposes of determining the eligibility and benefit level of a household in which an eligible sponsored non-citizen is a member, the agency must deem the income and resources of the sponsor and the sponsor's spouse, if s/he has executed INS Form I-864 or I-864A on or after December 19, 1997, as the unearned income and resources of the LPR.

2. The sponsor's income and resources shall be deemed until the LPR alien gains U.S. citizenship or has worked or can receive credit for forty (40) qualifying quarters of work covered under Title II of the Social Security Act, 8 U.S.C. §§ 1631 and 1645.

a. And in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit during any such period, or s/he or the sponsor dies.

B. Income Deeming

1. The monthly income of the sponsor (and sponsor's spouse) who executed INS Form I-864 or I-864A deemed as that of the eligible sponsored immigrant shall be the total monthly earned and unearned income of the sponsor and sponsor's spouse at the time the household containing the sponsored alien member applies or is recertified for participation, reduced by:

a. A twenty percent (20%) earned income amount for that portion of the income determined as earned income of the sponsor and the sponsor's spouse; and

b. An amount equal to the monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for Federal income tax purposes.

c. If the sponsor has signed an affidavit of support for more than one (1) immigrant, the sponsor's income is pro-rated among the sponsored immigrants.

C. Resource Deeming

1. All but one thousand five hundred dollars ($1,500.00) of the total resources of the sponsor are deemed available to the sponsored non-citizen.

a. Non-citizens exempt from income deeming are exempt from resource deeming.

D. Exemptions from Sponsor Deeming

1. The following classifications of non-citizens are not subject to deeming rules:

a. Sponsor in same SNAP household:

(1) If the sponsor lives in the same household as the non-citizen, deeming does not apply because the sponsor's income and resources are already counted.

(2) There is, however, no deeming exemption if the sponsor receives SNAP in another household.

b. Ineligible Member:

If the sponsored non-citizen is ineligible for SNAP benefits because of immigration status (i.e., is not a qualified non-citizen or is an LPR without five (5) years of residency), the sponsor's income is not deemed to other eligible members of the immigrant's household.

c. Immigrant whose sponsor has not signed a legally binding affidavit of support:

(1) This category includes all but family-based and a few employment-based LPRs who applied on or after December 19, 1997 and all immigrants who became LPRs or whose sponsors signed affidavits of support before December 19, 1997.

(2) Non-citizens, such as refugees, who are sponsored by an organization or group also fall into this category.

d. Immigrant without sponsors:

(1) In general, qualified non-citizens 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 immigrant obtains means-tested benefits.

(AA) Included in this group are refugees, asylees, persons granted withholding of deportation, Amerasians, and Cuban or Haitian entrants. (While it is possible for these individuals to be "sponsored" by an organization such as a church, they are not sponsored on an I-864 Affidavit of Support and that organization does not have to sign a legally binding affidavit of support that would subject that individual to deeming requirements.)

e. Indigent Exception:

(1) If the immigrant's own income and any assistance provided by the sponsor or any other individuals is not enough for the immigrant to obtain food and shelter without the program, the amount of the income and resources attributed to the non-citizen through deeming cannot exceed the amount actually provided for up to a twelve (12) month period.

(2) The State agency must notify the U.S. Citizenship and Immigration Services (USCIS) if such determinations are made.

(3) An immigrant is considered "indigent" if the sum of the immigrant's household's own income and any cash or in-kind assistance provided by the sponsor or others is less than one hundred thirty percent (130%) of the poverty income line.

(4) Each indigence determination is effective for twelve (12) months and may be renewed for additional twelve (12) month periods.

f. Battered Spouse or Child Exception:

(1) Deeming also does not apply during any twelve (12) month period if the non-citizen is a battered spouse, battered child or parent, or child of a battered person providing the battered non-citizen lives in a separate household from the person responsible for the battery.

(2) The exemption can be extended for additional twelve (12) month periods if the non-citizen demonstrates that the battery is recognized by a court, administrative order, or by the USCIS and if the agency administering the benefits determines that the battery has a substantial connection to the need for benefits.

g. Children under eighteen (18) years old.

h. Immigrant whose deeming period has ended.

E. Eligibility Determination

1. The amount of income and resources deemed to be that of the sponsored non-citizen must be considered in determining the eligibility and benefit level of the household of which the non-citizen is a member.

2. If an immigrant is subject to deeming, the eligible sponsored immigrant is responsible for obtaining the cooperation of the sponsor and for providing the State agency at the time of application and recertification with the information and documentation necessary to calculate deemed income and resources.

a. The State agency must assist the household in obtaining the necessary verification.

b. If necessary, USCIS through its SAVE program can provide the sponsor’s name, address, and Social Security Number.

c. Immigrants who are exempt from deeming do not need to provide information about the sponsor’s income and resources.

3. The agency representative must obtain from the immigrant or immigrant's spouse the following information:

   a. The income and resources of the immigrant's sponsor and the sponsor's spouse (if any) at the time of the immigrant's application for SNAP assistance.

   b. All other information which is determined questionable and which affects household eligibility and benefit level in accordance with procedures established in § 1.6.2 of this Part for verifying questionable information.

   c. While the agency representative is awaiting receipt and/or verification from the immigrant of information necessary to carry out the deeming provisions of this Section, the sponsored immigrant is ineligible until such time as all necessary facts are obtained.

      (1) The eligibility of any remaining household members must be determined.

      (2) The income and resources of the ineligible non-citizen (excluding the deemed income and resources of the immigrant's sponsor and sponsor's spouse) are considered available in determining the eligibility and benefit level of the remaining household members in accordance with § 1.5.6 of this Part.

   d. If the sponsored non-citizen refuses to cooperate in providing and/or verifying needed information, the other adult members of the non-citizen's household must be responsible for providing and/or verifying information required in accordance with the provisions of § 1.6.7 of this Part.

      (1) If the information and/or verification is subsequently received, the agency representative acts on the information as a reported change in household membership in accordance with the timeliness standards in § 1.13.1 of this Part.

      (2) If the same sponsor is responsible for the entire household, the entire household is ineligible until such time as needed sponsor information is provided and/or verified.

F. Enforcing Sponsor Liability Claims

1. A sponsor who has signed a legally binding affidavit of support on or after December 19, 1997 for an immigrant s/he sponsored may be liable for reimbursement of the value of SNAP benefits received by that sponsored immigrant.

    a. Only the sponsors who signed binding affidavits of support (INS Form I-864) may be responsible for SNAP benefits received by immigrants they sponsor if those benefits were received during the period of time the affidavit of support was in effect.

    b. The affidavit of support remains in effect until the sponsored immigrant becomes a naturalized citizen, can be credited with forty (40) qualifying quarters of work, is no longer an LPR and leaves the United States permanently, or until the sponsor or the sponsored immigrant dies.

        (1) The sponsor is not responsible for benefits the sponsored immigrant receives after the support period has ended.

        (2) If, however, benefits were received by sponsored immigrants during the period when the agreement was in effect, the sponsor or the sponsor's estate is liable to repay the cost of these benefits for ten (10) years after benefits were last received.

    c. Sponsors who fail to support the immigrants they sponsor can be sued by government entities providing means-tested benefits as well as by the immigrants they sponsor.

        (1) However, the agency cannot request reimbursement from the sponsor during any period of time that the sponsor receives SNAP benefits.

1.5.9 Treating Lost Income Due to Noncompliance

A. The agency must ensure that, in most cases, there is no increase in SNAP benefits to households on which a sanction resulting in a decrease in benefits has been imposed for failure to comply with a requirement of a Federal, State, or local welfare program (for example, RIW) which is means-tested and distributes publicly funded benefits.

    1. The procedures for determining SNAP benefits when there is such a decrease in benefits are as follows:

a. The agency will calculate the SNAP allotment using the other program's reduced benefit amount, then apply a twenty percent (20%) reduction to that allotment.

b. If the person is also non-compliant with work requirements of the SNAP, action is taken according to § 1.11.5 of this Part, and the twenty percent (20%) reduction is not applied.

c. With the exception of agency error cases, if the household's other program benefit is subject to recoupment due to a prior over issuance, the full amount of that program's benefit will be used in the SNAP computation.

1.6 Verification

1.6.1 Verification Introduction

A. Verification is the use of third (3rd) party information or documentation to establish the accuracy of statements on the application. This Section sets forth the general requirements for verification of financial and non-financial eligibility factors.

1. The agency representative must examine both financial and non-financial information provided by applicant households as part of the eligibility process.

a. Financial information includes statements presented by the household on its resources, monthly income, and deductible expenses.

b. Non-financial information includes residency in the project area, the composition of the household, its citizenship or alien status, the need for certain members to register for work, and verification of Social Security Number(s) (SSN).

1.6.2 Verification of Questionable Information

A. The agency representative must verify, prior to certification of the household, all factors of eligibility which the agency representative determines are questionable and affect the household's eligibility and benefit level. Questionable information cannot be based on race, religion, ethnic background, or national origin. Groups such as migrant farmworkers or American Indians cannot be targeted for more intensive verification.

1. As a guideline, questionable information is information that is:

a. Inconsistent with statements made by the applicant or with other information on the application or previous applications; or,

b. Inconsistent with information received from another source.

1.6.3 Sources for Verification

A. The agency representative uses documentary evidence as the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Although documentary evidence must be the primary source of verification, acceptable verification must not be limited to any single type of document and may be obtained from the applicant/member or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the agency representative may require collateral contacts or home visits.

1. Documentary Evidence

a. The agency representative accepts any reasonable documentary evidence provided by the household and is primarily concerned with how adequately the verification proves the statements on the application.

(1) If the household is unable to obtain the documentary evidence in a timely manner, or the agency representative can do so more expeditiously than the household, the agency representative offers assistance to the household in obtaining the documentary evidence. The agency is not required, however, to assist households in obtaining verification of shelter costs for an unoccupied home if verification would have to be obtained from sources outside of the project area.

b. When information from another source contradicts statements made by the household, the household is immediately afforded the opportunity to resolve the discrepancy.

(1) Whenever documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, the agency representative uses alternate sources of verification, such as collateral contact and home visits. In all cases, the method of verification is recorded in the case record.

2. Collateral Contacts

a. A collateral contact is an oral confirmation of a household's circumstances by a person outside of the household who can be expected to provide accurate third (3rd) party verification.

(1) The collateral contact may be made either in-person or over the telephone.

(2) The agency representative may select a collateral contact if the household fails to designate one or designates one unacceptable to the agency representative.

b. If the agency representative designates a collateral contact, the agency representative must not make the contact without providing prior written or oral notice to the household. At the time of this notice, the agency representative must inform the household that it has the following options:

(1) Consent to the contact; or,

(2) Provide acceptable verification in another form; or,

(3) Withdraw its application.

c. If the household refuses to choose one (1) of the options in § 1.6.3(2)(b) of this Part, its application must be denied in accordance with the normal procedures for failure to verify information under § 1.3 of this Part.

3. Home Visits

Home visits are used as verification only if documentary evidence cannot be obtained and the visit is scheduled in advance with the household.

4. Self-attestation

a. The agency will accept a household's attestation or self-declaration as verification of the following factors:

(1) Shelter deductions;

(2) Utility expenses such as heating and cooling expenses which qualify the household for the Standard Utility Allowance;

(3) Receipt of Low-Income Home Energy Assistance;

(4) Dependent care expenses.

b. Verification shall only be required if the information provided by household is considered questionable as defined in § 1.6.2 of this Part.

1.6.4 Verification of Reported Changes

A. Changes reported during the certification period are subject to the same verification procedures as apply at initial certification, except that the agency should not verify changes if the total medical expenses or actual utility expenses are unchanged or have changed by twenty-five dollars ($25.00) or less, unless the information is incomplete, inaccurate, inconsistent, or outdated.

1. Households must verify medical expenses of over thirty-five dollars ($35.00) if no previous medical deduction was provided in order to receive the Standard Medical Deduction of one hundred forty-one dollars ($141.00).

a. Households that elect to claim actual medical expenses (those households with medical expenses over one hundred seventy- six dollars ($176.00), must verify at a reported change, previously unreported medical expenses and total recurring allowable medical expenses that have changed by more than twenty-five dollars ($25.00).

b. Medical expenses that are unchanged or changed by twenty-five dollars ($25.00) or less will not be verified unless information regarding these expenses is incomplete, inaccurate, inconsistent or outdated.

c. If the household declares a medical expense that must be verified, but chooses not to verify it, this decision must be documented in the case record. The household will be advised that the case will be processed without the medical expense and that it may furnish this required verification at a later date.

d. When the household does provide verification of the medical expense, the expense will be deducted, and the SNAP benefit amount adjusted according to the timeliness standards for a reported change.

e. If the agency learns of a change in its medical expenses from a source other than the household, the agency must act on the change, provided that no additional information or verification is

required from the household. The agency will not contact the household and will not take any action on the household's medical expense deduction if the report of a change in medical expenses requires contact with the household.

1.6.5 Verification at Recertification

A. Income Changes

At recertification, all income information shall be considered outdated and shall require updated verification to determine the accuracy of the information as outlined within this section when determining continued eligibility of uninterrupted benefits.

B. Expense Changes

1. At recertification, the agency shall not verify total medical expenses claimed by households which are unchanged or have changed by twenty-five dollars ($25.00) or less, unless the information is incomplete, inaccurate, inconsistent or outdated.

2. For households eligible for the child support exclusion, the agency shall require to household to verify any changes in legal obligation to pay child support, the obligated amount, and the amount of legally obligated child support a household member pays to a non-household member.

    a. The agency representative shall verify reportedly unchanged child support information only if the information is incomplete, inaccurate, inconsistent or outdated.

1.6.6 Verification after Non-Cooperation with Quality Control

A. The agency representative must verify all factors of eligibility for households who have been terminated for refusal to cooperate with the DHS Quality Control (QC) reviewer, and who reapply after one hundred twenty-five (125) days from the end of the annual review period.

1. Also, the agency representative must verify all factors of eligibility for households who have been terminated for refusal to cooperate with a Federal QC reviewer, and who reapply after nine (9) months from the end of the annual review period.

1.6.7 Non-Financial Verification

A. Identity

1. The identity of the person making application must be verified.

2. When an authorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household must be verified.

3. Identity may be verified through readily available documentary evidence, or if this is unavailable, through a collateral contact.

    a. 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.

B. Social Security Numbers

1. The agency must verify the Social Security Numbers (SSNs) of all household members applying for participation in the SNAP by submitting them to the SSA for verification according to procedures established by the SSA.

2. The agency should not delay the certification for, or issuance of, benefits to an otherwise eligible household solely to verify the SSN of a household member.

C. Residency

1. Rhode Island residency must be verified except in unusual cases (such as a homeless household, a migrant farm worker household or a household newly arrived in the project area) where verification of residency cannot reasonably be accomplished.

2. 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.

    a. If verification of residence cannot be accomplished in conjunction with the other verification, then the agency representative may use a collateral contact or other readily available documentary evidence.

    b. Documents used to verify other factors of eligibility should normally suffice to verify residency as well. Any documents or collateral contact which reasonably establish the applicant's residency must be accepted and no requirement for a specific type of verification may be imposed.

D. Household Composition

Households must list on their applications the various members they wish to be considered for SNAP benefits. Individuals who claim to be a separate household from those with whom they reside based on the various age and disability factors for determining separateness are responsible for proving a claim of separateness (at the agency's request) in accordance with the provisions of § 1.2 of this Part.

E. U.S. Citizenship

1. U.S. citizenship must be verified only when the citizenship statement is inconsistent with other information on the application, previous applications or other documented information known to the agency representative.

2. When a household's statement that one (1) or more of the members are U.S. citizens is questionable, the agency representative must request the household to provide acceptable verification.

    a. Participation in the RIW program may be considered acceptable verification if verification of citizenship was obtained for that program.

3. If verification cannot be obtained, and the household can provide a reasonable explanation as to why verification is not available, the agency representative may accept a signed statement from someone who is a U.S. citizen which declares, under penalty of perjury, that the member in question is a U.S. citizen.

4. A member whose citizenship is in question is ineligible to participate until proof of U.S. citizenship is obtained.

    a. The member whose citizenship is in question has his/her income, less a *pro rata* share, and all his/her resources considered available to any remaining household members as set forth in § 1.5.6 of this Part.

5. Pending verification from USCIS, the agency must not delay, deny, reduce, or discontinue the individual's eligibility for benefits on the basis of the individual's immigration status.

    a. The agency must provide non-citizen applicants with a reasonable opportunity to submit acceptable documentation of their eligible non-citizen status as of the thirtieth (30th) day following the date of application.

b. A reasonable opportunity is at least ten (10) days from the date of the agency's request for an acceptable document.

c. When the agency accepts non-USCIS documentation and fails to provide a non-citizen applicant with a reasonable opportunity as of the thirtieth (30th) day following the date of application, the agency must provide the household with benefits no later than thirty (30) days following the date of application provided the household is otherwise eligible.

F. Disability Verification

1. A disabled household member means a member of a household who receives one (1) or more of the following benefits authorized under the Social Security Act, U.S.C. Title 42:

a. Supplemental security income 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. Federally or State-administered supplemental benefits under § 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;

c. Federally or State-administered supplemental benefits under § 212(a) of Pub. Law 93-66.

(1) For individuals to be considered disabled under this definition, the household shall provide proof that the disabled individual is receiving benefits under Titles I, II, X, XIV or XVI of the Social Security Act, 42 U.S.C. Chapter 7.

2. Is a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under U.S.C. Title 38;

a. For individuals to be considered disabled this definition, the household must present a statement from the Veterans Administration (VA) which clearly indicates that the disabled individual is receiving VA disability benefits for a service-connected or non-service-connected disability and that the disability is rated as total or paid at the total rate by VA.

3. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under U.S.C. Title 38;

    a. Is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under U.S.C. Title 38;

        (1) For individuals to be considered disabled under this definition, proof by the household that the disabled individual is receiving VA disability benefits is sufficient verification of disability.

4. Receives disability retirement benefits from a governmental agency because of a disability considered permanent under the Social Security Act, 42 U.S.C. § 221(i).

    a. Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under U.S.C. Title 38 and has a disability considered permanent under the Social Security Act, 42 U.S.C. § 221(i). “Entitled” as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them;

        (1) For individuals to be considered disabled under this definition, the State agency shall use the SSA’s most current list of disabilities considered permanent under the Social Security Act, U.S.C. Title 42, for verifying disability.

        (2) If it is obvious to the agency representative that the individual has one of the listed disabilities, the household shall be considered to have verified disability.

        (3) If disability is not obvious to the agency representative, the household shall provide a statement from a physician or licensed or certified psychologist certifying that the individual has one (1) of the nonobvious disabilities listed as the means for verifying disability.

5. Receives an annuity payment under the Railroad Retirement Act of 1974, 45 U.S.C. § 231(a), and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or

a. § 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, 42 U.S.C. Chapter 7.

(1) For individuals to be considered disabled under this definition, the household shall provide proof that the individual receives a Railroad Retirement disability annuity from the Railroad Retirement Board and has been determined to qualify for Medicare.

6. Is a recipient of interim assistance benefits pending the receipt of SSI a recipient of disability related medical assistance under Title XIX of the Social Security Act, 42 U.S.C. Chapter 7, or a recipient of disability-based State general assistance benefits provided that the eligibility to receive any of these benefits is based upon disability or blindness criteria established by the State agency which are at least as stringent as those used under Title XVI of the Social Security Act (as set forth in 20 C.F.R. Part 416, Subpart I, Determining Disability and Blindness as defined in Title XVI).

a. For individuals to be considered disabled under this definition, the household shall provide proof that the individual receives interim assistance benefits pending the receipt of SSI; or

b. Disability-related medical assistance under Title XIX of the Social Security Act, 42 U.S.C. Chapter 7; or

c. Disability-based State general assistance benefits.

(1) The State agency shall verify that the eligibility to receive these benefits is based upon disability or blindness criteria which are at least as stringent as those used under Title XVI of the Social Security Act, 42 U.S.C. Chapter 7.

1.6.8 Financial Verification

A. The agency representative must use documentary evidence as the primary source of verification. If other types of verification are used, the agency representative documents the case record as to why an alternate source was used.

B. Loan

1. When verifying that income is exempt as a loan, a legally binding agreement is not required. A simple statement signed by both parties that

indicates that the payment is a loan and must be repaid is sufficient verification.

2. However, if the household receives payments on a recurrent or regular basis from the same source, but claims the payments are loans, the agency representative must also require that the provider of the loan sign an affidavit indicating that repayments are being made or that payments will be made in accordance with an established repayment schedule.

C. Income Budgeting

1. For the purpose of determining a household's eligibility and monthly allotment, the agency representative takes into account the income already received by the household during the certification period and any anticipated income the household and the agency representative are reasonably certain will be received during the remainder of the certification period.

   a. If the amount of income that will be received, or when it will be received, is uncertain, the portion of the household's income that is uncertain is not counted by the agency representative.

2. Income received during the past thirty (30) days is used as an indicator of anticipated income. However, past income is not used for any month in which a change in income has occurred or can be anticipated.

   a. If income fluctuates to the extent that a thirty (30) day period alone cannot provide an accurate indication of anticipated income, the agency representative may use a longer period of past time if it provides an accurate indication of anticipated 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 thirty (30) days, as one (1) indicator of anticipated income.

   c. In many cases of seasonally fluctuating income, the income also fluctuates from one (1) season in one (1) year to the same season in the next year.

      (1) In no event may the agency representative automatically attribute to the household the amounts of any past income.

