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GENERAL PROVISIONS 1240-1-10

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1240-1-10-.02 Reserved

Purpose Of The Food Stamp Program 1240-1-10-.03

The Food Stamp Program is designated to promote the general welfare and to safeguard the health and well being of the Nation's population by raising the levels of nutrition among low-income households. Section 2 of the Food Stamp Act of 1977 states, in part: "Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. To alleviate such hunger and malnutrition, a Food Stamp Program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power to all eligible households who apply for participation."

Legal Basis Of Administration Of The Food Stamp Program 1240-1-10-.04

(1) The Food Stamp Program is authorized by the Food Stamp Act of 1977 (Title XIII, P.L. 95-113). Regulations issued pursuant to the Act are contained in 7 CFR Parts 270-282. The Tennessee Department of Human Services is empowered by Tennessee Code Annotated, Section 14-2204 to comply with any requirement that may be imposed, or opportunity presented, by federal law or regulation for the provision of food stamp benefits to Tennessee's food stamp applicants and recipients.

(2) The provisions of Title 18 of the United States Code, "Crime and Criminal Procedure" relative to counterfeiting, misuse and alteration of obligations of the United States are applicable to any instrument used to issue food stamp benefits. Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of benefits may subject any individual, partnership, cooperation, or other legal entity to prosecution under Sections 15(b) and (c) of the Food Stamp Act or under any other Federal, State, or local law, regulation or ordinance. Penalties for obtaining and/or redeeming benefits without authority are contained in Tennessee Code Annotated 14-27-114.

ADMINISTRATION FOOD STAMP PROGRAM 1240-1-11

1240-1-11 Reserved

RIGHTS AND RESPONSIBILITIES 1240-1-12

Introduction 1240-1-12-.01

This section is concerned with the Departmental policies as they relate to the rights of those who are applicants/recipients of the services available through the Family Assistance Section of the Tennessee Department of Human Services. It also outlines staff responsibilities to insure these rights are being upheld.

Nondiscrimination 1240-1-12-.02

(1) Compliance Provision

The Tennessee Department of Human Services, at all administrative levels, shall not discriminate against any applicant or participant, in any program aspect, for reasons of age, race, color, sex, handicap, religious creed, national origin, or political belief. Discrimination in any aspect of program administration is prohibited by the Food Stamp Act of 1977 (Title XIII, P. 95-113), The Age Discrimination Act of 1975 (P.L. 94-135), The Rehabilitation Act of 1973 (P.L. 93-112, sec. 504), and Title VI of the Civil Rights Act of 1964 (42 U.S.C. sec. 2000d.). Enforcement may be brought under any applicable Federal Law.

(2) Filing Discrimination Complaints

Individuals who believe that they have been subject to discrimination for reasons of age, race, color, sex, handicap, religious creed, national origin, or political beliefs, may file a written complaint with the USDA by writing to: USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, or by calling (202) 720-5964 (voice and TDD). Staff members should explain the FNS complaint system to each individual who expresses an interest in filing a discrimination complaint and advise the individual of his right to file either in the Federal or the State System or in both systems.

(a) FNS Discrimination Requirements

The complaint must contain the following information in order to facilitate the investigation:

1 The name, address, and telephone number or other means of contacting the person alleging discrimination.

2. The location and name of the organization or office which is accused of discriminatory practices.

3. The nature of the incident or action or the aspect of program administration that led the person to allege discrimination.

4. The reason for the alleged discrimination (age, race, color, etc.).

5. The names and titles (if appropriate), and the addresses of persons who may have knowledge of the alleged discriminatory acts.

6. The dates, or date, on which the alleged discriminatory action occurred.

(b) State Requirements for Discrimination Complaints in Food Stamps

1. Receipt of Discriminatory Complaint

   Discrimination complaints may be addressed to the DHS Area Manager, or may be forwarded to the DHS Title VI Coordinator, 400 Deaderick Street, Citizens Plaza Building, 3rd floor, Nashville, Tn. 37248-2000.

2. A Title VI complaint must be in writing, and must be signed and filed within 180 days of the date of the alleged discrimination. The complaint may be filed by an individual, a class, or by a third party (including friend, attorney, and relative). If a third party submits the complaint, the relationship to the complainant must be included. The complaint must include:

   (i) the complainant's name, address and telephone number;
   (ii) the name and address of the institution the complainant believes discriminated against him or her; and
   (iii) the reason for the alleged discrimination, including names, dates, and as much background information as possible.

3. If the complainant refuses to file an official written complaint, the facts will simply be recorded in detail.

4. Upon receipt of a written complaint, a complete investigation shall be made promptly. When it is found that discrimination has occurred, corrective action shall be planned immediately. In any instance, a written report of the investigation must be made within 30 calendar days after the date the complaint is filed.

5. Complaints of discrimination will be registered and processed through the same system as the Fair Hearing process (See Section 1240-1-30).

6. When the complaint applies to discriminatory actions on the part of contracting agencies, individuals, or institutions from which assistance, or service, is purchased or secured by the Department, the complainant will be interviewed to secure as much information as possible concerning the nature of the complaint, circumstances which precipitated it, and the date the alleged act occurred. The information will be recorded and forwarded to the Commissioner through the District Office.

(3) Public Notification of Nondiscrimination Compliance

(a) A leaflet outlining the complaint procedure will be available in each county office and is to be handled or mailed to any inquirer upon request.

(b) All Tennessee Department of Human Services Offices will prominently display the nondiscrimination poster provided by FNS.

(c) The Department shall insure that recipients and other low-income households shall have access to information regarding nondiscrimination statues and policies, complaint procedures and rights of participants, within ten (10) days of the date of request.

(4) Data Collection on Households by Racial/Ethnic Category

(a) Categories

Data shall be collected on all applicant/participant households by racial/ethnic category as specified and required by the USDA. This data shall be gathered through the following methods:

1. The applicant may be requested to identify voluntarily their race or ethnicity on the application form. The application shall clearly indicate that the information is to assure that program benefits are distributed without regard to race, color or national origin.

2. When the information on racial/ethnic data is not voluntarily provided by the household on the application form the worker at the intake interview must make this determination by observation. A notation that this determination was made by worker's observation should be made on the application form and initialed by the worker.

Availability Of Information 1240-1-12-.03

(1) Public Information

(a) Official Policy Instructions

Tennessee Department of Human Services Family Assistance Manual and supplemental instructions issued for use in serving households applying for Food Stamps shall be issued to all staff involved in the determination of eligibility for such assistance and shall be maintained in the county and state offices of DHS for examination by the public on regular work days during regular office hours.

(b) Availability of State and Federal Instructions to the Public

Copies of the Family Assistance Manual may be made by public custodians, at their own expense, who (1) request the manual for use by the public, (2) are centrally located and publicly accessible to a substantial number of the recipient population, and (3) agree to accept responsibility for filing all amendments and changes forwarded to them by DHS.

Other groups, agencies or individuals serving a substantial recipient population who wish to copy the manual, agree to file all amendments and changes forwarded to them by DHS, and who commit themselves to using the manual for informational purposes (i.e. not attempting to determine an individual's eligibility for assistance or determining appropriate action for DHS) may do so at the discretion of the Commissioner or his designee at their own expense.

Upon request, specific policy materials necessary for an applicant/recipient, or his representative, to determine whether a fair hearing should be requested or to prepare for a hearing will be made available to the applicant/recipient and/or his representative without charge.

Up to date copies of the Family Assistance Manual are maintained in the county, district and state DHS offices. These manuals will be made available to persons to read in the office as they have need to do so on regular workdays during normal office hours. Copies of portions of the manual will be made available to students, researchers, other agencies and so on, either at a charge related to the cost of reproduction or at no charge depending upon the amount of material needed.

Regulations, plans of operation, and federal procedures which affect the public shall be maintained in the local and state offices. In addition copies of the aforementioned may be obtained by writing or contacting the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, or by calling toll free (866) 512-2250, or on the internet at bookstore.gpo.gov.

(c) Other Printed Materials

The Tennessee Department of Human Services will provide other printed materials, such as brochures, pamphlets, leaflets, etc. that clearly describe basic financial and nonfinancial eligibility criteria, the application process, and participants rights and responsibilities. This written information shall be made available to local social security offices, Department of Labor and Workforce offices, and other agencies and organizations assisting in the State Outreach Program. See Section 1240-1-33 for requirements in county offices.

(2) Family Assistance Help Line

The Tennessee Department of Human Services will operate a Family Assistance toll-free help line service, which will provide the following:

1. Information about program requirements and procedures,

2. Information about complaint and fair hearing procedures,

3. Completing the necessary complaint forms,

4. Telephone numbers and addresses of the local county food stamp offices, and

5. Application forms and informational pamphlets, upon request.

The help line service number (1-888-863-6178) will be posted in all food stamp offices and will be included on printed material. News media throughout the state will publicize the number.

Uses For Food Stamp Benefits 1240-1-12-.04

(1) Food Stamp benefits are designed for use by participants to purchase eligible foods, including seeds and plants, for home consumption and use. Other persons may be designated by the household to purchase food. Households are not required to have cooking facilities or access to cooking facilities to participate in the program.

(2) Special Uses

Although benefits were originally intended for use by eligible households to purchase food for home consumption, certain households have been authorized to use their benefits to obtain prepared meals or to facilitate their obtaining food. These authorized special uses are:

(a) Communal Dining

Eligible household members, 60 years of age or over, or SSI recipients, homeless, and their spouses, may use benefits issued to them to purchase meals prepared especially for them at communal dining facilities authorized by FNS for that purpose.

Communal dining facilities include senior citizen centers, apartment buildings occupied primarily by elderly people 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 at which meals are prepared for and served to the residents. It shall also include private establishment that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons, homeless, or SSI recipients.

(b) Meals-On-Wheels

Eligible household members 60 years of age or over, or members who are housebound, feeble, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all their meals, and their spouses may use all or any part of the benefits issued to them to purchase meals from a non-profit meal delivery service authorized by FNS.

Meal delivery service means a political sub-division, a private non-profit organization, or a private establishment with which the State or local agency has contracted for the preparation and delivery of meals at a concessional price to the people listed above and which is authorized by FNS.

(c) Addicts and Alcoholics in Treatment Programs

Members of eligible households who are narcotic addicts or alcoholics, and who are participating regularly in a drug or alcoholic treatment and rehabilitation program, may use all or part of the benefits issued to them during the course of such programs to purchase meals prepared for them by a private non-profit organization or institution. Such institution or organization must be approved by the Tennessee Department of Mental Health and Retardation <u>or</u> by FNS if the center wishes to redeem benefits as a retailer. (See Section 1240-1-31 for certification procedures for residents of drug and alcoholic treatment centers.)

(d) Group Living Arrangement

A public or private non-profit residential setting that serves no more than sixteen (16) residents and that is certified by the Department of Mental Health. To be eligible for food stamp benefits, a resident of such a group living arrangement must be blind or disabled and receiving benefit under Title II or Title XVI of the Social Security Act.

1240-1-12-.05 Reserved

Food Stamp Benefits As Income 1240-1-12-.06

The benefit allotment provided any eligible household shall not be considered income or resources for any purpose under federal, state, or local laws, including but not limited to laws on taxation, in the Food Stamp Program. In TANF, Tennessee has opted to exclude food stamp benefits as income.

No Aid Reduction Because Of Food Stamp Participation 1240-1-12-.07

No participating state or political subdivision shall decrease any assistance otherwise provided an individual or individuals because of the receipt of a food stamp benefit for Food Stamp eligibility purposes.

Complaint Procedures For Program Matters 1240-1-12-.08

(1) Federal Level Responsibility

Persons or agencies desiring program information or wishing to file a complaint may contact the FNS Regional Office at this address:

United States Department of Agriculture
Southeast Regional Office, Food and Nutrition Services
61 Forsyth Street, Suite 8T36
Atlanta, Georgia 30309

(2) State Level Responsibility

(a) Formal Complaints

The Tennessee Department of Human Services will provide a fair hearing to any person or household aggrieved by any action, which affects their eligibility, level of benefit, or participation in the Family Assistance Programs.

(b) Informal Complaints

Persons or agencies desiring program information or wishing to file a complaint may contact any or all of the following:

1. Area Manager of the local county office of the Tennessee Department of Human Services. Telephone number and address may be found in the telephone directory for the town designated as county seat.

2. Family Assistance Help Line
   Tennessee Department of Human Services
   12th Floor, Citizens Plaza Building
   400 Deaderick St.
   Nashville, Tennessee 37248
   1-888-863-6178 (toll free number)

3. Director, Adult and Family Services
   Tennessee Department of Human Services
   12th Floor, Citizens Plaza Building
   400 Deaderick St.
   Nashville, Tennessee 37248

4. Commissioner
   Tennessee Department of Human Services
   12th Floor, Citizens Plaza Building
   400 Deaderick St.
   Nashville, Tennessee 37248

GENERAL ADMINISTRATIVE PROCEDURES 1240-1-13

Management Of Case Records 1240-1-13-.01

Information in the case must be accurate, up-to-date, and pertinent to eligibility. All sources of information and verification should be clearly indicated. Individuals who give information are to be identified. Factual information must be clearly distinguished from expressions of opinion.

(1) Confidentiality of Case Records

The Department of Human Services in Tennessee, in accordance with the laws of this State and the Federal statutes pertaining to this subject, has adopted the policy of maintaining the confidential nature of Family Assistance information. This same policy applies to all case records, whether Family Assistance or otherwise. The regulations of the Department are directed to the objectives of:

(a) Developing a relationship of confidence between the Department and the Applicant/Recipient.

(b) Defining and protecting the rights of applicants through safeguards against:

1. Identification of such individuals as a special group.

2. Exploitation of this group for commercial, personal or political purposes.

3. Making information available solely as a basis for prosecution and other proceedings or at the direction of the department's office of General Counsel.

(c) Providing a basis for recognition by the Court of the right of the Department to protect its records.

(d) Developing a relationship of confidence between the Department and the public at large, by protecting information made available to the Department by representatives of the public and utilizing such information only for the purpose of the proper functioning of the Department's programs.

(2) Information Considered Confidential

In general, the information listed below will be considered as confidential, and access to this information will be monitored as previously noted. Confidential information consists of:

(a) Case records

(b) Lists of Family Assistance recipients

(c) Reports of investigations and medical investigations

(d) Names and addresses of Family Assistance recipients

(e) All other information known to the agency in connection with Family Assistance and other services

(f) Information contained on applications and on various forms

(3) Exceptions to Confidential Information

(a) Release to law enforcement officials to assist in prosecuting fraud against the Department or child abuse, where otherwise required by federal law.

(b) Release to appropriate agencies assisting in collection of child support in the TANF program.

(c) Release to service providers, such as mental health professionals, providing services to abusive or neglectful parents.

(d) Release to the Department of Labor and Workforce Development for work registration and other employment and training requirements.

(e) Release to the child's guardian ad litem in child custody and guardianship cases

(f) Total expenditure of funds

(g) Number of recipients and other statistical information

(h) Social data contained in general studies

(i) Reports on surveys

(4) Release of Information to the Applicant/Recipient or His Representative

Federal regulations require that information in food stamp case be made available upon written request to a responsible member of the food stamp household, the household's currently authorized representative or a person acting on the household's behalf. Therefore, the food stamp case must be made available for inspection by authorized persons during all normal business hours. If the person seeking to inspect the case is not a member of the household, the current authorized representative, or a licensed attorney representing the household, written authorization from the household for the person to act on its behalf is required.

A staff member will remain with an (applicant/recipient) A/R, a claimant, or his/her representative who is reviewing a case or is copying material. While an A/R or his /her representative cannot be denied access to any portion of the case, at times there is information in the case which could be damaging to the person. This is particularly true of medical/psychiatric/psychological reports. Also, some material is labeled "Confidential" by the provider. When such circumstances exist and the person is represented by an attorney, the attorney will be asked to consider the advisability of his/her having access to the documents but withholding them from the A/R. However, this decision must be made by the attorney/claimant and not by DHS staff.

Staff will make no effort to interpret or explain forms, documents, or other information contained in a case folder being reviewed by an A/R or his/her representative.

A/R's or their representatives are to be permitted to obtain copies of any pertinent information which they are allowed to see. Upon an appellant's or representative's request, one copy of portions of the case relevant to the fair hearing/fraud hearing will be furnished free of charge.

When copying equipment is available, copies of other case record material may be furnished to an A/R, or an appellant, or an A/R's/appellant's representative at the charge specified at 1240-9-1-.05.

(5) Release of Information to Persons Other Than the Recipient or Someone Acting on his Behalf

Except as specified below, no information from a case record is to be released to anyone outside this Department other than the applicant/recipient or his representative. Such release would be in violation of state and federal regulations, and would probably violate the individual's right to privacy. The exceptions to this policy are:

(a) Use or disclosure of any information obtained from food stamp applicant households, exclusively for the Food Stamp Program, is restricted to the following persons:

1. Persons directly connected with the administration of enforcement of the provisions of the Food Stamp Act or regulations, other federal assistance programs, or federally-assisted state programs which provide assistance, on a means-tested basis, to low income individuals;

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

3. Local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request must include the following:

- 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.

4. Local, state, or federal law enforcement officials may receive the address, social security number and (if available) photograph of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency that the individual:

   - is fleeing to avoid prosecution, custody or confinement for a felony, or
   - is violating a condition of parole or probation, or
   - has information on a household member necessary for the officer to conduct an official duty related to a felony/parole violation.

(b) Release Pursuant to a Valid Subpoena or Court Order

The Department will comply with a valid subpoena or court order for the release of information. If it appears the only basis of the subpoena is to give the attorney the opportunity to plow through our records, the court will be asked to limit the scope of discovery.

(c) Other Requests for Information

All other requests for information received by the Department or any of its divisions, such as request for list of names and addresses, should be referred through channels to the appropriate Director of the program involved.

(6) Applications by Department Employees and Their Relatives

To avoid conflict of interest and insure privacy, special handling is given to Tennessee Department of Human Services employees and their relatives who apply for and receive Family Assistance benefits. These special procedures are:

(a) The Area Manager or District Director, as appropriate, must be made aware of applications, recertifications or case reviews for Family Assistance from an employee of the Department or from an employee's mother, father, grandparents, brother, sister, aunt, uncle, or member of the employee's household. Such actions are to be processed by a first-line Supervisor or other person designated by the Area Manager or District Director as appropriate.

(b) To assure the employee's privacy and the integrity of those cases, each county should develop a plan for limited access to these cases by other staff members and the employee himself. Such cases may be assigned to a special caseload number in the ACCENT System.

1240-1-13-.02 Reserved

1240-1-13-.03 Reserved

APPLICATION PROCESS 1240-1-14

APPLICATION PROCESS 1240-1-14

Application Process 1240-1-14-.01

The application process for the Food Stamp Program begins with a request for an application form and ends with notification of the household's eligibility or ineligibility. The application process involves such actions as:

(1) Making applications available
(2) Assisting in completion of the application
(3) Interviewing the appropriate household member
(4) Obtaining necessary verification
(5) Authorizing action to be taken
(6) Notifying applicant of determination made

Voluntary Withdrawal 1240-1-14-.02

The household may voluntarily withdraw its application at any time prior to the determination of eligibility. The caseworker shall document or record on the CLRC screen the reason for the withdrawal, if any, and that contact was made with the household to confirm the withdrawal. The household shall be advised of its right to reapply at any time.

Promptness 1240-1-14-.03

The household must be given an opportunity to participate no later than thirty (30) days after an application is filed. Expedited service (See Section 1240-1-5) shall be available to a household that meets these criteria. Benefits must be provided retroactively to the day of the month the application was filed for a household that has completed the application process and been determined eligible.

Filing An Application 1240-1-14-.04

An application is a signed document submitted to the Department of Human Services on which the household has requested assistance for Food Stamps, Families First, and/or Medicaid (TennCare). Applications can be filed in person, by an authorized representative, by a person's legally appointed guardian (or conservator in Families First only), by mail or by FAX. Applications shall be made in the county of residence.

The application file date will be the date the application is received in the county office, either by FAX, mail or in person. The file date for a FAXED application includes holidays and weekends. FAXED applications that contain the applicant's name, address and a handwritten signature are acceptable. Receipt of an original application in addition to the fax is not required.

APPLICATION PROCESS 1240-1-14

(1) Same Day Filing

Any person inquiring about making application for Food Stamps, Families First, or Medicaid (TennCare) shall have the right of same-day filing.

The county shall provide an application to anyone requesting one. If an application is filed, the date of application shall be recorded on the application form. The applicant shall also be advised that he/she does not have to be interviewed before filing an application. For Food Stamps an incomplete application may be filed 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.

(2) Reserved

(3) Mailing Applications

If the household has contacted the county office by telephone but does not wish to come to the office to file the application that same day and instead prefers receiving an application through the mail, the county shall mail an application form to the household on the same day the written request or telephone call is received.

(4) Contacting the Wrong Office

(a) If a county has designated certification offices to serve specific areas of the county, applicants may at times contact (in person or by phone) the wrong office. If so, the wrong office must still assist the applicant as follows:

1. Advise the applicant of same-day filing and mailing of an application (See Section 1240-1-14).

2. Give the applicant the address and telephone number of the correct or appropriate office.

3. Offer to forward the applicant's application to the appropriate office that same day if the applicant has completed enough information on the form to submit it.

(b) The applicant must be informed that the application is not considered filed and the processing standards do not begin until the application is received in the appropriate office.

If an application is mailed to the wrong office, that office shall mail the application to the appropriate office the same day it is received.

(5) Food Stamp Applications

The county office shall conduct a single interview at initial and subsequent applications. Families First applicants also applying for Food Stamps shall be interviewed by one caseworker for both types of assistance. However, eligibility and benefit levels shall be based on Food Stamp criteria for Food Stamps and Families First criteria for Families First. Certification shall also be in accordance with notice and procedural requirements of the Food Stamp regulations and Families First regulations accordingly.

Prescreening 1240-1-14-.05

The county's application procedures shall be designed to identify applicants who are eligible for expedited service at the time they request assistance. For detailed instructions on pre-screening refer to Section 1240-1-5.

Disposition Of Applications 1240-1-14-.06

An application continues in the application stage until action is taken. This action consists of:

(1) Approval of application or

(2) Denial or rejection of application due to death, withdrawal of application, loss of contact, failure to provide or obtain information necessary to determine eligibility or ineligibility based on program regulations.

(3) Pending of application due to county caused delay. See Section 1240-1-17.

APPLICATION PROCESS 1240-1-14

Approval Or Denial Of Application 1240-1-14-.07

(1) Approval

If it is determined that the applicant is eligible for assistance, the caseworker shall:

(a) Record documentation information on the CLRC screen

(b) Complete the case and authorize on ACCENT.

(2) Denial

In some instances it will be obvious during the intake interview that an applicant is ineligible. When this occurs the caseworker should explain the reason for denial to the applicant and document in the running record (CLRC Screen), then authorize the denial.

If it is determined late in the process that the applicant is ineligible for assistance, the caseworker shall complete the necessary screens in ACCENT, document on CLRC, and authorize the denial on AEWAA.

Procedure For Determining Eligibility 1240-1-14-.08

(1) If a determination of eligibility cannot be made at intake, the caseworker will have 30 days to obtain the necessary information and make a decision as to whether the applicant is eligible or ineligible for Food Stamps. During this time the caseworker must:

(a) Make whatever collateral contacts are necessary

(b) Determine all elements of eligibility

(c) Refer to Section 1240-1-16 for methods of verification.

(d) Record information on the CLRC screen gathered through the office interview, home visit, collateral contacts, or other verification.

(e) Make a determination and approve or deny the application.

APPLICATION PROCESS 1240-1-14

Actions Based On Eligibility 1240-1-14-.09

Households found eligible after consideration of the non-financial criteria in Section 1240-1-3, should have their countable income compared to the monthly income eligibility standards for the appropriate household size to determine if the household is eligible based on financial criteria.

Households, which do not contain a member who is elderly or disabled, are subject to a gross income limit of 130 percent of the poverty level income standard. To determine this limit, nonexempt gross income will be added together, and this sum must be compared to the eligibility limit for the appropriate household size. If the monthly income exceeds the amount for the appropriate household size, the household is ineligible. If the monthly income is less than or equal to the gross income limit, normal procedures allowing deductions will be followed and then the net income must be subject to the net monthly income guidelines. Guidelines for the gross and net monthly income standards are given in Section 1240-1-4-.27.

(1) Determining the Monthly Allotment

To determine the household's monthly benefits, the caseworker may refer to the appropriate Basis of Issuance (BOI) Table. No benefits of under $10.00 will be issued for the initial month. After the initial month all eligible one and two person households shall receive a minimum of $10.00.

(2) Proration of Initial Month's Benefits

The amount of the household's benefits for the initial month of certification will be based on the day of the month it applies for the benefits. The following procedures will be used to determine the amount of initial benefits:

(a) A household's benefit level for the initial month of certification will be based on the day of the month it applies for benefits. Using calendar month, households will receive benefits prorated from the day of application to the end of the month.

The term *initial month* means the first month for which an allotment is issued to a household or the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household is certified for participation. If the prorated benefits for the initial month are calculated to be less than $10.00, the household will receive no benefits for the initial month.

<u>Exception</u>: Migrant or seasonal farmworkers households who have participated in the Food Stamp Program within 30 days prior to the date of application <u>will be entitled to the full month's benefits</u>. Initial months benefits will be prorated if there has been more than 30 day break in the migrant or seasonal farmworker household's certification period.

Note: The proration of the household's initial month's benefits will be done by ACCENT. Therefore, it will not be necessary for the caseworker to follow the procedures set forth below in computing the initial month's benefits. This will be accomplished in the computer by comparing the beginning certification date to the full monthly allotment. For migrant or seasonal farmworkers entitled to the full month's benefits, the beginning certification date will begin the first day of the month so the computer will not prorate benefits.

In cases where the application was denied in the initial 30 days due to the fault of the household, and the household comes back in during the next 30 days and complies, the beginning certification date should reflect the date the eligibility is determined. Refer to Section 1240-1-7.

(b) To determine the amount of the prorated allotment, the following procedures apply:

1. Determine if the household is eligible according to the net income standard table (See Section 1240-1-4);

2. Based on the date of application, the following formula applies:

$$\text{Full Month's Benefits} \times \frac{\text{(number of days in month) +1 - (date of application)}}{\text{number of days in month}} = \text{allotment}$$

EXAMPLE

Mr. Smith applied on April 10 and is eligible for a full month's benefits of $200.

$$\$200 \times \frac{30 + 1 - 10}{30} = \$200 \times \frac{21}{30} = \frac{4200}{30} = \$140 \text{ allotment}$$

3. After using the multiplication factor to determine the allotment if the prorated benefits for the initial month of certification are computed to be less than $10.00, no benefits will be issued for the initial month.