      (2) The agency representative may 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. Cases with Earnings

   a. In cases where the head of the household is steadily employed, income from previous months is usually a good indicator of the amount of income which can be anticipated in the month of application and subsequent months.

   b. Hourly and Piece Work Wages

      (1) When income is received on an hourly wage or piece work basis, weekly income may fluctuate if the wage earner works less than eight (8) hours some days or is required to work overtime on others.

      (2) When determining the amount of anticipated income, review pay stubs from the previous four (4) weeks in order to determine a weekly average.

   c. Withheld Wages: Wages withheld at the request of the employee must be considered income to the household in the month the wages would otherwise have been paid by the employer.

      (1) However, wages withheld by the employer as a general practice, even if in violation of law, are not counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or the household anticipates that it will receive income from wages that were previously held by the employer as general practice and that were, therefore, not previously counted as income by the agency.

   d. Advances on wages must only count as income if reasonably anticipated.

4. Verification of Income

   a. Gross non-exempt income must be verified for all households prior to certification.

      (1) However, where all attempts to verify income have been unsuccessful because the income provider fails to cooperate with the household and the agency representative, and

because all other sources of verification are unavailable, the agency representative must determine an amount to be used, based on the best available information.

5. Averaging Income

a. Whenever a full month's income is anticipated but is received on a weekly basis, the agency representative converts the income to a monthly amount by multiplying the weekly income by 4.3333.

b. Whenever a full month’s income is anticipated but is received on a bi-weekly basis, the agency representative converts the income into a monthly amount by multiplying the income by 2.1666.

c. A household that, by contract or self-employment, derives its annual income in a period of time shorter than one (1) year has such income averaged over a twelve (12) month period, provided the income from the contract is not received on an hourly or piece work basis.

(1) Examples of such households may include school employees, sharecroppers, farmers and other self-employed households. However, these provisions do not apply to migrant or seasonal farm workers.

(2) Such income shall not affect more budget months than the number of months in the period over which it is annualized or pro-rated.

d. Income must not be averaged for a destitute 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.

D. Self-Employment Income

1. Self-employment income includes 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, excluding the costs of doing business.

2. Ownership of rental property is considered self-employment. However, income derived from the rental property is considered earned income only if a member of the household is actively engaged in management of the property at least an average of twenty (20) hours per week.

a. Payments from a roomer or boarder and returns on rental property are also self-employment income.

3. Examples of types of verification for self-employment income include State or Federal income tax returns, self-employment bookkeeping records, or sales and expenditure reports.

E. Unreported Income

1. In addition to verifying reported income, the agency representative may have occasion to explore the possibilities of unreported income.

a. When the applicant states that s/he has no earnings or other income, and the applicant is employable, or it appears s/he may be eligible for other benefits such as Social Security, unemployment insurance, or assistance payments, it is necessary to verify that s/he is not receiving income from such sources.

b. Additional situations in which the possibility of unreported income are investigated are difficulty in finding the head of the household at home, seasonal employment in the area which is at its peak, shelter costs higher than reported income, or similar questionable situations.

1.7 Recertification

A. The agency must complete the recertification process if the household meets all requirements and finishes the necessary processing steps, and approve or deny timely applications for recertification prior to the end of the household's current certification period. Any eligible household must be provided an opportunity to participate by its normal issuance cycle in the month following the end of its current certification period.

1. The household loses its right to uninterrupted benefits for failure either to attend any interview scheduled on or after the deadline for timely filing of the application for recertification, or to submit all necessary verification within the timeframe established by the agency as long as the timeframe elapses after the deadline for filing a timely application for recertification.

a. Although a household loses its right to uninterrupted benefits for such failures, the household must not be denied at that time, unless it refused to cooperate, or the certification period has lapsed.

b. If the household loses its right to uninterrupted benefits due to such failures but is otherwise eligible after correcting such failures, the

agency must, at a minimum, provide benefits within thirty (30) days after the date the application was filed.

(1) The agency may, at its option, either provide benefits by the household's next normal issuance date or provide uninterrupted benefits to a household determined eligible despite such failures.

(2) If the household submits an application for recertification prior to the end of its current certification period and is found eligible for the first (1st) month following the end of the certification period, then that month is not an initial month.

c. Denials, including those for failure to complete the interview or provide missing verification, must be completed either by the end of the current certification period or within thirty (30) days after the date the application was filed as long as the household has had adequate time for providing the missing verification.

d. The agency must not continue benefits to the household beyond the end of the certification period unless the household has been recertified.

e. The joint processing requirements in § 1.5.1 of this Part, for RIW and GPA households continue to apply to applications for recertification.

2. If an application for recertification is submitted after the household's certification period has expired, that application is considered an initial application and benefits for that month must be pro-rated.

a. Any household that receives the notice of expiration at the time of certification and is otherwise eligible must not have benefits for the first (1st) month of the new certification period pro-rated if it files an application by the filing deadline contained in the notice of expiration.

3. If the household submits an application for recertification prior to the end of its current certification period but is found ineligible for the first (1st) month following the end of the certification period, then the first (1st) month of any subsequent participation is considered an initial month.

a. The agency must ensure that any eligible household that did not submit a timely application for recertification is provided an

opportunity to participate within thirty (30) calendar days after the application is filed.

b. If the agency is unable to provide an eligible household with an opportunity to participate within thirty (30) calendar days after the date the application was filed due to the time period allowed for submitting any missing verification, the agency must provide the household an opportunity to participate within five (5) working days after the date the household supplies the missing verification.

c. Households that have filed an application by the fifteenth (15th) of the last month of their certification period will receive either a notice of eligibility or a notice of denial by the end of the current certification period.

B. Eligibility at recertification must be determined based on circumstances anticipated for the new certification period starting with the month following the expiration of the current certification period. The level of benefits at recertification must be based on the same anticipated circumstances.

C. Notice Requirements

1. A household will receive a notice of expiration at the end of its certification prior to the start of the last month of the household's certification period.

2. RIW and GPA households whose applications were jointly processed for SNAP benefits and RIW or GPA benefits in need not receive a notice of expiration if they are recertified for SNAP at the same time as their RIW or GPA redetermination.

3. Households comprised entirely of elderly and/or disabled members, will be sent a Mid-Certification Reminder Letter on or about the fifteenth (15th) day of the twelfth (12th) month of its certification. The letter reminds the household of its responsibility to report any changes within ten (10) days.

D. Interview and Verification Requirements

1. All households must participate in an interview in order to retain its right to uninterrupted benefits.

a. The interview may be scheduled by the agency on or after the date the recertification application is timely filed, prior to the date of the scheduled interview at the household’s request, or when the household contacts the agency to complete its recertification interview without returning the competed application for

recertification by utilizing the option of a telephonic signature. If the household does not avail itself for any interview scheduled in accordance with this Section, the agency need not initiate any further action.

(1) A household which fails to participate in an interview in accordance with the requirements in this Subchapter or to submit any missing verification loses its right to uninterrupted benefits as long as such failures occur after the deadline for filing a timely application for recertification.

(2) Households which refuse to cooperate in providing required information must be denied.

2. At recertification, all income documentation shall be considered outdated and will require updated verification to determine the accuracy of information as outlined in § 1.6 of this Part when determining continued eligibility of uninterrupted benefits.

a. Previously verified actual utility expenses that have not changed by more than twenty-five dollars ($25.00) do not have to be verified.

3. A household which submits a timely application for recertification but is either interviewed and/or submits all verification in an untimely manner (but before the end of its current certification period) need not be provided uninterrupted benefits.

a. For eligible households under these circumstances, the agency must, at a minimum, provide the household an opportunity to participate within thirty (30) calendar days after the date the application was filed.

b. If the household takes the required action before the end of the certification period, the agency must reopen the case and provide a full month's benefits for the initial month of the new certification period.

c. If the household takes the required action after the end of the certification period but within thirty (30) days after the end of the certification period, the agency shall reopen the case and provide benefits retroactive to the date the household takes the required action.

d. If a household's application for recertification is delayed beyond the first (1st) of the month of what would have been its new certification

period through the fault of the agency, the household's benefits for the new certification period shall be pro-rated based on the date of the new application, and the agency shall provide restored benefits to the household back to the date the household's certification period should have begun had the State agency not erred and the household been able to apply timely.

E. Right to Uninterrupted Benefits

1. The agency must act to provide uninterrupted benefits to any household determined eligible after the household has timely filed an application, attended an interview in accordance with the requirements in this Section, and submitted all necessary verification.

2. The agency must take action to provide uninterrupted benefits within the following time standards even if, to meet these standards, the agency must provide an opportunity to participate outside the normal issuance cycle:

   a. For households that have met all the required application procedures, the agency must approve or deny the application and notify the household of its determination by the end of the current recertification period.

   b. For households determined eligible, the agency must provide an opportunity to participate by the household's normal issuance cycle in the month following the end of its current certification period.

      (1) Any household not determined eligible in sufficient time to provide for issuance in that timeframe due to a time period allowed for submitting any missing verification must receive an opportunity to participate, if eligible, within five (5) working days after the household supplies the missing verification.

      (2) A household that has timely submitted an application for recertification or Interim Report Form but, due to agency error, is not determined eligible in sufficient time to provide for issuance by the household's next normal issuance cycle must receive an immediate opportunity to participate upon being determined eligible.

      (3) Such households are entitled to restoration of lost benefits if, as a result of such error, the household was unable to participate for the month following the expiration of the Interim Report timeframes or certification period.

1.7.1 Recertification for SSI Households

A. The agency must provide SSI households with a notice of expiration in accordance with this Part except that such notification should inform households consisting entirely of SSI recipients that they are required to have an interview prior to being certified and may have that interview in the office, face to face, or by telephone.

1. Pure SSI households which have received a SNAP notice of expiration are entitled to make a timely application for SNAP recertification at the SSA office.

a. SSA must accept the application of a pure SSI household and forward the completed application, transmittal form and any available verification to the SNAP office.

b. When SSA accepts and refers the application in such a situation, the household must not be required to appear at a second (2nd) office interview, although the agency representative may conduct an out-of-office interview by telephone, or face-to-face, if/as necessary.

c. In cases where pure SSI households apply for SNAP recertification at the SSA office, an application must be considered filed for normal processing purposes when the signed application is received by SSA.

1.8 Certification Periods

A. Definite periods of time are established which households are eligible to receive benefits. At the expiration of each certification period, eligibility for food assistance is redetermined based upon a newly completed application or recertification packet, an in-person or phone interview and such verification as is required. Under no circumstances are benefits continued beyond the end of a certification period without a redetermination of eligibility.

1. Change reporters are households consisting entirely of unemployable members in which all members are elderly or disabled as defined in § 1.13.1 of this Part, and households with members who are migrant or seasonal farmworkers. Change Reporters are assigned a twenty-four (24) month certification period.

2. All other households are considered Simplified Reporters and are assigned a twelve (12) month certification period.

B. Certification periods conform to calendar months. At initial application, the first (1st) month in the certification period is generally the month of application, even if the household's eligibility is not determined until a subsequent month.

1.8.1 Certification Periods for Public Assistance (PA) Households

A. A household in which all members are contained in a single PA grant should have its SNAP recertification completed, to the extent possible, at the same time it is redetermined for PA.

1. The agency representative assigns such households a SNAP certification period which expires at the same time as the household's PA redetermination date. In no event must SNAP benefits be continued beyond the end of a certification period.

2. If a PA household has not had its PA redetermination, and the SNAP recertification is due at the same time, the agency representative must ensure that the SNAP recertification is timely completed.

1.9 Intentional Program Violations

A. The Fraud Unit is responsible for investigating any case of alleged intentional program violation and ensuring that appropriate cases are acted upon, either through Administrative Disqualification Hearings or referral to a court of appropriate jurisdiction, in accordance with the procedures outlined in this Section.

1. Administrative disqualification procedures or referral for prosecution action must be initiated whenever there is sufficient documentary evidence to substantiate that an individual has intentionally committed one (1) or more acts of intentional program violation as defined in § 1.9(A)(3) of this Part.

a. If the Fraud Unit does not initiate administrative disqualification procedures or refer for prosecution a case involving an over-issuance caused by a suspected act of intentional program violation, an Inadvertent Household Error (IHE) claim is established against the household in accordance with the procedures in § 1.17 of this Part.

2. The household is informed, in writing, of the disqualification penalties for committing intentional program violation each time it applies for program benefits. The penalties are written in clear, prominent and boldface lettering on the application form.

3. Disqualification penalties under §15(b)(1) of the Food and Nutrition Act of 2008 shall be imposed as follows:

   a. Any member of a household who knowingly uses, transfers, acquires, alters or possess coupons, authorization cards, or access devices in any manner contrary to the regulations of the Act, can be barred from the Supplemental Nutrition Assistance Program for one (1) year to permanently. S/he may also be fined up to two hundred fifty thousand dollars ($250,000.00), imprisoned up to twenty (20) years, or both.

   b. S/he may also be subject to prosecution under other applicable Federal and State laws.

   c. S/he may also be barred from the SNAP for an additional eighteen (18) months if court ordered. Individuals found to have committed an intentional program violation, either through an administrative disqualification hearing, or by a Federal, State, or local court, or who have signed a waiver of right to an administrative disqualification hearing shall be ineligible to participate in the program:

      1. For a period of one (1) year for the first (1st) violation, with the exceptions in numbers §§ 1.9(A)(3)(g), (h), (i), (j) and (l) of this Part;

      2. For a period of two (2) years for the second (2nd) violation, with the exceptions in §§ 1.9(A)(3)(g), (h), (i), (j) and (l) of this Part; and,

      3. Permanently for the third (3rd) occasion of any intentional program violation.

   d. Individuals found by a Federal, State, or local court to have used or received SNAP benefits in a transaction involving the sale of a controlled substance (as defined in the Controlled Substances Act, 21 U.S.C. § 802) shall be ineligible for SNAP benefits:

      (1) For a period of two (2) years for the first (1st) occasion of such violation; and

      (2) Permanently upon the second (2nd) occasion of such violation.

e. Individuals found by a Federal, State, or local court to have used or received SNAP benefits in a transaction involving the sale of firearms, ammunition, or explosives shall be permanently disqualified from the SNAP.

f. Individuals convicted of trafficking SNAP benefits for an aggregate amount of five hundred dollars ($500.00) or more shall be permanently disqualified from the SNAP upon the first (1st) occasion of such violation. Trafficking means:

(1) The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

(2) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in 21 U.S.C. § 802, for SNAP benefits;

(3) Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

(4) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

(5) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

g. Individuals found by the Department of having made, or convicted in a Federal or State court, of having made a fraudulent statement or representation with respect to their identity or place of residence in order to receive multiple benefits simultaneously under the

Supplemental Nutrition Assistance Program shall be ineligible to participate in the program for a ten (10) year period.

h. Individuals disqualified from the Food Distribution Program on Indian Reservations (FDPIR) for an intentional program violation as described in this Section, have the same disqualification imposed on the member of the household under SNAP.

(1) In instances where the disqualification is a reciprocal action based on disqualification from the Food Distribution Program on Indian Reservations, the length of disqualification shall mirror the period prescribed by the Food Distribution Program on Indian Reservations.

(2) Dual participation in the Food Distribution Program on Indian Reservations and SNAP shall not be permitted.

i. Individuals found guilty by a court of law for buying and selling illegal drugs or certain prescription drugs in exchange for SNAP benefits will be prohibited from participating in the SNAP for twenty-four (24) months for the first (1st) offense and permanently for the second (2nd) offense.

j. Individuals convicted of Federal aggravated sexual abuse, murder, sexual exploitation and abuse of children, sexual assault, or similar State laws, and who are also not in compliance with the terms of their sentence or parole, or are a fleeing felon, shall be prohibited from receiving SNAP benefits.

4. If a court fails to impose a disqualification period for the intentional program violation, the agency must impose the disqualification period penalties specified in this Section unless it is contrary to the court order. The agency must disqualify only the individual found to have committed intentional program violation or who signed the waiver of right to an administrative disqualification hearing, and not the entire household.

a. Even though only the individual is disqualified, the household is responsible for making restitution for the amount of the over issuance. All intentional program violation claims shall be established and collected in accordance with § 1.17 of this Part.

B. The hearing authority shall base the determination of intentional program violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an intentional program violation as defined in § 1.9(C) of this Part.

C. Intentional Program violations shall consist of having intentionally as defined in 7 C.F.R. § 273.16(c):

1. Made a false or misleading statement, or misrepresented, concealed or withheld facts; or

2. Committed any act that constitutes a violation of SNAP, this Part, or any State statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

1.10 Mini-Simplified SNAP

A. The Department of Human Services has been granted a waiver from the Food and Nutrition Service that allows for the implementation of a Mini-Simplified SNAP Program. A Mini-simplified SNAP Program allows the agency to add the SNAP allotment to the RI Works (RIW) grant to calculate the maximum number of hours a RIW parent can participate in the unpaid work experience or community service.

1. The Mini-Simplified SNAP will thereby allow the agency to count the value of SNAP benefits and then deem any hours that fall short of the parents required hours in order to meet the RIW work requirement.

1.11 Work Requirements

A. The Food and Nutrition Act of 2008 (as amended through Pub. Law 116-94) requires certain unemployed adults who are members of eligible households to register for work, and to comply with all the employment and training requirements.

1. In Rhode Island, for Federal Fiscal Year (FFY) 2011 forward, until policy is amended otherwise, participation in an employment and training program is voluntary.

2. At the time of application, and once every twelve (12) months after initial registration, each household member who is not exempt and subject to the work requirement, must register for employment and be advised of their employment and training opportunities as a condition of eligibility.

a. The registration form need not be completed by the member required to register; it can be completed by a responsible household member or an authorized representative.

b. Household members are considered registered for work when the completed registration form is received or recorded by the DHS.

3. Strikers whose households are eligible under the criteria in § 1.2.10 of this Part are subject to the work registration requirements unless exempt under § 1.11.1 of this Part at the time of application.

1.11.1 Exemptions from Work Registration

A. The following persons are exempt from the work registration requirement:

1. Persons under sixteen (16) or sixty (60) years of age or older

a. If a child has his/her sixteenth (16th) birthday within the certification period, the child must fulfill the work registration requirement as part of the next scheduled recertification process unless otherwise exempt.

b. Also exempt is a person age sixteen (16) or seventeen (17) who is not a head of household or who is attending school or is enrolled in an employment training program on at least a half-time basis.

2. Persons with Disabling Conditions

a. Persons with disabling conditions incapable of gainful employment either permanently or temporarily. Persons claiming a temporary incapacity must be required to register once they become physically and mentally able to work.

b. Eligibility for and receipt of benefits from SSI is evidence of unemployability.

(1) In the case of an SSI household containing an "essential person," the individual situation must be examined to determine whether that essential person must register.

c. Receipt of disability payments under the Social Security Program (Retirement, Survivors and Disability Insurance (RSDI)) is considered proof of disability for purposes of this exemption.

d. Other individuals claiming an exemption for a physical or mental disability should furnish other verification which can substantiate such claim.

(1) Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or

private sources, or a statement from a physician or licensed or certified psychologist. If the individual cannot afford to pay a physician, the agency representative should provide the address of the appropriate Rhode Island Health Center.

e. Receipt of Workers' Compensation may also indicate temporary disability.

3. Persons Who Are Participants in the RIW Program

a. A household member subject to and complying with any work registration requirement under Part A of Title IV of the Social Security Act, 42 U.S.C. Chapter 7, including the RIW Employment Plan, is exempt from the SNAP work requirement.

b. A household member who is required to register for work under a Title IV-A program and who fails to comply with a registration requirement which is not comparable with the SNAP work registration requirement must not be denied SNAP benefits solely for this failure. The member loses his/her special exemption and must register for work with the Supplemental Nutrition Assistance Program if not otherwise exempt.

4. Persons Who Are Caretakers

a. A parent or other household member who is responsible for the care of a dependent child under six (6) or an incapacitated person.

(1) If the child has his/her sixth (6th) birthday within a certification period, the individual responsible for the care of the child must fulfill the work registration requirement as part of the next scheduled recertification process, unless that individual qualifies for another exemption.

(2) If a parent and another member of the household both claim to be responsible for the care of the same dependent child or incapacitated adult, the actual responsibility should be determined by discussion with the applicant.

5. Recipients of Unemployment Insurance (UI)

a. A person who has applied for, but has not yet begun to receive UI is also exempt, but only if that person was required to register for work with the Department of Labor and Training (DLT) as part of the UI application process. If the exemption claimed is

questionable, the agency representative is responsible to verify the exemption with the Department of Labor and Training.

b. If a person's UI expires or is suspended, s/he must register for work unless otherwise exempt.

c. A household member who is required to register for work under the UI program and who fails to comply with a work registration requirement which is not comparable with the SNAP work registration requirement must not be denied SNAP benefits solely for this failure.

(1) Such member loses his/her special exemption and must register for work with the Supplemental Nutrition Assistance Program if not otherwise exempt.

6. Persons with Drug and Alcohol Dependency

a. A regular participant in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or nonresident basis.

(1) Regular participation in the program may be verified through the organization or institution operating the program.

7. Employed Persons

a. A person who is employed and working a minimum of thirty (30) hours weekly or receiving weekly earnings at least equal to the Federal minimum wage multiplied by thirty (30) hours is exempt.

(1) This includes migrant and seasonal farmworkers who are under contract or similar agreement with an employer or crew chief to begin employment within thirty (30) days (although this does not prevent individuals from seeking additional services from the Department of Employment Security).

b. If a person claims to be exempt by reason of employment of at least thirty (30) hours per week, verification of the amount of income received from such employment, as is elsewhere required for certification, is sufficient to establish the exemption, provided the amount of income appears to be consistent with employment for thirty (30) hours a week under the general conditions prevailing in the community.