4. The proration calculator at www.sworps.utk.edu/induction/prorate.asp may be used to calculate the initial month's benefits when the caseworker has to do this manually.

(3) If an application for recertification is not received until after the certification period has expired, then that application shall be considered an initial application and benefits for the initial month will be prorated. Benefits of less than $10.00 will not be issued.

(4) Eligible households which are entitled to no benefits, shall be denied participation, on the ground that their net income exceeds the level below which benefits are issued.

(a) The certification period will begin with the month of application for eligible households, which are not entitled to benefits because the initial proration is less than $10 but will be entitled to benefits in subsequent months.

(b) If a household is claiming actual utility expenses in excess of the Department's utility standard and the expense would actually result in a deduction, the expense must be verified. If the actual utility expenses cannot be verified before the 30 days allowed to process the application expire, the caseworker shall use the standard (Standard Utility Allowance or Basic Utility Allowance) as discussed in 1240-1-4. If the household wishes to claim expenses for an unoccupied home, the caseworker shall verify the actual expenses for the unoccupied home in every case and shall not use the standard utility allowance.

(c) If a deductible expense must be verified, and obtaining the verification may delay the Food Stamp certification, the caseworker shall advise the household that the eligibility and benefit level may be determined without providing a deduction for the claimed, but unverified, expense. This shall also apply to the allowance of medical expenses and dependent care costs. If the expense cannot be verified within 30 days of the date of application, the caseworker shall determine the eligibility and benefit level without providing a deduction for the unverified expense.

If the household subsequently provides the missing verification, the caseworker shall redetermine the benefits and provide increased benefits, if any, in reported changes. The household shall be entitled to the restoration as a result of the disallowance of the processing standard because the caseworker failed to allow the household sufficient time, as discussed in Section 1240-1-17, to verify the expense. If the household would be ineligible unless the expense is allowed, the application shall be handled as provided in Section 1240-1-17.

1240-1-14-.10 Reserved

Providing Notices of Eligibility 1240-1-14-.11

Every applicant found eligible to participate in the Food Stamp Program shall be provided with a written notice of eligibility as soon as a determination is made but no later than 30 days after the date of the initial application. Refer to Section 1240-1-17 for information on the 30-day processing standard and notices of eligibility.

Actions Based On Ineligibility And Delayed Eligibility Determination 1240-1-14-.12

(1) Ineligible

Each household that is denied eligibility based on either financial or non-financial criteria, shall be provided with a written notice of denial. Refer to Section 1240-1-17 for additional information regarding the notice of denial and its contents.

(2) Delayed Eligibility

If an eligibility determination cannot be made within the 30-day processing standard, the worker shall determine if the county or the household caused the delay. Specific actions must be taken depending on whether the county or the household caused the delay. Refer to Section 1240-1-17 for criteria to be used to determine the cause for the delay, and actions that should be taken.

1240-1-14-.13 Reserved

SSI/Food Stamp Joint Application Process 1240-1-14-.14

This section describes the joint application processing procedures and action that must be taken by the Social Security Administration and the Department of Human Services when an SSI household applies for food stamps at the Social Security Administration Office. Certification of these households must be accomplished by joint processing. The application will be taken by the Social Security Administration and the Department will make the eligibility determination.

Background

The Food Stamp Act of 1977 provides for certain households containing applicants for and recipients of Supplemental Security Income (SSI) to apply for food stamps at offices of the Social Security Administration. Many SSI recipients also are eligible for food stamps, but have found participation difficult. To make it easier for SSI recipients to obtain food stamps, the Secretaries of Agriculture and Health and Human Services have developed a procedure by which households in which all members are SSI recipients could apply for food stamps at the Social Security Office. Provisions of the Anti-Drug Abuse Act of 1986 allows certain individuals in public institutions applying for SSI the opportunity to also apply for food stamps by completing a single application before their release from the institutions.

APPLICATION PROCESS 1240-1-14

(1) SSI Households

For purposes of this section, SSI is defined as Federal SSI payments made under Title XVI of the Social Security Act, federally administered optional supplemental payments under Section 1616 of that act, or federally administered mandatory supplementary payments under 212 (a) of Public Law 93-66. Pure SSI households are those households in which all members are applying for or are participating in SSI.

Joint processing of food stamp applications at the SSA Office will be limited to pure SSI households; that is, households in which all members are applicants for, or recipients of SSI, and who are neither certified for food stamps nor have applied for food stamps within the past 30 days and do not have a food stamp application pending. These households' food stamp eligibility and benefit levels will be based solely on food stamp eligibility criteria in accordance with the notice, procedural and timeliness requirements of the Food Stamp Act of 1977 and its implementing regulations. The county office must make an eligibility determination based on information provided by SSA and/or by the household.

(2) Responsibilities of SSA

(a) Initial Application and Eligibility Determination

1. The Social Security Office will complete and forward food stamp applications to the local DHS Office when SSI households apply for food stamps at the Social Security Office. Whenever a member of the household consisting only of SSI applicants or recipients applies for SSI or at SSI re-determination at the SSA Office, the SSA must inform the household of:

   (i) its right to apply for food stamps at the Social Security Office without going to the Food Stamp Office; and

   (ii) its right to apply at the DHS Office if it chooses to do so.

   Note: While SSA is only informing pure SSI households who are initially applying for or being redetermined for SSI of items (i) and (ii) above, food stamp applications will be taken by SSA from other pure SSI households, if requested when they are at SSA for business other than initial application or redetermination for SSI when criteria for entitlement to joint processing are met.

2. The Social Security will accept and complete food stamp applications for pure SSI households received at the Social Security Office and forward them within one working day after receipt of a signed application to a designated county office.

3. Interviewing Households

Households in which all members are applying for or participating in SSI will not be required to see a state caseworker, or otherwise be subjected to an additional state interview. The SSI household must be interviewed by Social Security and submit a signed application prior to eligibility determination by DHS. Interviews may be held in the following manner:

(i) Telephone Interview

If Social Security takes an SSI application or redetermination on the telephone from a member of the pure SSI household, a food stamp application also must be completed during the telephone interview and mailed to the claimant for signature for return to the Social Security Office or to the designated county office. DHS cannot require the household to be interviewed again in the county office. If the household sends DHS both the Food Stamp application and the SSI application, the county office should forward the SSI application within one working day to Social Security.

(ii) Face to Face Interview

The Social Security will accept and complete applications from pure SSI households at the Social Security Office in accordance with procedures outlined above.

All signed applications received by Social Security must be forwarded to the designated DHS Office within one working day after receipt of the signed application.

4. Prescreening for Expedited Service

The Social Security will prescreen all applications for entitlement to expedited service on the day the application is received in the Social Security Office and will mark "Expedited Processing" on the first page of each household's application that appears to be entitled to expedited service. The Social Security will inform households which appear to meet the criteria for expedited service that benefits may be issued sooner if the household applies directly at the DHS Office. The household may take the application from Social Security to the DHS Office for screening, an interview, and processing of the application.

For SSI households entitled to expedited service, the county office will authorize the households no later than the close of business of the fourth calendar day following the date the application was received in the county office.

5. Standard of Promptness

The Social Security will forward applications received from SSI households to the designated DHS Office within one working day after receipt of a signed application.

6. Referral of Non SSI Households

The Social Security must refer non-SSI households and those in which not all members have applied for or receive SSI to the appropriate DHS Office. The county office will process those applications in accordance with the timeliness standards in Section 1240-1-17.

(b) Recertification

1. SSI households which have received notice that they are due for recertification, will be entitled to make a timely application for food stamp recertification in accordance with 1240-1-19 at the Social Security Office when the following criteria are met:

- The Food Stamp certification is ending;
- The household is still pure SSI; and
- The household chooses to file with SSA.

(3) Responsibilities of the Department (DHS)

The county office must make an eligibility determination and issue food stamp benefits to eligible SSI households whose applications are forwarded by Social Security Office. Normal timeliness policy and procedures apply. The application will be considered filed on the date Social Security receives the signed application.

(a) Categorically Eligible Household

Households who apply through SSA will be considered categorically eligible at such time as SSI eligibility determination is made or the individual is released from the institution (if institutionalized).

(b) Timeliness

The county office must complete the application process and approve or deny timely applications for recertification in accordance with 1240-1-19 in Volume II of the Food Stamp Manual. A face-to-face interview will be waived if requested by the household consisting entirely of SSI participants unable to appoint an authorized representative.

(4) Verification Procedures

Regardless of whether the SSA or the county office conducts the interview, the required verification must be made prior to a certification of the household for food stamp benefits.

Verification is the use of third party information or documentation to establish the accuracy of the application. However, the caseworker must ensure that information required as listed below is verified prior to certification of households initially applying.

After the application is received from the SSA, the caseworker may contact the household in order to obtain information for certification for food stamp benefits when the application is improperly completed; mandatory verification is missing; or the caseworker determines that certain information on the application is questionable. The applicant can not be required under any circumstances to appear at the DHS Office to finalize the eligibility determination. Further contact with the household made in accordance with this subparagraph will not constitute a second food stamp certification.

(5) Assigning Certification Periods

Households certified under joint processing procedures should be certified for up to twelve months in accordance with 1240-1-7 and 1240-1-5.

(a) Normal Certification Periods

Households that are certified on an expedited basis and have provided all necessary verification required in Section 1240-1-16 prior to certification will be assigned a normal certification period.

(b) Optional Certification Periods

If verification is postponed, the caseworker may certify these households for the month of application only. However, at the worker's option, a normal certification period may be assigned to these households whose circumstances would otherwise warrant a longer certification period. In either case, benefits will not be continued past the month of application if postponed verification(s) are not provided.

(6) SSI Households Applying at the County Office

The county office must allow SSI households to submit food stamp applications at the local DHS Office, if the household prefers.

(7) Restoration of Lost Benefits

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

Such an error must include, but not limited to, the loss of an applicant's food stamp application after it has been filed with SSA. Lost benefits shall be restored in accordance with 1240-1-21.

(8) Work Registration Requirements

Household members who are applying for SSI and for food stamps under joint processing procedures must have the requirement for work registration waived until:

(a) They are determined eligible for SSI and thereby become exempt from work registration; or

(b) They are determined ineligible for SSI and where applicable, a determination of their work registration status is then made through recertification procedures in accordance with 1240-1-14 or through other means.

(9) Mass Changes

The county office will be responsible for automatically adjusting a household's food stamp benefit level to reflect the cost-of-living increases received in Social Security and SSI benefits.

Categorical Eligibility 1240-1-14-.15

Section 1240-1-14-.15 is located in the Household Section in Volume I of the Food Stamp Manual.

INTERVIEWING FOR ELIGIBILITY 1240-1-15

INTERVIEWING FOR ELIGIBILITY 1240-1-15

Introduction 1240-1-15-.01

In the eligibility determination process in Family Assistance, interviewing plays a vital role in applicant, recipient, and agency communication. Despite more reliance on communication by means of forms and electronic media such as the ACCENT system, email, fax transmissions, etc., interviewing retains its prime importance in bringing about understanding of the program and of responsibilities under it. Interviews provide opportunities for the applicant/recipient to communicate with agency staff on a face-to-face or wire-to-wire (in the case of telephone interviews) basis.

The skillful use of interviews for communication, whether face-to-face or over the telephone, can reap benefits for both the applicant/recipient and the agency. Skillful interviewing serves as a means of obtaining accurate, reliable information that the applicant has or can make available. Interviewing can also be a way for the applicant to learn the agency is concerned about people and wants to deal with them positively and equitably.

Purpose Of Interviewing 1240-1-15-.02

(1) From the perspective of the applicant and recipient, the interview provides an opportunity to:

(a) gain an understanding of the agency program, its benefits and the expectations of the recipient in meeting program requirements.

(b) clarify questions that the recipient may have about eligibility requirements, agency policies and procedures.

(c) present his/her information in his/her own words.

(2) For the agency, the interview serves to:

(a) secure the information which the agency needs to determine eligibility;

(b) enhance the applicant's understanding of the eligibility determination process and of the agency's related policies and procedures;

(c) enlist the participation of the applicant and the recipient in this process;

(d) improve understanding of the rights and the obligations of the applicant and recipient under this process;

(e) supplement the agency's other means of communication with the applicant/recipient.

INTERVIEWING FOR ELIGIBILITY 1240-1-15

Mandatory Interviewing 1240-1-15-.03

A face-to-face interview will be conducted with all applicant/recipient households by a qualified eligibility worker prior to initial certification/approval and recertification for Food Stamps, **except** that a face-to-face interview is not required when an elderly or disabled person requests a telephone interview, or the case is in simplified reporting and is required to have a face-to-face interview only once in a twelve-month period.

(1) The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy must be protected during the interview. Facilities shall be of adequate size and layout to assure privacy and protect the confidentiality of the interview.

(2) The person interviewed must be the head of the household, spouse, any other responsible adult member of the household, or an authorized representative who is an adult and who has knowledge of the household's circumstances.

Scheduling Interviews 1240-1-15-.04

(1) The county will schedule face-to-face or out-of-office interviews as promptly as possible after the filing of applications in order to ensure that eligible households receive an opportunity to participate in the Food Stamp program within thirty (30) days after the application is filed.

(2) If a household fails to appear for a scheduled interview after an application has been filed with the county office, or prior to the date the food stamp certification period expires, these procedures will be followed:

(a) a Notice of Missed Appointment will be automatically sent to the applicant by the ACCENT system when Client Scheduling is updated to reflect the missed appointment. This notice informs the applicant that he/she missed the appointment and that they must contact the county to schedule a second appointment within the application processing timeframe or the application will be denied;

(b) if the HH/AG contacts the office to reschedule, schedule the second appointment as soon as possible to ensure that the original 30-day processing timeframe can be met. (Refer to FAM 1240-1-17 for timeliness on rescheduled interviews);

(c) if the HH/AG does not contact the office to reschedule, do not schedule a second appointment. Let the existing certification expire, or for an application, deny the application at the end of the 30-day period.

INTERVIEWING FOR ELIGIBILITY 1240-1-15

Single Interview 1240-1-15-.05

When a household/assistance group is applying for both food stamps and Families First, a single interview will be held to fulfill the requirements of both programs.

NOTE: More than one interview may be required in order to clarify information provided, resolve inconsistencies, view documents presented in support of the client's statements, etc., during the application or recertification/redetermination period. The additional interview(s) for these purposes will not violate the "single interview" requirement.

Waiver Of Office Interview 1240-1-15-.06

(1) The office interview **must** be waived upon request by any household which is:

(a) unable to appoint an authorized representative and which has no household members able to come into the Food Stamp Office because they are 60 years of age or older, or are disabled as defined;

(b) unable to appoint an authorized representative and lives in a location not served by a certification office;

(c) unable to appoint an authorized representative and which has no household members able to come to the Food Stamp Office because of transportation difficulties or similar hardships which the county determines, on a case-by-case basis, warrants a waiver of the office interview. These hardship conditions include, but are not limited to:

1. illness,
2. care of a household member,
3. prolonged severe weather,
4. hardship associated with living in a rural area, and/or
5. employment or training hours that prevent an applicant from participating in a face-to-face interview.

The county must determine if the difficulty or hardship reported by a household warrants a waiver of the office interview and document in the case file why a request for a waiver was granted or denied.

(2) Telephone Interviews

The county may offer a telephone interview in lieu of a face-to-face interview for a household for whom the face-to-face interview is waived.

(3) Out-Of-Office Interviews

We anticipate that the interview requirement for the majority of households with waived face-to-face interviews may be completed via telephone interviews. However, this may not be possible in some rare instances. When this is the case, a mutually agreed-upon site for the interview will be arranged between the county and the applicant/recipient or his/her representative.

(4) Verification of Information for Out-of-Office Interviews

Waiver of the face-to-face interview does not exempt the household from the verification requirements discussed in Section 1240-1-16. However, special procedures also may be used to permit the household to provide verification and thus obtain its benefits in a timely manner. These may include substituting a collateral contact in cases where documentary verification would normally be provided. Waiver of the face-to-face interview should not affect the length of the household's certification period.

(5) Interview for Simplified Reporting Cases

Cases in Simplified Reporting must be recertified for food stamps every six months. The household may complete its recertification with:

(a) a telephone interview, provided the household does not have two consecutive telephone interviews; or

(b) a face-to-face interview.

The household must have at least one face-to-face interview during a twelve-month period. Every other interview should be by telephone unless the applicant/recipient specifically requests an office interview.

General Intake Information 1240-1-15-.07

In addition to the eligibility requirements for the Food Stamp program, certain other information must be given to an applicant during the initial interview. This information is to be given orally and in writing when written information is requested and/or deemed appropriate.

(1) Inform the applicant:

(a) that he/she is the first source of information concerning the household's eligibility, and that it is his/her responsibility to provide factual information which substantiates his/her statements about eligibility factors. Advise him/her that if he/she is unable to secure the documentary evidence required to establish the household's eligibility, he/she may request help from the worker in obtaining it, and such help will be provided;

(b) that the Department must have substantiating information about certain factors of eligibility and will be contacting individuals and organizations in a position to know the facts of his/her circumstances in order to obtain this information. If there is some individual or organization he/she specifically does not wish the Department to contact the name of the person or organization must be entered on the Authorization for Release of Information Form. If it is determined that this particular person or organization is the only acceptable source for certain required information, and he/she continues to refuse permission to contact, then his eligibility for assistance cannot be determined;

(c) that discrimination because of age, race, color, sex, handicap, religious creed, national origin or political belief is unlawful. The Civil Rights pamphlet must be provided to each applicant.

(d) that information about his/her household is held in confidence with the agency.

(e) that the federal Privacy Act can affect the household. The Privacy Act pamphlet must be provided to each applicant.

(f) that he/she has the right to appeal any agency action he/she believes to be discriminatory or unfair or when action on his/her request for assistance is not taken with reasonable promptness.

(g) that it is unlawful for anyone to charge, either directly or indirectly, for help to him/her in filing the application with the agency.

(h) that the agency has 30 days (unless the household is entitled to expedited service) to determine food stamp eligibility and provide assistance with his/her help and cooperation.

(i) that he/she has the responsibility to provide truthful information about his/her circumstances, substantiating information when requested, and if he/she is approved for assistance, to report any change in his/her circumstances within 10 days of the date the change becomes known to the household.

Note: Cases assigned to Simplified Reporting are not subject to regular reporting requirements as outlined in this subparagraph. See 1240-1-19 for Simplified Reporting Requirements.

(j) that each applicant for assistance must furnish or apply for a social security number.
Note: A non-applicant is not required to furnish a social security number.

(k) that all members of the household who are required to register for or participate in a work program must do so.

(l) that approval and payment/issuance can be made only after all eligibility requirements are met.

(m) that Food Stamps may be used only to purchase eligible food items.

(n) that if his/her request is approved, he/she will receive a Benefit Security Card for use in purchasing food.

Failure/Refusal To Cooperate In Eligibility Process 1240-1-15-.08

To determine eligibility, the application must be completed and signed, the applicant (or designee) must be interviewed, and the information on the application and family circumstances must be verified, as required. The household will be informed that this agency cannot guarantee completion of the application within 30 days unless she/he cooperates by supplying requested information promptly.

This does not mean that the applicant/recipient has the sole responsibility for obtaining verifications. Indeed, there are instances when it is easier and faster for the worker to verify needed information. E.g., Clearinghouse may be used to verify Unemployment Insurance Benefit information, rather than contacting Employment Security or requesting award letters from household members. It may also, e.g., be quicker for the worker to verify employment and/or earnings by telephoning the employer, than to wait for the applicant to get a statement or copies of pay records and mail them in. On the other hand, the applicant will have to provide enough information for the worker to assist in obtaining the necessary verification (information necessary to use the Clearinghouse file, or the name and other information needed to contact an employer).

The worker and applicant/recipient or his/her authorized representative will come to a clear understanding and agreement as to what necessary information the applicant/recipient will supply and what the worker will obtain. The applicant/recipient must be informed of the specific information needed, and must be given sufficient time (at least ten days) to provide the requested information. He/she must be advised to contact the worker if help or additional time is needed to obtain the required information.

The client/worker agreement regarding the requested information must be documented, in addition to any subsequent contacts or lack of follow-up between the worker and the applicant.

It is important that the applicant be given an opportunity to provide acceptable verification if the preferred document is not readily available. For example, a birth certificate is the **preferred** document to verify age and relationship, but it is not the **only** document that can be used. Other documents are acceptable sources of verification for these elements. Such documents include census reports, hospital birth records, family Bible records, and even telephone contacts with a hospital's medical record section.

Under no circumstances is a case to be denied or closed for failure to provide verification from a particular source when another source could serve the same purpose.

INTERVIEWING FOR ELIGIBILITY 1240-1-15

When there is only one source of verification for a particular item and that source is no longer available (e.g., a factory has gone out of business and there is no longer anyone who can verify wages for the past month, and the applicant has no check stubs or wage records), a statement signed and dated by the applicant may be accepted as verification.

When a required verification cannot be obtained from a third party despite the household's and the worker's best efforts, the worker can accept the client's written declaration of the facts. The record should be documented showing the efforts that have been made and the results.

The distinction between **refusal** and **failure** to provide information or cooperate in the eligibility determination is often difficult.

(1) **Refusal** to cooperate exists when the household is able to cooperate but clearly refuses to take the required action.

For example:

- someone may **fail** to show up for an interview or he/she may **refuse** to be interviewed;
- someone may **fail** to provide required documentary evidence or he may **refuse** to give the worker information necessary to obtain such evidence.

(2) **Failure** to do something is usually evident; **refusal** is not evident until the counselor has explored the situation with the applicant/recipient in an attempt to help him/her in establishing eligibility.

(a) **refusal** to provide verification or information needed to obtain required verification is sufficient ground for denial or termination.

(b) **failure** to provide information needed to establish eligibility may result in denial or termination because we are unable to establish a necessary factor of eligibility.

(c) If the worker is unsure whether the household has <u>refused</u> or merely <u>failed</u> to cooperate, the request for assistance will not be denied or terminated. Instead, the A/R will be given a reasonable opportunity to cooperate. (E.g., if the household takes the required action within the application processing period, cooperation has occurred.)

(d) Once denied or terminated for refusal to cooperate, the household may reapply but will not be determined eligible until it cooperates with the agency. This policy applies to applications and any subsequent redetermination of eligibility, including recertifications, reviews triggered by reported changes, and reviews by Quality Control staff.

3. Refusal to Cooperate with Federal or State QC

As a condition of eligibility for food stamps, a household must cooperate with a federal or state QC reviewer in conducting a review.

(a) The QC reviewer will advise the worker of the household's refusal to cooperate and the specific information that the household refused to provide.

(b) The worker will provide the household with a Notice of Adverse Action (or Notice of Denial for application/recertification), citing its refusal to cooperate as the reason for termination or denial of benefits and outlining the action the household must take if it wishes to reapply and cooperate.

(c) If the household reapplies and wants to cooperate with the QC reviewer, the worker first will refer the household to the QC supervisor.

(d) The QC supervisor will determine whether the review must be reopened. If the household reapplies within 95 days from the end of the annual review period for a state review, or seven months for a federal review, it must cooperate with QC and complete the review before it may be determined eligible to receive benefits. QC will notify the county office once the household has cooperated in the completion of the review.

(e) If the household reapplies after the 95-day timeframe for a state review, or the seven month timeframe for a federal review, it may be determined eligible without cooperating with QC. However, it must provide verification of all eligibility factors prior to approval. QC will notify the county office once it has been established that the appropriate timeframe (95 days or seven months) has passed.

(f) Upon notification from QC of the household's compliance, the worker will process the application. If the application processing period extends beyond 30 days because of the time necessary for the QC review, the worker will follow procedures outlined in Section 1240-1-17 of the Food Stamp Manual for delays caused by the county.

(g) If QC notifies the worker that the household still has refused to cooperate, the application will be denied.

VERIFICATION PROCEDURES 1240-1-16

VERIFICATION PROCEDURES 1240-1-16

This section describes the factors that must be verified and the procedures, which the worker must use to confirm or substantiate information provided by the applicant/recipient in determining eligibility/ineligibility for food stamps.

Introduction 1240-1-16-.01

(1) Verification is the process of confirming or substantiating information provided by the applicant/recipient.

Any decision made before the end of the standard of promptness period must be based on a clear-cut determination of eligibility or ineligibility.

For a finding of ineligibility, the caseworker may render a decision based on the household's unverified statement. For example, a household reporting resources over the program's resource limit would be determined ineligible. However, to render a decision of eligibility, the worker must be able to make a firm determination of eligibility based on verified points of eligibility. Therefore, the verification process is central to the caseworker's ability to certify a household for benefits. If there is any doubt of eligibility, the caseworker must resolve it using the best available evidence including documentary evidence, collateral contacts, and home visits.

The client's written declaration of the facts can be accepted as verification when:

- the household has tried, without success, to obtain the needed verification; **and**
- the counselor has exhausted all means of securing documentary evidence, without success; **and**
- the documents needed are other than those required by another agency, as in enumeration.

The record must be documented showing the efforts that have been made and the results.

The purpose of verification is to establish as accurately as possible that the household meets defined eligibility criteria, and that the benefit amounts for the programs in which assistance is requested are correct.

The three sources of acceptable verification, which will be discussed in greater detail later in this chapter are: documentary evidence (e.g., wage stubs, bills, birth certificates), collateral contacts (e.g., neighbors, landlords, friends, ministers, schools), and home visits.

(2) Documentation

Documentation is the recording in the case record of the facts that led to the caseworker's determination of eligibility or ineligibility in sufficient detail to permit any reviewer of the case record to determine the reasonableness and accuracy of the determination.

The following notations must be made in the case file:

Documentary Evidence:

- record the title or type of document, document number, date of document, date seen, and contents.

Collateral Contacts:

- date of contact type (written, face-to-face, telephone);
- name of collateral contact;
- relationship of the collateral contact to the HH/AG (how this person is in a position to know the facts); and
- information secured from the collateral contact (not Mrs. G. verified A/R's statement).

Home Visits:

- the date the home visit was scheduled and the date it was made;
- why the home visit was made; and
- the information obtained during the home visit.

The client's written declaration of the facts can be accepted as verification when:

- the HH/AG has tried, without success, to obtain the needed verification; **and**
- the counselor has exhausted all means of securing documentary evidence, without success; **and**
- the documents needed are other than those required by another agency, as in enumeration.

The record must be documented showing the efforts that have been made and the results.