(1) However, if the individual does not meet this test, but still claims to be employed, then, in cooperation with the agency representative, the applicant is requested to supply documentary evidence of the existence of an employee-employer relationship and that the number of hours worked is equivalent to thirty (30) hours a week.

c. Persons engaged in hobbies or volunteer work or any other activity which cannot (because of the minimal amount of monies received from such activity) be considered as gainful employment, must not be considered exempt from work registration regardless of the amount of time spent in such activity.

8. Self-employed Persons

a. Persons who are self-employed and working a minimum of thirty (30) hours weekly or receiving weekly earnings equal to or greater than the Federal minimum wage, multiplied by thirty (30) hours.

b. If a person claims to be exempt by reason of self-employment, verification of the amount of income received from self-employment is sufficient to establish the exemption, provided the amount of income appears to be consistent with a conclusion of full-time thirty (30) hours a week employment.

(1) If the income is not sufficient, but the person still claims to be self-employed, such person must cooperate with the agency representative in establishing that the income received from the self-employment enterprise is at least sufficient to be considered gainful employment and that the volume of work claimed justifies a determination that the self-employment enterprise is a full-time job for the purposes of this exemption.

9. Persons Who Are Students

a. A student is defined as an individual attending at least half-time in any recognized school, employment and training program or institution of higher education.

b. A student remains exempt during 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 normal school term (excluding summer school).

c. A person who is not enrolled at least half-time or who experiences a break in enrollment status due to graduation, expulsion, or suspension, or who drops out or otherwise does not intend to return to school, must not be considered a student for the purpose of qualifying for this exemption.

d. Persons enrolled in correspondence courses where physical attendance is not regularly required are not exempt.

e. Students under eighteen (18) years of age are granted an exemption for any income earned through employment or self-employment, except those no longer under the parental control of another household member.

f. The income and resources of a student is treated in accordance with § 1.2.4 of this Part.

10. Joint Applicants for SSI and SNAP

a. Household members who are applying for SSI and SNAP benefits under SSI/SNAP joint application processing have the requirement for work registration waived until:

(1) They are determined eligible for SSI and thereby become exempt from work registration; or,

(2) They are determined ineligible for SSI and, where applicable, a determination of their work registration status is then made through recertification procedures, in accordance with § 1.7 of this Part.

B. Determining Exemptions to Work Registration

1. The agency representative determines which household members meet the exemption to the registration requirements at the time of initial certification, recertification, change in employment status, or the required twelve (12) month registration period.

2. In general, work registration exemptions must be verified prior to certification only if inconsistent with other information on the application, previous applications, or other documented evidence known to the agency.

C. Loss of Exemption Status

1. Persons losing exemption status due to any changes in circumstances which are subject to the reporting requirements described in § 1.13.1 of this Part (such as loss of employment that also results in a loss in earned income of more than one hundred dollars ($100.00) a month, or departure from the household of the sole dependent child for whom an otherwise non-exempt household member was caring) must register for employment when the change is reported.

    a. If the change is reported in person by the household member required to register, the person should complete the work registration form at the time the change is reported, unless this is not possible, in which case the household member must return the form to the agency representative within ten (10) calendar days.

    b. If the change is reported in person by a household member other than the member required to register, the person reporting the change may complete the form at the time the change is being reported or deliver the form to the member required to register.

    c. If the change is reported by phone, online or through the mail, the agency representative is responsible for providing the participant with a work registration form.

    d. Participants are responsible for returning the form to the agency representative within ten (10) calendar days from either the date the form was handed to the household member reporting the change in person, or the date the agency representative mailed the form.

    e. If the participant fails to return this form, a notice of adverse action must be issued stating that the participant or, if the individual is the head of household, the household is being terminated and the reason, but that the household can avoid termination by returning the form.

2. Those persons who lose their exemption due to a change in circumstances that is not subject to the reporting requirements of § 1.13.1 of this Part must register for employment at their households' next recertification.

1.11.2 Work Registrant Requirements

A. All work registrants must:

1. Complete a work registration form;

2. Respond to a request from the SNAP representative for supplemental information regarding employment status or availability for work;

3. Report to an employer when referred by the SNAP E&T Program if the potential employment meets the suitability requirements in § 1.11.6 of this Part;

4. When involved in a SNAP employment training activity, accept a *bona fide* offer of suitable employment at a wage not less than the higher of either the applicable State or Federal minimum wage;

5. Participate and comply with case management services while enrolled in the E&T program unless good cause is established; and

6. Not voluntarily quit a job without good cause (see § 1.11.8 of this Part).

1.11.3 Employment and Training Activities

A. Persons required to register for work and those exempt from work registration may voluntarily participate in an E&T program that must consist of virtual or in person case management services and at least one (1) of the E&T activities contained within this Section. Except in those circumstances identified in § 1.11.5 of this Part, such volunteers are not subject to disqualification for failure to meet participation requirements.

1. Case management services shall provide activities and resources for E&T participants based on their needs and interests in order to strengthen and support the participant's ability to gain and retain employment. The time spent in case management services may count towards the E&T work registrant requirement but is limited to only allowable E&T activities listed in this Section. Case management services may include, but are not limited to:

   a. Comprehensive intake employability assessments;

   b Individualized service plans;

   c. Progress monitoring; or

   d. Coordination with service providers.

2. The following are components that comprise the employment and training activities in which SNAP recipients may participate. These activities are not all-inclusive and may vary based on the SNAP E&T State Plan and E&T contract:

a. Supervised Job Search

(1) Supervised Job Search and job search training are services provided remotely or in-person at least monthly under direct supervision consisting of:

(AA) Training in networking as a job search technique;

(BB) Instruction in completing job applications and writing resumes;

(CC) Developing job interview skills; and

(DD) Advice on presentation for interviews.

(2) Participants are expected to contact employers in accordance with E&T contractor guidance to enable monitoring of their progress and identification of employment barriers.

b. Vocational Skills Training

Opportunities for vocational skills training are made available to E&T participants who have some work experience but do not possess occupationally-oriented skills. E&T participants could receive on-the-job training (OJT) with private employers or classroom training. Services are designed to enable participants to re-enter the labor market.

c. Work Experience

(1) Provides opportunities to improve the employability of participants through actual work experience, training or both, and enables the transition into regular employment.

(AA) Assignments take place in a workplace for a limited time period, may be paid or unpaid, as appropriate, and must abide by labor standards as defined by the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq*.

(2) Work experience may include:

(AA) Work activity performed in exchange for SNAP benefits that provides participants who cannot find unsubsidized, full-time employment with an

opportunity to acquire the general skills, knowledge and work practices necessary to obtain employment; or

(BB) Work-based learning comprised of structured work activities that combine, in some form, education and/or training by industry or community professionals in real world or simulated settings. These activities can include both subsidized and unsubsidized employment models such as:

(i) Internships;

(ii) Pre-apprenticeships/apprenticeships;

(iii) On-the-job training (OJT) or customized trainings; and

(iv) Transitional jobs.

d. Job Retention

(1) The State may offer job retention services (see § 1.11.4 of this Part) to E&T participants who have secured employment for a minimum of thirty (30) days, to help participants achieve satisfactory performance, retain employment, and increase earnings over time.

(AA) Only individuals who have received other employment and/or training services under the E&T program are eligible for job retention services.

(2) Individual circumstances may determine that job retention services begin at various times, however the E&T participant must have been receiving SNAP in the month of or the month prior to beginning job retention services.

(3) The Department will provide at least thirty (30) days, but no more than ninety (90) days of job retention services.

(4) There is no limit to the number of times an individual may receive job retention services as long as the individual re-engages in SNAP E&T services prior to obtaining new employment.

(5) An otherwise eligible individual who refuses or fails to accept or comply with job retention services offered by the State agency may not be disqualified as specified in § 1.11.3 (A) of this Part.

e. Remedial and Basic Education Component

(1) E&T participants may be referred to educational activities in order to improve their basic reading and math skills, and subsequently, increase work readiness to improve their employment prospects. These activities are Work Readiness Training, Literacy Training, Basic and Remedial Education, Graduate Equivalency Diploma (GED) Training and English as a Second (2nd) Language (ESL).

(2) Assignment to these educational activities is based on assessments by the SNAP E&T contractor and the service providers. All educational activities to which work registrants are referred will meet the minimum requirement of twelve (12) hours per month for two (2) months.

B. E&T participants who are not a good fit for a program component, as determined by the E&T provider, shall be redirected to another, more appropriate activity.

1.11.4 Support Services

A. The following support services are available to individuals participating in the SNAP E&T program:

1. Transportation Allowance

Upon written documentation from the service provider, the SNAP E&T contractor may authorize an expense payment of two hundred dollars ($200.00) per month during the period the participant is involved in a component activity.

2. Dependent Care Reimbursement

a. Reimbursement for dependent care expenses is allowable up to two hundred seventy-five dollars ($275.00) per month per dependent expenses that are incurred while a participant is fulfilling an E&T obligation.

(1) Reimbursement is limited to dependent care expenses for children under age thirteen (13) and incapacitated persons.

(2) No reimbursement is made for payment to dependent care providers who reside in the same household as the dependent child or incapacitated person.

b. The SNAP E&T contractor is responsible for oversight, documentation and invoicing.

3. Work-Readiness Fee

a. Allowances for work-related expenses are approved, managed and invoiced by the SNAP E&T contractor. The fee is authorized by the SNAP E&T contractor for a participant who is actively engaged in an approved E&T component.

b. In the non-vocational education component, course registration fees and such materials as may be needed to complete the course may qualify.

c. In the vocational training component, program registration fees, miscellaneous equipment (e.g., stethoscopes, special shoes, and uniforms) required by a program under the vocational component may also qualify for the use of this fee.

d. This fee is excluded as income for SNAP purposes.

1.11.5 Failure to Comply with a Work Requirement

A. Certain work requirements still apply to mandatory work registrants even under a voluntary E&T program.

1. If an individual who is required to register refuses or fails without good cause to comply with the requirements imposed by § 1.11.2 of this Part, that individual is ineligible to participate in the Supplemental Nutrition Assistance Program and is treated as an ineligible household member (See § 1.5.6 of this Part).

B. Disqualification Periods

1. Disqualification related to §§ 1.11.5(A)(1) and 1.11.8 of this Part will be imposed as follows:

a. For the first (1st) occurrence of noncompliance, the individual will be disqualified until the later of:

(1) The date the individual complies; or

(2) One (1) month.

b. For the second (2nd) occurrence, the individual will be disqualified until the later of:

(1) The date the individual complies; or

(2) Three (3) months.

c. For the third (3rd) occurrence, the individual will be disqualified until the later of:

(1) The date the individual complies; or

(2) Six (6) months.

2. When a noncompliant member joins another household, the individual is to be ineligible for the relevant period and must be considered an ineligible household member as provided in § 1.2.5 of this Part.

C. Determining Good Cause for Failure to Comply with Work Requirements

1. The agency is responsible for determining good cause in those instances when a work registrant has failed to comply with the requirements set forth in this Subchapter. The registrant is responsible for submitting evidence in support of any claim of good cause.

2. The agency representative must consider the facts and circumstances, including information submitted by the household member involved, the employer, or the E&T contractor.

3. Good cause includes circumstances beyond the member's control, such as, but not limited to:

a. Illness or incapacity;

b. Illness of another household member sufficiently serious to require the presence of the registrant;

c. Unanticipated household emergency;

d. Court-required appearance;

e. Incarceration;

f. Breakdown in transportation arrangements with no readily accessible means of transportation;

g. Inclement weather which prevented the registrant and other persons similarly situated from traveling to, or accepting a *bona fide* offer of employment;

h. Problems caused by the inability of the registrant to speak, read or write English;

i. Lack of adequate childcare for children who have reached age six (6) but are under age twelve (12); or

j. Unavailability of a suitable E&T component or opening in an E&T program. In this circumstance, good cause shall only extend until the DHS identifies an appropriate and available E&T opening and informs the individual of this opening.

D. Notice of Adverse Action and Fair Hearing

1. Within five (5) days of noncompliance with the work requirements as listed in § 1.11.2 of this Part, the agency must issue a Notice of Adverse Action (NOAA).

a. The work registrant has ten (10) days to respond and offer evidence of good cause.

b. The Notice of Adverse Action must state the particular act of noncompliance committed, the proposed period of disqualification and must specify that the individual or household may reapply at the end of the disqualification period.

c. Information is also included describing the action which can be taken to end or avoid the sanction.

2. The disqualification period begins with the first (1st) month following the expiration of the adverse notice period, unless a fair hearing is requested.

3. Each individual or household has a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to a determination of non-exempt status, or determination of failure to comply with the work registration or employment and training requirements of this Section.

a. Individuals or households may appeal agency actions such as exemption status, the type of requirement imposed, or agency

refusal to make a finding of good cause if the individual or household believes that a finding of failure to comply has resulted from improper decisions on these matters.

b. A household must be allowed to examine its employment component case file at a reasonable time before the date of the hearing, except for confidential information (which may include test results) that the agency determines should be protected from release.

c. Information not released to a household may not be used by either party at the hearing. The results of the hearing are binding on the agency.

1.11.6 Suitable Work

A. Any employment is considered suitable if:

1. The wage offered is at least the highest of:

a. The applicable Federal minimum wage;

b. The applicable State minimum wage; or,

c. Eighty percent (80%) of the Federal minimum wage, if neither the State nor Federal minimum wage is applicable.

2. The employment offered is on a piece-rate basis, and the average hourly yield the employee can reasonably expect to earn at least equals the applicable hourly wages specified above.

3. The registrant, in order to be hired or to continue working, is not required to join, resign from, or refrain from joining any legitimate labor organization.

4. The work offered is not at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under § 208 of the Labor Management Relations Act (Taft-Hartley), or unless an injunction has been issued under the Railway Labor Act, 45 U.S.C. § 151 *et seq*.

5. Employment is considered suitable unless the registrant demonstrates, or the agency representative determines, that:

a. The risk to health and safety is unreasonable.

b. The member is physically or mentally unable to perform the essential functions of the job, as documented by medical evidence or by reliable information from other sources.

c. The employment offered within the first thirty (30) days of registration is not in the registrant's major field of experience.

d. The distance from the registrant's home to the place of employment is unreasonable based on the expected wage and the time and cost of commuting.

(1) Daily commuting time should not exceed two (2) hours per day, not including the transportation of a child to and from a child-care facility.

(2) Neither should employment be considered suitable if the distance to the place of employment prohibits walking, and both public and private transportation are unavailable to use in getting to the job site.

e. The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs.

1.11.7 Ending a Disqualification

A. Following the end of the disqualification period for failure to comply with work requirements such as refusal to register for work, participation may resume if the disqualified individual applies again and is determined to be in compliance with the work requirements.

1. Eligibility may also be reestablished within a disqualification period if the member becomes exempt from the work requirement, or the member complies as follows:

a. Refusal to register – completes the work registration form.

b. Refusal to respond to a request from an agency – Representative requiring supplemental information regarding employment status or availability for work — compliance with the request.

c. Refusal to report to a specific employer when referred by an agency representative – reporting to this employer if work is still available or to another employer to whom referred.

d. Refusal to accept a *bona fide* offer of suitable employment when referred by an agency representative — acceptance of this employment, if still available to the participant, of any other employment with earnings equivalent to the refused job, or any other employment of at least thirty (30) hours per week with weekly earnings equal to the Federal minimum wage multiplied by thirty (30) hours.

1.11.8 Voluntary Quit Provision

A. No individual is eligible to participate in the SNAP as specified below when the individual voluntarily and without good cause quits a job of thirty (30) hours a week or more, or reduces his/her work effort within the sixty (60) days prior to the date of application or at any time thereafter.

1. The reduction of work effort provision applies if, before the reduction, the individual was employed thirty (30) hours or more per week and the reduction was voluntary and without good cause. If the individual reduces his/her work hours to less than thirty (30) hours/week but continues to earn weekly wages that exceed the Federal minimum wage multiplied by thirty (30) hours, the individual remains exempt from program work requirements and the reduction of work provision does not apply.

2. Persons who are exempt from the work registration provisions are exempt from the voluntary quit provision.

B. Determination of Voluntary Quit

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the agency representative must determine whether any household member voluntarily quit his/her job.

a. Benefits are not delayed beyond the normal processing times outlined in § 1.3 of this Part pending the outcome of this determination.

2. This provision applies only if:

a. The employment involved thirty (30) hours or more per week or provided weekly earnings at least equivalent to the Federal minimum wage multiplied by thirty (30) hours;

b. The quit occurred within sixty (60) days prior to the date of application or anytime thereafter; and,

c. The quit was without good cause.

3. If an individual quits a job, secures new employment at comparable wages or hours and is then laid off or, through no fault of his/her own loses the new job, the earlier quit does not form the basis of a disqualification.

4. An employee of the Federal government or of a State or local government who participates in a strike against such government and is dismissed from his/her job because of participation in the strike, must be considered to have voluntarily quit his/her job without good cause.

5. Applicant households

   a. In the case of an applicant household, the agency representative must determine whether any currently unemployed (i.e., employed less than thirty (30) hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by thirty (30) hours) household member who is required to register for work has voluntarily quit his/her most recent job or reduced his/her work effort within the last sixty (60) days.

   b. If the agency representative learns that a household has lost a source of income after the date of application but before the household is certified, the agency representative must determine whether a voluntary quit occurred.

   c. If the voluntary quit was without good cause, the household's application for participation is denied and sanction imposed according to § 1.11.5(B) of this Part, starting from the date of the quit.

      (1) The agency representative must provide the applicant household with a notice of denial in accordance with § 1.3.6 of this Part.

   d. The notice must inform the household of the following:

      (1) The period of disqualification;

      (2) The right to reapply at the end of the disqualification period; and

      (3) The right to a fair hearing.

6. Participating Households

a. In the case of a participating household, the agency representative must determine whether any household member voluntarily quit his/her job or reduced his/her work effort while participating in the program, or in the time between application and certification.

b. If the agency representative determines that a member of the household voluntarily quit his/her job while participating in the program or later discovers a quit occurred within sixty (60) days prior to application or between application and certification, s/he provides the household with a notice of adverse action as specified in § 1.14 of this Part, within ten (10) days after the determination of a voluntary quit is made. Such notification must contain:

(1) The particular act of noncompliance which was committed;

(2) The proposed period of disqualification;

(3) The actions which may be taken to end or to avoid the disqualification: and,

(4) Specification that the household may reapply at the end of the disqualification period.

c. Except as otherwise specified in this Section, the period of ineligibility is determined according to § 1.11.5(B) of this Part beginning with the first (1st) of the month after all normal procedures for taking adverse action have been followed.

7. Each household has a right to a fair hearing to appeal a reduction or termination of benefits due to a determination that the head of household voluntarily quit his/her job without good cause.

a. If the participating household requests a fair hearing and the agency's determination is upheld, the disqualification period begins with the first (1st) of the month after the hearing decision is rendered.

8. Persons who have been disqualified for quitting a job must carry their sanction with them if they join a new household.

C. Good Cause for Voluntary Quit

1. Good cause for leaving employment includes the good cause provisions specified in § 1.11.5 of this Part and resigning from a job that does not meet the suitability criteria specified in § 1.11.8 of this Part. Good cause

for leaving employment must be substantive, not solely an allegation, and includes:

a. Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;

b. Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

c. Acceptance by the primary wage earner of employment, or enrollment of at least half-time in any recognized school, training program or institution of higher education that requires the primary wage earner to leave employment;

d. Acceptance by any other household member of employment or enrollment of at least half-time in any recognized school, training program or institution of higher education in another area which requires the household to move and thereby requires the primary wage earner to leave employment;

e. Resignations by persons under the age of sixty (60) which are recognized by the employer as retirement;

f. Employment which becomes unsuitable by not meeting the criteria as specified in § 1.11.8 of this Part, after the acceptance of such employment;

g. Acceptance of a *bona fide* offer of employment of more than thirty (30) hours a week or in which the weekly earnings are equivalent to the Federal minimum wage multiplied by thirty (30) hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than thirty (30) hours a week or weekly earnings of less than the Federal minimum wage multiplied by thirty (30) hours; and

h. Leaving a job in connection with patterns of employment in which workers frequently move from one (1) employer to another, such as migrant farm labor or construction work. Even though work may not yet be available at the new job site, the quitting of the previous employment is considered as with good cause if it is part of the pattern of that type of employment.

2. Verification of Good Cause

a. Verification of questionable information provided by the household is obtained as specified in § 1.6.2 of this Part. The client is the primary source.

(1) If it is difficult or impossible for the household to obtain documentary evidence in a timely manner, the agency representative offers assistance to obtain the needed verification.

b. Acceptable sources of verification include, but are not limited to, the previous employer, employee associations, union representatives, and grievance committees or organizations.

c. Whenever documentary evidence cannot be obtained, the agency representative substitutes a collateral contact.

d. A household member is eligible when the requested verification is unattainable because the cause for the quit resulted from circumstances which, for good reason, cannot be verified, such as a resignation from employment due to discrimination practices, unreasonable demands by an employer, or because the employer cannot be located.

D. Ending a Voluntary Quit Disqualification

1. Following the end of the disqualification period, an individual may begin participation in the program if he or she reapplies and is determined eligible.

2. Eligibility may be reestablished during a disqualification period and the individual, if otherwise eligible, may be permitted to resume participation if the individual becomes exempt from the work requirements under § 1.11.1 of this Part.