VERIFICATION PROCEDURES 1240-1-16

Proper documentation and accurate verification are crucial in determining eligibility. The Caseworker must obtain adequate verification for all required items at application, reported changes, and at recertifications to assure that eligibility and amount of benefits have been correctly determined. All factors pertinent to the case must be fully documented on CLRC in ACCENT.

Documentation provides a full explanation of the eligibility decisions reached. This is especially important if the applicant/recipient, Legal Services, Quality Control or anyone else who may be looking into the case questions a decision. It also allows caseworker assigned to a case to understand the household's circumstances and the benefit determinations that have been made. Good, strong documentation also helps to support the county's action in an appeal or a Quality Control review.

Verification Process 1240-1-16-.02

(1) Responsibilities for Providing Verification

Securing adequate verification is a joint responsibility between the household and the caseworker. The household has the primary responsibility for providing documentary evidence to support its statements and to resolve any questionable information. The household may supply documentary evidence in person, through the mail, or through an authorized representative. <u>The caseworker must accept any reasonable documentary evidence and must primarily be concerned with how adequately the verification proves the statements on the application.</u>

(a) Responsibilities of the Household:

- timely provide documentary evidence;
- provide a collateral contact if needed;
- cooperate if a home visit is required;
- resolve discrepancies arising in verification.

(b) Responsibilities of the Caseworker:

- accept reasonable evidence from the household;
- assess the adequacy of the collateral contact;
- obtain the required verification for the applicant/recipient when it is obvious during the interview

- that the information can be gathered easier and quicker by the caseworker;
- assist in obtaining timely verification information, if difficulties arise;
- notify the household of verification to be provided and by when it is needed;
- protect the applicant's/recipient's privacy;
- give the household opportunity to resolve discrepancies in verification;
- evaluate all information provided by the A/R, or concerning the A/R's eligibility, and to make a determination of eligibility for Food Stamps based on State Regulations for these.

(2) Sources of Verification

The caseworker must substantiate statements made by the household on the application regarding all eligibility factors that must be verified. There are three sources of verification: (1) documentary evidence, (2) collateral contacts, and (3) home visits. Each source of verification is discussed below with details regarding when each source is to be used.

(a) Documentary Evidence

Documentary evidence is written confirmation that is relied on as the basis, proof, or support of information provided by the household and may either be official or unofficial.

1. Official documents are those that are prescribed or recognized as authorized and are most commonly provided by business, agencies, and organizations engaged in specific enterprises or service delivery. Examples of official documentary evidence include Social Security cards, INS cards, check stubs, birth certificates, rent receipts, utility bills, benefit award letters, etc.

2. Unofficial documentary evidence may include such items as a hand-written note from the employers of persons that work periodically such as baby-sitters, gardeners, domestic assistants, etc.

Both official and unofficial documents are acceptable sources of verification as long as they sufficiently reflect the information needed to substantiate the household's statements or allow a conclusion to be drawn regarding the eligibility factor being verified.

VERIFICATION PROCEDURES 1240-1-16

Documentary evidence is the primary source of verification. There will be some eligibility factors that need to be verified, but on which no documentary evidence is available (such as residency and household size). There will be times when the available documentary evidence is not sufficient to determine eligibility and level of benefits (such as when official documents appear to have been altered or falsified, or when pay stubs are not recent enough or inclusive enough to establish current earnings).

When documentary evidence is not readily available, or when it is not sufficient, a collateral contact, a home visit, or both will be used as alternate sources of verification.

(b) Collateral Contact

In contrast to the written confirmation provided through documentary evidence, a collateral contact is a verbal confirmation of the household's circumstances by someone outside of the household who is knowledgeable regarding the eligibility factor being verified and may be anyone who can be expected to provide accurate third-party verification of the household's circumstances. Collateral contact may either be made in person or over the telephone.

The caseworker may select the collateral or may ask the household to assist by providing the name(s) and telephone number(s) of persons who know the facts and will be able to provide accurate and reliable information. While the household may supply the name of a potential collateral contact, the caseworker is not required to accept the collateral if that person cannot be expected to provide accurate and reliable information.

When contacting a collateral contact, the caseworker should take reasonable steps to ascertain the identity of the person and should ask enough questions to resolve any doubts as to that person's reliability or acceptability.

Example: How long have you known Mr. or Mrs. X?

What is your relationship to Mr. and Mrs. X (cousin, neighbor, employer, work together)?

Are you familiar enough with the X's to answer specific questions about them (who lives there, how is he kin to them, where do they work)?

If there is no acceptable collateral contact, a home visit may be substituted if the necessary information can be obtained by a home visit (e.g., determining household composition).

VERIFICATION PROCEDURES 1240-1-16

The client's written declaration of the facts can be accepted as verification when:

- the household has tried, without success, to obtain the needed verification; **and**
- the caseworker has exhausted all means of securing documentary evidence, without success; **and**
- the documents needed are other than those required by another agency, as in enumeration.

Running record must be documented showing the efforts that have been made and the results.

(c) Home Visits

A home visit may be scheduled to make required verifications when there is no available or acceptable documentary evidence and there is no appropriate collateral contact available. A home visit must be scheduled in advance with the household.

Verification At Initial Application 1240-1-16-.03

At application, the caseworker must examine both financial and non-financial factors of eligibility for Food Stamps. Information provided by the applicant/recipient on each factor must be examined and must be verified and documented on CLRC in ACCENT.

The following describes financial and non-financial factors, which must be verified before eligibility, and level of benefits is determined:

(1) Identity

For Food Stamp purposes, the identity of the person making the application shall be verified. Where an authorized representative applies on behalf of a household, the identity of **both** the authorized representative and the head of the household shall be verified through documentary evidence, or if unavailable, a collateral contact. Examples of acceptable documentary evidence include, but are not limited to, a driver's license, a work or school ID, an ID for health benefits or another assistance (Families First) or social service program, a voter registration card, wage stubs or a birth certificate.

For **expedited** service**, identity** is the **only** verification required for the initial month.

(2) Residence

Residency is a requirement in the Food Stamp program. There is no duration requirement, however.

Households must be living in the county in which they file an application. **The only exception to this requirement is that a household may apply for food stamps in another county when a hospital-based caseworker takes the application**. The caseworker must verify residence in conjunction with verification of other information such as rent and mortgage payments, utility expenses, and identity. If residence cannot be verified in conjunction with other information, the caseworker must use a collateral contact or other readily available documentary evidence.

Exception: In unusual cases (e.g., migrants and farm workers, homeless households or households newly arrived in the country) if verification of residence cannot be readily accomplished, the caseworker may accept the household's statement that it resides in the county.

Residence does not have to be verified in order to change an address on the system; it must, however, be verified in order to allow shelter expense in a budget.

(3) Alien Status

The caseworker must verify alien status if members of the household are identified as aliens. Alien status is to be verified through the Immigration and Naturalization Service's Systematic Alien Verification for Entitlements (SAVE) system.

NOTE: Applicants for and recipients of assistance under the Refugee Resettlement Program are not subject to the SAVE requirements.

(4) Social Security Numbers (SSN)

An applicant or recipient must furnish a social security number (SSN) as a condition of eligibility. If he cannot furnish a number, he must apply for one. Assistance cannot be denied, delayed or terminated pending the issuance or verification of a social security number as long as the applicant or recipient has either furnished the number or applied for one. If an SS-5 is completed in the county DHS office, a copy of the completed SS-5, documentation of appropriate identifying information and a copy of the Enumeration Transmittal Sheet (HS-2115) should be filed in a central location.

If a HH member can show good cause why an application for an SSN has not been completed in a timely manner, that person shall be allowed to participate for one month in addition to the application month. If the HH member applying for the SSN has been unable to obtain documents required by the Social Security Administration, the caseworker will make every effort to assist the individual in obtaining the documents. Good cause for failure to apply for a number must be shown monthly in order for a HH member to continue to participate in the program.

Verification of reported social security numbers may be accomplished by matching the reported number with BENDEX, SDX, wire-to-wire, observing the social security card or any official document from the Social Security Administration containing the SSN, or by utilizing the SS-5 process.

(5) Household Size/Composition

Determining the correct composition of the HH is crucial. The number of persons in the household must be verified prior to approval, at each recertification, and anytime the household size changes.

The caseworker must verify household size and/or composition by either a collateral contract or other source of verification that will provide accurate verification of the number of people in the FS household. Examples of acceptable collateral contacts are landlords, neighbors, social agencies or other reasonable sources.

When persons living in the same household claim separate Food Stamp household status, a signed statement from each head of household is acceptable verification of separate HH status.

Examples of acceptable collateral contacts are landlords, neighbors, and social agencies.

(6) Resources

Countable and non-countable liquid and non-liquid resources must be verified, if questionable. Caseworkers will accept the applicant's/recipient's declaration of the value of any safety deposit box items. The amount of any savings or checking accounts will be verified at each application and recertification. Acceptable verification is documentary evidence such as statements from banks or other savings institutions.

The **fair market** value of a vehicle is determined to be the listed value for a particular vehicle in the NADA ("blue book") guide or the Internet websites listed in 1240-1-4. If the vehicle is no longer listed, the client's statement of value will be accepted.

(7) Gross Non-Exempt Income

Gross non-exempt income should be verified prior to approval. However, if all means of securing documentary evidence have been exhausted, the client's signed and dated statement can be accepted.

"Income" includes both **earned** (wages and salaries) and **unearned** (money received from sources other than employment) income. The source and amount of all income for each HH member must be explored to determine whether it is to be counted or exempt. (See also section 1240-1-4 in the income section.)

When documentary evidence of current earnings is not available because the applicant/recipient is self-employed, the applicant's/recipient's business records and 1040 Income Tax forms from previous period may be used to estimate monthly income. If no business records have been kept, or if the applicant/recipient has not been self-employed long enough to have filed Form 1040, the caseworker and applicant/recipient must determine an amount to be used based on the best available information. In some instances this may be the applicant's/recipient's signed statement. The case must be fully documented on CLRC to reflect how the amount was determined.

Verification of an individual's lack of employment may be obtained through a collateral contact or with documentary evidence of recent unemployment (e.g., a layoff notice). Clearinghouse should be used, if there is no DEUC match, to verify whether an individual is receiving unemployment compensation.

In instances where the household's expenses exceed known income, the caseworker should carefully explore how those expenses are met with the household. However, these circumstances in and of themselves shall not be grounds for denial.

Acceptable verification of income includes documentary evidence such as copies of most recent wage stubs, an employee's W-2 form, IRS form 1040, Clearinghouse wage match (to verify past wages), ACCENT wage match, and a statement from an employer. If documentary evidence is not available, the applicant's/recipient's signed and dated statement can be accepted.

Documentation of how the gross income was derived is crucial for QC purposes. In order for a case with fluctuating income to be a "correct" case for Quality Control purposes, the caseworker must have fully and accurately documented how the gross monthly income was determined. Documentation must include the date and gross amount for each pay period used, with the appropriate number of pay periods recorded. In addition, the actual calculations used to arrive at the gross monthly income figure should be shown in order to demonstrate how the caseworker arrived at that figure. If the income was averaged and converted a statement to that effect must be recorded and the appropriate conversion factor should be shown.

For Food Stamp fluctuating income cases the caseworker must determine what is representative income for the prospective period based on earnings from the prior period. At a minimum, at least two months of known income, or one month of income that is known and can be reasonably anticipated to be representative, is needed to determine an average income. Pay patterns must be established. Checks may be disregarded if they are not representative for the future period. The justification for this procedure must be fully documented in the case on CLRC.

When the Food Stamp household's income is averaged, the averaged amount must be used for each month of the certification period, including the month of application. This does not apply to income from a new source when it was not received during the entire month of application.

Income averaging is prohibited for a destitute household during the first month since averaging would result in assigning income for a future period to the month of application when that income is not available to the family in that month.

NOTE: When a FS applicant claims deductible expenses and documentary verification is not available, the caseworker should first determine if the amount of the claimed expense will result in a deduction. If the deductible expense will result in delaying the household's certification, the caseworker must inform the household that its benefit amount must be determined without providing a deduction for the claimed expense. If the household subsequently provides the necessary verification the caseworker must make a timely redetermination.

(8) Medical Expenses

Medical expenses in excess of $35 per month are deductible for elderly or disabled household members, as defined in Section 1240-1-9.

Verify the amount of the expense and the amount of the reimbursement prior to allowing it as a deduction. Verification of other factors, such as allowability of services provided or the eligibility of the person incurring the costs, is required if questionable.

Acceptable verification for one-time medical expenses consists of documentary evidence such as receipts, cancelled checks, or bills from doctors, pharmacies, clinics, etc..

(9) Dependent Care Expenses

Dependent care expenses are allowable deductions for Food Stamps. These expenses must be verified prior to allowing them as a deduction.

When a household claims dependent care costs, verify the actual amount of the cost if allowance of the expense would result in increased benefits.

Acceptable verification of dependent care is documentary evidence such as a statement from the provider of the services.

(10) Shelter Costs

Shelter cost must be verified at initial eligibility determination, when shelter expense changes, and at recertification, if it is allowed as a deduction.

(11) Loans

When a household claims that money received is a loan, the caseworker must verify that it is, indeed, a loan and that it is expected to be repaid. When verifying whether income is exempt as a loan, a formal legal document is not required. A repayment agreement may be a simple statement signed by both parties, which indicates that the money is a loan and what the plans are for repayment.

(12) Disability

Disability must be verified prior to allowing any special consideration regarding medical deductions, excess shelter deductions, use of net income standards, separate household status for parent/child and siblings, and elderly disabled persons who live with others and purchase and prepare food with others.

(a) Receipt of disability or blindness benefits (for all special considerations except granting of separate household status to elderly, disabled individuals purchasing and preparing food with others) from SSI or Social Security is verification of disability for those individuals receiving such benefits.

(b) Disability for a veteran may be verified by observation or documentary evidence from VA.

(c) Disability for a surviving spouse or child of a veteran may be verified by observation or a statement from a physician or licensed or certified psychologist.

(d) Disability for an elderly disabled person who lives with and purchases food with others may be based on observation or a statement from a physician or licensed or certified psychologist.

(13) Strikers

Striker status of any household member must be verified when there is a known strike in the employment area and there is a history of recent employment.

(14) Other Mandatory Verification

(a) Relationship -- The relationship of the child(ren) for whom benefits is being requested, to one applicant, may need to be established.

(b) Age -- The age of children in a household may need to be verified as it applies to ABAWD policy or exemption as it relates to the adult in the household.

(c) School Attendance -- As it relates to exemptions and other areas.

(15) Questionable Information

The caseworker must verify factors other than those listed above that are questionable and would affect the household's eligibility or level of benefits. Questionable information can be information on the application, which is:

(a) inconsistent with statements made by the applicant;

(b) inconsistent with other information on the application or previous applications.

(c) inconsistent with information received by the caseworker.

Questionable information is not limited to the above criteria if, in the prudent judgement of the caseworker and/or supervisor, the information provided by the household appears to be unreasonable when considered in relation to the other household circumstances.

When determining if information is questionable, the caseworker will base the decision on each household's individual circumstances.

Status Of Application Awaiting Verification 1240-1-16-.04

In many instances, the applicants will not have adequate verification and the application must be held for additional information.

The following chart shows the status of the application when the verification is not readily available at the time of the interview, and the application is being held for additional verification. The caseworker must clearly state to the applicant what information needs to be verified and by what date it should be provided to the county office. The caseworker should discuss with the applicant/recipient whether help is needed in obtaining the necessary information.

ITEM	STATUS WHILE VERIFYING
(1) Residency	Household is not eligible until this is verified (except for unusual cases, such as expedited, migrants and homeless).
(2) Identity	Household is not eligible until this is verified
(3) Alien and Citizenship Status	An alien or citizen with questionable status is ineligible to participate in the program. If the remainder of the household is eligible, it may participate in the program without the alien or citizen.
(4) Liquid Resources	If HH indicates it has liquid resources such as checking/savings account, do not certify until verification is provided.
(5) Gross Non-exempt Income	Household is not eligible until this is verified. If there is no possible way to verify income, because the person or organization providing the information has failed to cooperate, the caseworker may consult with the HH and use the best possible estimate for income.

ITEM	STATUS WHILE VERIFYING
(6) Social Security Number	
Furnished at application	The household member is eligible to participate.
SS-5 completed and sent to SSA	The household member is eligible to participate while waiting receipt of the SSN.
Application completed in hospital for newborn	Accept the client's statement that a social security number has been applied for when we have knowledge that the hospital in which the child was born requires participation in "Enumeration at Birth" process.
(7) Deductible Expense	If verification of deductible expenses will delay the HH's certification beyond the 30-day processing standard, inform the HH that the benefit level may be determined without providing the deduction for the claimed but unverified expense.
(a) Continuing shelter cost-verify if allowing the expense will result in a deduction.	Compute the shelter costs without including the unverified portion.
(b) Utility Expense	
1. incurrence of utility expense for heating or cooling. If the HH wishes to use the Standard Allowance	The HH must verify that it incurs an expense for heating or cooling.
2. If HH wishes to claim actual expenses, (which must exceed the Standard Allowance)	The standard allowance(s) must be used until the actual expenses are verified, providing the HH has established entitlement to the Standard Allowance.
3. expenses for unoccupied home when the expense would result in a deduction	No utility expense will be allowed for an unoccupied home until the actual expense is verified.

(7) Deductible Expenses contd. (c) Medical Expenses – (amount of expense, including reimbursement) (d) Dependent Care – verify the amount if allowing the expense will result in a deduction	 The expense is not allowed until verified Do not allow deduction until the costs are verified
(8) Household Size	Do not certify household until verified.
(9) Loans	Do not certify household until verified.
(10) Questionable Information	Do not certify or allow deductions that are questionable until questionable issues are resolved.
(11) Disability	If the disability cannot be verified by observation, no special consideration can be allowed until the household provides the appropriate documentary evidence.

Verification Of Reported Changes 1240-1-16-.05

Recipients are required to report changes within 10 days of the date the change becomes known to the household. (Except for Simplified Reporting Cases.)

Changes reported by the recipient or discovered by the agency between redeterminations of eligibility are subject to the same verification procedures and requirements that apply at the initial eligibility determination.

VERIFICATION PROCEDURES 1240-1-16

Verification At Recertification 1240-1-16-.06

The caseworker must examine both financial and non-financial factors of eligibility. Information provided by the household must be verified. Documentary evidence, collateral contacts, or a home visit as in initial applications will accomplish verification.

Any information, **changed** or **unchanged**, may be verified at recertification if it is a factor in determining eligibility and/or the benefit level. The following table identifies those factors, which **must** be verified at recertification.

Items to be Verified	Verification Required
(a) Identity	Same as initial application, if a different person whose identity has not been verified is making application for recertification.
(b) Residency	Same as initial application, if changed.
(c) Household Size	Same as initial application.
(d) Alien Status	Same as initial application, if HH reports a new HH member for whom alien status is questionable.
(e) Social Security Number	Same as initial application, if a new person is added to the HH.
(f) Income	Same as initial application.
(g) Liquid Resources	Same as initial application, if the amount the HH reports having in checking/savings account or other liquid resources has changed. Generally, this will be verified because amounts in checking accounts will almost certainly change and savings accounts will change because of applied interest.
(h) Dependent Care Expenses	Same as initial application, if the provider or the amount of the expense has changed.
(i) Medical Expenses	Same as initial application, if the provider or the amount of the expense has changed.
(j) Shelter Costs	Same as initial application, if allowing the expense will result in a deduction (without regard to the change in amount or source).
(k) Actual Utility Costs	Same as initial application
(l) Entitlement to the Utility Standard	Same as initial application.
(m) Questionable Information	Any factors of eligibility considered to be questionable, providing it affects the HH's eligibility or benefit level.
(n) Loans	Same as initial application.
(o) Disability	Same as initial application.

VERIFICATION PROCEDURES 1240-1-16

Contacting And Using Other Sources Of Verification 1240-1-16-.07

(1) While the applicant/recipient has primary responsibility for obtaining needed verification, there will be situations when the caseworker will need to assist and/or assume the responsibility. For example, when the household does not have the funds and/or capability to send out-of-state for documents needed to establish eligibility or when the household's family documents have been destroyed in a disaster. The applicant/recipient is expected to pay for needed documents if at all possible; however, if (s)he cannot, the Department is authorized to pay the required fee.

In these situations, the worker may need to contact one or more agencies either in or out-of-state. The Department can pay for verification documents for birth, death, marriage, or divorce, providing the following steps are followed:

(a) Complete Form (3530), HS-0348 Verification of Birth or Death and/or Form (2680), HS-0794, Application for Confidential Verification of Marriage/Divorce.

(b) Include the following on the form:

1. County Office and Address (DHS)

2. Case ID number

3. Program (FS, AFDC, or MN)

4. State where record is located

5. State agency address and fee amount, if known.

(c) Mail to: Tennessee Department of Human Services
Fiscal Services Section, Fifth Floor
400 Deaderick Street
Nashville, Tn. 37248-3500

Bureau of Vital Records agencies provide information on birth records of persons born in that state. Birth record information for persons born in Tennessee is available on Clearinghouse. This system should always be the first source of information about Tennessee born individuals.

(2) The following provides specific information on other agencies procedures for requesting free information:

(a) Veterans Service Officers: The Veteran's "C" number of "CCS" number should always be included in any inquiries to the Veterans Administration.

(d) SOLQ -- For Social Security Benefits Or SSI Benefits (SSA/SSI): If documentary evidence of Social Security benefits is not readily available from the applicant, the worker may verify the income through SOLQ.

TIMELINESS STANDARDS 1240-1-17

Introduction 1240-1-17-.01

This section will provide standards for delivery of service and/or notification of action taken on an application or reported change. It outlines the types of notices to be sent and the information these notices should convey. It describes certain situations, which may occur because of various applicant/recipient, or county caused delays and the type of action that should be taken when this happens.

General Standard 1240-1-17-.02

The process of determining eligibility for Food Stamps shall proceed as promptly as possible, after an application is filed. The standard of promptness for determining eligibility for Food Stamps is 30 days.

(1) Standard for Households with Zero Net Income and Destitute Households

Households with zero net income and households destitute of income shall be certified on an expected basis as described in Section 1240-1-5.

(2) Standards for households Applying for Food Stamps

Households applying for Food Stamps shall be processed as promptly as possible and in accordance with the timeliness standards for Food Stamps set forth in this section.

Action When Food Stamp Determination Precedes Families First Determination 1240-1-17-.03

As a result of differences in Food Stamp and Families First application processing procedures, the caseworker may have to determine the food stamp eligibility prior to determining eligibility for Families First payments. Action on the food stamp portion of the application shall not be delayed nor the application denied on grounds that the Families First determination has not been made. If the caseworker can anticipate the amount and the date of receipt of Families First payment but the payment will not be received until a subsequent month, the caseworker shall vary the household's food stamp benefit level according to the Families First payment and notify the household. (See Section 1240-1-14 for instructions on varying benefits.)

Portions of initial payments intended to retroactively cover a previous month shall be disregarded as a lump sum payment as discussed in 1240-1-4. If the amount or the month of receipt of the initial Families First payment cannot be reasonably anticipated at the time of the food stamp eligibility determination, the payment shall be handled as a change in circumstances. When the Food Stamp benefits are authorized, ACCENT will automatically send any approval notice that will inform the household that they will not receive another notice about their food stamp benefits if Families First is approved, but that their food stamps will be adjusted.

A household whose Families First application is denied shall not be required to file a new food stamp application but shall have their food stamp eligibility determined or continued on the basis of the original application filed jointly for Families First and food stamp purposes and any other documented information obtained subsequent to the application which may have been used in the Families First determination and which is relevant to food stamp eligibility or level of benefits.

Opportunity To Participate 1240-1-17-.04

Providing EBT Card and PIN

An opportunity to participate in the Food Stamp Program consists of providing households with an EBT card and having a PIN number available for the household to obtain its allotment. The card and PIN should reach the participant so that the household will have an opportunity to participate within the appropriate timeframe.

Providing Notices To Households 1240-1-17-.05

(1) Initial Application

Time Limit for Providing Notice of Eligibility

The caseworker will provide applicants with an approval or denial notice through ACCENT as soon as a determination is made, but no later than 30 days after the date of the initial application for regular Food Stamp applications and no later than 7 days after the date of application for expedited Food Stamp applications.

(2) Contents of Notice

Approval notices are created in the ACCENT system and mailed the day following authorization.

(a) The notice will inform the HH of the amount of the benefits and of the variation in the benefit level based on changes anticipated at the time of approval. If the initial allotment contains benefits for both the month of application and the current month's benefits, the notice shall explain that the initial benefits include more than one month's benefits. It also will indicate the monthly allotment amount for the remainder of the eligibility period assigned.

(b) The notice will inform the HH of the beginning and ending date of the food stamp certification period.

(c) The notice will advise the HH of its right to a fair hearing and of the name and telephone number of the person to contact for additional information, as well as the availability of free legal advise and how to obtain it.

Notice For Special Cases 1240-1-17-.06

(1) Expedited Applications

In cases where a household's application is approved on an expedited basis without verification, as provided in 1240-1-5, and the application indicates the household is eligible in subsequent months, The approval notice will explain that the household must complete the verification requirements that were postponed before further benefits will be issued.

If the caseworker has elected to assign a longer certification period to some households certified on an expedited basis, the notice also will explain the special conditions of the longer certification period, as specified in Section 1240-1-19, and the consequences of failure to provide the postponed verification.

(2) Notice for Recertification

Households that have filed an application by the 15th of the last month of their certification period and who have kept their scheduled interview appointment on or after their application date will receive a notice regarding eligibility or ineligibility by the end of the current certification period. The caseworker will provide households that have received a notice of expiration at the time of certification and have timely reapplied with a notice of eligibility or a notice of denial not later than 30 days after the date the household received its last allotment.

(3) Providing Notice of Denial to an Ineligible Food Stamp Household

Each HH denied eligibility shall be provided a notice of denial which explains:

(a) The basis for the denial, including specific rule number used as the basis of denial;

(b) The HH's right to request a fair hearing;

(c) The telephone number of the DHS office;

(d) The name of the person to contact for additional information;

(e) The availability and telephone number in their area of the organization that provides free legal representation; and

(f) The right to reapply anytime.

Time Limit For Providing Notice Of Denial 1240-1-17-.07

Households that are found to be ineligible shall be sent a notice of denial as soon as possible but not later than 30 days following the date the application for Food Stamps was filed. Information obtained during the intake interview in some instances is sufficient for the intake caseworker to determine that the applicant is ineligible at intake and, therefore, the application can be denied at that point.