E. Application in the final month of disqualification:

If an application for participation is filed in the final month of the mandatory disqualification period, the agency must use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

1.11.9 Able-Bodied Adults without Dependents (ABAWDs)

A. Definition

1. An Able-Bodied Adult without Dependents (ABAWD) is limited to three (3) months of SNAP eligibility in any three (3) year period while not fulfilling the ABAWD work requirement or otherwise exempt. The ABAWD work requirement applies to be people who are:

    a. Age eighteen (18) to forty-nine (49);

    b. Fit for employment;

    c. Do not live in a SNAP household with a minor;

    d. Not pregnant;

    e. Not already exempt from the general work requirements in (See § 1.11.1 of this Part); and

    f. Not residing in an exempt city/town.

2. A “countable month” is any month in which an ABAWD receives a full month of benefits while not fulfilling the ABAWD work requirement or otherwise exempt.

    a. Countable months also include those months received in other states.

3. Rhode Island utilizes a “fixed statewide clock” to calculate the three (3) year period. The clock begins on a given date and runs continuously for three (3) years for all households.

B. Work Requirements

1. Unless exempt, an ABAWD is ineligible to participate in SNAP as a member of any household if s/he has, in a thirty-six (36) month period, received SNAP benefits for three (3) months (consecutive or otherwise) during which s/he did not:

    a. Work twenty (20) or more hours per week, averaged monthly;

    b. Participate in and comply with the requirements of a work program for twenty (20) or more hours per week;

    c. Participate in and comply with the requirements of an appropriate SNAP E&T (unpaid) Work Experience Program (if it is an available component under the RI SNAP E&T plan);

d. Receive benefits due to exemption from these work requirements; or,

e. Receive benefits due to regaining eligibility as discussed in § 1.11.9(H) of this Part.

C. A work program is defined as:

1. A program under the Workforce Innovation and Opportunity Act (WIOA) (Pub. Law 113-128);

2. A program under § 236 of the Trade Act of 1974 (Pub. Law 93-618) (known as the Trade Readjustment Act or "Trade Program");

3. The SNAP E&T Program other than a job search or job search training program. Such a program may contain supervised or unsupervised job search or job search training as a subsidiary component as long as such component is less than half the work requirement; and

4. SNAP E&T programs for veterans operated by the Department of Labor or the Department of Veteran's Affairs.

D. Working means:

1. Work in exchange for money;

2. Work in exchange for goods or services ("in-kind" work); or

3. Unpaid work/workfare program.

E. The resources and income of an ineligible ABAWD are handled in accordance with § 1.5.6 of this Part.

F. Exemptions from Time Limits:

1. An individual is exempt from the time limit set forth in § 1.11.9(C) of this Part if s/he is:

a. Under eighteen (18) or fifty (50) years of age or older (a person is considered over age fifty (50) on her or his fiftieth (50th) birthday);

b. Medically certified as physically or mentally unable to work;

c. A parent (natural, adoptive, or step) of a household member under age eighteen (18), even if the household member who is under age eighteen (18) is not him/herself eligible for SNAP benefits;

d. Pregnant;

e. Is a member of a SNAP household in which one (1) of the members is under age eighteen (18), even if the household member who is under age eighteen (18) is not him/herself eligible for SNAP benefits;

f. Residing in certain areas with a high unemployment rate as determined by the agency with approval by the FNS;

g. Otherwise exempt pursuant to § 1.11.1 of this Part.

G. Provision for Regaining Eligibility

1. ABAWDs who have exhausted their countable months can regain eligibility one (1) time during the thirty-six (36) month period if during a consecutive thirty (30) day period, the individual:

a. Works eighty (80) or more hours;

b. Participates in and complies with the requirements of a work program as defined in § 1.11.3 of this Part for eighty (80) or more hours; or

c. Participates in and complies with the requirements of an appropriate SNAP Employment and Training (unpaid) Work Experience Program.

2. If an individual loses this employment or ceases to participate in a work or workfare program, participation can continue for up to three (3) consecutive months (beginning from the date the agency representative is notified that work has ended, after which the only cure during the thirty-six (36) month period will be to comply with the work requirement or become exempt.

a. An individual shall not receive benefits under this paragraph more than once in any three (3) year period.

3. An individual who is subject to the ABAWD requirements and is not exempt or eligible for an additional three (3) month period due to fulfilling the work requirement, is ineligible for SNAP benefits in the month of re-application.

4. A countable month is any month in which an ABAWD receives SNAP benefits for the full benefit month while not meeting or exempt from

ABAWD work requirements. Any month in which an ABAWD does not receive a full month of benefits cannot be considered a countable month.

1.12 Quality Control Sanctions

A. A household must be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility as a part of a quality control (QC) review.

1. If a household is terminated for refusal to cooperate with a QC reviewer (in accordance with the QC procedures for notification to the household of the penalties for refusal to cooperate), the household may reapply but must not be determined eligible until it cooperates with the QC reviewers.

2. If the household, terminated for refusal to cooperate with a DHS QC reviewer, reapplies after one hundred twenty-five (125) days from the end of the annual review period (which is the calendar year from October 1 to September 30), the household shall not be determined ineligible for its refusal to cooperate with a QC reviewer during the completed review period, but must provide all required verification prior to certification.

3. If a household, terminated for refusal to cooperate with a Federal QC reviewer, reapplies after nine (9) months from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a Federal QC reviewer during the completed review period, but must provide all necessary verification prior to certification.

1.13 Ongoing Case Management

1.13.1 Changes

A. For reporting changes during a SNAP household's certification period, there are two (2) classifications:

1. Change Reporters: A household that is designated as a "change reporter" must report any change in circumstances, income, resources, and expenses which occur during their certification period within ten (10) days of the date the change becomes known to the household.

a. The following types of households are change reporters:

(1) Households with no earned income and in which all members are elderly or disabled; and

(2) Households which include migrant and seasonal farmworkers.

b. The ten (10) day reporting period begins with the date the change becomes known to the household.

c. Changes may be reported in person, by telephone, or by mail, or by using the Change Report Form.

d. Change reporters must report the following changes within ten (10) days:

(1) A change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;

(2) A change in wage rate or salary, or change in full-time or part-time employment status (as determined by the employer).

(3) Changes in the amount of unearned income of more than one hundred dollars ($100.00), except for a change in RIW or GPA cash assistance;

(4) All changes in household composition, such as the addition or loss of a household member;

(5) Changes in residence and the resulting change in shelter costs;

(6) Acquisition of a licensed vehicle not excluded under § 1.5.5 of this Part;

(7) A change in liquid resources, such as cash, stocks, bonds and bank accounts that reach or exceed the resource limits as described in §§ 1.5.5(B)(1)(a) and (b) of this Part, unless these assets are excluded under §§ 1.5.5(D) and (G) of this Part.

(AA) RIW/SNAP change reporting households must report changes in assets when they exceed the RIW resource limit of one thousand dollars ($1,000.00).

(8) Changes in the legal obligation to pay child support.

(9) Whenever a member of the household wins substantial lottery or gambling winnings.

(AA) RIW/SNAP change reporting households must report a cash prize won in a single game, before taxes or other amounts withheld, which is equal to or greater than the elderly and/or disabled resource limit as defined in § 1.5.5 of this Part.

e. For households comprised entirely of elderly and/or disabled members, the agency representative will send the household a Mid-Certification Reminder Letter on or about the fifteenth (15th) day of the twelfth (12th) month of its certification.

(1) The letter reminds the household of its responsibility to report any changes within ten (10) days.

2. Simplified Reporters: All other households are simplified reporters.

a. With the exception of the interim report and lottery/gambling winnings (see below), a simplified reporting household's sole reporting requirement is to report changes in income which bring the household's gross income in excess of the gross income eligibility standard for that size household by the tenth (10th) day of the month following the month in which the change occurred.

(1) If a household has an increase in its income, it must determine its total gross income at the end of the month. If the total gross income exceeds the household's SNAP gross income eligibility standard, the household must report the change no later than ten (10) days from the end of the calendar month in which the change occurred, provided that the household receives the payment with at least ten (10) days remaining in the month.

(AA) If there are not ten (10) days remaining in the month, the household must report within ten (10) days from receipt of the payment.

(2) Whenever a member of the household wins substantial lottery or gambling winnings.

(AA) Simplified reporting households must report a cash prize won in a single game, before taxes or other amounts withheld, which is equal to or greater than

the elderly and/or disabled resource limit as defined in § 1.5.5 of this Part.

(3) No other change reporting is required during the certification period.

b. A "simplified reporter" household must submit an Interim Report Form in its sixth (6th) month of certification.

B. Public Assistance (PA) Household Changes

1. Households are not required to report changes in the assistance payment grant.

a. Since the agency representative has prior knowledge of all changes in the assistance payment grant, action must be taken on this information.

2. PA households which report a change in circumstances to the PA worker are considered to have reported the change for SNAP purposes.

3. A household must be notified whenever its benefits are altered as a result of changes in the PA benefits.

a. Adequate time for the agency representative to send a notice of expiration and for the household to timely reapply must be allowed.

b. If the PA benefits are terminated but the household is still eligible for SNAP benefits, members of the household must be advised of SNAP work registration requirements, as appropriate.

4. Whenever a change results in the reduction or termination of the household's PA benefits within its SNAP certification period, and the agency representative has sufficient information to determine how the change affects the household's SNAP eligibility and benefit level, the agency representative takes the following actions:

a. If a change in household circumstances requires both a reduction or termination in the PA payment and a reduction or termination in SNAP benefits, the agency representative must issue a notice of adverse action for both the PA and SNAP actions.

(1) If the household requests a hearing within the period provided by the notice of adverse action, the household's

SNAP benefits should be continued on the basis authorized immediately prior to sending the notice.

(AA) If the hearing is requested for both programs' benefits, the hearing is conducted according to PA procedures and timeliness standards.

(BB) However, the household must reapply for SNAP benefits if the SNAP certification period expires before the hearing process is completed.

(CC) If the household does not appeal, the change is made effective in accordance with the procedures specified in this Section.

b. If the household's SNAP benefits are increased as a result of the reduction or termination of PA benefits, the agency representative issues the PA notice of adverse action but does not take any action to increase the household's SNAP benefits until the household decides whether it will appeal the adverse PA action.

(1) If the household decides to appeal and its PA benefits are continued, the household's SNAP benefits may continue at the previous basis.

(2) If the household does not appeal, the agency representative makes the change effective in accordance with the procedures specified in this Part except that the time limits for the agency representative to act on changes which increase a household's benefits are calculated from the date the PA notice of adverse action period expires.

5. Whenever a change results in the termination of a household's PA benefits within its SNAP certification period, and the agency representative does not have sufficient information to determine how the change affects the household's SNAP eligibility and benefit level (such as when a non-custodial parent returns to a household, rendering the household ineligible for public assistance, and the agency representative does not have any information on the income of the new household member), the agency representative does not terminate the household's SNAP benefits but instead takes the following action:

a. If the situation requires a reduction or termination of PA benefits, the agency must issue a request for documentation at the same time it sends a PA notice of adverse action.

b. Before taking further action, the agency must wait until the household's PA notice of adverse action period expires or until the household requests a fair hearing, whichever occurs first.

c. If the household requests a fair hearing and elects to have its PA benefits continued pending the appeal, the agency must continue the household's SNAP benefits at the same level.

d. If the household decides not to request a fair hearing and continuation of its PA benefits, the agency must resume action on the changes.

e. If the situation does not require a PA notice of adverse action, the agency must issue a request for documentation.

(1) Depending on the household's response to the request for documentation, the agency must take appropriate action, if necessary, to close the household's case or adjust the household's benefit amount.

6. When a mass change to public assistance payments is made, corresponding adjustments in households' SNAP benefits are handled as a mass change.

a. When there is at least thirty (30) days advance knowledge of the amount of the public assistance adjustment, SNAP benefits must be recalculated to be effective in the same month as the public assistance change.

b. If there is not sufficient notice, the SNAP change must be effective not later than the month following the month in which the public assistance change was made.

c. A notice of adverse action is not required when a household's SNAP benefits are reduced or terminated as a result of a mass change in the public assistance grant.

(1) However, the agency sends individual notices to such households to inform them of the change.

(2) If a household requests a fair hearing, benefits are continued at the former level only if the issue being appealed is that SNAP eligibility or benefits were improperly computed.

C. Failure to Report Changes

1. If a household failed to report a required change and, as a result, received benefits to which it was not entitled, the agency representative refers a claim of over issuance against the household in accordance with § 1.17 of this Part.

2. Individuals are not terminated for failing to report a change, unless the individual is disqualified in accordance with the intentional program violation disqualification procedures specified in § 1.9 of this Part.

D. Action on Changes

1. The agency is required to take prompt action on all changes of which it becomes aware to determine if the change affects the household's eligibility or allotment.

    a. Exception: during the certification period, the agency representative shall not act on changes in the medical expenses of households eligible for the medical expense deduction if the information comes from a source other than the household and which, in order to take action, require the worker to contact the household for verification.

    b. The agency shall act on those changes that it learns about from a source other than the household if those changes are verified upon receipt and do not necessitate contact with the household.

    c. Restoration of lost benefits is provided to any household if the agency representative fails to take action on a change which increases benefits within the specified time limits.

2. For changes which result in an increase in a household's benefits, the agency representative makes the changes effective no later than the first (1st) allotment issued ten (10) days after the date the change was reported.

    a. However, in no event must these changes take effect any later than the month following the month in which the change is reported.

    b. Therefore, if the change is reported after the twentieth (20th) of the month, and it is too late for the agency representative to adjust the following month's allotment, the agency representative must approve a supplement for the household to obtain the increase in benefits by the tenth (10th) day of the following month, or the household's normal issuance cycle in that month, whichever is later.

c. For changes which result in an increase in a household's benefits and do not require the issuance of a supplementary allotment as required in § 1.18 of this Part, the agency representative makes the change effective no later than with the first (1st) allotment issued ten (10) days after the date the change was reported to the agency.

3. If the household's benefit level decreases or the household becomes ineligible as a result of the change, the agency must issue a notice of adverse action within ten (10) days of the date the change was reported unless one (1) of the exemptions to the notice of adverse action in § 1.14(C) of this Part applies.

   a. When a notice of adverse action is used, the decrease in the benefit level 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.

   b. When a notice of adverse action is not used because one (1) of the exemptions in § 1.14(C) of this Part applies, the decrease must be made effective no later than the month following the change. Required verification must be obtained prior to recertification.

4. When there is an overall adjustment, to public assistance payments, RIW or GPA, corresponding adjustments in the household's SNAP benefits are handled as a mass change.

   a. When the agency has at least thirty (30) days advance knowledge of the amount of the RIW and/or GPA adjustment, the agency makes the change in benefits effective in the same month as the RIW and/or GPA change.

   b. If the agency does not have sufficient notice, the SNAP change is effective no later than the month following the month the RIW and/or GPA change was made.

   c. A notice of adverse action is not required when a household's SNAP benefits are reduced or terminated as a result of a mass change in the RIW and/or GPA grant.

      (1) However, an individual notice is sent to the household informing them of the change.

(2) If a household requests a hearing, benefits are continued at the former level only if the issue being appealed is that SNAP eligibility or benefits were improperly computed.

E. Unclear Information

1. The agency must pursue clarification and verification (if applicable) of household circumstances from which the agency cannot readily determine the effect on the household's continued eligibility for SNAP, or in certain cases, benefit amounts. The agency may receive such unclear information from a third (3rd) party.

   a. Unclear information is information that is not verified but the agency needs additional information to act on the change such as electronic data matches that are not considered to be verified upon receipt.

2. The agency must pursue clarification and verification (if applicable) of household circumstances if unclear information is:

   a. Fewer than sixty (60) days old relative to the current month of participation; and would, if accurate, have been required to be reported under § 1.13.1 of this Part based on the reporting system to which the household has been assigned; or

   b. The information appears to present significantly conflicting information from that used by the agency at the time of certification.

3. The agency shall issue a written request for documentation that advised the household of the verification it must provide or the actions it must take to clarify its circumstances, which affords the household at least ten (10) days to respond.

   a. If the household does not respond, or does respond but refuses to provide sufficient information to clarify its circumstances, the agency must issue a notice of adverse action as described in § 1.14 of this Part indicating that the case will close, and the household will need to submit a new application in order to continue participating in the program.

   b. If the household responds to the request for documentation and provides sufficient information, the agency must act on the new circumstances.

c. If the unclear information does not meet the criteria in §§ 1.13.1(E)(1)(a) and 1.13.1(E)(2)(a) of this Part, then the agency shall not act on the information or require the household to provide information until the household's next certification action or interim report form is due.

4. Unclear information resulting from certain data matches:

a. If the agency receives match information from an electronic data source, that agency shall notify the household of the match results. The notice shall explain what information is needed from the household and the consequences for failing to respond to the notice.

b. For households subject to change reporting, if the household fails to respond to the notice of match results or does respond but refused to supply sufficient information to clarify its circumstances, the agency shall issue a notice of adverse action that closes the case.

c. For households not subject to change reporting, if the household fails to respond to the notice of match results or does not respond but refused to provide sufficient information to clarify its circumstances, the agency shall remove the subject individual and the individual's income from the household and adjust benefits accordingly.

1.13.2 Interim Reporting

A. All SNAP households are subject to Interim reporting requirements, with the exception of the following households:

1. Households with no earnings and in which all members are elderly or disabled; and

2. Households which include migrant and seasonal farmworkers.

B. Household composition and financial circumstances at the time of application will be the basis of the SNAP benefit amount for the first (1st) half of the certification period unless the household reports a change during the certification period before the Interim Report period.

1. The household composition and financial circumstances reported on the Interim Report will be the basis of the SNAP benefit amount for the

remainder of the certification period unless the household reports additional changes following the filing of the Interim Report.

2. In the fifth (5th) month of certification, households subject to interim reporting will receive an Interim Report Form in the mail.

3. Households must complete the form in its entirety and mail the form along with the required verifications back to the agency by the fifth (5th) day of the sixth (6th) month of certification.

    a. A household that submits an Interim Report by the fifth (5th) day of the sixth (6th) month of the certification period is considered to have made timely report.

    b. Failure to return the Interim Report Form will result in closure of SNAP benefits.

    c. An application can be accepted in lieu of an Interim Report Form if it is received in the month the Interim Report is due, or the following month.

        (1) If an application in lieu of an Interim Report is used to reinstate benefits, an interview is not required, and all verification rules applicable to Interim Report processing instead of application processing apply.

4. If a household fails to return the Interim Report Form by the fifth (5th) day of the sixth (6th) month of the certification period, the agency must send a warning notice to the household.

    a. The household will have ten (10) days from the mail date to return the Interim Report Form, along with all of the necessary verifications or the case will close by the end of the sixth (6th) month of the household's certification period.

5. An Interim Report form is incomplete if:

    a. The case name, head of household, responsible household member or authorized representative has not signed the form;

    b. The household fails to submit verification of changes in earned income, changes in unearned income, or residency; or

    c. The household fails to provide information needed to determine eligibility or benefit level.

6. If an eligible household files a complete interim report after the case has been closed, but before the end of the report month (month in which the report is due), the agency shall reopen the case without requiring the household to file an application and shall approve benefits no later than ten (10) days after the household normally receives benefits.

7. If a household files a complete interim report after the end of the report month but before the end of the month following the month in which it was due, the agency shall reinstate assistance, and if otherwise eligible, approve benefits within thirty (30) days from the date the interim report is received.

8. In order to determine eligibility for the second (2nd) half of the household's certification period, the household must supply the following information:

    a. Changes of more than one hundred dollars ($100.00) in unearned income (excluding changes in public assistance or general assistance programs when jointly processed with SNAP cases);

    b. Changes in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;

    c. Changes in wage rate or salary, or change in full-time or part-time employment status (as determined by the employer);

    d. Changes in household composition;

    e. Changes in residence and resulting changes in shelter costs;

    f. Acquisition of a non-excludable vehicle;

    g. Resources that reach or exceed two thousand two hundred fifty dollars ($2,250.00) or three thousand five hundred dollars ($3,500.00) if a household includes a member who is age sixty (60) or over, or is disabled unless the household is categorically eligible as defined in § 1.5.1 of this Part; and

    h. Changes in legally obligated child support payments;

    i. Whenever a member of the household wins substantial lottery or gambling winnings.

        (1) Any household, including non-elderly/disabled households, must report a cash prize won in a single game, before taxes

or other amounts withheld, which is equal to or greater than the maximum allowable elderly and/or disabled resource limit as defined in § 1.5.5 of this Part.

9. If verification of changes in earned or unearned income is not provided, benefits shall be terminated.

    a. If the household fails to provide sufficient information or verification regarding a deductible expense (dependent care, shelter, medical or child support expenses) the following applies:

        (1) A notice requesting verification is issued and if the household does not respond within the ten (10) day timeframe with required documentation to support the change, the case continues to be processed.

            (AA) If this occurs, the household must be notified that a deduction or deductions were not allowed since verification was not provided, and that benefits will be redetermined if the verification is subsequently provided.

            (BB) If there is an existing verified deduction in the case record for the certification period under review, the agency uses such verified deduction in the calculation of benefits for reported increases that are not verified.

            (CC) Reports of a decrease in a deductible expense can be changed without verification by the client.

1.14 Notices

A. Notice for Mass Changes

1. When the agency makes a mass change in SNAP eligibility or benefits, it must notify all households whose benefits are reduced or terminated.

    a. The agency must notify the household of the mass change on the date the household is scheduled to receive the allotment which has been changed.

    b. The agency must notify the household of the mass change as much before the household's scheduled issuance date as reasonably possible, although the notice need not be given any earlier than the time required for advance notice of adverse action.

c. The household is entitled to request a fair hearing when it is aggrieved by the mass change.