Denial Of Applications When A/R Fails To Keep An Appointment 1240-1-17-.08

If an applicant HH has failed to appear for the initial interview, ACCENT immediately will generate a "Notice of Missed Appointment " to notify the HH that it missed the first appointment. The notice also will inform the applicant that he/she must contact the county office and schedule a second appointment within the processing timeframe or the application will be denied. If the applicant does not schedule a second interview appointment or if the applicant fails to appear for this second appointment after requesting it, deny the Food Stamp application on the 30th day following the date of application, or the first working day after the 30th day if it falls on a weekend or holiday. The household must then file a new application if it wishes to participate in the program.

Failure To Meet Timeliness Standard 1240-1-17-.09

There are instances in which the caseworker will not have sufficient information to approve or deny a HH. In such cases, action must be taken by the caseworker to determine the cause of the delay. The following sections describe what must be done if timeliness standards are not met:

(1) Criteria for Denial and Initial Action

If the worker cannot make an eligibility determination within the 30 days and cannot deny the household as provided in Sections 1240-1-17-.07 and 1240-1-17-.08, the cause of the delay is determined and certain actions are taken to determine whether the delay was caused by the fault of the household or the county office. The term "fault" is used only to determine the date from which pro-ration of the household's benefits shall begin.

(2) Determine Cause of the Delay

Determine the cause of the delay using the following criteria:

(a) Household Caused Delay

The delay shall be considered the fault of the household if the household has failed to complete the application process when the caseworker has taken all the action he or she is required to take to assist the household. The worker must have taken the action in 1240-1-17-.09 below before a delay can be considered the fault of the household.

(b) County Caused Delay

A delay shall be considered the fault of the county office if the caseworker failed to take actions cited below in Section 1240-1-17-.09. Further, the fault is the county office's if the household met its obligations in a timely manner but the county office failed to complete the application process by the 30th day.

(3) Actions by the County Office

The caseworker must take the following actions, while the household fails to take the corresponding action for a delay to be caused by the household:

(a) The caseworker must have offered, or attempted to offer, assistance in completion of the application for those households that have failed to complete the application form.

(b) The caseworker must have informed the household of the need to register for work, and given the household at least 10 days from the date of notification to register a household member for work, if one or more members of the household have failed to register as required in 1240-1-3.

(c) The caseworker must have assisted the household when necessary for the household to provide documentary evidence to support its income statement and questionable information. The worker also must have allowed the household sufficient time prior to the 30th day of the application to provide the missing verification. Sufficient time is at least 10 days from the date of the county office's initial request for the particular verification that was missing.

(d) The county office must have attempted to reschedule the initial interview within 30 days of the date the application was filed for all households that have failed to appear for an interview. However, if the household has failed to appear for the first interview and a subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until the 20th day but before the 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 30th day. If the household has missed both scheduled interviews and requests another interview, any delay is then the fault of the household.

(e) If the county office fails to assist the household, as required, in completing the application form or in obtaining documentary evidence to support its income or questionable information, fails to give the household sufficient time, or fails to timely schedule the required interviews, the fault is then the county's. If the county office fails to assist the household as required in obtaining verification of questionable expenses, do not delay processing the application. Certify the household without the expense and restore any lost benefits to the household upon receipt of the required information, if appropriate.

(f) When the delay is the fault of the county, the household's benefit level for the initial month of certification is based on the day of the month it filed its application for benefits.

(4) Delays Caused by the Household

(a) Benefit Entitlement

The household loses its entitlement to benefits if, by the 30th day following the date of application, the caseworker cannot take further action on the application due to the fault of the household.

(b) Notifying the Household at End of 30 Days for Household Caused Delays

The caseworker will authorize denial and a denial notice will be generated through ACCENT to the household denying the application on the 30th day following the date it was filed. The notice will advise the household of the verification needed to complete the application process and that the household should report any changes in circumstances.

(c) Reopening the Case After a Notice of Denial Is Sent

If a notice of denial is sent and the household takes the required action within 60 days of the date the application was filed, the worker will reopen the case without requiring a new application.

(d) Further Action by County After Notice of Denial Is Sent

No further action by the caseworker is required after the notice denying is sent.

(e) Providing Benefits

The household is not entitled to benefits for the month of application when the delay was the fault of the household. The caseworker will provide benefits prorated from the day of the month that the applicant/recipient took the action or provided the information required to complete the application process if, during the second 30-day period, the household is found to be eligible.

(f) Delays Caused by the County in Initial 30 Days

Whenever a delay in the initial 30-day period is the fault of the county, the caseworker will take immediate corrective action. A notice of denial cannot be sent for county-caused delays.

(g) Pending Application

The caseworker will not deny the application if the delay was caused by the county, but instead will notify the household by the 30th day after the application was filed that its application is being held pending. The worker also will notify the household of any action it must take or outstanding verification that must be provided to complete the application process.

(h) Action Taken During Second 30 Days

If the county caused the delay during the first 30 days, and the household is found to be eligible during the second 30-day period, the household shall be entitled to benefits retroactive to the day it filed its application for benefits. If however, the household is found to be ineligible, the caseworker shall deny the application.

(5) Delays Beyond 60 Days

(a) County Caused Delay - All Information Received

If the county is at fault for not completing the application process by the end of the second thirty-day period, and all the information necessary to complete the application has been received, the caseworker must continue to process the original application until an eligibility determination is made. If the household is determined eligible and the county was at fault for the delay in the initial 30 days, the household must receive its initial benefits retroactive to the day of the month it applied for benefits.

(b) County Caused Delay - Information Incomplete

If the county is at fault for not completing the application process by the end of the second 30-day period (60 days) but the case is not complete enough to reach an eligibility determination, the caseworker should deny the case and notify the household to file a new application unless the original application can be processed immediately and the household notified of the action that will be taken.

(c) Household Caused Delay in Second Thirty Days

If the household is at fault for not completing the application process by the end of the second 30-day period, the caseworker shall deny the application and require the household to file a new application if it wishes to participate.

(d) Household Given Full Thirty Days

The caseworker cannot deny the HH prior to the 30th day for failure to provide verification for Food Stamps. The case must be held open for the entire 30 days and the HH given all that time to complete the application process.

1240-1-17-.10 Reserved

1240-1-17-.11 Reserved

Exhibit A: Household Caused Delays

How A Household Can Cause Delay

1. If the household hasn't completed the application form and the caseworker has offered or tried to offer the household help in completing it.

2. If one or more members of the household have failed to register for work, required in Section 1240-1-3, and the caseworker has informed the household of the need for registration and given the household at least ten (10) days from the date of notification.

3. If verification is incomplete, the caseworker must have given any required assistance and allowed the household at least ten (10) days from the initial request for the missing verification to provide it.

4. If the household missed its interview(s) and

   a. the second attempt for the initial interview must have been rescheduled within thirty (30) days of the filing date but

   b. the subsequent interview(s) are postponed at the household's request or cannot be rescheduled until the 20th day (but before the 30th day) after the filing date, the household must:

      (1) appear for the interview

      (2) bring verification and complete the work registration requirement by the 30th day.

   c. if the household missed the first interview and a subsequent interview is postponed at the household's request beyond the 30th day after filing date.

   d. if household misses both scheduled interviews and request another interview.

   e. if the household missed the first interview and the county is unable to contact the household for the second interview by the 30th day after the filing date.

Exhibit B: County Caused Delays

How the County Can Cause Delay

1. If any requested assistance was not provided to the household.

2. If the household complied with all work registration requirements and provided needed verification on time, but the county failed to follow up within appropriate time frames.

3. If the household was not given ten (10) days, if applicable, to provide requested verification.

4. If required interviews are not scheduled or aren't scheduled timely, as applicable.

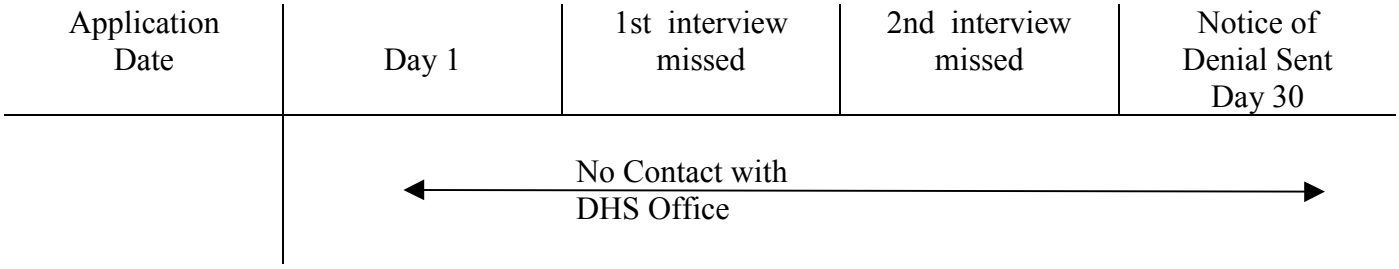
NOTE: This list is not all inclusive.

Exhibit C: Delays in Processing -- First 30 Days

DENIALS

1. Must be denied

   ineligible households/households missing 2 scheduled interviews



2. May be denied

   household is interviewed on filing date and asked to provide verification; if county provides required assistance and doesn't request other verification, household may be denied if verification not provided

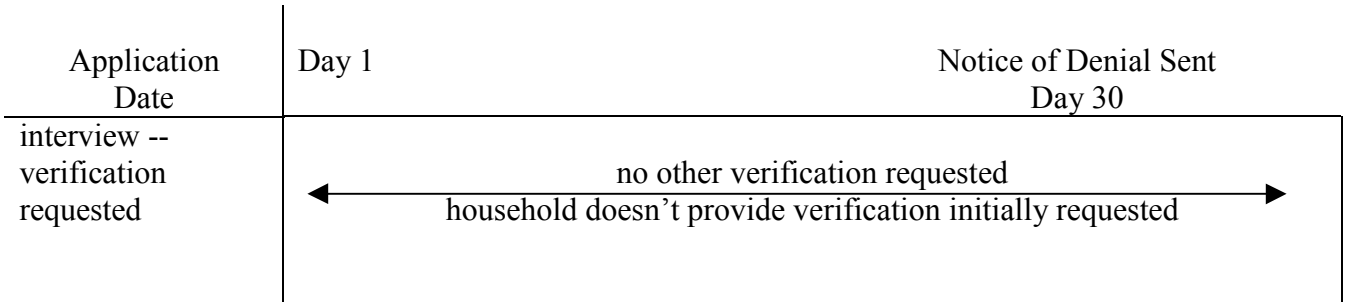


Exhibit D: Household's Fault First 30 Days/County's Fault on 60th Day &
Exhibit D: Household's or County's Fault First 30 Days/Household's Fault on 60th Day

Household's Fault First 30 Days/County's Fault on 60th Day

If case isn't complete enough to make an eligibility determination, the county may either continue to process the original application or

Deny the case and tell the household to file a new application and notify it of its possible entitlement to lost benefits.

If eligible, benefits calculated from the day of the month the eligibility determination is made.

Household's or County's Fault First 30 Days/Household's Fault on 60th Day

Application denied; household not entitled to any lost benefits.

Exhibit E: Delays in Processing – First 30 Days

Household's fault on 30th day ---

1. Notice of Denial sent; Notice of Denial must explain what action must be taken to complete the application.

   If Notice of Denial sent, caseworker must reopen the case without requiring a new application if the household takes action within sixty (60) days of original filing date.

   The notice may include a request that the household report all changes in circumstances since its application was filed.

2. Household loses entitlement to benefits for month of application.

County's fault on 30th day ---

1. Notice of outstanding verification sent; notice must tell household of any action it must take to complete the application.

2. If eligible, the household receives benefits retroactive to day of the month the household filed its application. If ineligible, the application is denied.

Exhibit F: Delays in Processing – Second 30 Days

1. Household's fault first 30 days/Found eligible during second 30 days – receives benefits only from day of the month eligibility is determined.

No Benefits – Household's fault

September	
5th	15th
files	interviewed verification requested
1st 30 days	

Benefits from October 15

October	October
5th	15th
verification not received denial sent	household verification/ certification
2nd 30 days	

2. Household's or County's fault first 30 days/Household takes no action in second 30 days.

   Denied – no further notice required.

3. Household's fault first 30 days/county's fault on 60th day

No benefits – household's fault

September	
2nd	10th
files application	interviewed verification requested

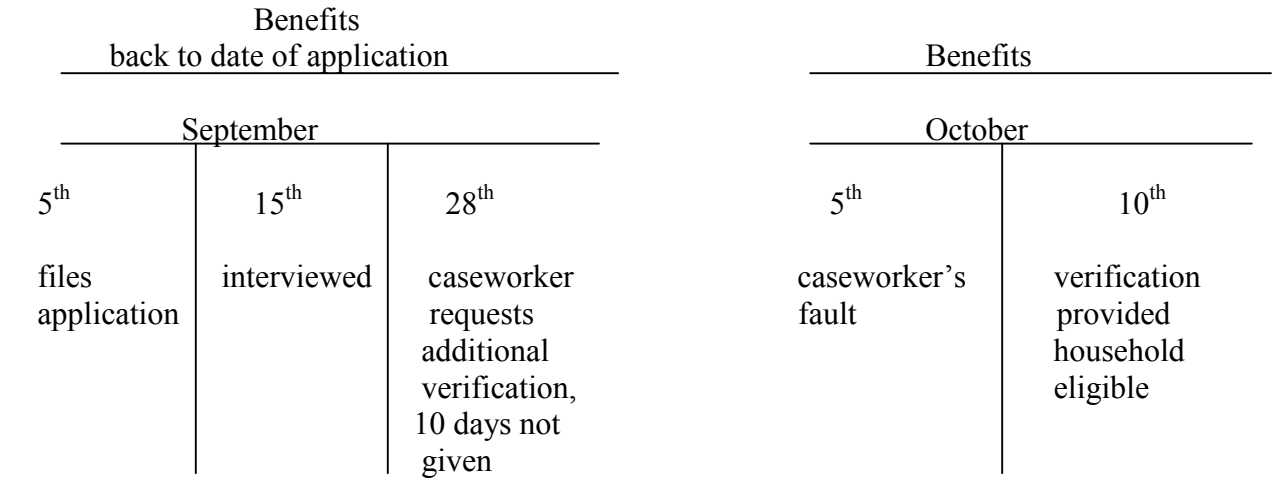
Benefits provided from October 20

October	
2nd	20th
verification not received denial sent	verification provided household eligible

November	
2nd	10th
county hasn't processed	processed by county

4. County's fault first 30days/Found Eligible during second 30 days

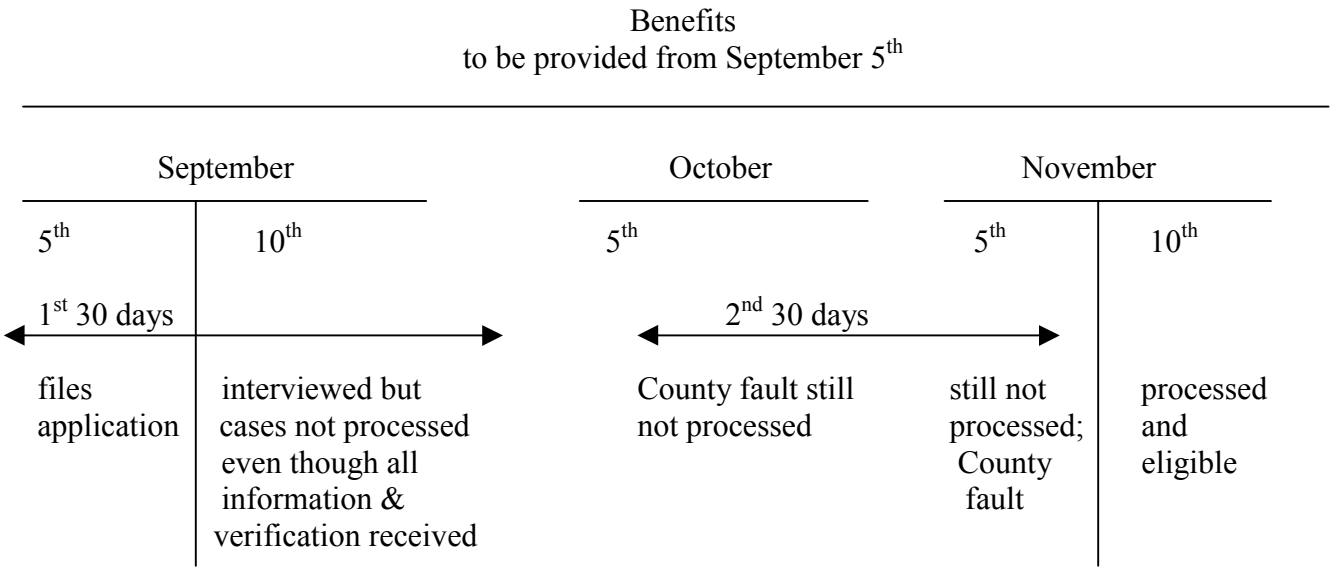
   Receives benefits back to the day of the month the household filed its application.



5. County's fault first 30 days/county's fault on 60th day

   If the case complete, finish processing and household receives benefits back to date of application if eligible;

   If case incomplete, may deny application but explain to the household its possibility of lost benefits back to date of application.



AUTHORIZATION OF ALLOTMENTS 1240-1-18

AUTHORIZATION OF ALLOTMENTS 1240-1-18

Introduction 1240-1-18-.01

This section outlines departmental procedures governing the authorization of food stamp allotments, for any retroactive period of eligibility and for ongoing certification period.

Issuance of an "Electronic Benefit Transfer" card (EBT) and PIN entitles the household to receive food stamp benefits of a specified value.

1240-1-18-.02 Reserved

1240-1-18-.03 Reserved

Method Of Delivery 1240-1-18-.04

Food Stamp benefits are authorized by ACCENT and mailed to the address shown on the AEICI Screen, and are payable only to an authorized recipient, or duly designated representative. Certain guidelines must be followed in determining where benefits should be mailed:

- the county office has the benefits issued in care of the county office address because the household has no fixed address. This will be done only in very rare instances for "homeless" households who have no address or post office box to which their benefits can be mailed (i.e., street people, people living in automobiles, etc.) and the household requests the county office address be used.

- Do not issue EBT cards or PIN mailers to DHS staff members unless the staff member is certified to participate in the Food Stamp program in his or her own right (refer to Section 1240-1-13. Employee Applications);

- Do not mail EBT cards or PIN mailers to "General Delivery" or "in care of" an address other than the household's residence, unless specifically requested by the household to do so.

  Note: Document the case to reflect the reason(s) for not mailing EBT cards or PIN mailers to the household's physical address.

  Note: Do not issue EBT cards or PIN mailers "in care of" a particular merchant or business establishment.

Follow procedures in Section 1240-1-19 (address change, lost benefits, case closure), as appropriate, when the post office returns EBT cards or PIN mailers to the county office because the only HH member has died, or when a recipient reports not receiving his/her card or mailer.

AUTHORIZATION OF ALLOTMENTS 1240-1-18

Designation Of An Authorized Representative 1240-1-18-.05

The caseworker must designate the person in whose name the Food Stamps will be issued. This individual will be the person designated as head of the household. The A/R may name an authorized representative.

An authorized representative must be:

(1) designated by the head of the household or the spouse, or other responsible member of the household; and

(2) 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.

(3) The head of the household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in one or all of the capacities listed below.

(a) Making Application for the Program

When the head of the household or the spouse cannot make application, another household member may apply or an adult non-household member may be designated as the authorized representative for that purpose. Form HS-0169, Application for Assistance, should be signed by the head of the household designating this authorized representative. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. The worker shall inform the household that the household will be held liable for any overissuance which results from erroneous information given by the authorized representative, except as provided in 1240-1-31.

(b) Using the Food Stamp Benefits

The authorized representative may use benefits to purchase food for the household's consumption, with the full knowledge and consent of the household, provided the authorized representative has an EBT card and PIN for the household.

(c) Drug Addict/Alcoholic Treatment Centers as Authorized Representatives

Narcotics addicts or alcoholics who regularly participate in a drug or alcoholic treatment program on a resident basis may voluntarily elect to participate in the Food Stamp Program if the treatment center in which they reside has been approved by a department and is a nonprofit agency. The residents shall apply and be certified for program participation through the use of an authorized representative, who shall be an employee of and designated, by the private nonprofit organization or institution. Since the organization or institution is applying on behalf of each addict or alcoholic, they shall receive and spend the coupon allotment for food prepared by or for the addict or alcoholic. The organization or institution shall also be responsible for complying with the requirements set forth in Section 1240-1-31.

(d) Documentation and Control of Authorized Representatives

Limits shall not be placed on the number of households an authorized representative may represent. The caseworker should exercise caution to assure that: the household has freely requested the assistance of the authorized representative; the household's circumstances are correctly represented and the household is receiving the correct amount of benefits and that the authorized representative is properly using the benefits. County offices, which suspect authorized representatives of not properly using benefits, should report the circumstances to the State Office who shall report to FNS.

(e) Restrictions on Authorized Representatives

1. County office employees who are involved in the certification process and retailers that are authorized to accept food stamp benefits may not act as authorized representative without the specific written approval of the District Supervisor or his designee, and only if that official determines that no one else is available to serve as an authorized representative.

2. Individuals disqualified for fraud shall not act as authorized representatives during the period of disqualification, unless the individual disqualified is the only adult member of the household able to act on its behalf and the caseworker has determined that no one else is available to serve as an authorized representative. The caseworker shall separately determine whether these individuals are needed to apply on behalf of the household, and to use the benefits for food for the household.

1240-1-18-.06 Reserved

CONTINUING RESPONSIBILITIES 1240-1-19

CONTINUING RESPONSIBILITIES 1240-1-19

Recertification 1240-1-19-.01

Complete the application process and approve or deny timely applications for recertification prior to the end of the household's current certification period. Provide eligible households with an opportunity to participate by the household's normal issuance cycle in the month following receipt of a timely application. Do not continue benefits to households beyond the end of the certification period unless the household reapplies and is recertified. The joint processing requirements will continue to apply to applications for recertification.

(1) Notice of Expiration of Certification

ACCENT will generate a notice to each household, prior to the last month of the household's certification period.

(a) The household has reapplied timely if the application for recertification is received by the 15th of the last month of certification, regardless of when the interview appointment is scheduled.

(b) The household must appear for any interview scheduled on or after the date the application is timely filed in order to receive uninterrupted benefits;

(c) The household is responsible for rescheduling any missed interviews;

(d) The household must complete the interview and provide all required verification in order to receive uninterrupted benefits;

(e) The household has the right to request an application and have the county office accept the application as long as it is signed and contains a legible name and address; the application may be filed by mail or through an authorized representative.

(f) Any household containing only SSI recipients or applicants is entitled to apply for food stamp certification at the SSA office.

(2) Notification of Recertification

Act on timely reapplications to provide uninterrupted benefits to households determined eligible. Take action on timely reapplications within the time standards specified in (a) and (b) below, and provide the household an opportunity to participate by the household's normal issuance in the month following receipt of the timely reapplication, even if the opportunity is outside of the normal issuance system.

(a) Households that were certified for one or two months and have reapplied timely will be notified of their eligibility or ineligibility and provided an opportunity to participate, if eligible, not later than 30 days after the date the household had an opportunity to obtain its last allotment.

(b) For other households, approve or deny the application and notify the household of the determination by the end of the current certification when the household has:

1. filed an application by the 15th of last month of the certification period; and

2. attends the first scheduled interview on or after the date of application; and

3. provides any necessary verification within 10 days of the date requested or by the 15th of the last month of their certification period, whichever is later.

(3) County Office Failure to Act on Timely Certification Application

If an eligibility worker fails to provide households with the opportunity to participate when such households have completed all recertification steps timely, the affected households must receive restored benefits when the failure to act causes the household to be unable to participate during the months immediately following the end of the current certification period. (See Section 1240-1-21 for instructions on restoring lost benefits.).

(4) Loss of Right to Uninterrupted Benefits

A household loses its right to uninterrupted benefits when it:

1. fails to file a timely reapplication for certification without good cause; or

2. fails to appear for the first scheduled interview on or after the date of the application; or

3. fails to provide necessary verification within 10 days of the date requested or by the 15th of the last month of certification, whichever is later.

When the households lose their right to uninterrupted benefits, process their applications as initial applications in accordance with manual section 1240-1-17. When an untimely application is received after the end of the certification period, prorate the household's benefits.

(5) Good Cause for Failure to Timely Reapply

If the worker determines that the household had good cause for failure to reapply timely, or otherwise to complete the certification process in a timely manner, so that the household was unable to participate in the month following the expiration of its certification period, lost benefits may be restored. The determination of good cause will be made on a case-by-case basis. Good cause reasons include, but are not limited to, personal illness or failure to receive a timely notice of expiration of the certification period.

1240-1-19-.02 Reserved

1240-1-19-.03 Reserved

Changes During the Food Stamp Certification 1240-1-19-.04

When changes which affect a household's eligibility or level of benefits occur within the certification period, action must be taken to adjust the benefits.

(1) Household Responsibilities

Certified households, with the exception specified at 1240-1-19-.04(2) below, are required to report only the following within 10 days of the date the change becomes known to the household:

(a) Changes in the source or amount of gross monthly unearned income of more than $25, except changes in Families First.

(b) Changes in earned income when there is a change in the source, hourly rate or salary or the employment status.

(c) Work registration – a change in work registration status of any household member in accordance with Section 1240-1-3-.45-(4).

(d) When cash on hand, stocks, bonds, and money in a bank account or savings institution reaches or exceeds the allowable limit. See Section 1240-1-4.

(e) Acquisition of a vehicle.

(f) All changes in household composition.

(g) Changes in residence.

(2) Households Subject to Simplified Reporting

Most households will be assigned to Simplified Reporting (SR). The only households that would not be assigned to SR are:

- cases certified for twelve months because of annualized income from self-employment,
- cases comprised only of elderly/disabled individuals without earnings, and
- households with mandatory ABAWD individuals.

The households, once assigned to Simplified Reporting, are only required to report:

- a change in monthly gross income that exceeds the food stamp gross income standard for the household size determined at the most recent certification, and

- for a household with an employed able-bodied adult without dependents, any time at which hours of employment go below 20 hours per week.

Simplified Reporting cases must report required changes within the first 10 days of the month following the month the change occurred.

Simplified Reporting households must be given a six-month certification (a partial month of benefits is considered one of the six months in the certification period). If a change occurs during an SR household's certification period so that the household no longer meets the SR criteria, the household is to stay in SR for the remainder of the certification period. Even though only certain changes are <u>required</u> to be reported, the worker <u>must</u> act on all changes that <u>are</u> reported.