(1) A household which requests a fair hearing due to a mass change is entitled to continued benefits at its previous level only if the household meets three (3) criteria:

(AA) The household does not specifically waive its right to a continuation of benefits;

(BB) The household requests a fair hearing in accordance with § 1.22 of this Part; and

(CC) The household's fair hearing is based upon improper computation of SNAP eligibility or benefits, or upon misapplication or misinterpretation of Federal law or regulation.

B. Notice of Adverse Action

1. Prior to any action to reduce or terminate a household's benefits within the certification period, the agency must, except as provided in § 1.14(C) of this Part, provide the household timely and adequate advance notice before the adverse action is taken.

2. The notice of adverse action is considered adequate if it explains in easily understandable language:

a. The proposed action;

b. The reason for the proposed action;

c. The household's right to request a fair hearing;

d. The telephone number to contact for additional information;

e. The availability of continued benefits;

f. The liability of the household for any over issuances received while awaiting a fair hearing decision if such decision is adverse to the household; and,

g. The availability of free legal representation.

3. The notice of adverse action is considered timely if the advance notice period conforms to the adequate notice period of the public assistance

caseload, provided that the period includes at least ten (10) days from the date the notice is mailed to the date upon which the action becomes effective.

a. If the adverse notice period ends on a weekend or holiday, and a request for a fair hearing and continuation of benefits is received the day after the weekend or holiday, the request must be considered timely received.

4. The agency representative may notify a household that its benefits will be reduced or terminated, no later than the date the household receives, or would have received, its allotment, if the following conditions are met:

a. The household reports the information which results in the reduction or termination;

b. The reported information is in writing and signed by the household;

c. Based solely upon the household's written information, the agency representative can determine the household's allotment or ineligibility;

d. The household retains its right to a fair hearing.

e. The household retains its right to continued benefits by requesting a fair hearing within the time period provided by the notice of adverse action.

(1) The agency representative continues or reinstates the household's previous benefit level, if required, within five (5) working days of the household's request for a fair hearing.

C. Exemptions from Notice Requirements

1. Individual notices of adverse action are not provided in the following situations:

a. Mass Change

b. Notice of Death: The agency representative determines, based on reliable information that all members of a household have died.

c. Move from Project Area: The agency representative determines, based on reliable information that the household has moved from the state.

(1) The agency shall inform the household of its termination no later than its next scheduled issuance date.

(2) The agency shall not delay terminating the household's participation in order to provide advanced notice.

d. Completion of Restoration of Lost Benefits: The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified, in writing, when the increased allotment would terminate.

e. Anticipated Changes in the Monthly Allotment: The household's allotment 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 so notified at the time of certification.

f. Benefit Reduction Upon Approval of the Household's RIW/GPA Application: The household jointly applied for RIW/GPA and SNAP benefits and has been receiving SNAP benefits pending the approval of the RIW/GPA grant and was notified at the time of certification that SNAP benefits would be reduced upon approval of the RIW/GPA grant.

g. Disqualification for Intentional Program Violation: A household member is disqualified for intentional program violation, in accordance with § 1.9 of this Part or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member.

(1) A notice must be sent to a currently participating household prior to a reduction or termination of benefits if a household member is found through a disqualified recipient match to be within the period of disqualification for an intentional program violation penalty determined in another state.

(2) The notice requirements for individuals or households affected by intentional program violation disqualifications are explained in § 1.9 of this Part.

h. Expedited Service Approvals with Postponed Verification: The agency has assigned a longer certification period to a household certified on an expedited basis and the household has received written notice that the receipt of benefits beyond the month of application is contingent on its providing verification which was

initially postponed and that the agency may act on the verified information without further notice.

i. Conversion from Cash/SNAP Repayment to Benefit Reduction: Converting a household from cash and/or SNAP repayment to benefit reduction as a result of failure to make agreed-upon repayment, as discussed in § 1.17.1 of this Part.

j. Resident of Drug/Alcoholic Treatment Center or Group Living Arrangement: The agency is terminating the eligibility of a resident of a drug or alcoholic treatment center or a group living arrangement if the facility loses either its certification from the BHDDH or has its status as an authorized representative suspended due to disqualification as a retailer by FNS.

(1) However, residents of group living arrangements applying on their own behalf are still eligible to participate.

k. Household Request: The household voluntarily requests, in writing or in the presence of an agency representative, that its participation be terminated.

(1) If the household does not provide a written request, the agency must send the household a letter confirming the voluntary withdrawal.

(2) Written confirmation does not entail the same rights as a notice of adverse action except that the household may request a fair hearing.

l. Previous Notification Received Regarding Collection of a Claim: The agency initiates recoupment of a claim against a household which has previously received a notice of adverse action with respect to such claim.

1.15 Determining Household Eligibility and Benefit Levels

A. The income considered is that received over the period of certification.

1. As this is generally a future period, the income considered is usually that anticipated by the household.

2. Households that contain an elderly or disabled member must meet the net income eligibility standards for the Supplemental Nutrition Assistance Program.

3. Households that do not contain an elderly or disabled member must meet both the gross income eligibility standards and the net income eligibility standards for the Supplemental Nutrition Assistance Program.

4. Households that are categorically eligible because they are recipients of RIW cash assistance and/or SSI do not have to meet either the gross or net income eligibility standards.

5. The gross and net income eligibility standards are based on the Federal income poverty levels.

6. SNAP-only categorically eligible households that are recipients of a TANF-funded Service (the RI Department of Human Services TANF Information Publication) must meet the one hundred eighty-five percent (185%) gross income standard solely to determine eligibility for expanded categorical eligibility and must meet the net income standards in order to determine benefit amount.

    a. One (1) and two (2) person households that are categorically eligible do not have to meet the net income standard in order to be eligible for the minimum monthly benefit of sixteen dollars ($16.00).

7. The gross income eligibility standards for the Supplemental Nutrition Assistance Program for the contiguous forty-eight (48) states, the District of Columbia, the Virgin Islands and Guam is one hundred thirty percent (130%) of the Federal income poverty level.

8. The net income eligibility standards for the Supplemental Nutrition Assistance Program for the contiguous forty-eight (48) states, the District of Columbia, the Virgin Islands and Guam is one hundred percent (100%) of the Federal income poverty level.

9. The income eligibility limits are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the forty-eight (48) contiguous states and the District of Columbia.

10. The annual income poverty guidelines are divided by twelve (12) to determine the monthly gross income standards, rounding the results upward as necessary.

    a. For households greater than eight (8) persons, the increment in the Federal income poverty guidelines is multiplied by appropriate Federal poverty level percentage, divided by twelve (12), and the results rounded upward, if necessary.

B. Most households have the eligibility determination based on circumstances for the entire calendar month in which the household filed its application.

1. A household's eligibility is determined for the month of application by considering the household's circumstances for the entire month of application.

2. Applicant households, consisting of residents of a public institution who apply jointly for SSI and SNAP benefits prior to release from the public institution, have their eligibility determined for the month in which the applicant household is released from the institution.

C. Rounding Technique for Calculating Income

1. In calculating net monthly income, each income information entry is rounded to a whole dollar amount by rounding down for each income entry that ends in one (1) through forty-nine (49) cents and rounding up for each income entry that ends in fifty (50) through ninety-nine (99) cents.

2. Any cents in gross weekly earnings are rounded to the nearest dollar after converting the weekly figure to the monthly figure.

a. However, shelter expenses and medical costs are not rounded until totaled.

D. Method for Figuring Net Monthly Income

1. The following seven (7) steps lead to the determination of a household's SNAP monthly income:

a. Total Gross Income

(1) Add the total gross monthly earned income of all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income.

(2) Net losses from the self-employment of a farmer are offset in accordance with § 1.5.4 of this Part.

b. Monthly Net Adjusted Income

(1) Calculate the earned income deduction as described in § 1.5.7 of this Part and subtract that amount from the total gross earned income;

(2) Add that to the total monthly unearned income, minus income exclusions.

c. Standard Deduction

Subtract the standard deduction found in § 1.5.7 of this Part.

d. Excess Medical Deduction

(1) If the household is entitled to an excess medical deduction as provided in § 1.5.7 of this Part determine if total medical expenses exceed thirty-five dollars ($35.00).

(2) If so, deduct the Standard Medical Deduction of one hundred forty-one dollars ($141.00).

(3) If the household has medical expenses that exceed one hundred seventy-six dollars ($176.00) and it elects to verify actual expenses, subtract that portion of medical expenses in excess of thirty-five dollars ($35.00).

e. Dependent Care Deduction

Subtract monthly dependent care expenses, if any.

f. Determining Any Excess Shelter Expense

(1) Add allowable shelter expenses to determine total shelter costs.

(2) Subtract from total shelter costs fifty percent (50%) of the adjusted income (the household's monthly income after all the above deductions have been subtracted).

(3) The remaining amount, if any, is the excess shelter expense. If there is no excess shelter expense, the net monthly income has been determined.

(4) If there is an excess shelter expense, go to the next step.

g. Applying Any Excess Shelter Expense

(1) Subtract the excess shelter expense up to the maximum amount allowed (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other deductions.

(2) For households not subject to a shelter maximum, subtract the full amount of shelter expenses exceeding fifty percent (50%) of net income.

(3) The result is the household's net monthly income.

E. Gross and Net Income Eligibility Standards

1. The gross or net income eligibility standards for the household size are used to determine the household's eligibility according to the characteristics of the household.

a. Non-Categorically Eligible Households (does not apply to households with elderly or disabled members).

(1) Compare the total gross monthly income of the household to the one hundred thirty percent (130%) maximum gross monthly income limit for the appropriate household size ending FY 2020 on September 30, 2020, and beginning FY 2021 on October 1, 2020, as indicated in Table I, below;

(2) Compare the total net monthly income of the household (after appropriate deductions) to the maximum net monthly income limit for the appropriate household size ending FY 2020 on September 30, 2020 and beginning FY 2021 on October 1, 2020, as indicated in Table II, below.

b. Households Categorically Eligible due to receipt of a TANF-funded Service

(1) If the household's gross income is at or below one hundred eighty five percent (185%) of the gross income limit as indicted for FY 2020 and FY 2021 in Table IV, the household meets the criteria for categorical eligibility and is not subject to a resource test.

(2) The agency calculates the household's total net monthly income and then compares the total net monthly income of the household (after appropriate deductions) to the maximum net monthly income limit for the appropriate household size in Table II below to determine eligibility for SNAP benefits.

c. Households Containing a Member(s) Who Is Elderly or Disabled, or a Disabled Veteran or Surviving Disabled Spouse/Child(ren) of a

Veteran, Same household status (An elderly or disabled person/spouse is considered a household member)

(1) Compare the adjusted net monthly SNAP income of the household, to the maximum net monthly income limits for the appropriate household size in Table II, below.

(2) Separate household status (An elderly and disabled person/spouse is not considered a household member).

(3) Compare the gross monthly income of all other members in the household to the one hundred sixty-five percent (165%) maximum gross monthly income limit for the appropriate household size for FY 2020 and for FY 2021, as indicated in Table III, below.

d. Elderly/Disabled Not Categorically Eligible Due to Receipt of a TANF-Funded Service

(1) Compare the total gross monthly income of the household to the two hundred percent (200%) gross monthly income limit for the appropriate household size for FY 2020 and FY 2021, as indicated in Table V, below.

(2) If the household's gross income is over two hundred percent (200%) of the gross income limit, Table V, the household does not meet the criteria for categorical eligibility and is subject to a resource test.

(3) The agency then compares the total net monthly income of the household (after appropriate deductions) to the maximum net monthly income limit for the appropriate household size in Table II below to determine eligibility for SNAP benefits.

e. Elderly/Disabled Categorically Eligible Due to Receipt of a TANF-Funded Service

(1) If the household's gross income is at or below two hundred percent (200%) of the gross income limit, Table V, the household meets the criteria for categorical eligibility and is not subject to a resource test.

(2) The agency then compares the total net monthly income of the household (after appropriate deductions) to the

maximum net monthly income limit for the appropriate household size in Table II below in order to determine eligibility for SNAP benefits.

TABLE I – 130% LIMIT-GROSS MONTHLY INCOME LIMIT					
HOUSEHOLD SIZE	MAXIMUM GROSS MONTHLY INCOME FY 2020	MAXIMUM GROSS MONTHLY INCOME FY 2021	HOUSEHOLD SIZE	MAXIMUM GROSS MONTHLY INCOME FY 2020	MAXIMUM GROSS MONTHLY INCOME FY 2021
1	$1,354.00	$1,383.00	9	$5,184.00	$5,266.00
2	$1,832.00	$1,868.00	10	$5,663.00	$5,752.00
3	$2,311.00	$2353.00	11	$6,142.00	$6,238.00
4	$2,790.00	$2,839.00	12	$6,621.00	$6,724.00
5	$3,269.00	$3,324.00	13	$7,100.00	$7,210.00
6	$3,748.00	$3,809.00	14	$7,579.00	$7,696.00
7	$4,227.00	$4,295.00	15	$8,058.00	$8,182.00
8	$4,705.00	$4,780.00	16	$8,537.00	$8,668.00
+ For each additional member over sixteen (16), add four hundred seventy-nine dollars ($479.00) until September 2020, and four hundred eighty-six dollars ($486.00) beginning October 1, 2020					

TABLE II – 100% LIMIT-NET MONTHLY INCOME LIMIT					
HOUSEHOLD SIZE	MAXIMUM NET MONTHLY INCOME	MAXIMUM NET MONTHLY INCOME	HOUSEHOLD SIZE	MAXIMUM NET MONTHLY INCOME	MAXIMUM NET MONTHLY INCOME

	FY 2020	FY 2021		FY 2020	FY 2021
1	$1,041.00	$1,064.00	9	$3,989.00	$4,051.00
2	$1,410.00	$1,437.00	10	$4,358.00	$4,425.00
3	$1,778.00	$1,810.00	11	$4,727.00	$4,799.00
4	$2,146.00	$2,184.00	12	$5,096.00	$5,173.00
5	$2,515.00	$2,557.00	13	$5,465.00	$5,547.00
6	$2,883.00	$2,930.00	14	$5,834.00	$5,921.00
7	$3,251.00	$3,304.00	15	$6,203.00	$6,295.00
8	$3,620.00	$3,677.00	16	$6,572.00	$6,669.00
+ For each additional member over sixteen (16), add three hundred sixty-nine dollars ($369.00) until September 2020, and three hundred seventy-four dollars ($374.00) beginning October 1, 2020					

TABLE III – 165% LIMIT-GROSS MONTHLY INCOME LIMIT					
HOUSEHOLD SIZE	MAXIMUM GROSS MONTHLY INCOME FY 2020	MAXIMUM GROSS MONTHLY INCOME FY 2021	HOUSEHOLD SIZE	MAXIMUM GROSS MONTHLY INCOME FY 2020	MAXIMUM GROSS MONTHLY INCOME FY 2021
1	$1,718.00	$1,755.00	9	$6,580.00	$6,683.00
2	$2,326.00	$2,371.00	10	$7188.00	$7,299.00
3	$2,933.00	$2,987.00	11	$7796.00	$7,915.00

4	$3,541.00	$3,603.00	12	$8,404.00	$8,531.00
5	$4,149.00	$4,219.00	13	$9,012.00	$9,147.00
6	$4,757.00	$4,835.00	14	$9.620.00	$9,763.00
7	$5,364.00	$5,451.00	15	$10,228.00	$10,379.00
8	$5,972.00	$6,067.00	16	$10,836.00	$10,995.00
+ For each additional member over sixteen (16), add six hundred eight dollars ($608.00) until September 2020, and six hundred sixteen dollars ($616.00) beginning October 1, 2020					

TABLE IV – 185% LIMIT-GROSS MONTHLY INCOME LIMIT					
HOUSEHOLD SIZE	MAXIMUM GROSS MONTHLY INCOME FY 2020	MAXIMUM GROSS MONTHLY INCOME FY 2021	HOUSEHOLD SIZE	MAXIMUM GROSS MONTHLY INCOME FY 2020	MAXIMUM GROSS MONTHLY INCOME FY 2021
1	$1,926.00	$1,968.00	9	$7,379.00	$7,494.00
2	$2,607.00	$2,658.00	10	$8,062.00	$8,186.00
3	$3,289.00	$3,349.00	11	$8,745.00	$8,878.00
4	$3,970.00	$4,040.00	12	$9,428.00	$9,570.00
5	$4,652.00	$4,730.00	13	$10,111.00	$10,262.00
6	$5,333.00	$5,421.00	14	$10,794.00	$10,954.00
7	$6,015.00	$6,112.00	15	$11,477.00	$11,646.00

8	$6,696.00	$6,802.00	16	$12,160.00	$12,338.00
+ For each additional member over sixteen (16), add six hundred eighty-three dollars ($683.00) until September 2020, and six hundred ninety-two dollars ($692.00) beginning October 1, 2020					

TABLE V– 200% LIMIT-GROSS MONTHLY INCOME LIMIT					
HOUSEHOLD SIZE	MAXIMUM GROSS MONTHLY INCOME FY 2020	MAXIMUM GROSS MONTHLY INCOME FY 2021	HOUSEHOLD SIZE	MAXIMUM GROSS MONTHLY INCOME FY 2020	MAXIMUM GROSS MONTHLY INCOME FY 2021
1	$2,082.00	$2,128.00	9	$7,977.00	$8,102.00
2	$2,819.00	$2,874.00	10	$8,715.00	$8,850.00
3	$3,555.00	$3,620.00	11	$9,453.00	$9,598.00
4	$4,292.00	$4,368.00	12	$10,191.00	$10,346.00
5	$5,029.00	$5,114.00	13	$10,929.00	$11,094.00
6	$5,765.00	$5,860.00	14	$11,667.00	$11,842.00
7	$6,502.00	$6,608.00	15	$12,405.00	$12,590.00
8	$7,239.00	$7,354.00	16	$13,143.00	$13,338.00
+ For each additional member over sixteen (16), add seven hundred thirty-eight dollars ($738.00) until September 2020, and seven hundred forty-eight dollars ($748.00) beginning October 1, 2020					

2. When a household's circumstances changes, and it becomes entitled to a different income eligibility standard, the agency representative applies the different standard at the next recertification or when there is a change in

the household's eligibility, benefit level or certification period, whichever occurs first.

1.15.1 Benefit Calculation and Allotments

A. Initial Month's Benefit Level

1. A household's benefit level for the initial month of certification is based on the day of the month it applies for benefits.

   a. A household applying for benefits on or before the fifteenth (15th) of the month receives benefits pro-rated from the day of application to the end of the month.

   b. A household applying after the fifteenth (15th) of the month receives benefits pro-rated from the application date to the end of the month plus benefits for the first (1st) full month of participation in a combined allotment.

   c. The term "initial month" means:

      (1) The first (1st) month for which an allotment is issued to a household,

      (2) The first (1st) month for which an allotment is issued to a household following any period in which such household was not participating in the SNAP after the expiration of a certification period or after termination of the certification of a household during its certification period, when the household became ineligible after notice and opportunity for hearing, and

      (3) In the case of a migrant or seasonal farmworker household, the first (1st) month for which such a household is certified for participation in the SNAP following any period of more than thirty (30) days during which the household was not certified for participation.

      (4) Allotments are based on a standard thirty (30) day calendar month.

         (AA) Therefore, a household applying on the thirty-first (31st) of a month is treated as though it applied on the thirtieth (30th) day of the month.

2. For a household applying for SSI and SNAP benefits prior to release from a public institution, the benefit level for the initial month of certification is based on the date of the month the household is released from the institution.

    a. The household receives benefits pro-rated from the date of release from the institution to the end of the month, if the date of release is on or before the fifteenth (15th) of the month.

    b. If the release date is after the fifteenth (15th), a combined allotment of the pro-rated initial month's and first (1st) full month's benefits are issued.

B. Anticipated Changes

1. Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the subsequent month.

    a. The household is entitled to benefits for the month of application even if the processing of its application results in the benefits being issued in the subsequent month.

    b. Similarly, a household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances.

        (1) Even though denied for the month of application, the household does not have to reapply in the subsequent month.

        (2) The same application shall be used for the denial for the month of application and the determination of eligibility for subsequent months, within the timeliness standards in § 1.3.8 of this Part.

    c. As a result of anticipating changes, the household's allotment for the month of application may differ from its allotment in subsequent months.

        (1) The agency representative establishes a certification period for the longest possible period over which changes in the household's circumstances can be reasonably anticipated.

(2) The household's allotment varies from month-to-month at the time of certification, unless the household elects the averaging techniques in § 1.6.8 of this Part.

C. Pro-rating Allotments for the Initial Month

1. The amount of SNAP benefits which a household receives monthly is determined by subtracting thirty percent (30%) of the household's net monthly income from the Maximum SNAP Benefit Allotment amount for the appropriate household size, or by using the Basis of Issuance Tables.

a. Normally, the household receives that full monthly allotment throughout its certification period.

b. However, during the initial month, the household may only be entitled to a partial allotment.

c. SNAP benefits are reduced in proportion to the number of days from the date of application until the end of the month.

d. In the case of migrant and seasonal farmworker households, the term “initial month” means the first (1st) month for which the household is certified for participation in the SNAP following any period of more than one (1) month during which the household was not certified for participation.

e. For a household that has not previously participated in the Supplemental Nutrition Assistance Program the first (1st) month for which benefits are issued is the initial month.

f. For a household that has participated in the Supplemental Nutrition Assistance Program, the initial month is the first (1st) month for which an allotment is issued following a period during which the household was not certified for participation, provided that the household did not have an application pending.

g. Whether the household receives the full monthly allotment or a pro-rated amount, its eligibility and allotment are still determined in the usual way by considering all the income and resources available to the household for the month.

2. Standard Thirty (30) Day Month

Rhode Island has elected to average months with twenty-eight (28), twenty-nine (29), and thirty-one (31) days and consider that each calendar or fiscal month has a standard thirty (30) days.

3. Using the standard thirty (30) day calendar or fiscal month, the initial month benefits can also be pro-rated by using the following formula, keeping in mind that the date of application for someone applying on the thirty-first (31st) of the month is the thirtieth (30th):

   a. Full month's benefits x (thirty-one (31) minus date of application) = pro-rated thirty (30) day allotment.

   b. The sequence for calculation of the formula is:

      (1) Subtract the date of application from thirty-one (31);

      (2) Multiply the result of the subtraction by the full monthly allotment;

      (3) Divide the product of the multiplication by thirty (30); and

      (4) Round down, if necessary.

   c. If a household's monthly allotment is more than nine hundred dollars ($900.00), the highest number shown in the tables, calculate the pro-rated amount by multiplying the full monthly allotment by the factor (shown below) appropriate to the application date, and round the product down to the nearest whole dollar if the allotment ends in one (1) through ninety-nine (99) cents.

      (1) If the computation results in an allotment of less than ten dollars ($10.00), round down to zero dollars ($0.00). The multiplication factors are:

DATE OF APPLICATION	MULTIPLICATION FACTOR	DATE OF APPLICATION	MULTIPLICATION FACTOR
1	1.0000	16	.5000
2	.9667	17	.4667
3	.9334	18	.4334

4	.9000	19	.4000
5	.8667	20	.3667
6	.8334	21	.3334
7	.8000	22	.3000
8	.7667	23	.2667
9	.7334	24	.2334
10	.7000	25	.2000
11	.6667	26	.1667
12	.6334	27	.1334
13	.6000	28	.1000
14	.5667	29	.0667
15	.5334	30	.0334

(2) When using the above formula for determining the pro-rated allotment, round the product down to the nearest lower whole dollar if it ends in one (1) through ninety-nine (99) cents.

(3) If the computation results in an allotment of less than ten dollars ($10.00), round it down to zero dollars ($0.00) and no issuance is made for the initial month.

D. Calculating SNAP Allotments

1. The Maximum SNAP Allotments are based on the Thrifty Food Plan as developed by the U.S. Department of Agriculture and are uniform by household size.

2. Except for eligible households whose benefits are pro-rated for the initial month, a household's monthly allotment is equal to the Maximum SNAP

Allotment for the household's size reduced by thirty percent (30%) of the household's net monthly income.

3. After multiplying the net income by thirty percent (30%), the product is rounded up to the next whole dollar prior to subtracting that amount from the Maximum SNAP Allotment.

4. If the calculation of benefits for an initial month would yield an allotment of less than ten dollars ($10.00) for the household, no benefits shall be issued to the household for the initial month.

    a. For an eligible household, with three (3) or more members that is entitled to no benefits in months other than the initial month, the agency representative denies the household's application on the grounds that its net income exceeds the level at which benefits are issued.

        (1) For an eligible household with three (3) or more members which is entitled to no benefits (except because of the proration requirements and the provision precluding issuances of less than ten dollars ($10.00) in an initial month of this Section), the agency shall deny the household's application on the grounds that its net income exceeds the level at which benefits are issued.

    b. For an eligible household that is entitled to no benefits in the initial month of application but is entitled to benefits in subsequent months, the agency representative certifies the household beginning with the month of application.

    c. Except during an initial month, all eligible one (1) and two (2) person households shall receive minimum monthly allotments equal to the minimum benefit of sixteen dollars ($16.00).

    d. The benefit level may be determined from the basis of issuance table that follows:

HOUSEHOLD SIZE	MAXIMUM SNAP ALLOTTMENT FY 2020	MAXIMUM SNAP ALLOTTMENT FY 2021	HOUSEHOLD SIZE	MAXIMUM SNAP ALLOTTMENT MONTHLY INCOME FY 2020	MAXIMUM SNAP ALLOTTMENT FY 2021

1	$194.00	$204.00	9	$1,310.00	$1,377.00
2	$355.00	$374.00	10	$1,456.00	$1,530.00
3	$509.00	$535.00	11	$1,602.00	$1,683.00
4	$646.00	$680.00	12	$1,748.00	$1,836.00
5	$768.00	$807.00	13	$1,894.00	$1,989.00
6	$921.00	$969.00	14	$2,040.00	$2,142.00
7	$1,018.00	$1,071.00	15	$2,186.00	$2,295.00
8	$1,164.00	$1,224.00	16	$2,332.00	$2,448.00
+ For each additional member over sixteen (16), add one hundred forty-six dollars ($146.00) until September 2020, and one hundred fifty-three dollars ($153.00) beginning October 1, 2020					

1.16 Electronic Benefit Transfer (EBT)

A. Electronic Benefit Transfer (EBT) is an electronic system which allows recipients to authorize transfer of their SNAP benefits from an EBT account to a retailer account to pay for food products.

1. Eligible SNAP households access their EBT SNAP benefits by using a plastic RI EBT card along with a personal identification number (PIN) at point of sale (POS) terminals that display the NYCE or QUEST logos.

a. In order to use an RI EBT card, the cardholder must also use a secret four (4) digit number known as a personal identification number or PIN.

(1) The cardholder selects a PIN by calling the Rhode Island Customer Service Line at 1-888-979-9939.

(2) When using an RI EBT card, the cardholder is allowed four (4) attempts to enter the correct PIN.

(AA) On the fifth (5th) try, the cardholder is locked out of the EBT system until the next day.

(BB) However, the card is not confiscated. Cardholders must call the Rhode Island Customer Service Line at 1-888-979-9939 for assistance.

b. Electronically, the processor verifies the PIN and the account balance and sends an authorization or denial back to the retailer.

c. If approved, the recipient's account is then debited for the amount of the purchase.

d. No fee is charged when SNAP benefits are accessed at POS terminals and no limit is placed on the number of POS transactions in a month.

2. Recipients who receive both RI Works (RIW) cash benefits and SNAP benefits receive one (1) RI EBT card to access both benefits however, the benefits are maintained in separate EBT accounts.

~~a. However, the benefits are maintained in separate EBT accounts.~~

3. In two (2) parent families, a card is issued to one (1) parent and another card may be issued to the other parent as an authorized representative.

4. RI EBT cards are issued in all DHS offices.

5. Benefits are issued on the first (1st) of each month and are accessible beginning at 5:00 a.m. on that date with no weekend or holiday delays.

6. The amount of SNAP benefits for which a household is eligible is calculated pursuant to policies set forth in in this manual.

a. Disputes regarding the amount of SNAP benefits for which a household is eligible are handled pursuant to policies in DHS General Provisions Manual.

b. Disputes regarding recipients' EBT SNAP account balances are handled by the Rhode Island Customer Service Line at 1-888-979-9939.

(1) The Help Line is open twenty-four (24) hours a day, seven (7) days a week and cardholders can view their SNAP benefit balance and prior transactions online at www.ebtedge.com.

7 SNAP EBT benefits which are accessed through the use of a RI EBT card and personal identification number (PIN) are not replaced.

a. It is the responsibility of the recipient or authorized representative to keep the RI EBT card and PIN safe from unauthorized use and to immediately report lost or stolen cards to the Rhode Island Customer Service Line at 1-888-979-9939.

b. The customer service representative changes the status of the card from "valid" to "lost" or "stolen" thereby protecting any unused benefits.

B. Conversion of EBT SNAP Benefits

1. The Department has received a waiver from the Food and Nutrition Service to convert EBT SNAP benefits to cash when a recipient moves out of Rhode Island to a State which has not implemented an EBT system or to an EBT State where the RI EBT card is not valid.

2. EBT SNAP benefits are accessible in all states in the United States.

3. Conversion to a cash authorization is performed through the eligibility system link with the E-FUNDS EDGE EBT system and is completed within three (3) days of the request.

C. Lost, Stolen, or Damaged EBT Cards

1. Cardholders must report lost, stolen, or damaged RI EBT cards to the Rhode Island Customer Service Line at 1-888-979-9939.

a. The Customer Service Representative invalidates the card thereby protecting the unused benefit amounts. If someone uses the card before its status has been changed, the benefits cannot be replaced.

b. No fee is charged for the replacement of any lost, stolen, or damaged RI EBT card.

2. Cardholders may request a new card by completing request for replacement form or contacting a DHS field office.

a. Arrival of the card should be within three to five (3-5) business days.

b. In certain circumstances, an EBT card may be provided at the local SNAP office.

(1) The DHS agency representative is responsible for determining the instances when it is necessary to provide an EBT card at the office.

(2) Circumstances that are beyond a household member's control and necessitate an in-office issuance of an EBT card include:

(AA) A catastrophe caused by fire, flood, or a severe weather condition.

(BB) Lost or stolen mail confirmed by the Postal Service;

(CC) Unanticipated household emergency or theft;

(DD) Domestic violence situation;

(EE) Homelessness

c. Cardholders who request five (5) or more replacement EBT cards within a twelve (12) month period will be required to contact the Department prior to the release of the fifth (5th) or more card to explain the reason(s) for excessive replacements. After contact with DHS staff, a referral may be made to the Office of Internal Audit, Fraud Detection and Prevention for investigation of misuse or abuse of the EBT card, provided there are no other extenuating circumstances. A referral to the Office of Internal Audit, Fraud Detection and Prevention Unit will be made if no contact is initiated by a requesting household within thirty (30) days of the replacement card request.

(1) Replacement cards are counted according to those issued collectively within a case, not according to those issued per individual(s).

(2) Documented violations may result in one (1) or more of the following actions:

(AA) Disqualification from the program (See § 1.9 of this Part for more information about disqualification relating to trafficking);

(BB) Recovery through recoupment/restitution (See §§ 1.17 and 1.17.1 of this Part for policy relating to

establishing and collecting claims against households); and/or

(CC) Referral for criminal prosecution.

(3) In all cases, the agency shall act to protect households containing homeless persons, elderly or disabled members, victims of crimes, and other vulnerable persons who may lose EBT cards but are not committing fraud.

D. EBT Cards for Authorized Representatives

1. An authorized representative is a person given permission by the recipient to conduct SNAP transactions on behalf of the SNAP household.

2. In households with an authorized representative, the recipient receives an EBT card and the authorized representative is issued a separate EBT card and personal identification number (PIN).

3. If the same individual is acting as both an authorized payee for the family's RIW cash benefits and as an authorized representative for the household's SNAP benefits, only one (1) EBT card is issued.

4. Recipients may cancel their authorized representative/authorized payee at any time by calling the Rhode Island Customer Service Line at 1-888-979-9939.

a. Customer Service immediately cancels the authorized representative's/authorized payee's access to the household's benefits. However, recipients retain uninterrupted access to their benefits.

E. Inactive EBT SNAP ~~Benefit~~ Accounts and Expungement of Benefits

1. ~~When~~ EBT SNAP benefit~~s~~ that have ~~not~~ been inactive ~~accessed~~ for a period of ~~one (1) year~~ nine (9) months~~, the EBT SNAP benefits are~~ shall be permanently purged from the EBT system in accordance with the following~~.~~:

a. When the oldest benefit allotment has not been accessed by the household for nine months, the DHS will expunge benefits from the EBT account as each benefit allotment ages to nine (9) months since the last date of account activity.

(1). An EBT account is inactive if the household has not initiated activity that affects the balance of the household's SNAP EBT account, such as a purchase or return.

2. If at any time after the expungement process begins, the household initiates activity affecting the balance of the account, the DHS will stop expunging benefits and start the account aging process over again for the remaining benefits.

3~~2~~. DHS must provide a reminder notice to the household at least thirty (30) calendar days ~~P~~prior ~~notice is provided the household~~ to an intended action to permanently purge EBT SNAP benefits.

4. In instances where all certified household members are verified as deceased, any remaining benefits are immediately expunged regardless of benefit issuance date or account activity that has taken place.

F. EBT Adjustments

1. The agency may make adjustments to benefits posted to household accounts after the posting process is complete but prior to the availability date for household access in the event benefits are erroneously posted.

2. Adjustments Due to a System Error

a. The agency shall make adjustments to an account to correct an auditable, out-of-balance settlement condition that occurs during the redemption process as a result of a system error.

(1) A system error is defined as an error resulting from a malfunction at any point in the redemption process: from the system host computer, to the switch, to the third (3rd) party processors, to a store's host computer or POS device.

(2) These adjustments may occur after the availability date and may result in either a debit or credit to the household.

3. Customer-Initiated Adjustments

a. The agency must act on all requests for adjustments made by client households within ninety (90) calendar days of the error transaction.

b. The agency has ten (10) business days from the date the household notifies it of the error to investigate and reach a decision on an adjustment and move funds into the client account.

(1) This timeframe also applies if the agency or entity other than the household discovers a system error that requires a credit adjustment to the household. Business days are defined as calendar days other than Saturdays, Sundays, and Federal holidays.

4. Retailer-Initiated Adjustments

a. The agency must act upon all adjustments to debit a household's account no later than ten (10) business days from the date the error occurred, by placing a hold on the adjustment balance in the household's account.

b. If there are insufficient benefits to cover the entire adjustment, a hold shall be placed on any remaining balance that exists, with the difference being subject to availability only in the next future month.

5. Notice of EBT Adjustment/Right to a Hearing

a. The household shall be given, at a minimum, adequate notice.

b. The notice must be sent at the time the initial hold is attempted on the household's current month's remaining balance, clearly state the full adjustment amount, and advise the household that any amount still owed is subject to collection from the household's next future month's benefits.

c. The household shall have ninety (90) days from the date of the notice to request a fair hearing.

(1) Should the household dispute the adjustment and request a hearing within ten (10) days of the notice, a provisional credit must be made to the household's account by releasing the hold on the adjustment balance within forty-eight (48) hours of the request by the household, pending resolution of the fair hearing.

(2) If no request for a hearing is made within ten (10) days of the notice, the hold is released on the adjustment balance, and this amount is credited to the retailer's account.

(3) If there are insufficient funds available in the current month to cover the full adjustment amount, the hold may be maintained and settled at one (1) time after the next month's benefits become available.

1.17 Benefit Over Issuances and Claims

A. A recipient claim is an amount owed because of:

1. Benefits that are overpaid, or

2. Benefits that are trafficked.

a. Trafficking is defined as buying or selling of benefit instruments such as EBT cards for cash or consideration other than eligible food.

b. This claim is a Federal debt subject to rules governing Federal debts.

B. Establishing Claims against Households

1. A claim referral is the identification of a potential over issuance that needs to be investigated and established as a claim by the Claims, Collections and Recovery (CCR) Unit.2. There are three (3) types of claims:

a. Intentional Program Violation (IPV)

(1) Any claim for an over issuance or trafficking resulting from an individual committing an IPV as defined in § 1.9 of this Part when:

(AA) An Administrative Disqualification Hearing official or a court of appropriate jurisdiction has determined that a household member committed an IPV; or

(BB) An individual is disqualified as a result of signing a waiver of her/his disqualification hearing as discussed in § 1.22 of this Part; or

(CC) An individual is disqualified as a result of signing a disqualification consent agreement in a case referred for prosecution as discussed in § 1.22 of this Part.

(2) Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by:

(AA) The individual's admission;

(BB) Adjudication; or

(CC) The documentation that forms the basis for the trafficking determination.

(3) Prior to the determination of an intentional program violation or the signing of either a waiver of right to a disqualification hearing or a disqualification consent agreement in cases of deferred adjudication, the claim against the household is handled as an inadvertent household error claim.

b. Inadvertent Household Error

(1) An inadvertent household error is any claim for an over issuance resulting from a misunderstanding or unintended error on the part of the household.

(AA) Claims include only those months of over issuance that have occurred within at least twelve (12) months prior to the date the agency becomes aware of the over issuance.

(2) Instances of inadvertent household error which may result in a claim include, but are not limited to, the following:

(AA) The household unintentionally failed to provide the agency with correct or complete information;

(BB) The household unintentionally failed to report to the agency changes in its household circumstances; or

(CC) The household unintentionally received benefits, or more benefits than it was entitled to receive, pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

c. Agency Error

(1) An agency error is any claim that for an over issuance caused by the agency's action or failure to take action.

(2) Instances of agency error which may result in a claim include, but are not limited to, the following:

(AA) The agency failed to take prompt action on a change reported by the household;

(BB) The agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;

(CC) The agency continued to provide a household SNAP allotment after its certification period had expired without benefit of a reapplication determination; or

(DD) The agency failed to provide a household a reduced level of SNAP benefits because its cash assistance amount changed.

(3) The actual steps for calculating an agency error claim are:

(AA) Determine the correct amount of benefits for each month that a household received an over issuance.

(BB) Subtract the correct amount of benefits from the benefits actually received.

(CC) The result is the amount of the over issuance.

(DD) Reduce the over issuance amount by any EBT benefits expunged from the household's EBT benefit account.

(EE) The difference is the amount of the claim.

3. The following individuals are responsible for paying a claim:

a. Each person who was an adult member of the household when the over issuance or trafficking occurred;

b. A sponsor of a non-citizen household member if the sponsor was at fault; or

c. A person connected to the household, such as an authorized representative, who actually traffics or otherwise causes an over issuance or trafficking.

C. When a Claim Cannot Be Established

Neither an inadvertent household error claim nor an agency error claim is established if the over issuance occurred as a direct result of the agency's failure to ensure that a household fulfilled the procedural requirements of signing the application form or completing a current work registration form.

D. Determining Initial Month of Over Issuance

1. In all cases involving inadvertent household error or agency error claims, the first (1st) month of over issuance is the month the change would have been effective had it been reported in a timely manner with allowance for the advance notice period.

2. In no instance, however, is the first (1st) month of over issuance any later than two (2) months from the month in which the change in household circumstances occurred.

3. The agency representative determines the initial month of over issuance as follows:

a. Households Subject to Change Reporting Requirements

(1) Failure to Report Change Within Ten (10) Days: If, due to a misunderstanding on the part of the household, the household failed to report a change in its circumstances within ten (10) days of the date the change became known to the household, the first (1st) month affected by the household's failure to report is the first (1st) month the change would have been effective had it been reported in a timely manner.

(2) Change Reported Timely: When a household reports the change on time, but the agency representative does not act on the change in a timely manner, the first (1st) claim month is still the first (1st) month the change would have been effective.

(3) If the Notice of Action was required but not sent, the agency representative assumes, for the purpose of calculating the claim, that the maximum advance notice period would have expired without the household requesting a hearing.

(4) Benefits Issued Pending Hearing Decision

If a household requests the continuation of benefits pending a fair hearing decision and receives an over issuance

because its position is not sustained by the hearing decision, the first (1st) month of over issuance is the month that the change would have been effective had the household not asked for the continuation of benefits.

b. Households Subject to Simplified Reporting Requirements

If the household is a simplified reporting household and the change which resulted in an over issuance of SNAP benefits occurred during the certification period and was not required to be reported, according to the simplified reporting requirements, the over issuance shall be calculated from the date of recertification, which is the time the household was required to report the change.

1.17.1 Collection of Claims

A. The agency must initiate collection action against the household on all inadvertent household or agency error claim referrals unless the claim is collected through offset, or one (1) of the following conditions applies:

1. The amount of the claim referral is less than one hundred twenty-five dollars ($125.00), and the claim cannot be recovered by reducing the household's allotment.

   a. This threshold does NOT apply for over issuances discovered through the quality control system.

2. The agency has documentation which shows that the household cannot be located.

3. The agency may postpone collection action on inadvertent household error claims in cases where an over issuance is being referred for possible prosecution or for administrative disqualification, and the agency determines that collection action may prejudice the case.

B. A written demand letter entitled, "Demand Letter for Overpayment" is mailed or provided to the household.

1. The claim is considered established as of the date of the initial demand letter or written notification.

2. Repayment Agreement

   a. The repayment agreement for any claim must contain due dates or time frames for the periodic submission of payments.

b. The agreement must specify that the household will be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.

c. For all types of claims: agency error, inadvertent household error, and intentional program violation, the household must also be informed:

(1) If the household is participating in the program, that it must repay the entire amount of the claim in cash, check, money order, or funds from an EBT benefit account within ten (10) days of the notice.

(2) If the household does not repay the entire balance, its benefits shall be reduced by the appropriate reduction formula listed in § 1.17 of this Part.

(3) If the household is not participating in the program, it may elect to repay the entire amount of the claim in cash, check, or money order all at once, repay part of the claim, and then repay the rest in weekly or monthly installments.

d. If the household fails to submit a payment in accordance with its repayment agreement, the claim becomes delinquent and is subject to additional collection actions.

3. Any household against which the agency has initiated collection action must be informed of its right to request renegotiation of any repayment schedule to which the household has agreed should the household's economic circumstances change.

4. If the household pays the claim, payment is accepted and submitted to FNS.

C. Households That Fail to Respond

1. If a household against which collection action for repayment of a claim has been initiated is currently participating in the program does not repay the entire over issuance within ten (10) days of the date the notice was mailed, the agency representative initiates action to notify the household of a reduction in its household SNAP allotment by automatic allotment reduction.

2. For a non-participating household which does not respond to the demand letter, additional demand letters are sent on a regular basis.

a. Furthermore, billing notices are sent monthly.

(1) These letters are sent until the household has responded by paying, or agreeing to pay the claim; until the criteria for suspending collection action have been met; or until the agency initiates other collection actions.