(a) For a non-SR household that <u>reports countable earned income</u> during a certification period eligibility must be redetermined; if found to be eligible, the household will be put in SR, and will be notified of the SR reporting requirements.

1. If the household is currently certified longer than six months:

(i) shorten the certification period to six months (set the end date to six full months from the date the change was processed);

(ii) document on CLRC that the household is now SR;
with the new certification period; and

(iv) explain the new reporting requirements and provide the household with the Important Notice About Reporting Changes.

2. If the household is currently certified less than six months:

   (i) explain the new reporting requirements to the household and provide them with a copy of the Important Notice About Reporting Changes;

   (ii) document on CLRC that the household meets the Simplified Reporting criteria;

   (iii) do not extend the current certification period, but code the case for SR at the next recertification.

(b) A household without countable earnings would be put in SR only at application and redetermination.

(3) Applicant Household's Responsibilities

An applicant household must report all changes related to its food stamp eligibility and benefits at the certification interview. Changes as provided in (1) of this section which occur after the interview but before the date of the notice of disposition must be reported by the household within 10 days of the date of the notice.

(4) How Changes are Reported

A change may be reported by telephone, in person, or by mail. Form HS-0746, Change Report Form, is to be provided to all households at each recertification for ease of reporting. The 10-day period will begin with the date the change becomes known to the household. The change will be considered as reported by the household on the date the report of change is received by the county or, if mailed, the date the envelope is postmarked. Each Change Report Form received will be date-stamped immediately. The date of receipt and the information reported will be documented in the running record.

(5) Failure to Report

If the county discovers the household failed to report a change as required by Section 1240-1-19-.04(1) or (2), and as a result, received benefits to which it was not entitled, the worker will pend a claim on COTS. If the discovery is made within the certification period, ACCENT will generate a decrease notice when the household's benefits are reduced. Failure to report a change will not automatically be construed to be a suspected intentional program violation. Individuals will not be disqualified from the Food Stamp Program for failure to report a change unless the individual is disqualified in accordance with the disqualification procedure specified in 1240-1-20. If a household should lose benefits because of failure to report changes timely or at all, the household is not entitled to restoration of lost benefits.

Do not impose any reporting requirements on households, except as noted above. Submitting a change should not be treated as a waiver of the household's right to a 10-day advance adverse action notice.

(6) Providing the Change Report Form

Provide a change report form and a postage paid envelope in the following instances:

(a) at certification approval to new households.

(b) at recertification if the household needs a new form: and

(c) in all instances when the household uses the Change Report Form to report a change.

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Although households are encouraged to report changes by using the Change Report Form, changes may be reported by telephone, in writing (in a format other than the Change Report Form) or in person. Regardless of the manner in which changes are reported, they must be acted upon with the prescribed timeframes.

(7) Worker's Responsibilities

At each certification, recertification, and reported change, inform the household that it must report changes either within 10 days of the date they become known, or in the case of Simplified Reporting, within the first 10 days of the month following the month the change occurred.

(a) When a change is Reported:

1. take action within the prescribed timeframes to determine whether the change will affect the household's eligibility or benefit amount;

2. document the reported change in the case record to reflect either the date the county office received the Change Report Form if hand-delivered or the date of the postmark if received through the mail, or the date the county was informed of the changes by telephone or in person;

3. provide another Change Report Form and postage paid envelope to the household ; and

4. authorize the change on ACCENT. ACCENT will automatically notify the household of how the change affected its eligibility or benefit amount (no change; increase; decrease; closure).

(b) Under no circumstances will food stamp benefits be increased when a household reports a decrease in income from a Federal, State, or local welfare program resulting from the household's intentional failure to comply with the other program's requirements. The other program must be means-tested, and must distribute publicly funded benefits such as, but not limited to Families First and general assistance.

(c) Whenever a household reports such a decrease in income, the following procedures must be used:

1. identify that portion of the decrease in income attributed to the repayment of an overissuance resulting from the household's intentional failure; and

2. calculate the food stamp benefits using the benefit amount which would be used by that program if no penalty had been deducted from the recipient's income.

(8) When a Change Results in Increased Benefits

(a) There are several changes in circumstances which entitle a household to increased benefits. Although the household may be entitled to increased benefits, do not issue such increases until the change is verified.

(b) Whenever the household reports a change which results in an increase in benefits, the following procedures must be used:

1. notify the household immediately of the required verification it must provide and offer the household assistance in obtaining the required verification;

2. allow the household ten (10) days from the date the change was reported to provide the verification.

(c) When the household verifies the change, the worker must effect the increase within the following timeframes with the exception of the changes discussed in Section 1240-1-19-.04-(9):

1. if the verification is provided within the 10-day period, make the change effective with the first allotment for which it is administratively feasible for issuance to occur; or

2. if the verification is not provided within the 10-day period, but the household does provide the verification at a later date, make the change effective no later than the first regular allotment issued after the date the verification was provided. This household is not entitled to a supplement.

(9) Changes Resulting in Increased Benefits Through a Supplement

(a) Use a supplementary allotment to increase benefits for the following types of changes only:

1. addition of a new household member who is not a member of a currently certified household; or

2. a decrease in the household's gross monthly income by $50 or more.

(b) A supplementary allotment will be authorized only if the following criteria are met:

1. the household had provided the required verification of the change within the ten day period; and

2. it is too late in the month (after computer cut-off) to adjust the following month's allotment.

(10) Changes Which Reduce Benefits

When the household's benefit level decreases or the household becomes ineligible as a result of the change, determine the action to be taken and authorize the change on ACCENT so the appropriate notice can be issued through the ACCENT system.

Mass Changes 1240-1-19-.05

Certain changes are initiated by the Department or the Federal Government which may affect the entire caseload or significant portions of the caseload. These changes include annual adjustments to the income eligibility standards and various deductions, adjustments to Families First standards and payment levels, Social Security and SSI benefit adjustments, and other changes in the eligibility criteria based on legislative or regulatory actions.

(1) Federal Food Stamp Program Changes

These include federal adjustments to eligibility standards, allotments and deductions. These adjustments shall go into effect for all households at a specific point in time.

(2) Food Stamp Program Changes

State adjustments to the utility standards shall be effective for all issuances in the month specified by the State Office.

Although a notice of disposition is not required prior to these adjustments, appropriate notices are generated through the ACCENT system to all affected food stamp households.

(3) Mass Changes in Public Assistance

When the Department makes an overall adjustment to Families First payments, corresponding adjustments in the household's food stamp benefits shall be handled as a mass change. The ACCENT system will automatically adjust most Families First and Food Stamp cases when there is a mass change. However, there are instances in which the case will not be automatically mass changed, but will be listed on an exception report, and must be handled by the caseworker.

If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that food stamp eligibility or benefits were improperly computed and not that benefits are reduced because of the mass change.

Changes Affecting Food Stamp Households Receiving Families First 1240-1-19-.06

(1) Anytime a household's food stamp benefits are altered as a result of changes in Families First benefits or whenever the food stamp certification period is shortened to reflect changes in the household's circumstances, ACCENT generates appropriate notice. If the certification period is shortened, the household's certification shall not end any earlier than the month following the month in which the worker determines that the certification period should be shortened, allowing adequate time for the household to timely reapply as provided in this Section. If the Families First benefits are terminated but the household is still eligible for food stamp benefits, members of the household shall be advised of food stamp work registration requirements, if applicable, as their Families First work requirement no longer applies.

(2) Whenever a change results in the reduction or termination of the household's Families First benefit within its food stamp certification period, the worker shall take the following actions:

(a) If a change in household circumstances requires both a reduction or termination in the Families First payment **and** a reduction or termination in food stamp benefits, the worker will authorize the action on ACCENT, using the correct reason codes for the action(s) taken. If the household requests a fair hearing within the period provided by the notice of disposition the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice. If the fair hearing is requested for both programs' benefits, the hearing shall be conducted according to procedures in Section 1240-1-30. However, the household must reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made effective in accordance with the procedures specified in Section 1240-1-19.

(b) If the household's food stamp benefits will be increased as a result of the reduction or termination of Families First benefits, the worker shall authorize the action on ACCENT, using the appropriate reason code(s). If the household decides to appeal the Families First action and its Families First benefits are continued, the household's food stamp benefits shall continue at that previous level. However, the household must reapply for food stamps if the food stamp certification expires before the fair hearing process is completed.

(3) Whenever a change results in the termination of a household's Families First benefits within its food stamp certification period, and the worker does not have sufficient information to determine how the Families First change affects the household's food stamp eligibility and benefit level (such as when an absent parent returns to a household, rendering the household categorically ineligible for Families First , and the worker does not have any information on the income or resources of the new household member), the worker shall not terminate the household's food stamp benefits but shall instead request the necessary information and make a determination of food stamp eligibility and level of benefits based on the current facts. If the requested information is not provided and the worker's assistance in obtaining it has been refused, determine food stamp eligibility based on the known facts and take whatever action is appropriate to alter or terminate assistance.

Notice Of Adverse Action 1240-1-19-.07

Prior to any action to reduce or terminate a household's benefits within a certification period, the worker shall, except as provided in 1240-1-19-.07-(7) provide the household advance notice before such action is taken. When sufficient evidence has been provided or obtained to justify a change in benefit level or termination of food stamps, the worker shall authorize the action on ACCENT, using the appropriate reason code(s) to ensure adequate notice is given.

(1) An adverse action is defined as**:**

(a) A reduction in food stamp allotment;

(b) The termination of the household's program benefits within the certification period;

(c) The reduction in length of a certification period;

(d) Removal of a household member from the assistance group.

(2) When a certification period expires, eligibility ceases. These situations are not terminations, therefore, provisions concerning adverse action do not apply, nor is the household eligible for continuation of benefits, as described in paragraph (3).

(3) If the adverse action notice period ends on a weekend or holiday, and a request for a fair hearing and continuation of benefits within a certification period is received the next working day after the weekend or holiday, the county office must consider the request to have been received timely.

If the household requests a hearing, the worker must explain that continuation of benefits is strictly at the household's option and should the household elect to have its benefits continued, demand will be made for the value of any food stamp benefits overissued prior to or during the period such benefits are continued, if the hearing official's decision is adverse to the household .

(4) Households may have changes in circumstances during the 10-day advance notice period. However, unless a request for a hearing is made, the benefits will be reduced or terminated according to the notice. Therefore, if a household which receives a notice of adverse action wishes to continue to participate in the program, it may: (1) file an appeal and request continued benefits; or (2) file a new application.

(5) Timing of Notice

To be considered timely, the notice of adverse action must be mailed at least 10 days prior to the adverse action's effective date. For example, if a notice is mailed October 10, the effective date would be October 20. Also, if the adverse action notice period ends on a weekend or holiday, and a request for a fair hearing or continuation of benefits is received the day after the weekend or holiday, the county office must consider the request to have been received timely.

(6) Changes Not Requiring Advance Notice

A notice of adverse action is not required in the following instances:

(a) when implementing mass changes

(b) when the household moves from the County or when all household members have died

When the household reports the death of the head of the household, only, the worker will:

1 name an Authorized Representative for the AG on ACCENT and shorten the certification to end the first month it is administratively feasible;

2. schedule an interview appointment;

3. at the interview, have the household complete the application, designate a new head of household, and provide any additional information necessary to determine the household's eligibility;

4. After establishing eligibility for the new household, ACCENT will form a new group.

5. Authorize the new group.

(c) when restoration of lost benefits has been completed

Restoration is complete when the household has finished receiving increased allotments to restore lost benefits, and the household was previously notified in writing of when the ncreased allotments would terminate;

(d) when monthly allotment varies based on anticipated changes during the certification period

(e) when a household member is disqualified (IPV)

A household member is disqualified for Intentional Program violation in accordance with Section 1240-1-20 or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by IPV disqualification are explained in Section 1240-1-20;

(f) when approving the household's Families First grant application causes a reduction in the food stamp benefits

No adverse action notice is required when the household jointly applied for Families First and food stamp benefits, was receiving food stamp benefits, pending approval of the Families First grant, and was notified at certification that food stamp benefits would be reduced upon approval of the Families First grant;

(g) when the household is certified on an expedited service basis, contingent on verification

When verification is postponed for expedited service purposes, the household receives a notice of disposition stating that no further benefits will be issued until the postponed verification is provided. If the household fails to provide the verification or provides verification which changes its benefits, the notice of adverse action is not required;

(h) when a household is converted from cash repayment of overissuance to allotment reduction because it failed to comply with its repayment agreement (See 1240-1-20-.07); and

(i) when residents of drug alcoholic treatment centers or group living arrangements lose their eligibility because of a change in the facility's status.

Residents of drug or alcoholic treatment centers or group living arrangements lose their eligibility when the facility either loses its certification or has its status as an authorized representative suspended, due to FNS disqualifying it as a retailer. However, when a resident of a group living arrangement applies for food stamps on his or her own behalf, that resident is still eligible to participate in the program and a notice of adverse action would not be appropriate.

(j) when a household voluntarily requests that the case be terminated

Such a request must be in writing or made in the presence of the eligibility counselor. A notice must be sent to the household to confirm the request.

(k) when sufficient evidence exists to determine that the household will not be living in the county and will be unable to obtain the next allotment

CONTINUING RESPONSIBILITIES 1240-1-19

1240-1-19-.08 Reserved

1240-1-19-.09 Reserved

When A Food Stamp Household Moves From One County To County 1240-1-19-.10

Food Stamp recipients may transfer from county to county within the state and remain eligible for benefits without interruption. When the household reports to either the new or old county that they are about to move, unless they have a valid address in the new county, do not transfer the case. Tell the recipient to contact either county when they have a valid address in the new county; transfer the case when the address is provided.

(1) Simplified Reporting Cases

(a) Head of the Household Moves

1. Reports to the Current County
   - If the head of the household is moving with some but not all household members, delete the members that remain in the current county.
   - The remaining household members will be required to file an application and be determined eligible in order to receive benefits.
   - When there are multiple Food Stamp AGs in one case, and the head of the case moves to a new county the remaining AGs are not required to file a new application. However, it will be necessary to go through application registration to establish a new case. When establishing a new case, be sure the current application date for the case they are currently in (the case being transferred) is entered for the new case so that the certification period is unchanged. Document in the new case's running record the circumstances and the reason that a new application was not required.
   - The caseworker in the county having current control of the case will update the address on the appropriate ACCENT screens and document the circumstances in running record and transfer the case to the new county.
   - The caseworker in the new county will not have to request additional information as an SR case is not required to report additional information such as shelter changes.
   - However, if the household reports additional information, you must act on the information reported.

2. The Move is Reported to the New County
   - If the recipient reports the move to the new county first, the caseworker in the new county will notify the caseworker in the county having control of the case and request that the case be transferred. The new county will give the sending county the new address for the household so the sending county can change the address before the case is transferred.

- When the case is transferred, the caseworker in the new county is not required to send a verification request letter as an SR case is not required to report additional information such as shelter changes.
- If other information is reported to the new county, you must act on the information reported (such as verification of income or resources).

(b) Head of the Household Remains in the Current County

- If the head of the household remains in the current county and other members move to a new county, the caseworker in the current county will delete the members moving to the new county.
- The moving members must make application in the new county for benefits.

(2) Non-Simplified Reporting Cases

(a) Head of Household Moves

1. Reports to the Current County

- If the head of the household is moving with some but not all household members, delete the members that remain in the current county.
- The remaining household members will be required to file an application and be determined eligible in order to receive benefits.
- When there are multiple Food Stamp AGs in one case, and the head of the case moves to a new county the remaining AGs are not required to file a new application. However, it will be necessary to go through application registration to establish a new case. When establishing a new case, be sure the current application date for the case they are currently in (the case being transferred) is entered for the new case so that the certification period is unchanged. Document in the new case's running record the circumstances and the reason that a new application was not required.
- The caseworker in the county having current control of the case will update the address on the appropriate ACCENT screens and document the circumstances in running record and transfer the case to the new county.
- Once a caseworker has been assigned in the new county, the household will either be given or sent a verification letter requesting verification for the shelter, utilities and other pertinent information, if needed. The household is to provide the requested information to the new county within 10 days of the date the letter was sent or given to the household.

2. The Move is Reported to the New County

- If the recipient reports the move to the new county first, the caseworker in the new county will notify the caseworker in the county having control of the case. The current caseworker will transfer the case to the new county.
- When the case is transferred, the caseworker in the new county will request the required verification.
- Verification necessary to determine ongoing eligibility is not provided, the case will be closed.

(b) Head of Household Remains in the Current County

- If the head of the household remains in the current county and other members move to a new county, the caseworker in the current county will delete the members moving to the new county.
- The moving members must make application in the new county for benefits.

1240-1-19-.11 Reserved

When A Food Stamp Household Moves Out Of The State 1240-1-19-.12

When the county learns that a household has moved out of the state of Tennessee, take prompt action to close the case.

If the household contacts the county about food stamp benefits that remain in their EBT account in Tennessee, determine if the household has moved to a state that is part of the Southern Alliance of States (SAS). If they are now resident in such a state, they may use the Tennessee Benefit Security Card in that state. If the current state of residence is not a SAS state, the remaining food stamp benefits may be converted to coupons by following the procedures outlined in Section 5 of the **Benefit Issuance Manual**.

1240-1-19-.13 Reserved

Change Of Address (Within The County) 1240-1-19-.14

It is essential that an accurate address for all recipients be on file in the ACCENT system. Action must be taken as soon as a change of address becomes known. Do not delay changing the address on the ACCENT pending verification of the address unless a complete mailing address is not provided.

(1) Send the household a free-form notice asking for shelter and utility arrangements and cost verification within 10 days so that you can evaluate eligibility for any appropriate deductions.

The notice must clearly state what information needs to be provided and by what date. The counselor should offer or arrange for assistance if the client is unable to obtain the information.

(2) If verification of shelter costs for the new address is provided within 10 days, enter the amount in the budget and determine the next month's benefits with the deduction.

(3) If verification of shelter costs is not provided, remove any existing shelter deduction from the budget and determine the next month's benefits without a shelter deduction.

(4) Authorize the case on ACCENT, using the appropriate reason code(s).

Procedures For Closing A Case 1240-1-19-.15

If it has been determined that the recipient is no longer eligible for assistance and the allotment is being terminated, the worker will authorize the closure on ACCENT, using the appropriate reason code(s) and entering pertinent comments for the notice.

1240-1-19-.16 Reserved
1240-1-19-.17 Reserved
1240-1-19-.18 Reserved
1240-1-19-.19 Reserved
1240-1-19-.20 Reserved

Replacement Of FS Allotments, Food Destroyed In a Disaster and Partial Allotments 1240-1-19-.21

(1) Tennessee issues all food stamp benefits through an electronic benefit transfer (EBT) system. These electronic benefits are directly deposited into a unique account created for the specific food stamp case/cat/seq. There are no paper coupons or other form of currency issued that could be destroyed in a disaster, so benefits that are lost, destroyed or stolen are only lost, destroyed or stolen after the household has taken possession of the benefits; therefore, lost or stolen allotments are not replaced. Only food destroyed or spoiled in a disaster may be replaced.

(2) Access to the EBT account is only via the Benefit Security Card and Personal Identification Number (PIN), which are issued separately from locations remote from the state. See the **Benefit Issuance Manual** for detailed information on card and PIN issuance and replacement.

(3) Replacement of Food Destroyed in a Disaster

When food purchased with food stamps is destroyed in a disaster affecting a participating household, the household may be eligible for replacement of the actual value of loss, as follows:

(a) The value replaced shall not exceed one month's food stamp allotment.

(b) The loss must be reported within 10 calendar days of the incident.

(c) The worker shall verify the disaster through:

1. a collateral contact,

2. a community organization such as the Fire Department or the Red Cross, or

3. a home visit.

(d) If the household meets the above criteria, the household shall be provided a replacement allotment within 10 calendar days of the reported loss.

(e) Replacement of food destroyed in a disaster shall be made, subject to the above criteria, in cases of an individual disaster, such as fire, as well as in natural disasters affecting more than one household.

(f) FNS Declared Disasters

In cases where FNS has issued a disaster declaration and the household is otherwise eligible for emergency food stamp benefits, the household shall not receive both the disaster allotment and a replacement under this chapter.

1240-1-19-.22 Reserved
1240-1-19-.23 Reserved
1240-1-19-.24 Reserved

OVERISSUANCES AND CLAIMS 1240-1-20

OVERISSUANCES AND CLAIMS 1240-1-20

Claims Against Households 1240-1-20-.01

(1) Establishing Claims Against Households.

The Department shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive, except as provided in (2) of this section. Claims shall be classified as follows:

(a) Inadvertent Household Error Claims. A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household. Instances of inadvertent household error, which may result in, a claim includes but are not limited to, the following:

1. The household unintentionally failed to provide the state agency with correct or complete information; or

2. The household unintentionally failed to report to the state agency changes in its household circumstances and the recipient or responsible person states that he/she did not understand his/her responsibility to provide full information or to report changes in circumstances or he/she did not understand the eligibility requirements and the record does not show that all of these considerations were explained; or

3. The household 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 belief that it was entitled to such benefits.

(b) Administrative Error Claims. A claim shall be handled as an administrative error claim if the overissuance was caused by the Department. Instances of administrative error which may result in a claim include, but are not limited to, the following:

1. A county office failed to take prompt action on a change reported by the household.

2. A county office incorrectly computed the household's income or deductions or otherwise assigned an incorrect allotment.

3. A county office incorrectly issued duplicate allotments to the household.

4. The county office continued to provide a household food stamp allotments after its certification period had expired, without benefit of a recertification.

(c) Intentional Program Violation. A claim shall be handled as an intentional program violation claim only if:

1. An administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed intentional program violation as defined in Section 1240-1-20-.02; or

2. The household member is disqualified as a result of signing a waiver of his/her administrative disqualification hearing; or

3. The household member signed a disqualification consent agreement in cases of pre-trial diversion,

(2) Instances When Claims shall not be Established.

A claim shall not be established against any household if an overissuance occurred as a result of the following:

Procedural Errors. The county office failed to ensure that a household fulfilled the following procedural requirements:

(a) Signed the application form; or

(b) Completed a current work registration form; Or

(c) Was certified in the correct project area.

(3) Calculating the Amount of a Claim.

The amount of a claim for an overissuance shall be equal to the difference between the allotment the household received and the allotment the household should have received for each month of overissuance. Once the amount of a claim is established, the claim must be offset against any amount of lost benefits that have not yet been restored to the household.

(a) Inadvertent household and administrative error claims shall be calculated based on the amount of overissuance which occurred during the 12 months preceding the date the overissuance was discovered.

(b) Intentional Program violation claims shall be calculated back to the month the act of intentional program violation occurred, but no more than six years prior to discovery, providing case record and issuance information are available. No claim shall be calculated for any month prior to March 1, 1979.

(c) In cases involving reported (or unreported) changes, the county shall determine the month the overissuance initially occurred as follows:

1. If the household inadvertently or intentionally failed to report a change in its circumstances within the required time-frame, the first month of overissuance shall be the first month in which the change would have been effective had it been timely reported.

2. If the household timely reported a change, but the county did not act on the change within the required time-frame, the first month affected by the county's failure to act shall be the first month the county would have made the change effective had it timely acted.

3. In no event shall the county determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.

(d) When a household has failed to report earned income in a timely manner, no earned income deduction, as described in 1240-1-4-.17 shall be allowed in determining the amount of overissuance that has occurred.

Intentional Program Violations 1240-1-20-.02

For the purpose of determining through administrative disqualification hearings whether or not a person has committed an intentional Program violation, intentional Program violations shall consist of having intentionally: made a false or misleading statement; misrepresented, concealed or withheld facts; traded food stamp coupons for guns, ammunition, explosives, or controlled substances; or committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp benefits.

(1) Administrative Responsibility.

The Department shall be 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. Individuals accused of intentional program violation may waive their rights to administrative disqualification hearings (as outlined in 1240-1-20-.04) or sign disqualification consent agreements for cases of pre-trial diversion. The requirements and procedures relating to administrative disqualification hearings, waiver of the hearing, and referrals for prosecution are outlined in the rules of the Administrative Procedures Division, Chapter 1240-5 -14 Intentional Program Violations.

(2) Disqualification Penalties

(a) Individuals who Commit Intentional Program Violations. If an administrative disqualification hearing official or a court of appropriate jurisdiction determines that a household member has committed an intentional program violation as defined above in the introduction to this section, or if the household member signs a waiver of right to an administrative disqualification hearing or an administrative consent agreement, that individual shall be disqualified from participation in the Food Stamp Program as follows:

1. One year for the first violation,

2. Two years for the second violation, or for the first occasion of a finding by a Federal, State, or local court of the trading of coupons for a controlled substance as defined in 8 USC 802.

3. Permanently for the third violation.

4. Permanently if convicted of trafficking in food stamp benefits of $500 or more, or for the second occasion of a finding by a Federal, State or local court of the trading of coupons for a controlled substance as defined in 8 USC 802, or for the first occasion, based on a finding by a Federal, State or local court of the trading of firearms, ammunition, or explosives for coupons;

5. Ten years if found to have made a fraudulent statement or representation with respect to identity and residence in order to receive multiple benefits simultaneously, or

6. The length of time specified by a court of appropriate jurisdiction. If the court fails to impose a disqualification period, the state agency shall impose the disqualification penalties in 1.-5. above, unless the penalties are contrary to the court order.

(b) One or more intentional program violations, which occurred prior to April 1983, shall be considered as only one previous violation when determining the appropriate penalty to impose.

(c) The disqualification shall apply only to the individual who is found to have committed the intentional program violation, or who signed a waiver to the administrative disqualification hearing, or who signed a disqualification consent agreement. It does not apply to the entire household.

(d) Remaining Household Members. Once a household member is disqualified for an intentional program violation, the Department shall impose allotment reduction as the means of restitution.

(e) Notification to Applicant Households. The Department shall inform the household in writing of the disqualification penalties for intentional program violation each time it applies for program benefits.

(f) Imposition of Disqualification Penalties.

1. The disqualification penalties outlined in paragraph (2)(a) of this section shall apply only to individuals disqualified for acts of intentional program violation which occurred either during a certification period based on an application form containing these penalties or after receipt of written notification from the Department of these penalties. If the act of intentional program violation, which led to the disqualification, occurred prior to written notification of these disqualification penalties, the household member shall be disqualified in accordance with the disqualification periods in effect at the time of the rendering of such determination. However, no disqualification penalty may be imposed which is contrary to court order.

2. Appropriate disqualification penalties (as outlined in paragraph (2)(a) of this section) shall be imposed (unless contrary to court order) on household members in the following instances:

(i) An administrative disqualification hearing official rules that the household member has committed an intentional program violation. The disqualification period shall begin with the first month it is administratively feasible (based on computer cutoff) following the date of the written notification of the hearing decision sent to the household by Hearings and Appeals.