3. The agency may also pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment.

a. If the agency chooses to pursue other collection actions, and the household pays the claim, payments are submitted to the FNS.

b. The agency's retention is based on the actual amount collected from the household through such collection actions.

D. Change in Household Composition

1. The agency must initiate collection action against any or all of the adult members of a household at the time an over issuance occurred.

a. Therefore, if a change in household composition occurs, the agency may pursue collection action against any household which has a member who was an adult member of the household that received the over issuance.

b. The agency may also offset the amount of the claim against restored benefits owed to any household which contains a member who was an adult member of the original household at the time the over issuance occurred.

2. Under no circumstances may the agency collect more that the amount of the claim.

E. Methods of Collecting Claims

1. The agency may collect payment for claims using one (1) of the following methods:

a. Reducing benefits prior to issuance, including allotment reduction and offsets to restored benefits;

(1) SNAP benefits from an EBT account are accepted as partial or full payment of a claim if the household prefers to use this method of repayment.

(2) CCR will automatically collect payments for any claim by reducing the amount of monthly benefits that a household receives.

(3) For an IPV claim, the amount reduced is limited to the greater of twenty dollars ($20.00) or twenty percent (20%) of the household's monthly allotment or entitlement.

(4) For an inadvertent household error or agency error claim, the amount reduced is limited to the greater of ten dollars ($10.00) or ten percent (10%) of the household's monthly allotment.

(5) The agency shall not reduce the initial allotment when the household is first certified.

(6) The agency will not use additional collection methods against individuals in a household that is already having its allotment reduced unless the household voluntarily makes additional payments.

b. Reducing benefits after issuance from electronic benefit transfer (EBT) accounts;

(1) A household is allowed to pay its claim using benefits from its EBT account.

(2) However, the following requirements must be met:

(AA) For collecting from active or reactivated EBT accounts, written permission must be obtained in advance.

(BB) For collecting from stale EBT benefits, written notification must be mailed or otherwise delivered that CCR Unit intends to apply the benefits to the outstanding claim.

(CC) The household must be given at least ten (10) days to notify the agency that it doesn't want to use these benefits to pay the claim.

(DD) For making an adjustment with expunged EBT benefits, the claim must be adjusted by subtracting

any expunged amount from the EBT benefit account of which the agency becomes aware.

(EE) A collection from an EBT account must be non-settling against the benefit drawdown account.

c. Accepting cash or any of its generally accepted equivalents, including checks, money orders, and credit or debit cards;

(1) Any payment for a claim is accepted whether it represents full or partial payment.

(2) For non-participating households, the agency accepts installment payments made for a claim as part of a negotiated repayment agreement.

d. Participation in the Treasury Offset Programs (TOP)

(1) § 3701 of the Debt Collection Act, as amended by the Debt Improvement Act of 1996, Pub. Law 104-134, authorizes the U.S. Treasury to collect delinquent claims through what is called Treasury's Offset Programs (TOP).

(2) DHS through the CCR Unit will certify claims to FNS for the purpose of referring delinquent claims for collection by the Treasury.

(AA) In order for this method of collection to be utilized, the CCR Unit must determine that the claim is past due and legally enforceable.

(BB) A claim is considered legally enforceable through the process of the establishment of the claim.

(CC) After reasonable but unsuccessful efforts have been made to collect the claim, it is considered past due.

(3) In order to meet the requirement for Treasury Offset, the claim must be:

(AA) An agency error, inadvertent household error, or intentional program violation;

(BB) At least twenty-five dollars ($25.00) (may be a cumulative amount);

(CC) Delinquent for no longer than ten (10) years and no less than one hundred twenty (120) days unless a debt has been reduced to a final judgment entered by a court ordering the debtor to pay the debt – such debts are not subject to the ten (10) year limit;

(DD) Submitted in the name of one (1) individual or must be reduced by any amount submitted as a separate claim for other individuals who are jointly or severally liable for the claim; and

(EE) Not involved in a bankruptcy stay or discharged in bankruptcy.

(FF) In addition, the agency must notify the individual of the intended action prior to offset and of her or his appeal rights.

(4) The CCR Unit will notify the individual of its intent to refer a claim to Treasury Offset Programs (TOP) and give the individual ninety (90) days to appeal the intended referral by presenting evidence that all or part of the claim is not past due or legally enforceable.

(5) The individual is entitled to appeal the intended referral for offset.

(AA) The appeal request must be in writing and must be received by CCR Unit not later than ninety (90) days after the date of the pre-offset notice.

(BB) The written request for an appeal must include evidence or documentation that the claim is not past due or legally enforceable.

(CC) An appeal is not considered received until the individual provides such evidence or documentation.

(DD) The individual must present her/his Social Security Number as identification with the appeal.

(EE) If the determination is made that the claim does not meet the requirements for offset, in addition to notifying the individual, appropriate corrective action must be taken.

(FF) If DHS decides that the claim meets the requirements for offset, the notice of the review determination of the appeal must state that the agency intends to refer the claim for offset.

(6) After FNS review, if a determination is made that the debt is past due and legally enforceable, the individual will be notified and advised by FNS that s/he has the right to pursue other appeals through the courts.

(AA) If FNS determines that the claim is not past due and legally enforceable, FNS will request that CCR Unit take any appropriate corrective action.

(BB) The CCR Unit will take any necessary corrective action and will notify the individual of its action.

(7) The agency retains the value of funds collected for inadvertent household error, intentional program violation, or agency error claims.

(AA) This amount includes the total value of allotment reductions to collect claims but does not include the value of benefits not issued as a result of a household member being disqualified.

(BB) The State's letter of credit will be amended on a quarterly basis to reflect the State's retention of twenty percent (20%) of the value of inadvertent household error claims collected and thirty-five percent (35%) of the value of intentional program violation claims collected, as well as full retention by FNS of all agency error over issuance recoveries.

F. IPV Claims

1. If a household member is found to have committed an intentional program violation (by an Administrative Disqualification Hearing official or a court of appropriate jurisdiction), or has signed either a waiver of hearing, or a consent agreement, the agency must initiate collection action against the individual's household.

2. The agency must initiate such collection unless the household has already repaid the over issuance, the agency has documentation which shows the household cannot be located, or the agency determines that collection

action may prejudice the case against a household member referred for prosecution.

3. The agency initiates collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim.

4. In cases where a household member was found guilty of misrepresentation of fraud by a court, or signed a disqualification consent agreement in cases referred for prosecution, the agency requests that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and the accused individual.

G. Overpayment of a Claim

1. If a household has overpaid a claim, the agency must pay the household any amounts overpaid as soon as possible after the overpayment becomes known.

2. The household is paid by whatever method the agency deems appropriate, considering the household's circumstances.

H. Claims Discharged through Bankruptcy

1. The agency acts on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing SNAP claims.

2. The agency possesses any rights, priorities, interests, liens or privileges, and participates in any distribution of assets, to the same extent as FNS.

3. Acting as FNS, the agency has the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge and any other documents, motions or objections which FNS might have filed.

I. Interstate Claims Collection

1. When a household moves out of the area under the agency's jurisdiction, the agency should initiate or continue collection action against the household for any over issuance to the household which occurred while it was under the agency's jurisdiction.

2. The agency which overpaid benefits to the household has the first (1st) opportunity to collect any over issuance.

a. However, if the agency which overpaid benefits to the household does not take prompt action to collect, then the agency which administers the area into which the household moves should initiate action to collect the over issuance.

b. Prior to initiating action to collect such over issuance, the agency which administers the area into which the household moves must contact the agency which overpaid benefits to ascertain that it does not intend to pursue prompt collection.

1.17.2 Delinquent Claims

A. A claim must be considered delinquent if:

1. The claim has not been paid by the due date and a satisfactory payment arrangement has not been made, or:

a. The date of delinquency in this instance is the due date on the initial written notification or demand letter.

b. The claim remains delinquent until payment is received in full, a satisfactory payment agreement is negotiated, or allotment reduction is imposed; or

2. A payment arrangement has been established and a scheduled payment has not been made by the due date.

a. In this instance, the date of delinquency is the due date of the missed installment payment.

b. The claim remains delinquent until payment is received in full, allotment reduction is imposed, or if the CCR Unit decides to either to resume or re-negotiate the repayment schedule.

B. A claim is not considered delinquent if another claim for the same household is currently being paid either through installment agreement or allotment reduction and the CCR Unit expects to begin collection on the claim once the prior claim(s) is settled.

C. A claim awaiting a hearing decision is not considered delinquent.

1. If the hearing officer determines that a claim does, in fact, exist against the household, the household must be re-notified of the claim.

2. Demand for payment may be combined with hearing decision letter.

3. Delinquency must be based on the due date of this subsequent notice and not the initial pre-hearing demand letter sent to the household.

4. If the hearing officer determines that a claim does not exist, the claim is disposed of in accordance with § 1.17.4 of this Part.

1.17.3 Compromising Claims

A. The CCR Unit may compromise a claim or any portion of a claim that if it can be reasonably determined that a household economic circumstances dictate that the claim will not be paid in three (3) years.

1. The full amount of the claim (including any amount compromised) may be used to offset benefits owed to the household in accordance with § 1.17.5 of this Part.

2. Any compromised portion of a claim may be reinstated if the claim becomes delinquent.

1.17.4 Terminating and Writing-Off Claims

A. A terminated claim is a claim in which all collection action has ceased. A written-off claim is no longer a receivable subject to Federal and State agency collection and reporting requirements.

1. If a claim is determined to be invalid, the claim must be discharged and reflected as a balance adjustment rather than a termination unless it is appropriate to pursue the over issuance as a different type of claim (e.g., as an inadvertent household error rather than an Intentional Program Violation claim).

B. Claims must be terminated and written off, when:

1. All adult household members are deceased;

2. The claim balance is twenty-five dollars ($25.00) or less and the claim has been delinquent for ninety (90) days or more unless other claims exist against this household resulting in an aggregate claim total of greater than twenty-five dollars ($25.00);

3. It is not cost effective to pursue the claim any further;

4. The claim is delinquent for three (3) years or more, unless it is planned to pursue the claim through Treasury's Offset Program; or

5. The household cannot be located.

C. A terminated and written-off claim may be reinstated if a new collection method or a specific event (such as winning the lottery) substantially increases the likelihood of further collection.

1.17.5 Offsetting Claim Prior to Restoring Benefits

A. When calculating the amount of the claim, any amount of under issuance not yet restored in accordance with § 1.18 of this Part, must be offset against the claim. The agency then institutes collection action for the remaining balance.

1. When there is any restoration of lost benefits which is used to offset an established claim, the balance of the claim is reduced by the amount of the offset.

B. For each month that a household received an over issuance due to an act of intentional program violation, the agency must determine the correct amount of SNAP benefits, if any, the household was entitled to receive.

1. The amount of an intentional program violation claim is calculated back to the month the act of intentional program violation occurred, regardless of the length of time that elapsed until the determination of intentional program violation was made.

a. However, the agency must not include in its calculation any amount of the over issuance which occurred in a month more than six (6) years from the date the over issuance was discovered.

2. If the household received a larger allotment than it was entitled to receive, the agency representative must establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

a. When determining the amount of benefits the household should have received, the agency representative must not apply the twenty percent (20%) earned income deduction to earned income which the household failed to report in a timely manner in accordance with the household’s change reporting requirements.

3. If the household member is determined to have committed an intentional program violation by failing to report a change in the household's circumstances, the first (1st) month affected by the household's failure to report is the first (1st) month in which the change would have been effective had it been reported.

a. In no instance, however, is the first (1st) month of over issuance any later than two (2) months from the month in which the change in household circumstances occurred.

1.18 Benefit Underpayments

A. If the agency representative determines that a loss of benefits has occurred, and a household is entitled to restoration of these benefits, action to restore the benefits must automatically be taken.

1. However, benefits are not restored if the benefits were lost more than twelve (12) months prior to the month the loss was discovered by the agency in the normal course of business or were lost more than twelve (12) months prior to the month the agency representative was notified in writing, or orally, of a possible loss to a specific household.

2. Benefits are restored to a household whenever:

   a. The loss was caused by an agency error; and/or,

   b. There is a statement elsewhere in the regulations specifically stating that the household is entitled to restoration of lost benefits; and/or,

   c. There is an administrative disqualification for intentional program violation which was subsequently reversed.

3. The household is notified of its entitlement, the amount of benefits to be restored, any off-setting that was done, the method of restoration, and the right to appeal through the hearing process if the household disagrees with any aspect of the restoration of lost benefits.

4. If the household was eligible, but received an incorrect allotment, the amount to be restored is the difference between the actual and the correct allotment.

5. The loss of benefits is calculated only for those months the household participated.

6. The agency must restore to a household benefits which were found by any judicial action to have been wrongfully withheld.

   a. If the judicial action is the first (1st) action the recipient has taken to obtain restoration of lost benefits, then benefits must be restored for

a period of not more than twelve (12) months from the date the court action was initiated.

b. When the judicial action is a review of the agency action, the benefits must be restored for a period of not more than twelve (12) months from the first (1st) of the following dates:

(1) The date the agency receives a request for restoration;

(2) If no request for restoration is received, the date the fair hearing action was initiated; and

(3) Never more than one (1) year from when the agency is notified of, or discovers, the loss.

7. Benefits must be restored even if a household is currently ineligible.

B. If the loss was caused by an incorrect delay, denial, or termination of benefits, the months affected by the loss must be determined as follows:

1. If an eligible household's application was delayed, the months for which benefits were lost are determined in accordance with procedures in § 1.3.8 of this Part for determining whether the delay was caused by the household or the agency representative.

2. If an eligible household's application was erroneously denied, the month the loss initially occurred is the month of application, or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.

3. If a household's benefits were erroneously terminated, the month the loss initially occurred is the first (1st) month benefits were not received as a result of the erroneous action.

4. After determining the date the loss initially occurred, the loss is calculated for each month subsequent to that date until either the first (1st) month the error is corrected or the first (1st) month the household is found ineligible.

C. For each month affected by the loss, the agency representative must determine if the household was actually eligible.

1. In cases which have no information in the household's case file to document that the household was actually eligible, the agency representative advises the household of what information must be provided to determine eligibility for those months.

2. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household is ineligible.

3. For the months the household was eligible, the agency representative calculates the allotment the household should have received.

    a. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

D. Benefits are not restored if a household is otherwise at fault.

1. Examples of errors for which benefits are not restored:

    a. A household does not report a change which increases benefits;

    b. A household fails to provide verification without good cause; or,

    c. A household provides incorrect information caused by household error, which results in loss of benefits.

E. If it is determined that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the agency representative or any other action taken by the agency representative to restore lost benefits, the household may request a hearing within ninety (90) days of the date the household is notified of its entitlement.

1. If a hearing is requested prior to or during the time benefits are being restored, the household receives the lost benefits as determined by the agency representative pending the results of the hearing.

2. If the hearing decision is favorable to the household, the agency representative restores the lost benefits in accordance with that decision.

F. Offsetting Claims

1. If a claim against a household is unpaid or held in suspense as provided in § 1.18, the amount to be restored must be offset against the amount due on the claim before the balance, if any, is restored to the household.

2. At the point in time when the household is certified and receives an initial allotment, the initial allotment must not be reduced to offset prior claims, even if the initial allotment is paid retroactively.

G. IPV Restoration

1. An individual disqualified for an intentional program violation is entitled to restoration of any benefits lost during the months that s/he was disqualified, not to exceed twelve (12) months prior to the date of agency notification, only if the decision which resulted in disqualification is subsequently reversed.

2. For each month the individual was disqualified, not to exceed twelve (12) months prior to agency notification, the amount restored, if any, is determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate.

    a. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored.

3. Participation in an Administrative Disqualification Hearing in which the household contests the agency assertion of intentional program violation is considered notification that the household is requesting restored benefits.

H. Method of Restoration

1. Regardless of whether a household is currently eligible or ineligible, the agency representative must restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost.

2. This allotment is added to the current EBT account. This amount is in addition to the benefit a currently eligible household is entitled to receive.

I. Changes in Household Composition

1. Whenever lost benefits are due a household in which the household's membership has changed, the agency representative restores the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred.

2. If the agency representative cannot locate or determine the household that contains a majority of household members, the agency representative restores the lost benefits to the household containing the head of the household at the time the loss occurred.

1.19 SNAP Assistance in Disasters (D-SNAP)

A. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. Law 100-707), and the Food and Nutrition Act of 2008 (as amended through Pub. Law

116-94), provides the authority to establish temporary emergency standards of eligibility for households who are survivors of a disaster that disrupts commercial channels of food distribution after those channels have been restored.

1. During a Presidential or an FNS declared disaster where a quick response is needed to meet sudden heavy demand at the SNAP offices and the on-going program cannot meet the food needs of afflicted households, the approach to be used is emergency SNAP issuance.

2. The Department of Human Services will seek approval for authorization to implement Disaster SNAP (D-SNAP) procedures if, after consultation with officials in the disaster area, it is determined that it is necessary.

3. Households affected by the disaster are certified by the procedures outlined in this Section.

4. FNS will specify the period of authorization which cannot be more than one (1) month.

    a. If necessary, the State may apply for extension of the one (1) month period.

B. Certification Points

1. Normally, certification is handled in the DHS offices but, if necessary, to the extent possible, certification locations convenient to disaster victims should be established.

2. In the event of a Presidential-declared disaster, there will be cooperation with FEMA in establishing certification points in Disaster Assistance Centers.

C. Eligibility and Certification

1. D-SNAP provides a full month’s allotment to households who may not normally qualify for or participate in SNAP.

    a. The allotment for a household is equal to the maximum monthly allotment for the household size provided under regular SNAP.

    b. D-SNAP allotments are updated yearly and available on the FNS website at https://www.fns.usda.gov/snap/dsnap/state-agencies-partners-resources.

2. As part of a D-SNAP, DHS may also automatically or individually supplement the regular SNAP benefits of ongoing households affected by

the disaster to bring them up to the maximum allotment or replace benefits for food that was lost during the disaster.

3. To be eligible for D-SNAP, a household must live in the identified disaster area, have been affected by the disaster, and meet the following D-SNAP eligibility criteria:

   a. Household Composition

      (1) Household composition is established as of the date the disaster struck;

      (2) A household includes those people living together, purchasing and preparing food together at the time of a disaster and

      (3) A D-SNAP household does not include those people with whom applicants are temporarily staying due to the disaster.

   b. Residency

      The household must have lived or worked in the disaster area at the time of the disaster.

   c. Purchase Food

      The household must plan on purchasing food during the disaster benefit period or have purchased food during that time if the benefit period has passed.

   d. Adverse Effects

      (1) The household must have experienced at least one (1) of the following adverse effects in order to be eligible:

         (AA) Lost or inaccessible income, which includes reduction or termination of income, or a delay in receipt of income during the benefit period due to the disaster.

         (BB) Inaccessible liquid resources (e.g., banks are closed due to the disaster) during the benefit period.

         (CC) Deductible disaster-related expenses: Out of pocket disaster-related expenses paid (not only incurred) by the household that are not expected to be reimbursed during the thirty (30) day benefit period, including

damage to or destruction of the household's home or self-employment business.

4. A household is not eligible for D-SNAP if it is already being served by the disaster household distribution of USDA Foods, which is separately authorized under disaster regulations.

    a. This disaster household distribution program is distinct from the normally operating Food Distribution Program on Indian Reservations (FDPIR) (7 C.F.R. Parts 250, 253, and 254) and The Emergency Food Assistance Program (TEFAP) (7 C.F.R. Part 251).

5. Disaster Gross Income Limit

    a. D-SNAP groups income and resources together under one (1) test.

    b. The household's take-home income received (or expected to be received) during the benefit period plus its accessible liquid resources minus disaster-related expenses (unreimbursed disaster-related expenses paid or anticipated to be paid out of pocket during the disaster benefit period) shall not exceed the Disaster Gross Income Limit (DGIL).

    c. Resources are determined on the first (1st) day of the benefit period; anything received during the remainder of the benefit period would be counted as income.

6. Interview Requirement

    a. All D-SNAP applicants must have a face-to-face interview.

    b. All interviews must be conducted at the D-SNAP site, except in extraordinary circumstances.

    c. As in the regular program, households unable to apply in person may choose to designate an authorized representative to apply on their behalf.

7. If the household fails to meet the above eligibility requirements, eligibility for SNAP assistance is determined in accordance with ongoing program requirements.

D. Application Processing

1. The agency may accept applications for D-SNAP benefits from new households and requests for supplements from ongoing households only during the application period which is approved by FNS.

2. Verification rules are eased during a disaster.

    a. Verification requirements in D-SNAP are three (3) tiered:

        (1) Identity must be verified;

        (2) Residency and household composition should be verified where possible; and

        (3) Loss/inaccessibility of income or liquid resources and food loss can be verified if questionable.

E. Benefit Period and Issuance

1. The benefit period approved by FNS for each D-SNAP is thirty (30) days, except in extraordinary circumstances.

2. The benefit period begins on the date of the disaster or the date of any mandatory evacuation preceding the disaster.

    a. This date is generally the first (1st) day of the "Incident Period" provided by the Presidential Disaster Declaration.

3. SNAP benefits may be issued to the head of the household, the spouse, or an authorized representative.

    a. D-SNAP benefits will be issued on an Electronic Benefits Transfer (EBT) card and will be made available as soon as possible and no later than three (3) calendar days (except in questionable cases in which issuance may be delayed up to seven (7) days) from the date the application was filed.