(ii) The household member suspected of intentional program violation signs the waiver of right to an administrative disqualification hearing, and the signed waiver is received within the timeframe specified by the Department. The disqualification period shall begin with the first month it is administratively feasible (based on computer cutoff) following the date of the written notification of the disqualification from Hearings and Appeals.

(iii) A court of appropriate jurisdiction finds the household member guilty of intentional program violation. In such cases, the Department shall disqualify the individual for the length of time specified by the court. If the court fails to impose a disqualification period, the Department shall impose a disqualification period in accordance with paragraph (2)(a) of this section. If the court does not specify a date for initiating the disqualification period, the Department shall initiate the disqualification period as soon as is administratively feasible.

(iv) The household member suspected of intentional program violation signs a consent agreement in cases of pre-trial diversion. The period of disqualification shall begin as soon as it is administratively feasible after the date the household member signed the disqualification consent agreement.

3. Once a disqualification penalty has been imposed against an individual, the period of disqualification shall continue uninterrupted until completed regardless of eligibility of the disqualified member's household. The disqualified member's household shall continue to be responsible for repayment of the overissuance, which resulted from the disqualified member's intentional program violation, regardless of its eligibility for benefits.

Administrative Disqualification Hearing 1240-1-20-.03

The Department shall conduct administrative disqualification hearings for individuals accused of intentional Program violation in accordance with the requirements and procedures outlined in Section 1240-5-14-.04 of the Administrative Procedures rules.

Waived Administrative Disqualification Hearing 1240-1-20-.04

An individual is allowed to waive his/ her right to an administrative disqualification hearing in accordance with the requirements and procedures outlined in Section 1240-5-14-.05 of the Administrative Procedures rules.

Court Referrals 1240-1-20-.05

The Department shall refer appropriate cases of alleged intentional Program violation for prosecution by a court of appropriate jurisdiction in accordance with the procedures and requirements outlined in Section 1240-5-14-.06 of the Administrative Procedures rules.

Pre-Trail Diversion 1240-1-20-.06

Individuals referred for prosecution for intentional program violation may be allowed to sign disqualification consent agreements in cases of pre-trial diversion. The procedures are outlined in this section.

(1) Advance Notification.

The accused household member shall be provided with advance written notification of the consequences of consenting to disqualification in cases of pre-trial diversion. The written notification shall include at a minimum:

(a) A statement for the accused individual to sign that he/she understands the consequences of consenting to disqualification, along with a statement that the head of household must also sign the consent agreement if the accused individual is not the head of household.

(b) A statement that consenting to disqualification will result in disqualification and a reduction in benefits for the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud.

(c) A warning that the disqualification penalties for intentional Program violation under the Food Stamp Program which could be imposed are: a twelve-month disqualification for the first violation, two-year disqualification for the second violation, and permanent disqualification for the third violation; and a statement of which penalty will be imposed as a result of the accused individual having consented to disqualification.

(d) A statement of the fact that the remaining household members, if any, will be held responsible for repayment of the resulting claim, unless the accused individual has already repaid the claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

(2) Imposition of Disqualification Penalties

If the household member suspected of intentional Program violation signs the disqualification consent agreement, the household member shall be disqualified in accordance with Section 1240-1-20-.02.

(3) Notification of Disqualification

If the household member suspected of intentional Program violation signs the disqualification consent agreement, the Department shall provide written notice to the household as follows:

(a) The household member who is being disqualified shall be informed of the disqualification and the date the disqualification will take effect.

(b) The remaining household members, if any, shall be notified of the allotment they will receive during the period of disqualification or that they must reapply because the certification has expired. In addition, the Department shall provide a written demand letter for restitution as described in Section 1240-1-20-.07.

Collecting Claims Against Households 1240-1-20-.07

(1) Criteria for Initiating Collection Action.

(a) Inadvertent Household and Administrative Error Claims. The Department shall initiate collection action against the household on all inadvertent household or administrative error claims unless the claim is collected through offset or one of the following conditions applies:

1. The total amount of the claim is less than $35, and the claim cannot be recovered through allotment reduction. (Collection action will be initiated at such time that multiple claims of under $35 total $35 or more.)

2. The Department has documentation, which shows that the household cannot be located.

3. An inadvertent household error claim is being referred for possible prosecution or for administrative disqualification, and the Department determines that collection action will prejudice the case. In these instances, collection action may be postponed.

(b) Intentional Program Violation Claims. If a household member is found to have committed intentional program violation (by an administrative disqualification hearing official or a court of appropriate jurisdiction) or has signed a waiver of right to an administrative disqualification hearing, or an administrative consent agreement, the Department shall initiate collection action against the individual/household, unless one of the following conditions applies:

1. The household has repaid the overissuance already,

2. The Department has documentation which shows the household cannot be located,

3. The Department determines that collection action will prejudice the case against a household member who has been referred for prosecution.

(2) Initiating Collection on Claims

The Department shall initiate collection action by providing the household a written demand letter containing the following information:

(a) The amount owed by the household,

(b) The reason for the claim,

(c) The period of time the claim covers,

(d) Any offsetting that was done to reduce the claim.

(e) How the household may pay the claim,

(f) The household's right to a fair hearing if the household disagrees with the amount of the claim, unless the household has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing.

(g) Information regarding free legal representation, if there is an individual or organization available that provides free legal representation.

(h) For inadvertent household error and intentional program violation claims, the household shall be informed of:

1. The length of time the household has to decide which method of repayment it will choose and inform the Department of its decision,

2. The fact that the household's allotment will be reduced if the household fails to agree to make restitution.

(i) For administrative error claims, the household shall be informed of the availability of allotment reduction as a repayment method if the household prefers to use this method.

(3) Action Against Households Which Fail to Respond to Collection Action.

(a) If the household against which collection action has been initiated for repayment of an inadvertent household error or intentional program violation claim is currently participating in the program and does not respond to the written demand letter within twenty (20) days of the date the notice is mailed for an intentional program violation, the Department will reduce the household's food stamp allotment as soon as is administratively feasible.

(b) If any nonparticipating household against which collection action has been initiated for repayment of a claim does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days until the household has responded by paying or agreeing to pay the claim, until the criteria for suspending collection action, as specified in paragraph (4) of this section, have been met, or until the Department initiates other collection actions.

(c) The Department may also pursue other collection action, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment of any inadvertent household error, administrative error, or intentional program violation claim.

(4) Suspending Collection of Claims.

(a) Inadvertent Household and Administrative Error Claims

An inadvertent household or administrative error claim may be suspended if no collection action was initiated because of conditions specified in paragraph (1)(a) of this section. Collection action of an inadvertent household error claim against a nonparticipating household or of any administrative error claim may be suspended when:

1. The household cannot be located; or

2. The cost of further collection action is likely to exceed the amount that can be recovered.

(b) Intentional Program Violation Claims.

The Department may suspend collection action on intentional program violation claims when:

1. The Department has documentation that the household cannot be located, or

2. For nonparticipating households the Department has sent at least one demand letter for claims under $100; at least two demand letters for claims between $100 and $400; and the cost of further collection action is likely to exceed the amount that can be recovered.

(5) Terminating Collection of Claims

A claim may be determined uncollectible after it is held in suspense for 3 years. The Department may use a suspended or terminated claim to offset benefits in accordance with rule 1240-1-20-.09.

(6) Collection Action When the Household Composition Changes.

When the membership of a household with an overissuance claim changes, collection action will be initiated as follows:

(a) Inadvertent Household and Administrative Error Claims. The Department shall initiate collection from the household containing the head of the household at the time the overissuance occurred. If repayment cannot be obtained from such a household, the Department shall initiate collection from any household containing an adult who was a member of the household in which the overissuance occurred.

(b) Intentional Program Violation Claims. The Department shall initiate collection action against the household which committed an intentional program violation and which received the overissuance for which the claim was established. If repayment cannot be obtained from the person who committed the intentional program violation the Department shall initiate collection action against the household containing the individual who was head of the household at the time the act(s) of intentional Program violation occurred. If repayment can not be obtained from such household, the Department shall initiate collection against any household containing an adult who was a member of the household in which the overissuance occurred.

(7) Methods of Collecting Payments.

The Department shall collect payments for claims against households as follows:

(a) Lump Sum. The household may repay a claim by lump sum:

1. If the household is financially able to pay the claim at one time, the Department shall collect a lump sum cash payment. However, the household shall not be required to liquidate all of its resources to make this one lump sum payment.

2. If the household is financially unable to pay the entire amount of claim at one time and prefers to make a lump sum cash payment as partial payment of the claim, or

3. If the household chooses to make a lump sum payment of food stamp benefits as full or partial payment of the claims. (See page 45, CLAIMS REPAYMENT, of the Benefit Issuance Manual for instructions.)

(b) Installments.

1. The Department shall negotiate a payment schedule of regular installments with the household for repayment of any amounts of the claim not repaid through a lump sum payment. The household may use food stamp benefits as full or partial payment of any installment. If the full claim or remaining amount of the claim cannot be liquidated in 3 years, the Department may compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. The Department may use the full amount of the claim (including any amount compromised) to offset benefits.

2. If the household fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the Department shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the Department to discuss re-negotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the Department is contacted to discuss re-negotiation of the payment schedule, the allotment of a currently participating household against which an inadvertent household error or intentional Program violation claim has been established may be reduced without a notice of adverse action.

3. If the household responds to the notice, the Department shall take one of the following actions as appropriate.

   (i) If the household makes the overdue payment and wishes to continue payments based on the previous schedule, permit the household to do so;

   (ii) If the household requests re-negotiation, and if the Department concurs with the request, negotiate a new payment schedule:

   (iii) If the household requests re-negotiation of the amount of its repayment schedule but the Department believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the Department may continue re-negotiation until a settlement can be reached. The Department shall have the option to invoke allotment reduction against a currently participating household for repayment of an inadvertent household error or intentional Program violation claim if a settlement cannot be reached.

4. If a currently participating household against which an inadvertent household error or intentional program violation claim has been established fails to respond to the notice, the Department shall invoke allotment reduction. The Department may also invoke allotment reduction if such a household responds by requesting re-negotiation, but the Department believes that the household's economic circumstances have not changed enough to warrant the requested settlement. If allotment reduction is involved, no notice of adverse action is required.

5. In cases where the household is currently participating in the program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional Program violation claim, the Department shall ensure that the negotiable amount to be repaid each month through installment payments is not less than the amount which could be recovered through allotment reduction.

6. Once negotiated, the amount to be repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, both the Department and the household shall have the option to initiate re-negotiation of the payment schedule if they believe that the household's economic circumstances have changed enough to warrant such action.

(c) Allotment Reduction.

1. The Department shall collect payments for administrative error claims, inadvertent household error claims, and intentional program violation claims from households currently participating in the program by reducing the household's food stamp allotments.

2. Prior to reduction, the Department shall inform the household of the appropriate formula for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment, and of the availability of other methods of repayment. If the household asks to make a lump sum cash and/or food stamp benefit payment as full or partial payment of the claim, the Department shall accept this method of payment.

3. The Department shall reduce the household's allotment to recover any amount of an administrative error, inadvertent household error, or intentional program violation claim not repaid through a lump sum cash and/or food stamp benefit payment unless a payment schedule has been negotiated with the household. The provision for a $10 minimum benefit level for households with one and two members only shall apply to the allotment prior to reduction.

4. If the full or remaining amount of the claim cannot be liquidated in 3 years, the Department may compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years.

5. The Department may use the full amount of the claim (including any amount compromised) to offset benefits.

6. The amount of food stamps to be recovered each month through allotment reduction shall be determined as follows:

   (i) Administrative Error and Inadvertent Household Error Claims. For these claims, the amount of food stamps shall be the greater of 10 percent of the household's monthly allotment or $10 per month.

   (ii) Intentional Program Violation Claims. For intentional program violations claims, the amount of food stamps shall be the greater of 20 percent of the household's monthly entitlement or $20 per month.

(8) Overpaid Claims

If a household has overpaid a claim, the Department shall pay the household any amounts overpaid as soon as possible after the overpayment becomes known.

(9) Interstate Claims Collection

When a household moves to another state, the Department shall initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the Department's jurisdiction.

1240-1-20-.08 Reserved

Restoration Of Lost Benefits 1240-1-20-.09

(1) Entitlements. The county office shall restore to the household benefits which were lost whenever the loss was caused by an administrative error; or whenever an administrative disqualification decision for intentional program violation is subsequently reversed; or whenever federal regulations specifically state that a household is entitled to restoration of lost benefits. Benefits shall be restored for not more than twelve months prior to whichever of the following occurred first:

   (a) The date the State Agency receives a request for restoration from a household; or

   (b) The date the State Agency is notified or otherwise discovers that a loss to a household has occurred.

(2) The county office shall restore to a household any benefits, which were found by any judicial action to have been wrongfully withheld.

(3) If the judicial action is the first action the recipient has taken to obtain restoration of lost benefits, then benefits shall be restored for a period of not more than twelve months from the date the court action was initiated.

(4) When the judicial action is a review of a county office action, the benefits shall be restored for a period of not more than twelve months from the first of the following dates:

(a) The date the State Agency receives a request for restoration; or

(b) If no request for restoration is received, the date the fair hearing action was initiated; but

(c) Never more than one year from when the State Agency is notified of, or discovers the loss.

(5) Errors Discovered by the County Office. If the county office determines that a loss of benefits has occurred, and the household is entitled to restoration of those benefits, the county office shall automatically take action to restore any benefits that were lost. No action by the household is necessary. However, benefits shall not be restored:

(a) If the benefits were lost more than 12 months prior to the month the loss was discovered by the county office in the normal course of business; or

(b) Benefits were lost more than 12 months prior to the month the county office was notified in writing or orally of a possible loss to a specific household.

(6) Notification and Method of Restoration

(a) Notification to the Household. When the county office determines that a loss of benefits has occurred, the household shall be notified, in writing, of the following:

1. entitlement to restored benefits;

2. the amount of benefits to be restored;

3. any offsetting that was done;

4. the method of restoration; and

5. the right to appeal through the fair hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.

(b) Method of Restoration

1. Regardless of whether a household is currently eligible or ineligible, the county office shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive.

2. Deviations. The county office shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears that the amount to be restored is more than it can use in a reasonable period of time.

(c) Household Composition Changes. Whenever lost benefits are due a household and the household's membership has changed. the county office shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the county office cannot locate or determine the household which contains a majority of the household members, the county office shall restore the lost benefits to the household containing the individual who was head of the household at the time the loss occurred.

(7) Computing the Amount to be Restored. After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the twelve (12) month time limits described in Section 1240-1-21-.01, the county shall calculate the amount to be restored as follows:

(a) Incorrect Allotment. If the household was eligible but received an incorrect allotment, the loss of benefits shall be calculated only for those months the household participated.

(b) Delay, Denial, or Termination. If the loss was caused by an incorrect delay, denial, or termination of benefits, the months affected by the loss shall be calculated as follows:

1. If an eligible household's application was erroneously denied, the month the loss initially occurred shall be the month of application or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.

2. If an eligible household's application was delayed, the months for which benefits are lost shall be calculated in accordance with procedures in Section 1240-1-17 of the Family Assistance Manual for determining the delay was caused by the household or by the county office.

3. If a household's benefits were erroneously terminated, the month the loss initially occurred shall be the first month benefits were not received as a result of the erroneous action.

4. After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.

(c) Determination of Eligibility. For each month affected by the loss, the county office shall determine if the household was actually eligible. In cases where there is not information in the household's case file to document that the household was actually eligible, the county office shall advise the household of what information must be provided to demonstrate eligibility for these months. For each month the household can't provide the necessary information to demonstrate its eligibility, the household shall be ineligible.

(d) Calculation of Benefits. For the months the household was eligible, the county office shall calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotment equals the amount to be restored.

(e) Offsetting Claims. If a claim against a household is unpaid or held in suspense as provided in Section 1240-1-20 of the Family Assistance Manual, the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household.

At that point in time when the household is certified and received an initial allotment, the initial allotment shall not be reduced to offset claims, even if the initial allotment is paid retroactively.

(8) Disputed Benefits

(a) Household disagrees with State Agency

1. If the county office determines 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 county office or any other action taken by the county to restore lost benefits, the household may request a fair hearing within 90 days of the date the household is notified of its entitlement to restoration of lost benefits.

2. If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall receive the lost benefits as determined by the county office, pending the results of the fair hearing.

3. If the fair hearing decision is favorable to the household, the county shall restore lost benefits in accordance with that decision.

(b) State Agency disagrees with Household

1. If a household believes it is entitled to restoration of lost benefits but the county office, after reviewing the case file, does not agree, the household has 90 days from the date of the county office's determination to request a fair hearing. The county office shall restore lost benefits to the household only if the fair hearing decision is favorable to the household.

2. Benefits lost more than 12 months prior to the date the county office was initially informed of the household's possible entitlement to lost benefits shall not be restored.

(9) Entitlement to Lost Benefits for Individuals who were Disqualified for Intentional Program Violation

(a) Individuals disqualified for Intentional Program Violation are entitled to restoration of any benefits lost during the months they were disqualified only if the disqualification decision is subsequently reversed. The months covered in the restoration must not exceed 12 months prior to the date the county received notification.

(b) For each month the individual was disqualified, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate.

(c) If the household received a smaller allotment than it should have received, the difference equals the amount that should have been restored.

(d) Participation in an administrative disqualification hearing in which the household contests the State Agency assertion of Intentional Program Violation shall be considered notification that the household is requesting restored benefits.

1240-1-20-.10 Repealed

1240-1-20-.11 Repealed

COMPLAINTS, APPEALS, AND FAIR HEARINGS 1240-1-30

COMPLAINTS, APPEALS, AND FAIR HEARINGS 1240-1-30

Introduction 1240-1-30-.01

Any applicant for or recipient of food stamps may complain directly to the county, area, district, or State Office when dissatisfied with an action on his case. Complaints must be given prompt and careful attention and corrective action when indicated, must be taken immediately. Local staff is responsible for providing assistance within the full intent of Department policies and with making efforts to resolve conflicts, which result in complaints in relation to the Department's programs. Such efforts will involve the caseworker, the supervisor, the area manager, program supervisor, district program director and/or district administrative director.

When the aggrieved person continues to be dissatisfied with the action taken by local staff, he has the absolute right to appeal for a fair hearing by an impartial official. The local offices must provide whatever assistance the complainant requires in appealing for a fair hearing.

Legal Base 1240-1-30-.02

The Federal Food Stamp Act requires that there be provision for appeals and fair hearings for applicants and recipients of assistance and benefits provided by the Department.

Definitions 1240-1-30-.03

(1) Appeal

An appeal is a procedure for bringing grievances, which cannot be resolved in the local office to the State Office for a hearing.

(2) Appellant

An appellant is an individual who is dissatisfied with an action of the Department in regard to the furnishing or denial of assistance and who, as a result, is requesting a fair hearing before the State Office.

(3) Complaint

A complaint is an expression of dissatisfaction by an applicant or recipient with action taken, or the lack of, it by the local office of the Department of Human Services. A complaint as an expression of dissatisfaction is one that is not yet lodged in a request for a fair hearing and that retains the possibility that it can be resolved in a conference.

(4) Complainant

A complainant is an applicant or recipient, or individual acting in behalf of the applicant or recipient, who initiates expressed dissatisfaction with action taken or the lack of it by the local staff in relation to assistance for which the client has applied or which he is receiving.

(5) Conference

A conference is a discussion of the grievance between the complainant and county office staff in an effort to resolve the complaint.

It is mandatory that a conference be offered to a Food Stamp household, which wishes to contest a denial of expedited service.

(6) Fair Hearing

A fair hearing is a proceeding before an impartial official designated by the Commissioner of the Department of Human Services in which an appellant or his representative may present his case. The case may be presented with or without witnesses, to show why action or inaction by the county, area, or district office should be corrected.

(7) Hearing Officer

A Hearing Officer is an impartial official of the Department of Human Services designated by the Commissioner to conduct a fair hearing. The staff member so designated shall have had no personal stake or involvement in the case. A Hearing Officer must not have been directly involved in the initial determination of the action that is being contested, and was not have been the immediate supervisor of the caseworker who took the action.

(9) Local Office

The Departmental office having jurisdiction over the case, primarily the county office.

COMPLAINTS, APPEALS, AND FAIR HEARINGS 1240-1-30

Complaints 1240-1-30-.04

(1) Circumstances Which May Precipitate Complaints

Complaints may arise from conflicts or dissatisfaction related to an agency action or lack of action such as:

(a) a decision regarding eligibility for food stamp benefits, including the amount of benefits, restriction on the payment of benefits, or the timeliness of the authorization of benefits;

(b) denial of the right to apply for assistance;

(c) reduction or termination of assistance;

(d) failure to act upon a request for assistance within the specified time allowance;

(e) State or Federal laws, policies, or regulations considered unfair or unreasonable;

(f) discriminatory treatment or practices on the basis of race, color, age, sex, handicap, religious creed, national origin or political belief.

(2) Person Who May Complain

(a) An applicant or recipient of food stamp benefits may complain to the county, area, district or State Office regarding assistance for which he has applied, or receiving, or which has been terminated. An authorized representative also may complain who is dissatisfied about assistance, or the lack of it, being provided for another individual. Complaints by an interested individual in behalf of the client will be handled in the same manner as when complaints are made by client himself, insofar as possible within the limits of confidentiality.

(b) If there is a written request by a responsible member of the food stamp household, its currently authorized representative, or its legally designated representative to review materials contained in its case, the material and information contained in the case shall be made available for inspection during normal business hours. However, the county office may 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 prosecution.

(3) Conference Procedures for Handling Complaints

When an applicant or recipient or someone acting in his behalf is dissatisfied with action, or lack of action, in relation to his claim for benefits, efforts must be directed to resolving his complaint promptly and to his satisfaction, if possible.

The usual procedure is for the caseworker responsible for the action to talk with the aggrieved person and/or his representative and make any adjustment that may be indicated, or else explain the reason for the action and why it cannot be changed.

The conference procedure should include:

(1) reviewing with the client and/or his representative the facts at hand and allowing the individual to present new information regarding his circumstances or any changes since the action, and

(2) reviewing the policies in question and the correctness of their application to the individual's situation and considering any relevant changes in agency policy or procedure that may have become effective since the date of the contested action.

If the caseworker is unable to resolve the complaint, the complainant must be given an opportunity to present his case fully to appropriate supervisory personnel who, after careful review, may concur with the caseworker's decision or recommend corrective action.

(4) Recording

Dates and facts regarding any complaint must be recorded in the case. The recording must include:

(1) name of complainant;
(2) relationship to applicant/recipient, if not the applicant/recipient himself;
(3) details regarding the issue(s), the facts, and the applicable policies; and
(4) efforts to resolve the complaints.

COMPLAINTS, APPEALS, AND FAIR HEARINGS 1240-1-30

Appeals 1240-1-30-.05

(1) Right to Appeal and Fair Hearing

Any person dissatisfied with an action of the county office or the lack of action on his claim for benefits has a right to appeal to the State Office for a fair hearing.

The same circumstances which may precipitate a complaint (refer to Circumstances Which May Precipitate Complaints) may be the basis of an appeal, if the grievance has not been resolved through the conference procedure outlined above, or if the applicant/recipient does not wish to discuss his grievance with local staff. The individual may also question the Department's interpretations of the law and the validity and applicability of the policies promulgated under the law, if he is aggrieved by their application to his situation. Group hearings may be conducted where the sole issue is one of State or Federal law, regulations or policy.

Each person requesting review of his case has free choice of whether such review shall be handled through an informal conference procedure or through a fair hearing. All parties involved are to be encouraged to resolve the dissatisfaction through an informal conference. However, if the client chooses a fair hearing, it cannot be delayed or cancelled without the consent of the client or his representative because of a review by the county office.

(2) Information to be Provided Regarding Right of Fair Hearing

Every applicant or recipient must be informed of his right of appeal if he is aggrieved by the action of the county office or by its lack of action.

The right to appeal should be discussed with each applicant and recipient at each interview for application or recertification of eligibility and the Fair Hearings information sheet must be given to the applicant/recipient at the same time. In addition, the information sheet will be included with each notice of approval, denial, increase or decrease. The telephone number for free legal assistance is also printed on each notice generated by the ACCENT system.

(3) Time Limit for Filing an Appeal

A food stamp household shall be allowed to request a hearing on any action by the Department, including loss of benefits, which occurred in the previous ninety (90) days. Action by the State agency shall include 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. In addition, at any time within a food stamp certification period, a household may request a fair hearing to dispute its current level of benefits. The Director of Administrative Review will make the decision upon receipt of the Appeal for Fair Hearing as to whether the request for a hearing will be accepted or denied. The county office is to allow a household to complete an Appeal for Fair Hearing at any time.

Appeals will be accepted only if they are filed within these time limits <u>unless good cause</u> can be shown as to why the appeal could not be filed within the prescribed limits.

In order for the recipient to continue receiving assistance pending the outcome of the final decision by the Commissioner's office, the appeal must be filed within ten (10) days of the mailing date of the notice. However, if it can be established that there was good cause for the client's failure to request a hearing and continuation of assistance during the ten-day advance notice, assistance may be reinstated at the same prior level.

The time limits shall be computed by excluding the first day and including the last, unless the last day is a Saturday, a Sunday, or a legal holiday, and then it shall also be excluded. If the 10th day or the 90th day falls on a legal holiday or weekend, the next working day may be considered as filing within the time limit.

The Commissioner or his/her designee will approve any extension of time under this section after a showing of good cause by the appellant that he/she could not file within the prescribed time limits.

(4) Persons Who May Appeal

Fair Hearings shall be provided to any person aggrieved by any action or lack of action of the Department.

Households may request a fair hearing if they disagree with a cancellation and/or reduction of food stamp benefits, but only under the specific conditions.

The applicant/recipient or his representative may request a hearing by any clear expression, oral or written. The request should be in writing, if possible. It is mandatory that the county office assist the client in every possible way in filing the appeal. When an individual makes an oral request for an appeal, the Department shall complete the procedures necessary to start the hearing process.

If the applicant/recipient is infirm or incompetent, his legally appointed guardian or conservator, his spouse or another close relative or a non-relative who has previously represented him in his claim for assistance or would normally do so, may be accepted as his representative in filing an appeal. Otherwise, any person who asks to appeal in behalf of the individual will be asked to obtain the applicant's/recipient's written statement that he wishes to designate him/her as his representative, unless that person is an attorney licensed to practice law in Tennessee, who has been asked by the client to be represent him/her.

If the individual making the request speaks a language other than English the agency shall ensure that the hearing procedures are verbally explained in that language.

An employee of the Department, as a representative of the Department, is not in a position to legally represent the appellant in filing an appeal. The household shall be advised of legal services that are available to provide representation at the hearing.

(5) Procedure for Filing an Appeal

(a) Request Made to County Office

A hearing may be requested by a clear expression of dissatisfaction, oral or written, from the applicant/recipient or his representative. The request should be in writing if possible. The freedom to make a request for a fair hearing should not be limited or interfered with in any way. The county office must assist the individual in anyway necessary in filing the appeal. Applicants/Recipients making an oral request for an appeal should be encouraged and assisted in putting the request in writing but an oral request will be accepted. The applicant/recipient or his designated representative shall be asked to complete and sign the Appeal for Fair Hearing (found in Default Library). If it is unclear what action the household wishes to appeal, the state agency may ask the household to clarify its grievances. The Appeal for Fair Hearing will be given or mailed to the household, as requested.

The date a hearing is first requested, orally or in writing, shall be considered the filing date of the appeal. If the request was received by telephone or the appellant refuses to sign the Appeal for Fair Hearing even though he has clearly asked to appeal, the Department shall, without waiting for the client's signature, initiate the processing of the appeal. Copies of the Appeal for the Fair Hearing form shall be distributed on the date the hearing is requested or the next working day thereafter.

(b) Request First Made to the State Office

If the request for a hearing is first made to the State Office, either orally or in writing, State Office staff shall complete the Appeal for Fair Hearing.

Staff in the State Office will then fax a copy of the Appeal for Fair Hearing to the county office to appraise them of the request for a fair hearing, and will take the original copy of the Appeal for Fair Hearing to Administrative Review in the State Office. The county office will, on the same day or next working day after receiving the faxed copy, send a copy of the form to the appellant for his signature. The county worker will also contact the appellant promptly to discuss his grievance. If the appellant decides not to appeal or if he cannot be located and fails to respond to the worker's efforts to contact him, the county office will report to the Director of Administrative Review on the action that has been taken. Otherwise, when the appellant has signed the Appeal for Fair Hearing and returned it to the county office, it shall be forwarded to the Director of Administrative Review. In order to withdraw the appeal, the appellant must sign the Withdrawal of Complaint.

(6) Agency Conferences

Once an appeal has been filed, the Department shall offer agency conferences to households who wish to contest a denial of expedited service. The conference shall be scheduled within two working days, unless the household requests that it be scheduled later. Such agency conference shall be attended by a supervisor and/or area manager, and by the household and/or its representative. An agency conference may lead to an informal resolution of the dispute. However, a fair hearing must still be held unless the household submits a written withdrawal of its request for a fair hearing.

The individual shall be advised that the use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process.

If the conference results in a satisfactory agreement between the appellant and the Department that benefits can be adjusted or that the applicant/recipient will reapply, or if the individual accepts the explanation of the reason for the action or delay in action, the appeal may be withdrawn provided the household makes a written withdrawal. When the county office makes an adjustment, corrective action must be authorized retroactive to the date of entitlement.

(7) Information and Referral for Legal Counsel

The county office will advise the appellant of his right to legal counsel as may be available in the community to represent him in his appeal.

(8) Continuation or Discontinuation of Assistance or Services During Appeal

If a proposed action to reduce or terminate assistance is appealed within ten (10) days, assistance shall be continued pending the hearing decision if the household's certification period has not expired, unless the household specifically waives continuation of benefits.

When benefits are reduced or terminated due to a mass change, benefits at the prior level will be continued only if the issue being contested is that eligibility or benefits were improperly computed or that Federal law or policy is being misapplied or misinterpreted by the agency.

Once continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the official hearing decision unless:

(a) A change affecting the appellant's eligibility or benefit level occurs while the hearing decision is pending and the appellant fails to request a hearing on that issue within 10 days after receiving a notice of adverse action. Action on that change will not be delayed pending the hearing decision.

(b) A mass change affecting the household's eligibility or benefit level occurs while the hearing decision is pending.

(c) The certification period expires. [The household may reapply and may be determined eligible for a new certification period, with a new benefit amount determined on the basis of current eligibility.]

(d) The Hearing Officer 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 Department improperly computed the benefits or misinterpreted or misapplied the law or regulation is invalid.

If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as provided in the notice. However, if the household established that its failure to make the request within the advance notice period was for good cause, the county shall reinstate the benefits to the prior basis.

(9) Recovery When Decision Upholds the County Office

When the hearing decision upholds the county office, any benefits issued due to continuation of assistance pending the hearing decision will be subject to recovery and a claim shall be prepared according to the usual procedures for recovering such benefits.

Procedure For Processing Appeals 1240-1-30-.06

(1) Distribution of Appeal for Fair Hearing

(a) The county office will fax the Appeal for Fair Hearing, to the Director of Administrator Review on the day it is received or the next working day. The appellant may mail the form himself if he prefers to do so. In this instance, the county will complete Section II of the Appeal for Fair Hearing, and fax it with the attachments listed under (c) below to the Director of Administrative Review with an explanation that the client is planning to mail his appeal directly to the State Office.

(b) Distribution of the Appeal for Fair Hearing, will be as follows:

Director of Administrative Review (by fax)
District Program Director
County Office
Appellant and/or his representative
Civil Rights/Title VI Coordinator, if discrimination is the issue (by fax)

(2) Acknowledgement of Appeal for Fair Hearings, and Designation of Hearing Officer

An acknowledgement letter will be mailed to the appellant and/or their representative on the day the Appeal for Fair Hearing is received in the Administrative Review Section; or, if this is not possible, on the next working day. This letter will provide the appellant with information regarding fair hearing procedures.

Copies of the acknowledgement letter will be sent to the district director, the county caseworker, the county supervisor, the Hearing Officer, and the hearing file.

The distribution shown on the will serve to notify the county office and the district director as to who will serve as Hearing Officer.

(3) Appeals Summary

Within five (5) working days after Appeal for Fair Hearing is received from the appellant, the county office will prepare an appeal summary (form is in Default Library) and distribute as follows:

Hearing Officer (by fax)
Appellant and/or his representative
District Program Director
Director of Administrative Review (by fax)
County Office file
Civil Rights/Title VI Coordinator, if discrimination is the issue (by fax)

The county office is not required to have the approval and signature of the district director on the appeal summary prior to its distribution.

If the determination of all factors of eligibility had not been completed when the appeal was filed, the county office must complete it as quickly as possible, <u>within five (5) working days</u> from the date

Appeal for Fair Hearing was received from the appellant or his representative.

(4) Interim Adjustments

While the appeal is pending, the county office will take any needed action on the case as a result of changes in the appellant's circumstances, changes in agency policies, or to correct an error. The usual written, advance notice of each change will be sent to the appellant.

(5) Withdrawal of Appeal

The appellant may withdraw his appeal at any time during the hearing process. If he is satisfied with an adjustment or an explanation of the reason for the action by local or district staff at any point during the appeal process, he should be given an opportunity to withdraw his appeal. If he wishes to withdraw, he will be asked to complete Section I of the Withdrawal of Complaint (in Default Library), giving his reasons. This is to be done in the individual's own choice of words and handwriting, if at all possible. If he wishes to withdraw but is not willing to sign this form, the worker can complete it and attach the appellant's statement.

The county office will complete Section II of the Withdrawal of Complaint, giving the reason the appeal is being withdrawn. The county must explain any action being taken by the agency, the date, the facts upon which the action was based, and any admissions, stipulations or agreements between the appellant and the agency. Applicable laws or regulations shall be cited. If benefits are to be restored, the amount and effective dates shall be included.

If Withdrawal of Complaint is received first by the county office, it shall be mailed on the day it is received, if possible, or on the first working day, if not. Copies will be distributed to:

Hearing Officer (by fax)
Appellant and/or his representative
District Program Director
Director of Administrative Review (by fax)
County Office
Civil Rights/Title VI Coordinator, if discrimination is the issue (by fax)

(6) Scheduling the Hearing

(a) The Hearing Officer will schedule the hearing and notify the appellant in writing of the date, time and place of the hearing.

Advance written notice will be provided to all parties to the hearing at least ten days prior to the hearing unless the appellant requests less advance notice in order to expedite the scheduling.

(b) The letter to the appellant scheduling the hearing will provide the following information:

1. Time, date, place, and nature of the hearing.

2. A statement of the legal authority under which the hearing is held, including a reference to the particular sections of the statutes and rules involved.

3. A short and plain statement of the matter(s) asserted. The notice will define the issue(s) and will refer to detailed statements of the matter(s) involved, to be found in the appeal summary that is prepared by the county office and which will be made available to the appellant prior to the hearing.

4. Information about hearing procedures.

5. The appellant's option to present his case or to be represented by a lawyer or another authorized person.

6. The appellant's right to inspect the files of the agency with respect to the matter under appeal and to copy therefrom.

7. The appellant's right to present written evidence and testimonies and to bring witnesses and members of his family to the hearing.

(c) Copies of the scheduling letter and subsequent correspondence will be sent to the county caseworker, county supervisor, the district program director, the Hearing File, the appellant's representative, if he has one, and the Department's Office of General Counsel if a staff attorney is representing the county office.

(d) The usual place for holding the hearing is the county office. However, if the appellant is unable to come to the office, the hearing may be held in his home, or another mutually convenient place.

(e) The Department shall expedite hearing requests from food stamp households such as migrant farm workers who plan to move from the State before the hearing decision would normally be reached. Hearing requests from these food stamp households shall be processed faster than the others, if necessary, to enable them to receive a decision before they leave the area.

(f) If the appellant does not appear at the hearing, the Hearing Officer will issue an Order of Abandonment, which allows the appellant to establish good cause for his/her failure to appear at the scheduled hearing.

1. If the appellant does not respond within 15 days, the Hearing Officer will consider the appeal abandoned by the appellant and a Final Order will be entered.

2. If the appellant does respond timely, the Hearing Officer will determine if he/she had good cause for failing to come to the hearing.

3. If the appellant wishes to continue with the appeal and has good cause for failing to attend the hearing, the Hearing Officer will schedule another hearing by Order of Continuance.

4. The appellant will be notified that the appeal has been dismissed if the appellant does not have a satisfactory reason for failing to appear for the original, or the rescheduled, hearing.

(7) Preparation for the Hearing

The county office has responsibilities in preparing for the appeal hearing in several major ways. The county director must insure that the following responsibilities, where applicable, are carried out by the county office in each appeal case:

(a) Providing Information to the Appellant

The appellant or his 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. The contents of the case, including the application form and documented verifications used by the Department to establish the appellant's ineligibility or eligibility and benefit level shall be made available, provided that confidential information, such as names of individuals who have disclosed information about the appellant without his knowledge or the nature or status of pending criminal prosecutions, is protected from release. Confidential information that is protected from release and other documents or records which the appellant will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision. If requested by the appellant or his representative, the Department shall provide a free copy of the portions of the case that are relevant to the hearing.

(b) Issuance of Subpoenas for Witnesses or the Production of Documentary Evidence

The Department has the power in appeals to require the attendance of such witnesses and the production of such books, records, papers, or other tangible things as may be necessary and proper for the purpose of the hearing proceeding. It is the responsibility of the Hearing Officer to issue the subpoena, but it is the responsibility of the parties involved in the case to request that the Hearing Officer issue a subpoena. Subpoenas may be served at any place within the State.

The Hearing Officer, at the request of any party, shall issue subpoenas, effect discovery in accordance with the Tennessee Rules of Civil Procedure, except that service in contested cases may be by certified mail in addition to means of service provided by the Tennessee Rules of Civil Procedure. Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided for witnesses in civil actions in the circuit court and, unless otherwise provided by law or action of the agency, the party requesting the subpoenas shall bear the cost of paying fees to the witnesses subpoenaed.

In case of disobedience to any subpoena issued and served under this section or to any lawful agency requirement for information, or of the refusal of any person to testify in any matter regarding which such person may be interrogated lawfully in a proceeding before an agency, the agency may apply to the circuit or chancery court of the county of such person's residence, or to any judge or chancellor thereof, for an order to compel compliance with the subpoena or the furnishing of information or the giving of testimony. Forthwith, the court shall cite the respondent to appear and shall hear the matter as expeditiously as possible. If the disobedience or refusal is found to be unlawful, the court shall enter an order requiring compliance. Disobedience of such order shall be punished as contempt of court in the same manner and by the same procedure as is provided for like conduct committed in the course of judicial proceedings.

(c) Evidence

The Hearing Officer can only record as evidence that which is formally presented and accepted by him as such. His conclusions of law and the final decision in the case must be based on the finding of facts from the evidence presented. Therefore, it is vital that parties to the case are prepared to present evidence, which is sufficient in quality and quantity to meet the test of finding of fact.

Quality of evidence pertains to the trustworthiness of the evidence. Quantity of evidence pertains to the substantialness of the evidence. It must be strong enough to raise a presumption of fact and then must be sufficient enough to establish the fact.

(8) The Hearing

The Hearing Officer will conduct the hearing, which will not be open to the public except with the consent of the appellant. The county office shall be represented by the caseworker involved in the action under question and other staff, as indicated. District and State Office staff may be included as needed. Investigative Services will be represented if possible where a special investigation was involved in the action being appealed. Friends or relatives of the appellant may attend the hearing if the appellant so chooses. However, the Hearing Officer shall have the authority to limit the number of persons in attendance at the hearing if space limitations exist.

All evidence used as a basis of the decision, including medical reports, will be presented at the hearing or at an extension thereof.

The hearing procedure will be informal in order to serve the best interest of the applicant; however, the hearing will be subject to the requirements of due process. This means that the rights of the individual shall be safeguarded along the basic lines of fairness in that he shall be given reasonable notice of the hearing, the right to examine Department manuals and the contents of his case with respect to the matter under appeal. He may examine all documents and records used as evidence, at a reasonable time before the date of the hearing as well as during the hearing. Further, he shall be given the right to present evidence, to make arguments, and to confront and cross-examine those giving information against him. The case and manuals shall not be removed from the county office. However, the appellant or his representative may copy entries or documents to be introduced at the hearing as evidence supporting his claim.

(9) Group Hearings

The Department may respond to a group of individual hearing requests by conducting a single group hearing where the sole issue is a State or Federal law or policy or a change in State or Federal law or policy. Response to such requests will be made by the State Office. If there is a disagreement between the agency and an appellant as to whether his appeal concerns policy or the facts of his personal situation and thus whether it may be included in a group hearing, the Department will make the decision.

In all group hearings, the policies governing hearings will be followed. Thus, each individual will be accorded his right to present his own case and to have his own representative; however, the Hearing Officer will limit the discussion to the sole issue(s) under appeal. Hence, when an appellant's request for a fair hearing involves issues in addition to the one serving as the basis for the group hearing, his appeal shall be severed from that of the group and handled separately.

(10) Powers and Duties of the Hearing Officer

The Hearing Officer shall have the following powers and duties:

(a) The Hearing Officer shall administer oaths or affirmations as required by the State.

(b) The Hearing Officer shall ensure that all relevant issues are considered.

(c) The Hearing Officer shall request, receive, and make part of the record all evidence determined necessary to decide the issue being raised.

(d) The Hearing Officer shall regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing.

(e) The Hearing Officer may order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the agency.

(f) The Hearing Officer shall provide a hearing record and recommendations for final decision by the Hearing Authority.

(11) Appellant's Rights During the Hearing

The appellant may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the appellant feel most at ease.

The appellant or his representative has the right to:

(a) examine all documents and records used at the hearing;

(b) present the case or have it presented by a legal counselor or other person;

(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;

(f) submit evidence to establish all pertinent facts and circumstances in the case.

(12) Report of the Hearing

(a) The Hearing Officer will prepare a report of the hearing, which will include the following information:

1. date and place of the hearing;

2. all pleadings, motions and intermediate rulings;

3. exhibits;

4. a summary of the oral testimony plus all other evidence received or considered, stipulations and admissions;

5. a statement of matters officially noted;

6. questions and offers of proof, objections, and rulings thereon;

7. findings and conclusions;

8. initial order entered by the Hearing Officer;

9. all staff memoranda or data submitted to the Hearing Officer or members of the agency in connection with their consideration of the case; and

10. matters placed on the record after an *ex parte* communication.

(b) All hearings will be recorded, using electronic equipment. The recording or any part of it, may be transcribed upon request of any party, at his expense or by the Department at its request. If the Department elects to transcribe the proceedings, any party will be provided a copy of the transcript upon payment of a reasonable fee.

(c) All parties of record to the hearing (e.g., the appellant and/or his representative, the county office, and the Office of General Counsel, if a staff attorney is representing the county office) shall receive a copy of the hearing report. The hearing report will contain the recommendation for decision, which all parties may examine the report for completeness and accuracy. In accordance with due process, it is not permissible to add new evidence which was not presented in the hearing.

(d) Recordings will not be transcribed routinely but will be kept on file for no less than three (3) years and then destroyed if there have been no further developments in regard to the appeal.

A recording of the hearing or transcription if it has been transcribed, and an Initial Order, prepared by the Hearing Officer, will be submitted to the Commissioner's designee for a decision.

(13) Decision by the Commissioner or His/Her Designated Representative

(a) The Final Order entered by the Commissioner or his/her designee shall either:

1. adopt the decision of the Hearing Officer as set forth in the Initial Order;

2. modify and/or reverse the decision of the Hearing Officer as set forth in the Initial Order, specifying the basis for which such modification or reversal is warranted; or

3. remand the case to the Hearing Officer for a specified reason.

(c) While the Final Order is binding upon all parties to the appeal, either party may petition for Reconsideration of the Final Order within 15 days of the date of the Order. Such petition must be in writing, stating the specific grounds for the request. The filing of a Petition for Reconsideration of the Final Order shall not supercede or delay the effective date of the Final Order. Said Order shall take effect on the date entered, continuing in effect until such petition shall be granted or until the Order is superceded, modified or set aside in a manner provided by law. However, if a change affecting the recipient's benefits occurs while the reconsideration is pending, action to implement that change will not be delayed pending the decision.

(14) The Hearing Record

The Hearing Record shall consist of:

(a) Identifying information;
(b) the Appeal Summary, prepared by the county office;
(c) the Hearing Report, prepared by the Hearing Officer with attachments as described in the Section pertaining to Report of the Hearing; and
(d) all documents and other correspondence pertaining to the appeal.

(15) Implementing the Decision

(a) If the decision is in favor of the appellant, the following procedures will apply:

1. If benefits have not been continued pending the hearing decision, the county will prepare the appropriate authorization to implement the final decision. Lost benefits shall be provided when the hearing authority determines that program benefits have been improperly denied or issued in a lesser amount than was due.

2. If benefits have been continued pending the hearing decision, no further action is required, unless a change in the amount of benefits is recommended. In the latter instance, the county will prepare the appropriate allotment to implement the final decision and will restore any lost benefits in accordance with the final hearing decision.

(b) If the decision upholds the county office, the following procedures will apply:

1. If benefits have not been continued pending the hearing decision no further action is necessary.

2. If benefits have been continued pending the hearing decision, authorization to implement the decision will be made in the county office. Any benefits due to continuation of benefits pending the hearing decision will be subject to recovery according to the usual procedures.

(c) The county office is responsible for ensuring that all final hearing decisions are reflected in the following time limits:

1. Decisions which result in an increase in food stamp benefits shall be reflected in the allotment within ten (10) days of the receipt of the hearing decision even if the county must provide a supplement or otherwise provide the appellant with the opportunity to obtain the allotment outside the normal issuance cycle. However, the county may take longer than ten (10) days if it elects to make the decision effective in the appellant's normal issuance cycle, provided that the issuance will occur within sixty (60) days from the date the hearing was requested.

2. Decisions which result in a decrease in food stamp benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

3. No advance notice is required to implement a hearing decision.

(16) Maximum Time Limits

The maximum time limit for processing appeals is sixty (60) days for the Food Stamp Program, except when the hearing is delayed because of (a) illness of the appellant, or (b) delay in obtaining medical evidence because of circumstances beyond the control of the appellant or the Department.

Within sixty (60) days of the receipt of a request for a fair hearing for the Food Stamp Program, the agency shall assure that the hearing is conducted, a decision is reached, and the household and county office are notified of the decision. This time limit may be extended only if the Food Stamp household has requested a postponement of the scheduled hearing. In this event, the time limit is extended for as many days as the hearing is postponed, not to exceed thirty (30) days. (Note: The time limit cannot be extended if a postponement is necessitated by the agency.)

The time limits specified above apply to the period extending from the date the original request is received by the Department until the date of the decision and the adjustment of the claim.

(17) Reconsideration

(a) Written notice of the right to petition for reconsideration and/or appeal is to accompany the initial order mailed to the parties. A petition for appeal from an initial order must be filed with the Commissioner or his/her designated representative within fifteen (15) days after entry of an initial order. Also, any party may, within fifteen (15) days after entry of an initial order, file a petition for reconsideration with the Hearing Officer stating the specific grounds upon which relief is requested. If an initial order is subject to both a timely petition for reconsideration and appeal, the petition for reconsideration shall be disposed of first, and a new fifteen (15) day period shall start to run upon disposition of the petition for reconsideration.

(b) Written notice of the right to petition for reconsideration of the final order is to accompany the final order to the parties. Any party who feels aggrieved by a final order may file a written petition for reconsideration within fifteen (15) days following the date of the order. Such petition shall specify in detail the reason(s) for the request.

(c) The filing of a petition for reconsideration of the final order shall not supercede or delay the effective date of the final order. The final order shall take effect on the date entered by the agency and shall continue in effect until such petition shall be granted or until such order is superceded, modified, or set aside in a manner provided by law. However, if a change affecting the recipient's benefits occurs while the reconsideration is pending, action to implement that change will not be delayed pending the decision.

(d) The Hearing Officer or the Commissioner or his/her designated representative who rendered the initial or final order which is the subject of the petition, shall enter a written order within twenty (20) days of receiving the petition. This order shall either deny or grant the petition, and set the manner for further proceedings, or it shall grant the petition and issue a new initial or final order. If no action has been taken on the petition within twenty (20) days, the petition shall be deemed to have been denied at the end of that period.

(e) An order granting the petition and setting the matter for further proceedings shall state the extent and scope of the proceedings which shall be limited to argument upon the existing record. No new evidence shall be introduced unless the party proposing such evidence shows good cause for his failure to introduce the evidence in the original proceeding.

(18) Judicial Review

A person who is aggrieved by a final decision in a fair hearing has the right to request judicial review. Proceedings for review are instituted by filing a petition for review in a chancery court of Tennessee having jurisdiction and within sixty (60) days after the hearing decision by the Commissioner.

SPECIAL LIVING ARRANGEMENTS 1240-1-31

SPECIAL LIVING ARRANGEMENTS 1240-1-31

Drug And Alcoholic Treatment Centers 1240-1-31-.01

This section provides guidelines for the certification of household members who are participants in treatment and rehabilitation programs for drug addicts and alcoholics.

(1) Authorization of Drug and Alcoholic Treatment Centers

(a) Drug and alcoholic treatment centers must be authorized to receive and use Food Stamp benefits on behalf of eligible recipients/residents via an authorized representative employed by the treatment program. The program must meet the following criteria:

1. The program must be licensed by the Department of Health as a bona fide treatment program; and
2. The program must be conducted by a private, non-profit organization or institution or a publicly operated center.

(b) Both of the above criteria must be met prior to the certification of residents for Food Stamps by county DHS office.

(c) A listing of licensed treatment centers, by county, can be found on the internet at the Tennessee Department of Health website (www.state.tn.us/health).

(2) Eligibility – Non-Residents and Residents

(a) Non-Residents

Members of eligible households, including single person households, who are narcotic addicts or alcoholics and who regularly participate in a drug or alcoholic treatment and rehabilitation program on a non-resident basis may use Food Stamp benefits to purchase food prepared for them during the treatment program. The treatment program may be operated by a private non-profit organization or institution or a publicly operated community mental health center authorized by the Department of Health as a bona fide treatment center.

(b) Residents

Resident members may voluntarily elect to participate in the program, but must do so through an authorized representative.

(3) Centers As Authorized Representatives

Residents of drug and alcoholic treatment centers must apply and be certified through the use of an authorized representative who is an employee of and designated by the private non-profit organization or institution or the publicly operated center that is administering the treatment and rehabilitation program. The organization or institution must apply on behalf of the addict or alcoholic and receive and spend the Food Stamp benefits for food prepared by and/or served to the addict or alcoholic. Each center will be asked to sign a Letter of Agreement (Shared Base Document). This agreement outlines the Department of Human Services' and the Center's responsibilities in the certification and record keeping process.

(4) Certification Policy

(a) General

Each county office may appoint a caseworker to serve as liaison and to certify these center residents. Residents of addict/alcoholic treatment centers will be certified by using the same provisions that apply to all other applicant households, except that certification is completed through use of the authorized representative as described in Section 1240-1-31-.01-(3).

(b) Expedited Service

For those residents of treatment centers and rehabilitation centers who are entitled to expedited service, the resident must receive benefits on or before the seventh calendar day following the application date. If eligibility for the initial application is expedited, the caseworker must complete verification and documentation requirements prior to the issuance of a second benefit amount.

(c) Households

Residents of treatment centers have their eligibility determined based upon the appropriate household size. Most will be one person households, unless the resident has their spouse and/or dependents living with them at the center.

(d) Normal Processing Standards

When normal processing standards apply, the caseworker will complete the verification and documentation requirements prior to making an eligibility determination for the initial application.

(e) Rights of Certified Residents

Resident households have the same rights to notices of adverse action, fair hearings, and entitlement to lost benefits as do all other food stamp households. A resident of a center has a right to same day filing. However, the interview, verification, and other certification procedures must be accomplished through the authorized representative.

(f) Exemption from Work Registration

As stated in Section 1240-1-3-.45, regular participants in drug addiction or alcoholic treatment and rehabilitation programs, either on a resident or non-resident basis, are exempt from work registration requirements.

(g) Verification of Participation for Work Registration Exemption

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

To be considered questionable the information on the application must be inconsistent with statements made by the applicant or the authorized representative, with other information on the application, or with information known to or received by the caseworker prior to certification.

(h) Certification Periods

Because of the substantial likelihood of frequent and significant changes and the inability to predict circumstances in the near future, residents of treatment centers are certified usually for 1 or 2 months. However, if a longer certification period is warranted, a longer period must be assigned. Households certified after the 15th of the month , whose circumstances warrant it, should have the certification period increased by one month. Residents provided expedited services are given certification periods in accordance with Section 1240-1-5.