F. Quality Control Provisions

1. Quality Control is an administrative system for documenting the extent of and reasons for errors in the eligibility and basis of issuance of participating households receiving federally funded SNAP benefits.

    a. Based on this documentation, action must be taken to reduce the incidence of these errors below pre-established tolerance limits.

b. Cases which are receiving federally funded SNAP benefits continue to be subject to review under normal quality control procedures to determine the accuracy of the Federal SNAP.

1.20 SNAP Assistance During a Declared Pandemic (P-SNAP)

A. In the event where a national pandemic is declared and the agency receives approval from FNS to deliver pandemic SNAP (P-SNAP) benefits to certified eligible households, the agency may utilize the following program flexibilities authorized by FNS including, but not limited to:

1. Substitute telephone interviews for face to face interviews;

2. Postpone expedited service interviews;

3. Suspend the interview at certification and recertification;

4. Temporarily increase the allowable monthly SNAP allotments for household size;

5. Provide additional temporary nutrition assistance through Pandemic Electronic Benefit Transfer (P-EBT) to families who meet the eligibility requirements as specified by FNS;

6. Provide good cause for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirements or employment and training (E&T) requirements to continue receiving SNAP benefits;

7. Temporarily or partially suspend the time limit for Able-Bodied Adults without Dependents (ABAWD) participation in the Supplemental Nutrition Assistance Program unless the person fails to comply with work or a work program offered by the State;

8. Adjust and extend the expiration of certification periods;

9. Adjust the interim reporting requirement for households;

10. Temporarily suspend all collection of active recoupments of SNAP overpayments;

11. Suspend the requirement for QC to complete a face-to-face interview;

12. Extend the fair hearing process up to one hundred twenty (120) days from receipt of the request for fair hearings that were already in process or for which requests are received during an approved timeframe;

13. Suspend fair hearing face to face interviews and conduct hearings by an alternate means, such as telephone or video conference; and

14. Extend the timeframe for sending notices confirming oral withdrawal requests up to thirty (30) days from receipt of the request for such requests received during the approved time period.

1.22 Replacement of Food Caused by Disaster or Household Misfortune

A. In cases in which food purchased with SNAP benefits is destroyed in a disaster or household misfortune affecting a participating household, that household may be eligible for replacement of the actual value of loss, not to exceed one (1) month's SNAP allotment, if the loss is reported within ten (10) days and the household's disaster is verified.

1. This provision applies in cases of an individual household disaster or misfortune, as well as in natural disasters affecting more than one (1) household.

2. Examples of household misfortune include:

a. Extended power outage of four (4) hours or more

b. A flood

c. An equipment failure (refrigerator/freezer)

d. Loss of electricity due to failure to pay a utility bill

3. The household must provide verification of the food loss.

a. Prior to issuing a replacement, the agency shall obtain a signed statement from a member of the household attesting to the household's loss.

b. If the statement is not received by the agency within ten (10) days of the date of report, no replacement shall be made.

(1) If the tenth (10th) day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the agency shall consider the statement timely received.

(2) It shall attest to the destruction of food purchased with the original issuance and the reason for the replacement.

c. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, a note from a landlord or the power company attesting to an outage or other event.

4. A household may not make more than one (1) request for replacement benefits for the same incident of loss.

   a. However, there is no limit to the amount of replacement requests a household can make for separate incidents of household misfortune or disaster.

5. In cases where FNS has issued a disaster declaration and the household is otherwise eligible for emergency SNAP benefits in accordance with § 1.19 of this Part, the household must not receive both the disaster allotment and a replacement allotment.

B. Mass Replacements

1. When there is a wide-spread storm or power outage, the agency may apply for and receive a waiver from the FNS allowing for an automated mass replacement of a percentage of SNAP benefits for households in designated cities and towns.

   a. These designated cities/towns will receive an automatic replacement of a percentage of their SNAP benefits.

   b. They are not required to submit a statement of food loss, nor are they required to verify their food loss.

   c. Replacement benefits will automatically be issued and applied to the household's EBT account.

   d. If a household submits a food replacement request after receiving a mass replacement and requests an amount greater than the replacement benefit amount received, the household is entitled to receive the difference between the requested amount and the amount previously replaced (up to the total monthly SNAP benefit allotment for that month).

1.23 Fair Hearings

A. A hearing is provided to any household aggrieved by any action of the agency which affects the participation of the household in the SNAP.

1. At the time of application, each household is informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or a representative, such as a legal counsel, a relative, a friend or other spokesperson.

    a. At any time the household expresses a verbal or written objection to an agency action or decision, it is reminded of the right to request a hearing.

2. The household is also informed of the availability of free legal service through Rhode Island Legal Services.

    a. Hearing procedures are published and made available to any interested party.

B. Agency Conference

1. The household is informed of the following optional agency provisions for hearing its complaint:

    a. A discussion of the disputed issue(s) can be arranged between the household and an agency representative.

    b. If the household prefers, an "Adjustment Conference" may be arranged with an agency representative.

        (1) This is an informal hearing in which a household has an opportunity to state its dissatisfaction with the agency action.

        (2) The agency representative presents the facts upon which the action was based.

        (3) The designated agency representative determines whether or not the staff decision was made in accordance with appropriate policy.

2. An agency conference for a household contesting a denial of expedited service must be scheduled within two (2) working days, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

C. Consolidated Hearings

1. The agency, at its discretion, may respond to a series of individual requests for hearings by conducting a single group hearing.

a. Only cases where related issues of State and/or Federal law, regulation, or policy are the issues being raised are heard as consolidated hearings.

b. In all group hearings, the policies governing individual hearings are followed.

c. Each individual household is permitted to present its own case or have the case presented by a representative.

D. Timeframes for Hearings

1. A household is allowed to request a hearing on any action by the agency or loss of benefits which occurred in the prior ninety (90) days.

a. Action by the agency includes a denial of a request for restoration of any benefits lost more than ninety (90) days but less than a year prior to the request.

2. At any time within the certification period, a household may request a hearing to dispute its current level of benefits.

3. Within sixty (60) days of receipt of a request for a hearing, the appeals officer conducts the hearing, makes a decision, and notifies the household and agency representative of the decision.

4. A decision which results in an increase in household's benefits is implemented within ten (10) days of the receipt of the hearing decision even if the agency representative must approve a supplemental benefit.

5. Decisions which result in a decrease in household benefits are implemented at the next issuance subsequent to the receipt of the hearing decision.

E. Household Request for Postponement

1. The household may request, and is entitled to receive, a postponement of the scheduled hearing.

2. The postponement should not exceed thirty (30) days and the time limit for action on the decision may be extended for as many days as the hearing is postponed.

F. Expedited Hearings

1. The agency expedites hearing requests from households, such as migrant farmworkers, which plan to move from the jurisdiction of the appeals officer before the hearing decision would normally be reached.

    a. Hearing requests from these households are processed faster than others, if necessary, to enable them to receive a decision and a restoration of benefits before they leave the area.

G. Denial/Dismissal of Request for Hearing

1. The agency must not deny or dismiss a request for a hearing unless:

    a. The request is not received within the allowable time period;

    b. The request is withdrawn by the household or its representative; or

    c. The household or its representative fails, without good cause, to appear at the scheduled hearing.

H. Continuation of Benefits

1. If a household requests a hearing and continuation of benefits within the advance adverse notice period, and its certification period has not expired, the household's participation in the program is continued on the basis authorized immediately prior to the notice of adverse action, unless the household specifically waives continuation of benefits.

    a. If a hearing request is not made within the period provided by notice of adverse action, benefits are reduced or terminated as provided in the notice.

    b. However, if the household establishes that its failure to make the request within the advance notice period was for good cause, the agency representative provides for reinstatement of benefits on the prior basis.

2. When benefits are reduced or terminated due to mass change, participation on the prior basis is reinstated only if the issue being contested is that SNAP eligibility or benefits were improperly computed, or that a Federal law or regulation is being misapplied or misinterpreted by the agency representative.

3. Once continued or reinstated, benefits are not reduced or terminated prior to the receipt of the official hearing decision unless:

    a. The certification period expires

(1) The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the agency representative pending the hearing official's decision on the disputed action;

b. The hearing official makes a preliminary determination, in writing and at the hearing, that the sole issue is one of Federal law or regulation and that the household's claim that the agency improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid;

c. A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending, and the household fails to request a hearing after the subsequent notice of adverse action; or

d. A mass change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending.

4. The agency promptly informs the household, in writing, if benefits are reduced or terminated pending the hearing decision.

5. If the agency action is upheld by the hearing decision, a claim against the household must be established for any over issuance (see § 1.17 of this Part).

I. Hearing Process

1. Official notice of the hearing is sent to all parties involved at least ten (10) days before the scheduled hearing date unless the household requests less advance notice to expedite the scheduling of the hearing.

2. If an individual chooses to have legal representation at the hearing, e.g., be represented by an attorney, paralegal, or legal assistant, the representative must file a written Entry of Appearance with the Hearing Office at or before the hearing.

a. The Entry of Appearance acts as a release of confidential information, allowing the legal representative access to the agency case record.

3. The hearing must be attended by a representative of the agency which initiated the action being contested and by the household and/or its representative.

a. The hearing may also be attended by friends and relatives of the household if the household so chooses.

b. However, the appeals officer has the authority to limit the number of persons in attendance at the hearing if it is determined that space limitations exist.

4. The household or its representative must be given adequate opportunity to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing.

   a. The contents of the case file including the application form and documents of verification used by the agency representative to establish the household's ineligibility or eligibility and allotment must be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release.

   b. If requested by the household or its representative, the agency representative must provide free copies of the relevant portions of the case file.

   c. Confidential information which is protected from release and other documents or records which the household does not otherwise have an opportunity to contest or challenge must not be presented at the hearing or affect the appeals officer's decision.

5. The household also has the opportunity to:

   a. Examine the Department's past hearing decisions.

   b. Present the case itself or have it presented by another person (if it is represented by legal counsel, e.g., be represented by an attorney, paralegal, or legal assistant);

   c. Bring witnesses;

   d. Advance arguments without undue interference;

   e. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses; and,

f. Submit evidence to establish all pertinent facts and circumstances in the case.

6. The appeal record must be retained for three (3) years and be available, for inspection and copying, to the household or its representative at any reasonable time.

7. The household is notified that it has the right to pursue judicial review of an adverse hearing decision.

8. The household and the agency representative are notified in writing of:

a. The decision;

b. The reasons for the decision in accordance with;

c. The available appeal rights; and,

d. That the household's benefits will be issued or terminated as decided by the appeals officer.

e. The notice advises that an appeal request may result in a reversal of the decision.

J. Implementation of Final Agency Decisions

1. The agency is responsible for ensuring that all final hearing decisions are implemented within the time limits specified in § 1.22(D) of this Part.

2. When the appeals officer determines that a household has been improperly denied program benefits or has been issued a lesser allotment than was due, lost benefits are provided to the household in accordance with § 1.18 of this Part.

3. Benefits to households which are leaving the project area are restored before the departure, whenever possible.

4. When the appeals officer upholds the agency's action, a claim against the household for any over issuance is prepared in accordance with § 1.17 of this Part.

K. Administrative Disqualification Hearings (ADH)

1. An Administrative Disqualification Hearing (ADH) is initiated by the Claims, Collections, and Recoveries (CCR) Unit whenever there is sufficient documentary evidence to substantiate that an individual has committed

one (1) or more intentional program violations as defined in § 1.9 of this Part.

a. Such cases include alleged intentional program violation claims in discretionary amounts not feasible for prosecution plus those in which the agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system.

b. Other cases may be those previously referred for prosecution, but for which prosecution was declined by the appropriate legal authority.

2. The agency may initiate an Administrative Disqualification Hearing regardless of the current eligibility of the individual.

a. If the individual is not eligible for the program at the time the disqualification period is to begin, the disqualification penalty shall be imposed as if the individual were eligible to participate at the time of the penalty imposition.

3. The administrative disqualification hearing may be conducted regardless of whether other legal action is planned against the household member.

4. Administrative disqualification hearings are held by the Administrative Disqualification Hearing Officer.

a. No person who has participated in the issue under review is eligible to serve as a Hearing Officer.

5. The agency publishes clearly written rules of procedure for disqualification hearings which are made available to any interested party.

6. The agency provides written notice to the household member suspected of intentional program violation at least thirty (30) days in advance of the date a disqualification hearing initiated by the State has been scheduled.

a. If the notice is sent first class mail to the individual's address of record being maintained by the Department and is returned as undeliverable, the hearing may still be held.

b. In instances in which the individual claims good cause for failure to appear based on a showing of non-receipt of the hearing notice, the individual has thirty (30) days after the date of the written notice of the hearing decision to claim good cause.

7. For all Administrative Disqualification Hearings, ten (10) business days prior to the hearing date, the recipient and the agency must exchange a list of any expert witnesses and exchange expert reports to be presented at the hearing.

    a. An expert witness is defined as a witness who possesses a special knowledge in a subject of a scientific, mechanical, professional, or technical nature; an expert report is a writing of an expert witness.

    b. If the recipient does not intend to utilize an expert witness or expert report at the hearing, s/he does not need to exchange such expert witnesses' names and/or reports.

    c. Failure to include such a witness or document prevents that party from presenting that witness or document at the hearing, unless the hearing officer finds that good cause exists for the failure to produce.

        (1) If good cause is found to exist, the other party may request a continuance to consider and review the previously undisclosed evidence.

        (2) If the agency representative receives a request to review the evidence and/or case file before the hearing, a review should be planned by contacting the CCR Unit.

8. The household, or its representative, must be given adequate opportunity to examine all documents and records to be used at the hearing, at a reasonable time before the date of the hearing, as well as during the hearing.

    a. The contents of the case file, including the application form and documents of verification used by the agency representative to establish the household's ineligibility, or eligibility and allotment, must be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge, or the nature or status of pending criminal prosecutions, is protected from release.

    b. If requested by the household or its representative, the agency representative must provide the relevant portions of the case file. All pertinent evidence and documents pertaining to the disqualification hearing will be available for inspection at the Office of the ADH Officer.

c. Confidential information that is protected from release, and other documents or records which the household will not otherwise have an opportunity to contest or challenge, must not be presented at the hearing to affect the Hearing Officer's decision.

9. At the disqualification hearing, the Hearing Officer must advise the household member, or representative, that they may refuse to answer questions during the hearing.

   a. This refusal must, in no way prejudice the Hearing Officer's decision on the issues.

10. The household must also have the opportunity to:

   a. Present the case itself, or have it presented by a legal counsel or other person;

   b. Bring witnesses;

   c. Advance arguments without undue interference;

   d. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses; and,

   e. Submit evidence to establish all pertinent facts and circumstances in the case.

11. The hearing is attended by the representative(s) of the agency which initiated the action being contested and by the household and/or its representative.

   a. The hearing may also be attended by friends and relatives of the household if the household so chooses.

   b. However, the Hearing Officer has the authority to limit the number of persons in attendance at the hearing if it is determined that space limitations exist.

12. The hearing decision record must be retained for three (3) years and must also be available to the household or its representative for inspection and copying at any reasonable time.

   a. A decision by the Administrative Disqualification Hearing Officer is binding on the agency and must summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent regulations or policy.

b. The household is notified that it has the right to pursue judicial review of an adverse hearing decision.

c. The household and the agency representative are notified in writing of:

(1) The decision;

(2) The reasons for the decision; and

(3) The available appeal rights.

13. If the household member, or its representative, cannot be located or fails to appear at the hearing without good cause, the hearing is conducted without the household member represented.

a. If the household member is found to have committed an intentional program violation, but the Hearing Officer later determines that the household member, or representative, had good cause for not appearing, the previous decision must no longer remain valid and the agency must conduct a new hearing.

(1) The hearing official who originally ruled on the case may conduct the new hearing.

b. In instances in which the individual claims good cause for failure to appear based upon a showing of non-receipt of the hearing notice, the individual has thirty (30) days after the date of the written notice of the hearing decision to claim good cause.

(1) In all other instances, the household member has ten (10) days from the date of the scheduled hearing to present reasons indicating good cause for failure to appear.

(2) The individual shall provide evidence of the non-receipt of the hearing notice to the Administrative Disqualification Hearing Officer for consideration.

14. A pending disqualification hearing must not affect the individual's or the household's right to be certified and to participate in the program.

a. Since the agency cannot disqualify a household member for intentional program violation until the hearing official finds that the individual has committed intentional program violation, the agency representative must determine the eligibility and benefit level of the

household in the same manner as it would be determined for any other household.

b. However, the household's benefits must be discontinued if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply.

c. The agency representative should also reduce or terminate the household's benefits if the agency has documentation which substantiates that the household is eligible, or ineligible, for fewer benefits (even if these facts led to the suspicion of intentional program violation and the resulting disqualification hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing.

15. If the hearing authority rules that the household member has committed an intentional program violation, the household member must be disqualified in accordance with the disqualification penalties specified in § 1.9 of this Part, beginning with the first (1st) month which follows the date the household receives written notification of the hearing decision.

a. However, if the act of intentional program violation which led to the disqualification occurred prior to notification of the disqualification penalties specified in § 1.9 of this Part, the household member must be disqualified in accordance with the disqualification penalties in effect at the time of the offense.

b. The same act of intentional program violation repeated over a period of time must not be separated so that separate penalties can be imposed.

c. The determination of intentional program violation made by a disqualification hearing official cannot be reversed by a subsequent fair hearing decision.

(1) The household member, however, is entitled to seek relief in a court having appropriate jurisdiction.

(2) The period of disqualification may be subject to stay by a court of appropriate jurisdiction or other injunctive remedy.

d. Even if the individual is not eligible for the program at the time the disqualification penalty is to begin, the disqualification penalty shall be imposed as if the individual were eligible to participate at the time of the penalty imposition.

e. Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification continues uninterrupted until completed, regardless of the eligibility of the disqualified member's household.

(1) However, the disqualified member's household continues to be responsible for repayment of the over issuance which resulted from the disqualified member's intentional program violation, regardless of its eligibility for program benefits.

16. If the hearing official finds that the household member did not commit an intentional program violation, the agency must provide a written notice informing the household member of the decision.

17. If the hearing official finds that the household member committed an intentional program violation, the agency must provide written notice to the household member prior to disqualification.

a. The notice informs the household member of the decision and the reason for the decision.

b. In addition, the notice informs the household member of date disqualification will take effect.

(1) If the individual is no longer participating, the notice must inform the individual that the period of disqualification will be deferred until such time as the individual again applies for, and is determined eligible, for program benefits.

c. The agency must also provide written notice to the remaining household member(s), if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired.

18. The agency must allow accused individuals to waive their rights to an Administrative Disqualification Hearing.

a. This is only done when the CCR Unit has determined that evidence exists which warrants the scheduling of an Administrative Disqualification Hearing.

b. After such a determination has been made, the CCR Unit mails the Waiver of Right to Administrative Disqualification Hearing to the household member which notifies the individual of a scheduled

appointment at which the individual is offered an opportunity to review all the evidence and any other material relating to the claim.

(1) The written notification, conforming to FNS regulations, informs the household member of the possibility of waiving an Administrative Disqualification Hearing

(2) If the household member suspected of intentional program violation keeps the appointment and/or signs and returns the Waiver of Right to an Administrative Hearing within the time frames specified by the agency, the household member must be notified and disqualified in accordance with the disqualification penalties and procedures specified in § 1.9 of this Part.

(3) If the household member does not sign the waiver within the time frame indicated on the letter, the claim is forwarded to the Administrative Disqualification Hearing Office.

19. The agency refers for prosecution those cases of alleged intentional program violation which meet the criteria established by the CCR Unit.

a. The agency also encourages State prosecutors to recommend to the court that a disqualification penalty, as provided in § 1.9 of this Part, be imposed, in addition to any other civil or criminal penalties for such violations.

b. The agency must disqualify an individual found guilty of intentional program violation for the length of time specified by the court.

(1) If the court fails to impose a disqualification period, the agency must impose a disqualification period in accordance with the provisions in § 1.9 of this Part unless contrary to the court order.

(2) If disqualification is ordered, but a date for initiating the disqualification period is not specified, the agency should initiate the disqualification period for currently eligible individuals within forty-five (45) days of the date the disqualification was ordered.

(3) Any other court-imposed disqualification must begin within forty-five (45) days of the date the court found a currently eligible individual guilty of civil or criminal misrepresentation or fraud.

c. If the individual is not eligible for the program at the time the disqualification period is to begin, the disqualification penalty shall be imposed as if the individual were eligible to participate at the time of the penalty imposition.

d. Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification continues uninterrupted until completed, regardless of the eligibility of the disqualified member's household.

(1) However, the disqualified member's household continues to be responsible for repayment of the over issuance which resulted from the disqualified member's intentional program violation, regardless of its eligibility for program benefits.

e. If the court finds that the household member committed intentional program violation, the agency must provide written notice to the household member.

(1) The notice must be provided prior to disqualification, whenever possible.

(2) The notice must inform the household member of the disqualification and the date disqualification will take effect.

(3) The agency must also provide written notice to the remaining household member(s), if any, of the allotment they will receive during the period of disqualification, or that they may reapply because the certification period has expired.

f. The agency allows accused individuals to sign disqualification consent agreements for cases of deferred adjudication.

(1) This option is used for those cases in which a determination of guilt is not obtained from a court due to the accused individual having met the terms of a court order, or which are not prosecuted due to the accused individual having met the terms of an agreement with the prosecutor.

g. In cases where the determination of intentional program violation is reversed by a court of appropriate jurisdiction, the agency must reinstate the individual in the program if the household is eligible.

(1) The agency must restore benefits that were lost as a result of the disqualification, in accordance with the procedures specified in § 1.18 of this Part.