(5) Basis for Center Participation

Drug addiction or alcoholic treatment and rehabilitation program means any drug addiction or alcoholic treatment and rehabilitation program recognized as a tax exempt organization by the Internal Revenue Service or as non-profit by the Department of Health. Such organization or institution must be licensed by the Tennessee Department of Health which is the agency designated by the Governor of Tennessee. Under Public Law 91-616, “Comprehensive Alcohol Abuse and Achoholism Prevention, Treatment, and Rehabilitation Act of 1970” and Public Law 92-255, “Drug Abuse and Treatment Act of 1972” such agencies can be designated as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(6) Center Responsibilities

(a) Monthly Reports

Each treatment and rehabilitation center will be asked to provide the county with a certified list of currently participating residents signed by the center director (Shared Base Document). The county office will require the listing on a monthly basis. The treatment center's monthly report must contain the following information:

1. the name of each resident/recipient;
2. the date of arrival at the center of each resident/recipient;
3. the date of departure from the center of each resident/recipient (if applicable);
4. the date of return of EBT cards, and/or benefits to departing resident/recipients or to the local certification office (if applicable);
5. the date changes were reported to the local certification office; and
6. statement of justification if the number of residents/recipients exceeds the center's reported capacity.

(b) While the Participant is in the Center

Through a waiver from USDA, the facility is permitted to act as a point of sale. The food stamp benefits are redeemed at the facility and deposited into the institution's account. This may be completed by point of sale terminals or manual EBT transaction processing. This process will eliminate the need for the facility to handle multiple EBT cards while shopping for food. Benefits due a recipient leaving the facility can be accurately tracked.

(c) When the Participant Leaves the Center

The caseworker will instruct the treatment center's authorized representative at each certification:

1. to provide resident households with their EBT card, and any benefits the household is entitled to when the household leaves the treatment center. If benefits have been deposited into the financial institution's account, benefits will be transferred into the recipient's account for any entitled benefits due the recipient.

   (i) The departing household will receive its full allotment if issued and if no Food Stamp benefits have been spent on behalf of that individual household. These procedures are applicable <u>any time</u> during the month.

(ii) If the benefits have already been issued and any portion spent on behalf of the individual, and the household leaves the treatment and rehabilitation program prior to the 16th day of the month, the treatment center will provide the household with one-half of its monthly Food Stamp allotment.

(iii) If the household leaves after the 16th day of the month and the benefits have already been issued and used, the household is not due any benefits.

2. that once the household leaves the treatment center, the center is no longer allowed to act as that household's authorized representative and that treatment center will return any EBT cards or benefits received on behalf of households which are no longer residents of the center.

3. to provide the household with a Change Report Form and to instruct the household to use the form to report their new address and other circumstances after leaving the center within 10 days.

(d) Reporting Changes

The treatment center will be instructed to notify the county office, as provided in Section 1240-1-19, of changes in the household's income or other household changes in circumstances. The treatment center must also notify the caseworker when the addict or alcoholic leaves the treatment center. Changes in the household's circumstances will be processed by using the same standards that apply to all other Food Stamp households.

(e) Returning Food Stamp Benefits

The treatment center will be reminded to return the household's EBT card and PIN mailer to the Food Stamp Office if received after the individual has left the center.

Example
An individual leaves the center on April 5th. His benefits are posted to his account on April 10th. The center must return the cards to the county office. If, however, the individual left on the 5th but had received his benefits on April 1st, the individual must be given one-half the benefit amount and the EBT card. The center may retain and use the other half of the benefit amount.

(f) Center Liability

The caseworker will inform the organization or institution at each certification that it is responsible for any misrepresentation or intentionally withholding information concerning the household in the certification of center residents. As an authorized representative, the organization or institution must be knowledgeable about the household's circumstances and should review carefully those circumstances with residents prior to applying on their behalf. Remind the organization or institution that it is strictly liable for all losses or misuse of benefits held on behalf of residents and for all overissuances which occur while the households are residents of the treatment center.

(g) Center Penalties and Disqualification

Inform the organization or institution that it may be penalized or disqualified by Food and Nutrition Services (FNS) if it is determined, either administratively or judicially, that benefits were misappropriated or used for purchases that did not contribute to a certified household's meals. The county office will notify the local FNS Office promptly when it has reason to believe that an organization or institution is misusing benefits in its possession. However, the county office will not take action against the organization or institution until notified by FNS of its determination.

(h) Disqualified Treatment Center

FNS will notify the county office if FNS disqualifies an organization or institution as an authorized retail food store. The county office will then suspend the authorized representative status of that organization or institution for the same period.

Residents of drug addict and alcoholic treatment centers that lose their FNS authorization to accept and redeem benefits or lose their certification through the Department of Health will not be eligible to participate. The residents are <u>not</u> eligible to participate. The residents are <u>not</u> entitled to a Notice of Adverse Action but will receive a written notice explaining the termination and when it will become effective.

(7) County Office Review

The county office will conduct semi-annual site visits to treatment centers to assure the accuracy of the listings and that the county's records are consistent and up-to-date. Questionable situations may demand a more frequent site review. A centralized record of these visits will be maintained for ME and audit purposes. Appropriate corrective action will be taken on discrepancies noted.

SPECIAL LIVING ARRANGEMENTS 1240-1-31

Group Living Arrangements 1240-1-31-.02

(1) Residents of Group Living Arrangements

These arrangements are sometimes called residential rehabilitation homes. These homes are public or private nonprofit residential settings that serves no more than sixteen residents. They are certified by the appropriate state agency or agencies under regulations issued under section 1616(e) of the Social Security Act or under standards determined by the Secretary of Health and Human Services to be comparable to these standards. Prior to certifying any residents for Food Stamps, the caseworker will verify that the group living arrangement is authorized by an agency such as Department of Mental Health and Mental Retardation (DMHR). The group home may request authorization as a wholesaler through the Food and Nutrition Services of U.S.D.A.. The home does not have to be certified as a wholesaler to be approved for food stamps.

The caseworker must verify that the home is a non-profit residence or the contract agency that serves the home has non-profit status. Non-profit status can be established by the agency such as the Department of Mental Health and Mental Retardation, which has approved the home, or by proof of tax exempt status through the Internal Revenue Service.

Note: The non-profit agency may in turn contract with service providers who are either for-profit or not-for-profit. This would not affect the home's eligibility.

(a) Residents of Residential Rehabilitation Homes (Group Living Arrangements)

Blind or disabled (as defined in Section 1240-1-8-.01 under disability in Volume I) residents of a group living arrangement may voluntarily apply for the Food Stamp Program. The county office will certify these residents using the same provisions that apply to all other households.

(b) Application Process

1. Residents of group living arrangements may apply and be certified:

   - through use of an authorized representative employed and designated by the group living arrangement; or
   - on their own behalf; or
   - through an authorized representative of their own choice.

2. The group living arrangement must determine if any resident can apply for food stamps on his or her own behalf; the determination should be based on the resident's physical and mental ability to handle his or her own affairs. The group living arrangement is encouraged to consult with any other agencies providing services to individual residents prior to a determination.

3. All residents of the group living arrangement do not have to be certified either through an authorized representative or individually in order for one or the other method to be used. Applications will be accepted for any individual applying as a one-person household or for any grouping of residents applying as a household as defined in Section 1240-1-2-.02.

4. If the resident applies using the facility as an authorized representative, the group living arrangement may receive and spend the allotment for food prepared and served to the eligible resident or allow the eligible resident to use all or any portion of the allotment on his or her own behalf. The same provisions applicable in 1240-1-31-.01 to residents of treatment centers also apply to blind or disabled residents of group living arrangements when the facility acts as the resident's authorized representative.

5. If the residents are certified on their own behalf, the allotment may be either:

   - turned over to the facility to be used to purchase meals served either communally or individually to eligible residents; or
   - used by eligible residents to purchase and prepare food for their own consumption; and/or
   - used to purchase meals prepared and served by the group living arrangement.

6. If the group living arrangement has its status as an authorized representative suspended by FNS (as discussed in 1240-1-31-.01), residents will be able to participate on their own behalf when otherwise eligible.

7. Expedited Service - Residents of group living arrangements who are entitled to expedited service will have their applications processed timely enough to assure that the benefits will be received by the household on or before the seventh calendar day following the application date.

8. As in the case of Drug Addict and Alcoholic Treatment Centers, each county office may appoint a caseworker to serve as liaison and to certify the residents of the treatment centers and group living arrangements.

(c) Reporting Changes

1. If the resident has made application on his or her behalf, the household is responsible for reporting changes to the county office in accordance with the provisions that apply to all other food stamp households as stated in 1240-1-19-.04.

2. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement will notify the county office of changes in the household's income or other household circumstances in accordance with the provisions that apply to all other food stamp households. The group home must notify the county office when the individual leaves the group living arrangement. (See Section 1240-1-19-.04)

   The group living arrangement must return the household's benefits to the county office if they are received after the household has left the group living arrangement.

(d) While the Participant is in the Facility

Through a waiver from USDA, the facility will be permitted to act as a point of sale. The food stamp benefits will be redeemed at the facility and be deposited into the institution's account. This may be completed by point of sale terminals or manual EBT transaction processing. This process will prevent the facility from having to handle multiple EBT cards while shopping for food. EBT benefits due a recipient leaving the facility can be accurately tracked.

(e) Household Leaves the Group Living Arrangement

1. Facility Has Use of Benefits

   (i) When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the benefits on behalf of the residents (regardless of the method of application) must provide residents with their EBT card (if applicable). Also the departing household must receive its full allotment if the monthly allotment has been issued and no benefits have been spent on behalf of that individual household any time during the month.

   (ii) When an individual leaves the group living arrangement prior to the 16th day of the month and benefits have already been issued and any portion spent on behalf of the individual, the facility shall provide the household with its EBT card (if applicable) and one-half of its monthly allotment.

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

(iii) When a group of residents have been certified as one household and have returned benefits to the facility to use, the departing residents shall be given a pro rata share of one-half of the household's monthly benefits if leaving prior to the 16th day of the month.

Example

Three residents with limited income have been certified as one household within the group living arrangement facility. Their monthly allotment is $150.00, one-half of this amount is $75.00. Therefore, each person's pro rata share would be one-third of $75.00 or $25.00.

(iv) Once the resident leaves, the group living arrangement no longer acts as his or her authorized representative.

(v) The group living arrangement should provide the household with a Change Report Form to report to the County Office the individual's new address and other circumstances after leaving the group living arrangement and advise the household to return the form to the appropriate office in the county within 10 days.

2. Household Retains Use of Food Stamp Benefits

(i) If a resident or a group of residents apply on their own behalf and retain use of their own allotment, these individuals are entitled to keep the benefits when they leave the group living arrangement.

If a group of residents have applied as one household, a pro rata share of the remaining allotment should be provided to any departing household member.

Example

A group of four residents apply as one household. Their monthly allotment is $209.00. One of the four residents leaves the facility on the 18th of the month. The group has $100.00 of benefits remaining. The individual leaving would receive one-fourth of the $100.00 allotment or $25.00 in benefits.

(ii) Although the household is responsible for reporting changes in the household circumstances, the group living arrangement should provide the household with a Change Report Form to report to the county office the individual's new address and other circumstances after leaving the group living arrangement. The facility should also advise the household to return the form to the appropriate office in the county within 10 days.

(f) Liabilities

The same provisions regarding misrepresentation and fraud applicable to drug and alcoholic treatment centers also apply to group living arrangements when the facility is acting as an authorized representative (See 1240-1-31-.01). These provisions are not applicable if a resident has applied on his or her own behalf. The resident applying on his or her behalf is responsible for overissuances (See 1240-1-20).

(g) Use of Benefits by Residents

1. Group living arrangements may purchase and prepare food to be consumed by eligible residents on a group basis. When:
   - residents normally obtain their meals at a center location as part of the group living arrangement services or
   - 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 should ensure that each resident's food stamps are used for meals intended for that resident.

3. If the resident retains use of his or her own allotment, he or she may either use the benefits to purchase meals prepared for them by the facility or to purchase food to prepare meals for their own consumption.

4. Disabled residents (as defined in Food Stamp Policy) can use Food Stamps to purchase prepared meals. The group living arrangement would be where a significant number of individuals receiving SSI reside or are likely to reside.

(h) Group Living Arrangement Responsibilities

The reporting responsibilities and reviews for drug addict and alcoholic treatment centers also apply toward group living arrangements. Refer to Section 1240-1-31-.01 for specific instructions.

(i) Shelter Expenses

The food stamp household's shelter expenses would be determined based upon the individual circumstances. The caseworker must review the contract with the agency to determine each situation. Some examples of allowable shelter (rent and utilities) amount (not intended to be all-inclusive) would be:

- Individual resides in a regular group home. There is no amount shown for utility expenses in the contract with the agency. The caseworker would subtract the Thrifty Food Plan from the total amount shown as shelter costs. The remaining amount would be shown as a shelter amount. No utility expense would be shown in the budget.
- Individual resides in a regular group home. In the contract with the agency, the individual is responsible for rent and a major heating/cooling utility expense on a monthly basis. The amount for rent would be shown in the food stamp budget. The agency receives the utility bill and divides it among the residents of the home. The individual would be eligible for the standard utility allowance.
- Individual resides in a regular group home. In the contract with the agency, the individual is responsible for rent and a major heating/cooling utility expense on a monthly basis. The amount of rent would be shown in the food stamp budget. The agency charges the person a flat rate for the utilities. The individual would be eligible for the basic utility expense.

(2) Supportive Living Arrangement

Supportive living arrangements must be certified by the appropriate state agency in the same manner as the group living arrangement. The supportive living arrangement agency subcontracts with individuals and/or agencies to manage these arrangements. Individuals receiving supportive living services are living in property that they own and/or control (etc. pays rent) and have certain services provided to them in their homes based on their specific needs. These individuals make application for food stamps in the same manner as any other individual. They may have an individual to act as their authorized representative. The fact that there are some services provided to the individual in their home by a profit or nonprofit agency is irrelevant, if they are otherwise eligible.

The household's shelter expenses are determined based upon the individual circumstances. Some examples (this is not intended to be all-inclusive) are:

- An individual resides in a house. He/she receives a major heating/cooling utility bill. The household would be eligible for the standard utility allowance.
- The individual resides in an apartment with other adults. The agency receives a major heating/cooling utility bill and divides the expense evenly among the residents in the apartment. Each individual would be eligible for the standard utility allowance.
- The individual resides in an apartment with other adults. The agency receives a major heating/cooling utility bill and charges each individual a flat monthly rate. Each individual would be eligible for the basic utility allowance.
- The individual resides in an apartment where the individual is billed only for excess expenses. The individual would be eligible for the basic utility allowance.

SPECIAL LIVING ARRANGEMENTS 1240-1-31

Shelters For Battered Women And Children 1240-1-31-.03

(1) Definition

Shelters for Battered Women and Children mean public or private non-profit facilities that serve battered women and their children. If the facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children to meet the criteria for eligibility in a shelter for battered women and children.

(2) Application Process

Prior to certifying residents of a shelter for battered women and their children, the caseworker must determine whether the shelter meets the definition in (1) above of this section. The caseworker must apply the criteria established in the program's definition of a shelter for battered women and their children in order to arrive at a determination, and document the relevant facts on CLRC for future reference. If the facility has FNS Authorization to redeem benefits as wholesalers, the caseworker is not required to determine whether the facility meets the program definition. A facility authorized by FNS as a wholesaler should be documented on the CLRC.

(a) Residents of shelters for battered women and children can apply as separate households:

1. Through use of an authorized representative employed and designated by the shelter; or

2. On their own behalf; or

3. Through an authorized representative of their own choice.

(b) Residents of shelters are exempted from the prohibition against participation in more than one county in any month. This provision is limited to women and children leaving the household containing the person who subjected them to abuse.

1. The former household may be certified for participation in the program, and its certification may be based on the household size that includes the women and children who have just left. Shelter residents who are included in such certified households may apply for and (if otherwise eligible) participate in the program as separate households if the certified household, which includes them, contains the person who subjected them to abuse. In this instance, shelter residents who are included in such certified households may receive an additional allotment only once in a given month. Such residents can receive the additional allotment only once a month, regardless of the number of times the battered women and their children return to the former household and are forced to return to a shelter during a given month.

2. Shelter residents whose former households were not certified for program participation prior to the member(s) entering the shelter may be certified for program benefits as separate households, if otherwise eligible. Such residents can receive only one allotment per month, regardless of the number of times they return to the former household and are forced to return to the shelter.

(c) Income and Resources

Certify residents of a shelter for battered women and children who apply as separate households solely on the basis of their income and resources. The only expenses that can be considered in determining deductions for the household are the expenses for which they are responsible.

Certify households without regard to the income, resources and expenses of their former household. Consider resources held jointly with members of the former household as inaccessible resources in accordance with 1240-1-4.

(d) Processing Standards

Applications for residents of shelters for battered women and their children may be processed under expedited or normal processing standards, whichever is applicable.

1. Expedited Service

   Residents of a shelter for battered women and children who are otherwise entitled to expedited service will have their applications processed timely enough to assure that the benefits will be available to the household on or before the seventh calendar day following the application date. This provision may apply to residents of any shelter for battered women and children regardless of whether the facility meets the definition of shelter for battered women and children in (1) above of this section. For example, residents of any shelter for battered women and children not meeting the definition in (1) above may participate as individual household units or as part of a group of individuals if their shelters do not provide meals. However, only those individuals who participate as individual households will be processed under expedited provisions. Residents of such shelters who participate as part of a group already participating will be processed as a reported change.

2. Normal Processing

   Residents who do not meet the criteria for expedited service must be processed under normal procedures.

(e) Verification

Information for verification of the resident's circumstances may be obtained from documents possessed by the household, information obtained from the facility, and/or collateral contacts.

(f) Certification Period

Households are assigned a one-month certification period in accordance with 1240-1-7 due to the frequent short stay in such facilities.

(3) Reducing the Former Household's Benefits

The caseworker must take prompt action to ensure that the former household's eligibility and/or allotment reflects the changes in the former household composition. This is considered as a reported change and should be acted on in accordance with the procedures in 1240-1-19.

(4) Reporting Changes

(a). If the resident has made application on his/her own behalf, the household is responsible for reporting changes to the county office in accordance with the provisions that apply to all other food stamp households as cited in 1240-1-19.

(b). If the shelter is acting as authorized representative, it must notify the county office of changes in the household's circumstances, etc. in accordance with the provisions that apply to all other food stamp households.

(5) While the Participant is in the Facility

Through a waiver from USDA, the facility is permitted to act as a point of sale. The food stamp benefits are redeemed at the facility and deposited into the institution's account. This may be completed by point of sale terminals or manual EBT transaction processing. This process will eliminate the facility from having to handle multiple EBT cards while shopping for food. Benefits due a recipient leaving the facility can be accurately tracked.

(6) Household Leaves the Shelter for Battered Women and Children

(a) Facility Has Use of Benefits

When the household leaves the shelter for battered women and children the shelter, either acting as authorized representative or retaining use of the benefits on behalf of the residents, must provide residents with their EBT card. Also, the departing household must receive its full allotment if the monthly allotment has been issued and no benefits have been spent on behalf of that individual household. Once the resident leaves, the shelter no longer acts as authorized representative for the household.

The shelter must return any household's benefits to the county office if they are received after the household has left the shelter. This is true as well for any EBT cards and/or PIN mailers received after the household has left the shelter

(b) Household Retains Use Of Benefits

Households, which retain use of their own benefits, are entitled to keep the benefits when they leave the shelter.

SPECIAL LIVING ARRANGEMENTS 1240-1-31

(7) Shelter for Battered Women and Children Responsibilities

The reporting responsibilities and review requirements for drug addicts and group living arrangements also apply to shelters for battered women and children. Refer to Sections 1240-1-31-.01 for specific instructions.

(8) Eligibility of Residents Residing in Shelters for Battered Women and Children Which Do Not Provide Meals

Residents of shelters, which do not provide meals, may participate in the program, if otherwise eligible as any other household. Such residents are not considered as residing in an institution; therefore, the special provisions in this section do not apply i.e., receiving more than one allotment in a given month.

Shelters For The Homeless 1240-1-31-.04

(1) Definitions

Homeless Individual

- An individual who lacks a fixed and regular nighttime residence or an individual who has a primary nighttime residence that is:
- a supervised publicly or privately operated shelter designed to provide temporary living accommodations;
- an institution that provides a temporary residence for individuals intended to be institutionalized;
- a temporary accommodation in the residence of another individual; or
- a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Shelter for the Homeless – A public or private non-profit facility that provides temporary shelter and meals to the homeless.

(2) Application Process

Prior to certifying any individual residing in a shelter, the caseworker must substantiate that the shelter is non-profit and provides meals to the homeless. The caseworker will contact the shelter to verify that meals are provided to the homeless without profit to the shelter. If verification cannot be obtained through documentary evidence, the residents of the shelter may not be certified because they will be considered as residents of an institution. Refer to Section 1240-1-2-.02.

(3) Processing Standards

Applications for residents of a shelter will be processed under expedited or normal processing standards, whichever is applicable.

(4) Certification Periods

Households will be assigned a one- or two-month certification period, in accordance with 1240-1-7-.01, due to what is usually a short stay in the shelter.

(5) Mailing Benefits

Mail benefits to the county office, or the household's post office box, to ensure the recipient receives his/her benefits. Do not mail the EBT benefit card or PIN to the shelter's address because the shelter cannot be held responsible for delivery of benefits to the recipient.

(6) Authorized Representative

The shelter's employees may not act as authorized representatives for the residents of the shelter.

(7) Use of Benefits by Residents

The residents may use their benefits to purchase food to prepare meals for their own consumption, or to purchase prepared meals served by the shelter, if the shelter has been approved by the USDA Food and Nutrition Service (FNS) to accept benefits.

SPECIAL LIVING ARRANGEMENTS 1240-1-31

Homeless Meal Provider 1240-1-31-.05

It is the county office's responsibility to establish that meal providers wanting FNS authorization to accept Food Stamp benefits are serving meals to the homeless. The meal provider or FNS will contact the county office to substantiate that the provider serves meals to the homeless.

Each county may appoint one caseworker to be responsible for determining that establishments serve meals to the homeless. The caseworker can verify that the establishment serves meals to the homeless through an on-site visit to the establishment.

Upon approval of the establishment, complete a statement to that affect, in duplicate. Give one copy of the statement to the establishment for submittal to FNS as part of the application process for accepting benefits. Keep one copy in the county.

No further action is required unless the provider stops providing meals to the homeless. If this occurs, the caseworker should report to the local FNS official that the establishment is no longer serving meals to the homeless.

Meal Provider Form

STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES

MEAL PROVIDER FOR THE HOMELESS

The Tennessee Department of Human Services in _____

County has approved _____ for Food Stamp

purposes as a non-profit establishment that provides meals to the homeless. This approval

becomes void once the establishment fails to provide meals to the homeless.

As a homeless meal provider, no one in your establishment will be permitted to serve as an

Authorized Representative for any food stamp household.

_____ _____
DHS Representative Date

_____ _____
Establishment Representative Date

Additional approval from the Food and Nutrition Service (FNS) is required prior to the establishment accepting benefits.

The establishment should keep this form and contact a FNS Representative to make application for accepting benefits.

USDA, Food and Nutrition Service
Federal Building, US Courthouse, Room 274
801 Broadway
Nashville, Tennessee 37203
Telephone Number 615-736-5758

1-03-02

STRIKERS 1240-1-32

STRIKERS 1240-1-32

Definition 1240-1-32-.01

A striker is any employee who is a member of the bargaining unit. The bargaining unit member is an employee who will benefit from the contract at issue in the strike whether or not the individual is a union member.

If a work stoppage is considered to be a strike by both the union and the company, the county will consider it a strike for food stamp purposes.

Persons Who Would be Considered Strikers

Persons who would be considered strikers include the following:

(1) All non-working members of the bargaining unit which is on strike even if they are not members of the union and regardless of whether they are afraid to cross a picket line;

(2) Employees who participate in sympathy and support strikers who are members of the bargaining unit; or

(3) Employees who get another job while on strike but who did not resign from the company.

Persons Not Considered to be Strikers 1240-1-32-.02

Persons not considered strikers include the following:

(1) Employees who are not members of the bargaining unit and who are not participating in a sympathy or support strike but who claim they are afraid to cross the picket line;

(2) Employees who are fired by the company while on strike;

(3) Employees who officially resign from their job while on strike;

(4) Persons whose jobs are no longer available when the company hires permanent replacements for the strikers;

(5) Strikers offered different jobs when the company will not allow them to return to their old jobs;

(6) Employees who are locked out by the company the day before the strike;

(7) Employees laid off when the strike began;

(8) Self employed persons who are not members of the bargaining unit (such as long distance truckers); or

(9) Employees who are exempt from the Food Stamp work registration requirement prior to the strike for reasons other than employment.

Household Eligibility 1240-1-32-.03

Households with striking members are ineligible to participate in the Food Stamp program unless such households were eligible for benefits the day prior to the strike and are otherwise eligible at the time of application.

EXAMPLE

A five person household containing a striking member applies for benefits on March 5. The strike began January 15. Prior to the strike, the striking member's income averaged $1,040 per month. (This was the only income received by the household.) Based on earnings prior to the strike, the household meets the gross income standard. Following the calculation of allowable deductions, the household also meets the net income standard. Therefore, the household is presently eligible for benefits, provided that all other eligibility criteria are met at the time of application.

Treatment Of Income/Resources 1240-1-32-.04

(1) Income

Determine the striking household member(s)' income by using the higher of the monthly earned income from the job on which the strike occurred as if the household member were still working, or the striking member's current income. Add the higher of the two to the current income of other household members.

EXAMPLE

A household with a striking member applies for food stamps on March 3. Prior to the strike, the household member's earnings average $1500 per month. However, the striker's current earnings average $1575 per month. The present earnings are higher and will be used to determine the household's eligibility and benefit level.

A household participating in the program at the time of the strike will remain eligible. However, earnings from the job (prior to the strike) will continue to be counted. In other words, a household will not receive an increase in benefits due to the decrease in income which is attributed to the strike. Other changes, which occur, such as household size, will be taken into consideration for budget purposes.

(2) Resources

Consider all countable resources in determining the household's eligibility. This includes any countable resources available at the time of the strike and any other resources currently on hand as of the application month.

Exception: Vehicles whose equity value is normally exempt because they are used for commuting do not lose the exclusion during the strike.

Work Registration 1240-1-32-.05

Strikers are subject to the work registration requirements as cited in Section 1240-1-3-.43 unless they were exempt from work registration (other than exemption because of employment) prior to the strike.